

**DRAFT PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
AMERICAN LOBSTER MANAGEMENT BOARD**

**The Westin Alexandria**  
Alexandria, Virginia  
May 4, 2015

**These minutes are draft and subject to approval by the American Lobster Management Board.  
The Board will review the minutes during its next meeting.**

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INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of February 2015** by Consent (Page 2).
3. **Move to approve the document for public comment as modified today** (Page 12). Motion by Stephen Train; second by Bill Adler. Motion passes unanimously (Page 14).
4. **Move to establish a Jonah crab fishery control date immediately. The intention of the control date is to notify current and potential new entrants to the fishery, especially those who fish in jurisdictions that do not require a specific permit for harvest of Jonah crabs, that should the board establish limited entry programs for the Jonah crab fishery, eligibility to participate in the commercial fishery in the future may be affected by the person's or the vessel's past participation based on verifiable documentation of landings and effort and/or licenses possessed prior to that date** (Page 14). Motion by Stephen Train; second by Dennis Abbott. Motion carried (Page 17).
5. **Move to approve the addendum with the following options: Issue 1- option B; Issue 2- option B; Issue 3- include option 2.** (Page 19). Motion by David Borden; second by Emerson Hasbrouck. Motion carried (Page 19).
6. **Move to approve the addendum as written** (Page 19). Motion made by Bill Adler; second by Mark Gibson. Motion passes (Page 19).
7. **Recommend to the Policy Board to task the Gear Technology Working Group to work with industry to assess lobster ghost panel effectiveness** (Page 21). Motion by Cheri Patterson; second by Emerson Hasbrouck. Motion carried (Page 21).
8. **Move to approve Todd Richards Ellis from New Hampshire, Captain Jan Horecky from Massachusetts, William Purtell from Massachusetts, David Spencer from Rhode Island, Brian Thibeault from Rhode Island, Chris Scola from New York, and Earl Gwin from Maryland to the Jonah Crab Advisory Panel** (Page 24). Motion by Bill Adler; second by David Borden. Motion carried (Page 24).
9. **Move to request the Policy Board to send a letter to the New England Fishery Management Council reiterating our concerns for lobster and request a prohibition on all bottom tending mobile gear in closed area 2 from June 15<sup>th</sup> to October 31<sup>st</sup> north of 41 degrees 30 minutes** (Page 27). Motion by David Borden; second by Bill Adler. Motion passes (Page 28).
10. **Move to direct staff to initiate the process of developing an addendum to the Lobster FMP to prohibit all mobile gear in closed areas 2 north of 41 degrees 30 minutes should the area reopen** (Page 29). Motion by David Borden; second by Bill Adler. Motion tabled until August.
11. **Motion to table the motion to the August meeting** (Page 31). Motion made by Terry Stockwell and seconded by Dennis Abbott. Motion carried (Page 31).
12. **Adjournment** by Consent (Page 31).

## Draft Proceedings of the American Lobster Management Board Meeting May 2015

### ATTENDANCE

#### Board Members

Steve Train, ME (GA)	Emerson Hasbrouck, NY (GA)
Cheri Patterson, NH, proxy for D. Grout (AA)	Paul Risi, NY, proxy for Sen. Boyle (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Brandon Muffley, NJ, proxy for D. Chanda (AA)
G. Ritchie White, NH (GA)	Adam Nowalsky, NJ, proxy for Asm. R. Andrzejczak (LA)
William Adler, MA (GA)	Tom Fote, NJ (GA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Roy Miller, DE (GA)
David Pierce, MA (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Mark Gibson, RI, proxy for R. Ballou (AA)	Thomas O'Connell, MD (AA)
David Borden, RI (GA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Louis Daniel, NC (AA)
David Simpson, CT (AA)	Mike Ruccio, NMFS
Rep. Craig Miner, CT (LA)	Terry Stockwell, NEFMC
James Gilmore, NY (AA)	

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

#### Ex-Officio Members

Bob Glenn, Technical Committee Chair	Jon Cornish, Law Enforcement Representative
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#### Staff

Robert Beal	Megan Ware
Toni Kerns	

#### Guests

Kevin Chu, NOAA	Marin Hawk, MSC
Alli Murphy, NOAA	Meghan Lapp, Seafreeze, Ltd.
Dan McKiernan, MA DMF	Raymond Kane, CHOIR

## Draft Proceedings of the American Lobster Management Board Meeting May 2015

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, May 4, 2015, and was called to order at 2:30 o'clock p.m. by Chairman Daniel McKiernan.

### CALL TO ORDER

CHAIRMAN DANIEL MCKIERNAN: This is the start of the American Lobster Management Board Meeting. My name is Daniel McKiernan. I'm the chairman and I'll be chairing today's meeting. The first is a call to order and any announcements. Bob Beal.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Thank you, Mr. Chairman; just a couple of introductions. There are some new faces around the table.

I know this isn't a coast-wide board and we usually wait to have a coast-wide board to introduce the new folks, but I figured we should introduce them now and commissioners can get to know them as the afternoon goes on. I'll probably make the same introductions tomorrow morning during menhaden when the room is probably a little more full.

I would like to welcome back Senator Brian Langley from Maine. We've got Eric Reid as a new proxy for Senator Sosnowski from Rhode Island. We've got Paul Ricci as a proxy for Senator Boyle from New York. We've got two new staff members. Megan Ware is up front. This is Megan's sixth day at the commission, so she is pretty new. Introduce yourselves to Megan.

Megan is going to be taking over lobster over the summer time period as she ramps up and gets to understand the lobster fishery a little bit better; but she will be the FMP Coordinator for lobster eventually. Max Appelman is back in the back there. Max has been here for about a month; so he is a little more veteran than Megan, but not a whole lot. Welcome both of

them and introduce yourselves; and any questions you have for them, they are more happy to get to know you guys.

One more thing; this board invited the New England Council to have a representative serving as a voting member of the board focusing on the crab issues, Jonah Crab. The New England Council appointed Terry Stockwell as their representative. Terry Stockwell is the current chair of the New England Fishery Management Council.

Terry has moved down to the end of the table; and Terry is going to be participating in this meeting as a voting member from the New England Council. He will not be participating in the Maine caucus; so he is will be wearing different hat at this meeting and handling the crab issues that way. The idea there is to have Terry serve as the connection between the New England Council and this board on crab issues since there are significant harvests of crab in federal waters. That's it.

### APPROVAL OF AGENDA

CHAIRMAN MCKIERNAN: Thank you, Bob. Next is the approval of the agenda. Are there any changes to the agenda? Brandon Muffley.

MR. BRANDON MUFFLEY: Mr. Chairman, I just want to, if I could, take Item Number 5, which is what I had on the agenda, to consider changes to LCMA 4 and 5 off the agenda. I have been working with Toni and the National Marine Fisheries Service to address this issue specifically to Area 4 separately and we will continue those discussions; so I don't think we need to have the discussion at this point at the board.

CHAIRMAN MCKIERNAN: Thank you, Brandon. David Borden.

MR. DAVID V.D. BORDEN: Mr. Chairman, I would just like a couple minutes under Other Business to talk about Closed Area 2, if I might.

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CHAIRMAN MCKIERNAN: Certainly, David, we can make accommodations for that. Anything else?

### PUBLIC COMMENT

CHAIRMAN MCKIERNAN: All right, is there any public comment from the audience on any items that are not on the agenda today? Seeing none; we will move on. Toni, we're at number four, the Draft Jonah Crab FMP for public comment and the creation of a document that we hope we can approve today for public hearing.

### APPROVAL OF PROCEEDINGS

No; I failed to approve the minutes. Bill Adler.

MR. WILLIAM A. ADLER: Mr. Chairman; that is what I wanted to ask to get it on the record.

CHAIRMAN MCKIERNAN: Is that a motion, Bill, to approve the minutes.

MR. ADLER: Sure.

CHAIRMAN MCKIERNAN: Second from Steve Train. Any objections? None; thank you.

### CONSIDER DRAFT JONAH CRAB FMP FOR PUBLIC COMMENT

CHAIRMAN MCKIERNAN: Toni, Item Number 4, the Draft Jonah Crab FMP.

MS. TONI KERNS: The Draft Jonah Crab Fishery Management Plan was on the supplemental materials and there are also copies in the back of the room. I'd like to note at the beginning of the document I realize that there are some missing pieces to the document. The plan development team is still pulling those together.

In particular, there is new information on final landings' information, because we are waiting for the 2014 landings that will be released any

day now, to include those into the document. There was one state that was doing some checking on their information; and as soon as we have that information, we're good to go.

There is couple of other figures that we need to update in and those will also be included in the document. We are considering this document today to be released for public comment. We would have public hearings over the summer. The board would then select final options at the August meeting for approval of the FMP. Jonah Crab has long been considered a bycatch of the lobster industry, but in recent years there has been increasing targeted fishing pressure and growing market demand for the crab. T

The majority of the crab are harvested by fishermen on lobster boats, using lobster traps. We believe since the 2000's, landings have increased almost sixfold if the data comes out the way I believe it will. With the increase in the demand for crab, a mixed crustacean fishery has emerged that can target both lobster or crab or both species at different times of the year based on slight legal modifications to the gear as well as small shifts in the areas the traps are being fished.

The mixed nature of the fishery makes it difficult to manage Jonah Crab as a completely separate resource from the American Lobster Fishery without impacting the number of vertical lines and traps capable of catching lobster in both state and federal waters. The status of the Southern New England Fishery is poor; and as part of that rebuilding plan, this board has been reducing the number of traps used to fish for lobster.

Additional traps targeting Jonah Crab with the potential to fish for lobster could negate these trap reductions and pose management challenges. NOAA Fisheries has also implemented lobster rulemaking based on the Large Whale Take Reduction Team

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recommendations to decrease the number of vertical lines in state and federal waters.

In order to reduce the risk of large whale entanglements, NOAA Fisheries has implemented two regulations recently; and that is one looking at the minimum number of traps in a trawl; and, two, looking at season closures. Southern New England was able to not have to implement either of those regulations because we had done so many trap reductions; whereas, the Gulf of Maine Fishery had to do three-month closures.

The board doesn't want to have to have any negative impacts on the number of vertical lines in Southern New England because we don't want to have to implement additional measures due to that Large Whale Take Reduction Plan. A complete picture of the Jonah Crab Fishery in state and federal waters is difficult to ascertain due to the mixed nature of the fishery.

In the absence of a comprehensive management plan and stock assessment, increased harvest of Jonah Crab may compromise the sustainability of the resource. The plan development team identified the following issues when looking at this plan:

One; that the crab resource is not directly regulated in federal waters, rather incidentally by lobster regulations. There are no crab regulations in federal waters or permits and license requirements. The landings have increased rapidly in the past ten years; and without new controls, effort could increase in an unregulated manner.

With continued unregulated harvest of crab, the long-term availability for harvest could be compromised. No minimum size protections, no restrictions on the harvest of females or egg-carrying females and there is no spawning biomass protection. Buyers are positioning to discontinue selling Jonah Crab unless it is

managed sustainably, which would impact the ex-vessel price for crab.

The lack of universal permit and reporting requirements makes it difficult to characterize the catch and effort in order to manage crab. A Jonah Crab is not distinguishable from a lobster trap; therefore making it difficult to independently manage crab and lobster fisheries. Because crab traps are similar in design and function to lobster traps but are not regulated; there may be implications with the lobster fishery and the marine mammals, compromising the effectiveness of their management.

There is not a lot of information that we know about Jonah Crab; but the information that we do have has been pieced together from a patchwork of studies that either were looking at crab or looking at other species and found information on crab. They're distributed in the waters of the northwest Atlantic Ocean, primarily from Newfoundland to Florida. Jonah Crab are often confused with rock crab. Even though the species are biologically and taxonomically distinct, this confusion is due to overlapping habitat and the numerous regional common names attributed to both species.

This is a very important fact to remember, especially when considering the landings' information. The plan development team is no confidence in the landings' information of just Jonah Crab alone. We do believe that some of the Jonah Crab landings are accounted for under the rock crab landings due to the mixing of common names.

Oftentimes, depending where you're located regionally, Jonah Crab are called rock crab and rock crab are called sand crab; and so therefore in the dealer data base, Jonah Crab then get listed as rock crab. The life cycle is poorly described and what is known is compiled from the patchwork of studies.

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Massachusetts, Rhode Island, Maine, and New Hampshire conduct inshore state water trawl surveys which are primarily focused on finfish and encounter Jonah Crab infrequently and thereby provides only minimal data. NOAA Fisheries conducts a trawl survey in federal waters, which collects data on Jonah Crab abundance and distribution.

This data hasn't been fully analyzed, but we do have some of it here to look at today. For the spring 2014 trawl survey from NOAA; it showed a record high abundance in the Georges Bank and Gulf of Maine regions. The 2014 data points are extremely positive outliers from the rest of the time series.

The spring survey in Southern New England has been stable over the time period, hovering the near median. The fall survey shows declining trends in Georges Bank since reaching the record high abundance in the early 2000's. Gulf of Maine has been fairly stable in the fall since 2000 and staying generally above the time series median. The fall survey has shown a recent increase in abundance in Southern New England.

This table shows the landings by state. If you can't see it up here, it is on Page 61 of the document. The point of this table is just to show that the majority of the landings are coming from the states of Massachusetts and Rhode Island. In the early 1990's ex-vessel values were approximately one to one-and-a-half million dollars.

Ex-vessel value increased in 2005 to \$3.5 million; and from 2007 to 2011 the value fluctuated from \$4.5 to \$5.5 million; and then it reached an estimated \$12.7 million in 2013. We can see this large shift in value in the fishery in recent years. As I said before, Massachusetts and Rhode Island make up the majority of the Jonah Crab landings.

You see here that Statistical Area 537 accounts for almost the majority of them. It is about 71 percent of all crabs landed in the two states; followed by Area 526 and 525. The monthly trends in landings – this is looking at just Massachusetts landings right here. There has been a change in the timing in the peak landings in Massachusetts for Jonah Crab.

From 2005 to 2011 the lowest landings occurred from August through December. Actually that is when the – yes, and then since 2012 landings have peaked from September to October. The red dotted line is the more recent landings and the blue solid line is the historical. In Rhode Island the landings for Jonah Crab mostly occur from December through March; and there has not been a shift in time for both states.

Typically this is when lobstermen are not fishing as hard for lobster and so we're seeing a trend of the time in the off period for the lobster where guys are going out and getting more Jonah Crab. That's providing more evidence for that mixed-use crustacean fishery. Then for gear types, the majority of the gear harvesting Jonah Crab are pots; almost 95 percent of the gear.

The purpose-shaded part of the pie is other; so those are likely to be misidentification in the dealer data base as what we're assuming; and then the dredges and trawls make up less than 1 percent of the total harvest. It is important for managers to respond quickly to increased harvest in U.S. waters. We have seen in other areas that have had high increases in fishing; that the Jonah Crab haven't shown downward trends.

In Canada Jonah Crab fisheries that developed, despite having prohibitions on landing females, having minimum sizes, TACs, both fishery-dependent and independent data have shown declines; so even in places where there are



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regulations with increases in fishing, they have not seen a good response from the fishery.

The plan development team identified how a fishery management plan with complementary federal regulations could potentially benefit the fishery. There is sporadic information gathered on the species, making stock assessments difficult. We don't have a stock assessment for Jonah crab; so having a fishery management plan would put in place monitoring requirements, which would help us gather this information to do so.

There is a lack of consistent state-to-state management measures as well as to state-to-federal regulations and goals and an FMP would allow us to have some consistency. An interstate FMP establishes a framework to address future concerns or changes in the fishery or population through allowing the plan to do adaptive management.

An interstate fishery management plan establishes a framework to address future concerns or changes in other species' regulations, for example, lobster regulations or regulations that come out of the Large Whale Take Reduction Plan. Goals and objectives of the plan; these goals and objectives are what the management measures that are being proposed are related to.

The goal is to support and promote the continued development and implementation of a unified coastal management program for Jonah Crab. It is designed to promote conservation, to reduce the possibility of recruitment failure, and to allow the utilization of the resource by the industry. The management program should be sensitive to the need to minimize social, cultural and economic dislocation.

There are six objectives in the plan: to protect, increase or maintain as appropriate the brood stock abundance at level which would minimize the risk or stock depletion and recruitment

failure; to optimize yield from the fishery while maintaining harvest at a sustainable level; to implement uniform collection analysis and dissemination of the biological and economic information; and to improve the understanding of the stock status and the economics of harvest; to promote the economic efficiency in harvesting in the use of resource; and to ensure that changes in the geographic exploitation patterns do no undermine the success of the management program; and, lastly, to successfully manage the Jonah Crab in a manner that is compatible with the commission's management of American lobster in harmony with state and federal management of other trust resources.

The first management program we'd be looking at is data collection. The first option is just to have monthly reporting. The option applies to the harvester reporting of catch, landings and effort data. Fishermen with a VTR requirement would have to fill out their VTR for all trips. The plan development team recommends that the following elements be recorded daily by fishermen harvesting Jonah Crab, either directed or non-directed, and reported on at a least a monthly basis to the state or agency they are reporting to.

We recommend we have total number of trap hauls, total number of pounds landed – both of those by the statistical area – the number of days fished and the soak time for each trap. Next is looking at coast-wide mandatory reporting. This applies to both dealer and harvester reporting of catch, landings and effort data.

This is built off of similar reporting requirements that the lobster fishery has. There would be 100 percent mandatory dealer reporting and then X percent of harvester reporting. The board would have to decide what X percent means. There is an option for 100 hundred percent harvester reporting, 75 percent harvester reporting, 50 percent

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harvester reporting or 10 percent harvester reporting. Ten percent is equal to that of what is required by the lobster industry.

This would also be a two-ticket system to establish check-and-balance harvester reports and trip data. Catch estimates would be in pounds and dealer reports in landing weights would also be in pounds. Then the addendum identifies all of the specifics that would have to be on the trip report. Option 3 is exactly like Option 2 that I just went through, except for it also has fishery-dependent sampling included. This can come in either sea or port sampling.

The elements of that sea and/or port sampling program have not been determined. We would need the technical committee to determine what that would be. Once we actually have a technical committee established, we could fill in those blanks.

So, proposed management; we have proposed management for commercial measures. The first issue is looking at permits. If left open access, a crab-only permit would have the potential to increase the number of traps in both state and federal waters. A limited access crab-only permit would constrain proliferation in traps fished attributable to non-lobster trap fishing.

Option 1 is no new permit requirements in this plan, but the states and agencies must maintain their current permit requirements. We would fill in for the public so they understand what that means. For states like Massachusetts and Maine, who have a crab/lobster permit tied together, they would continue to have to do so.

For other states that have just a separate crab permit and lobster permit such as Rhode Island, then they could continue to move forward with that. Option 2 is permit requirements are decided by the state for fishing or landings; and we would recommend to NOAA Fisheries that

they require a permit to retain Jonah Crab taken from federal waters by any gear.

Currently there are no permit requirements in federal waters. Option 3 is participation in the trap fishery would require a lobster permit, and all traps had to conform to the specifications of the Lobster Management Plan; so things like ghost panels, the size of the trap. Landings of the Jonah Crab by non-trap gears would require an incidental permit, and they would be subject to the landing limits that would be outlined in the upcoming issue number six.

Option 4 under permits; participation in the trap fishery will require a lobster license or a crab-only permit. Other gear types would require an incidental permit subject to the landing limits identified in Issue 6. If this option were approved, the board would consider if crab trap specifications such as trap size, vents, trap limits, trap tags would be necessary through a subsequent addendum.

Option 5 is participation in the trap fishery would require a lobster license or a new Jonah Crab trap permit. The Jonah Crab trap permit would be limited to the use of only traps designed to effectively target Jonah Crabs while minimizing the retention of lobster. In the absence of an approve design, no Jonah Crab trap permits should be issued.

Landing of Jonah Crab by the non-trap gears would still require an incidental permit, which would be subject to the landing limits outlined in Issue 6. If this option were approved, the board would consider if crab trap specifications would be necessary through a future addenda.

Issue 2, minimum sizes; there are a variety of minimum sizes that are proposed. They range from 4 inches to 5-1/2 inches. If we look at the information that we have from some sea sampling and port sampling, in port sampling we see that 34 percent of the crab that are caught are less than 5-1/2 inches; and in sea

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sampling we see that 98 percent of the Jonah Crab that are caught are five inches or less for females; and 31 percent are five inches or less for males.

We think the size range that we have proposed – and if you just go back, Mike – between 4 and 5-1/2 represents sort of what is being caught and what is being seen out there. Issue 3 is minimum size tolerance. It has a range of no tolerance to 10 percent tolerance for undersized catch. We realize that crab come in a large volume; and in order to determine whether or not everything is the correct size, industry has asked that we consider for a tolerance level. At times there may be one or two that have gone in by accident.

Language that we would like the Law Enforcement Committee to review is it is unlawful for any vessel or person to take or possess or have on board, land or offload any Jonah Crab which is less than X inches in the longest shell diameter to the amount more than X percent of any batch unless authorized by a permit issued by the state or federal agency.

The enforcement personnel would sample one to five batches of Jonah Crab depending on the volume of crabs being landed or possessed at the discretion of that enforcement agency. A batch is just the shellfish in a separate container. Issue 4 is crab-part retention. Option 1 is crabs may be retained or sold in any form. Option 2; whole crabs must be retained and sold. The state of Maryland does have a small parts – it is a claw fishery, so that is why this option is here. It is a small fishery but important to the state of Maryland and is described in full in the document.

Issue 5 is prohibition of retention on egg-bearing females. If the minimum size were to be set correctly, then the option would not be an issue; but the PDT strongly discourages the use of Option 1. Option 1 is no prohibition on the retention of egg-bearing females. Option 2

is egg-bearing females may not be retained. Option 3 is no females may be retained and a 1 percent tolerance for females of which is the total percentage of the catch that is female cannot exceed 1 percent.

Issue 6 is an incidental bycatch limit for non-trap gear. Option 1; no coast-wide possession limit, so no possession limit. Option 2 is 200 pounds per day up to a maximum of 500 pounds per trip. Recreational measures; we have two measures; one, no coast-wide possession limit; or Option 2, 50 whole crab or a 100-claw possession limit for recreational fishermen. Issue 2 is exactly the same as the prohibition on egg-bearing females; either no prohibition or egg-bearing females may not be retained. Cherie has a question.

MS. CHERIE PATTERSON: How come there is no Option 3 there similar to the commercial where it indicates no females may be retained?

CHAIRMAN MCKIERNAN: I think one of the themes that we expressed during our conversations for this plan was the non-commercial fishermen include toddlers with beach buckets; and I think we were concerned about being overly restrictive to that sector of the public. That's certainly something we can move forward with, but this is primarily an offshore animal that is being taken in large quantities; so we didn't want to get too carried away.

MS. KERNS: De minimis; the de minimis requirements, there are two options; either having de minimis with commercial and recreational separate or recreational and commercial combined. They both look the same. For the preceding three years, the average landings constitute less than X percent of the average of the coast-wide landings for the same period.

The exemption that we would give to those states that are de minimis would be you

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wouldn't have to port and sea sample. The percentages would be 1 percent, 2 percent or 3 percent. There are other sections of the document that I have not gone over in full detail. They include a habitat section. It is minimal.

We don't have a lot of information on habitat, so therefore we don't have a lot to put in there; nor do we have a lot of recommendations for habitat except to do research on it to have better information – impacts of the fishery management plan, social and economic, the fishery and biological impacts.

There is an adaptive management program designed similar to those that we have in our other plans that allows us to do amendments on the plan that covers a full range of measures both for the fishery itself, designing trap things down the road, to make it easier for the board to make changes to the plan.

There is a section that describes the cooperation with the other management groups to describe what we've done for the New England Council. There is information on the management and research for biological, social and economic and habitat sections. The biological section describes information that would need to be collected in order for us to do a stock assessment moving forward.

There is a section on protected species and the interactions with protected species that we have put together with NOAA Fisheries based on the last DEIS that they did for American lobster. That is everything that I have in the document. The plan development team hopes that the information contained in this document composes a wide range of options that would get us information to bring back to the board from those that are fishing for crab in order for you to make management decisions in the future.

We're looking for this wide range of information coming back for them, to get better information on the fishery that we don't currently have. We also, at the end of the meeting, are going to look at advisory panel members. We would have an advisory panel meeting as soon as we had panel composed if this document were to move forward.

CHAIRMAN McKIERNAN: Thank you, Toni. Can you clarify for the board what aspects of this document might change after this meeting and before we go out to public hearing.

MS. KERNS: I will be adding the landings' information for 2014; and that's spattered throughout the document where that would need to be updated, as well as ex-vessel value would be updated. The landings by gear type would be updated. If we can get the information finalized, we would also update some information on the number of reported trips directed on crab versus those directed on lobster; but that may be tentative. Lastly, we would add a figure that shows what a Jonah Crab looks like, if we can get one that is satisfactory to the PDT. I don't think the one I have showing is to the satisfaction of some of the PDT members.

CHAIRMAN McKIERNAN: Let's take some questions. Roy.

MR. ROY MILLER: Toni, I don't believe I heard whether measures, if eventually adopted, would apply to rock crabs as well. What is our intention in that regard?

MS. KERNS: The board has only asked for this to apply to Jonah Crab; so currently it would only be for Jonah and not for rock as well.

CHAIRMAN McKIERNAN: Cherie, did you have your hand with a question?

MS. PATTERSON: Yes; I have about three items here. Under Issue 2 with permits, you don't

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really have any justification for each of those minimum sizes. We feel that it is pretty important to have reasoning why the public is going to be deciding on these particular sizes.

They need justification; they need to understand what those are. Is that going to be part of that reference table and figure for them to be able to formulate their own comments and opinions based on those minimum sizes? It also would help the board to justify which options to support.

MS. KERNS: The reference tables and figures are in the document. The tables didn't get positioned here, but we will say which tables they are. It is discussed in the description of the fishery section already, which is Section 1.1.3, I believe; so I can reference back to those pages in the document.

CHAIRMAN MCKIERNAN: Cherie, I think there are two issues that are in play here; and one is the size at maturity of the species and the other is the market standards that are currently in place. Bob, can you speak to the size-at-maturity information or is that something is still on –

MR. ROBERT GLENN: As far as maturity for Jonah Crabs go, it is a question that the PDT and also my staff has been trying to look into. There isn't any published maturity studies specific to Jonah Crabs for the New England area. There was a published study from Southwest Nova Scotia; and they basically found a hundred percent maturity occurring up near the five-inch mark.

Then another study that is in the gray literature that was done off the Mid-Atlantic; and it shows that it is down around four inches. Presumably, the New England Region will fall somewhere in the middle. We have put out several grant proposals trying to get the funding to conduct a maturity study on Jonah Crabs that we could hope in the future would inform that better.

Our expectations are that it would fall between four and five inches.

Along that line right now, the current market standard is – if you look at the size frequencies of what fishermen are landing for the market; the vast majority of crabs are – and I believe it is in the table in the document. I'm not sure which one, Toni, but a vast majority of crabs that are currently landed are over 4-3/4 inches right now; and over 95 percent are male crabs. The females are a lot smaller. Things like prohibitions on females and anything lower than a 4-3/4 inch minimum size would have negligible impacts on the current status of what is currently landed.

MR. ADLER: First of all, I'm looking at a sand crab up there in my world; so there needs to be a very good explanation with pictures as to what we're talking about. You just said we're not covering rock crab. Well, I think we are covering the rock crab; and so at the hearings you need to have a front view and a top view, whatever, to explain to the people going through this exactly what we're talking about.

I think we're talking about the crab that we call the rock crab, which is the one with the bigger claws. That to me is I see those, too, and they're thinner claws. That is the first thing; so we need that. Also, on the permit section, my question is, is the fact of an endorsement – rather than getting a whole new permit, an endorsement an option or can it be an option were this to pass, because I think that would be – if you're going to do something like that rather than have these guys have to get another permit; that an endorsement might be worth it.

The declawing section, which was interesting, but I don't know what the stone crabs who have declawing, what their mortality rate is if you were to allow the declawing like they do of ripping off one claw but throwing the live crab back. I don't know what the mortality is on

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that; and I don't know if that information could be added to that section.

Also, I find that Page 20 to 23, actually to 24, is going to confuse the heck out of everybody when they read the thing and they go, you know, all this over a little crab; that we're going to have to do this, we're going to have to do that. I know you've got to put it in there and it is in there; but I just envision people getting carried away with how complicated everything between Pages 20 and 24 are, if they're adopted and everybody goes, oh, this is just – you know, this is too much.

The other thing is will the technical committee be able to get more of the information clear soon and eliminate some of the, well, little is known about this and we don't know about that and not known here, because I'm going to be listening to people going, well, go and find this out before you come back to us with this proposal. The same thing is going to be necessary while you would need to explain why passing this FMP will help get a stock assessment, because I've heard this before in other issues, other species where they go you go do a stock assessment first and then come back and talk to us. So, if it could be explained that this FMP will help having a stock assessment; that might stop some of those comments at any particular hearing. I think I'll stop there for now.

MR. EMERSON C. HASBROUCK, JR.: Thank you, Toni, for your presentation. I've got a couple of questions, and one of them is similar to the issue that Cherie raised on size. I'm not sure I understood the response, really. Do we have accurate information on size at maturity or is it that it is just felt that a 4-3/4 inch minimum size is going to include males and females that are mature, because they will mature before that size? I'm looking for some clarification on that.

MR. GLENN: We currently do not have estimates of sexual maturity for Jonah Crabs for

the New England Region; but we know that from studies that were done in the Mid-Atlantic as well as those in Nova Scotia that the upper and lower bounds of maturity in those two areas are the four and five inches. It would be our expectation that maturity ogives for Jonah Crab would fall in the middle; but we haven't been able to conduct a study yet.

CHAIRMAN McKIERNAN: Emerson, some of the issues that came out at the scoping meetings last summer, everyone recognized that there are market standards for this species and that very small few small crabs are being landed in the traditional markets. We heard stories and fears of growing harvest for bait purposes; that folks might take small crabs not for market but actually to use as whelk bait or other species. That is one of the objectives of creating a minimum size and not just to protecting the spawners and not just protecting the market situation, but to thwart a growing bait fishery.

MR. HASBROUCK: Yes; and markets change. Just there is very little demand now for smaller crabs, it doesn't mean that there might not be demand in the future for smaller crabs. Toni, you had also mentioned in one of the options about a Jonah Crab pot; somebody actually built a specific Jonah Crab pot or do we have a definition of a Jonah Crab pot or is that something that we're hoping somebody will develop here in the not too distant future?

CHAIRMAN McKIERNAN: Emerson, let me answer that. In most of the New England states, it is simply the same pot and fished under the same authority. There has been some work done in Maine. With slight modifications, they were able to enhance the retention of Jonah Crabs and to some degree minimize the catch of lobsters; but it hasn't been pursued.

To my knowledge there isn't a viable directed Jonah Crab Fishery; but having said that, what we're looking at in Southern New England is a

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lobster management plan that is aggressively trying to control fishing mortality through trap controls. Unless we have a true definition of a Jonah Crab trap, in my view it has the potential to undermine the lobster management goals and the conservation goals attributable to vertical lines.

Based on the management side, in my view the actions that we're about to take with a 50 percent reduction in trap allocation over the next six years is really, really significant, but it won't mean anything if Jonah Crab traps are going out and are capable of taking lobsters.

We're serving this up in the plan not suggesting that we think the answer in the future is a Jonah Crab trap; but if there is a Jonah Crab trap, then it ought to be used and not lobsters. If there are people who are pursuing the Jonah Crab Fishery and jurisdictions that involved in this process feel the need to allow them to continue, it is going to be incumbent on them to figure this out; but in the northern New England states it is just one trap.

MR. HASBROUCK: So we're hoping that somebody within the industry is going to come forward and say I've modified my lobster trap in this manner and it is more efficient at catching Jonah Crabs and therefore we should be using this type of pot; is that kind of the intent?

CHAIRMAN McKIERNAN: It all depends on how you're trying to manage these two fisheries right now as one. Right now there is only one fishery and it is the lobster fishery. From all we can tell, 99 percent of the Jonah Crab landings are being taken by licensed lobstermen. We're dialing down participation levels in that fishery; and it is another question as to whether or not we can dial up fixed-gear fishing pursuing Jonah Crab traps and not compromise the lobster plan.

I think we're simply setting the bar – we're challenging the industry and jurisdictions

involved with this that if you're going to have traps outside of the lobster trap fishery, then it has to be something that is verified and documented. Right now it is neither; and that is one issue that I will raise with Toni.

This particular permit section, Option 1, which is sort of status quo, doesn't really speak, in my mind, to the real problems we have with status quo. For example, the National Marine Fisheries Service tells its lobster fishermen any trap on the boat is a lobster trap. It doesn't matter how it is rigged; it is a lobster trap.

But if you don't have a lobster permit, you're free to set Jonah Crab traps without a permit and without limits. There is a real gap in the rules right now in the fixed-gear fishing rules created by this incomplete management system so that we're trying to really shore it up and put things where they need to be.

MR. HASBROUCK: I didn't see anything in there about trap markings, you know, tagging of traps; was there any discussion about including markings specifically for Jonah Crab pots as opposed to the markings required for lobster pots?

MS. KERNS: If we move to a crab-only permit, in the options that have that, so Option 4 as well as under permits and then I believe Option 5; then in a future addendum the board would have to consider if they want to do specifications for traps; so that would trap sizes, vents, limits, tags and another other pieces that would go along with that.

It just really depends on how the board moves forward with regulating the permits for the fishery. Do they want to keep it tied to the lobster fishery or does the board want to allow for a separate trap fishery? I didn't put it up in the presentation because the table is just incredibly too small to see on the board; but on Page 63, Table 5 describes the current state regulations.

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You can see that the states of Maine, New Hampshire and Massachusetts and Connecticut all regulate their crab fishery tied to their lobster fishery. The one state that has a large volume of landings that does not do that currently is the state of Rhode Island. Then in federal waters there is no crab permit; but in order to retain the lobster, any gear that allows you to retain lobster or catch a lobster, then you have to have a lobster permit.

MS. PATTERSON: Yes; under Issue 4, crab-part retention; under the Option 1, I would suggest just putting crab parts in that definition; for example, crab parts such as claws and legs may be retained and sold in any form. Under 4.2, I had this question earlier about the recreational fisheries management measures.

Because New Hampshire has its recreational industry very well tied in with the commercial industry with similar regulations, I would recommend putting in Option 3 where no females may be retained might be an enforcement issue for us without that option presented.

MR. STEPHEN R. TRAIN: Toni, I think you've done a fabulous job getting this out. There was an awful lot of information that you had to siphon out of different sources for a fishery that has not been managed. This document, as broad as it is, has an awful lot of stuff in there. I'd like to see it go forward to public hearing and whittled down further from there.

I do have two issues personally with it. I have a large problem with the claw landings or the parts' landings. I know Maryland has a fishery on it. I would like to see another way to allow that to continue only in Maryland and not keep the document to include it. A parts' landing allowance in the document scares the hell out of me.

The other part is the directed crab fishery. If we have a very small issue with a few people that

don't have a lobster license, there has got to be a better way to handle that than to allow the document to include a directed crab fishery aside from the lobster fishery. It is important to me that we tie these together, period.

MR. BORDEN: Mr. Chairman, just in terms of comments, having participated with you and the PDT on about six different calls on the document, I totally concur with Steve's point that I think the document over the last couple of weeks has really come together and is a tremendous improvement over the earlier versions of it. The one suggestion I would make is that under minimum sizes, just for the sake of consistency make all of those increments the same at a quarter of an inch; so there would be a size at every quarter of an inch.

The other suggestion I have goes along with Toni's recommendation, which is she is going to be updating this document, I think the document can continue to be improved if the PDT gets to work with the staff and the chairman of the board and kind of fine tune some of the language. I think some of the confusion, particularly on the permits, can be resolved pretty easily. I would hope if we're going to pass a motion and send it out to public hearing; that Dan and the PDT have the ability to do that.

CHAIRMAN MCKIERNAN: Can we get a motion to approve this plan with amendments as outlined by Toni that will be coming forward for those of those final details. I've got Steve; a motion to approve the draft addendum.

MR. TRAIN: **Do you want me to word it or do you want just put what you just had up there? I move to move this forward – I don't know, however you want to word that.**

CHAIRMAN MCKIERNAN: **Move to approve the document for public hearing as modified today by the board. Second from Bill Adler.** Terry, did you want to speak?



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MR. TERRY STOCKWELL: Mr. Chairman, before the board votes to move this out for public comment, I just wanted to provide a few comments from the New England Council. I wanted to begin by thanking the commission and the board for allowing the council's participation. Toni attended our winter meeting in January and briefed the council on the development of the document to that date.

I'm just going to highlight a few of the discussion points that the council had at that time. One was the council noted that the Jonah Crab Fishery is almost entirely a federal waters fishery, which is within the council's responsibility. The council noted that there are some catches in the red crab and other fisheries, but they're very small relative to the trap fisheries.

There is the concern about the potential of increased gear conflicts and concern about the impact on the ongoing final development of the Omnibus Habitat, concern about bycatch issues. If managed by ASMFC, it wouldn't fall under the new SBRM. Our general counsel advised us that there might be some legal nuances, but he didn't elaborate.

Consequently, the council voted to make Jonah Crab management a 2016 priority. It was passed in the New England Council by a vote of 14-0-1. For those of you who follow the council process, the council makes its annual decisions on priorities in the fall; so this will go into the hopper with the rest of the council business. Again, thank you for allowing the council to participate in the process.

MR. MICHAEL RUCCIO: I just wanted to echo our support for the document moving forward for public hearing. We've been full participants in the PDT process, and we've had a lot of conversations with folks through the development. I would like to echo the support for Toni and the folks on the PDT for saying that

I think the document has improved substantially over the past few drafts.

That said, there are still some things that we have our eye on, I guess, and we'll be looking for. Some of them have been raised here. I think the claw-only fishery without understanding what the discard mortality is for crabs that have been declawed; it is difficult to understand how that would work in practice and how that wouldn't undermine any conservation objectives for the stock.

Not knowing the size at maturity I think makes it difficult to rationalize a minimum size for the fishery if it is going to be predicated on biological implications alone. If it is a market factor, then fine, I think those things will come out in public hearing or perhaps more work with the PDT. As I said, we do look forward to it going out for public comment and look forward to further discussion.

MR. ADLER: Mr. Chairman, I just wanted refer to what Terry said and ask whether that means that the federal council is going to develop a Jonah Crab Plan like we're trying to do here; and if so, are they going to listen to us for a change?

MR. STOCKWELL: I wish I could give you a straight answer, Bill. I read you the motion that was made in reference to making Jonah Crab management a priority, but it may or may not rise above the bar this fall. As you probably know, the council does have a Red Crab FMP; so there is concern and interest from some of the council members for pursuing a Jonah Crab FMP as well.

MR. BORDEN: I'd just like to follow up with Bill's comment and say that the plan development team – and actually Mike's comment that the plan development team I think went out of its way to try to address the concerns that have been voiced both at the council meeting by council members and the

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National Marine Fisheries Service staff and included a much wider range of options so that those issues were addressed.

CHAIRMAN MCKIERNAN: All right, if we don't have any more comments; can we take a vote on the motion. **I will read the motion: motion to approve the document for public comment as modified today by Steve Train and seconded by Mr. Adler. All in favor; opposed; null; abstentions. It is unanimous, it looks like.**

MR. TRAIN: Mr. Chair, I have another motion related to this. I believe staff has it. If we could bring it up, I think it is important at this stage. If I get a second on that, I'll explain it.

MR. DENNIS ABBOTT: I'll second.

CHAIRMAN MCKIERNAN: Would you like to read it on the record.

MR. TRAIN: **I move to establish a Jonah crab fishery control date immediately. The intention of the control date is to notify current and potential new entrants to the fishery, especially those who fish in jurisdictions that do not require a specific permit for harvest of Jonah crabs, that should the board establish limited entry programs for the Jonah crab fishery, eligibility to participate in the commercial fishery in the future may be affected by the person's or the vessel's past participation based on verifiable documentation of landings and effort and/or licenses possessed prior to that date.**

CHAIRMAN MCKIERNAN: And the second is Dennis Abbott. Any discussion? Steve, do you want to discuss it at all?

MR. TRAIN: Some of the discussion that came up earlier was that some people didn't necessarily have a current lobster/crab permit and that the federal government didn't require one fishing in federal waters. Although some states required you to have a lobster/crab

license to land, some did not. So there were people fishing that may not – or may have been fishing that may not have had a license. To ensure we don't have a ton of them run out of the woodwork and say they were one of them, we need some sort of documentation that they either had a license or have landed Jonah Crab.

MR. ADLER: I'm not opposed to this because control dates can be moved around. Having a license, the intention of this would be, if we did establish it and it stayed, that lobster fishermen with lobster permits would basically be okay; and if they landed some crabs, no numbers, that they'd be okay; is that the intention here?

MS. KERNS: Bill, the way that the motion reads it says "landings and effort and/or licenses", so I read this as you don't even necessarily – depending on what the board decides in the future, you have the option of you don't even have to prove that you landed. You just have to prove that you had the necessary license. That is how read the "and/or". Steve, if that is correct or incorrect, let me know.

MR. TRAIN: The intent is not to take away anything from anybody currently in the fishery with a license. The intent is to prevent claims that I am in the fishery from people that have no license to actually in it. If somebody can prove they've landed without a license because it is allowed in some states, then they would be in. But if they cannot, the only way they would be in is if they have the lobster/crab license.

CHAIRMAN MCKIERNAN: And I would point out that they would be in something, and that something is what the board will decide going forward as one of the permitting options.

MR. RUCCIO: Mr. Chair, I think you've captured it very well. All this does, in my mind – and I will state that this is something we support. If you're going to discuss potential limitation of the fishery, I think it is always wise to have some control date consideration. This just lays

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down a marker that doesn't commit the commission to any particular course of action in terms of how it utilizes that date.

I think as this is currently crafted, it just puts people on notice that we might treat history differently after this date; and then before the date, it puts people on effective public notification that if you have been participating, maybe it is time to think about getting your records in order and make sure you have things.

This doesn't preclude if there is any kind of limitation program that goes in place a fully vetted and developed process for limited entry that would include qualifying criteria, potentially appeals, those kinds of things. This in no way, shape or form crafts that program ahead of time or makes any kind of predeterminations about how that will go.

This just sets down kind of a line in the sand that says history may be different before and after that line; so you're on notice. We've used this for a number of fisheries that have eventually gone to limited entry, and I think it is good practice and good policy to have these if you're going to consider limited entry; not that you even have to. Once you have the date, you can use it or not; but it is better to have it now than to not have it, I think.

CHAIRMAN McKIERNAN: Thank you, Mike; that was well put. Mark Gibson.

MR. MARK GIBSON: I support the motion. I think Mike just well spoke to what I would have like to have said; so it is worth the motion.

CHAIRMAN McKIERNAN: Any other comments on the motion? Yes, Craig.

REPRESENTATIVE CRAIG A. MINER: Just a clarification; so by establishing this date – I'm thinking that many of these fisheries are going through transition – is it the intention that Connecticut didn't have anybody that was

appropriately licensed, they would be unable to get someone licensed after that date?

CHAIRMAN McKIERNAN: The default condition in most states is lobstermen with authorized vessels and tagged traps have been landing Jonah Crabs. I think going forward that is an outcome that the PDT would like to see go forward. What you're seeing on the board is in those instances where someone is outside of the realm of lobster-permitted fishermen and might have been fishing legally but had no permit and no reporting requirements, or whatever, this establishes a baseline that if they've been doing it prior to this date, they might have some consideration in the future depending on what outcome we come up with in the permitting schemes.

REPRESENTATIVE MINER: I guess I'm just thinking that we don't – I was saying to Dave Simpson when I was a kid I think these were a nickel and now they're not a nickel. I don't know what the market price is that drives people to do things that they don't currently do today. I'm just a little concerned about a state that I don't think has a market for this – at least it isn't an industry that I'm aware of in Connecticut – being foreclosed in the future, especially when we've chased them out something else.

CHAIRMAN McKIERNAN: This particular control date wouldn't foreclose that. What would foreclose that is one of the permitting options, but the permitting options that you see here all – many of them, if not all of them, attempt to accommodate the traditional lobster fishery to take Jonah Crabs. Emerson.

MR. HASBROUCK: I'm a little confused on the intent here. If somebody has a lobster license but has not landed any Jonah Crabs; are they covered under the control date? That is the first part of it. The second part is if somebody is landing in a state that doesn't require a permit; so they have history, but there is no permit; are

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they going to be excluded? If perhaps the chairman or the maker of the motion could help clarify that for me, it would be appreciated.

MR. TRAIN: The intent of that motion is that both of those people would be allowed in the fishery. If they currently possess a lobster license or a lobster/crab license, depending on the state, or if they documented they have landed crabs in a place that did not require a permit to do so, then they would be protected in this fishery. That's the intent of the motion. It would be the speculative entrant from some place that has not participated in the fishery that would be excluded because of this control date.

MR. HASBROUCK: So we would allow all of those people who currently have lobster permits but who have never landed one pound of Jonah Crabs; we would allow them to participate in the future in a Jonah Crab Fishery; is that correct?

CHAIRMAN MCKIERNAN: I think we're getting ahead of ourselves in terms of debating the final aspects of a limited entry scheme. This is simply the control date that landings or participation after, immediately, presuming today or whenever NMFS could adopt a complementary measure, those landings wouldn't count toward future participation if the limited entry scheme were so constructed.

You can see in the document we're trying to wrap our hands around this fishery that is difficult to document in some jurisdictions because there isn't a permit requirement. It is my experience as a former lobster biologist and someone knowledgeable of the lobster fishery, if someone is commercially lobstering in Southern New England and has never landed a single Jonah Crab, I'd be shocked. Any other questions? Brandon Muffley.

MR. MUFFLEY: Just the one question; so the people who are being notified are those that

hold some sort of federal or state lobster permit; those are people that we're considering being notified of this issue, because it is just saying here we're going to notify current and potential new entrants. I'm just looking for clarification on who exactly we're notifying. New Jersey doesn't have anything specific to Jonah Crabs, but obviously we have lobster permit holders; so that is who getting notified on this?

CHAIRMAN MCKIERNAN: I mean, that is part of the challenge that we have is that we hear stories that there is a sub-component of the industry that doesn't have a lobster permit and has not had to report in their jurisdiction but may have been active. If we can't find them, you're right, it is hard to notify them; but I think as a general notice to all commercial permit holders; that is what I would recommend.

If you have a general mailing, you could do it to all permit commercial permit holders to let them know that Jonah Crab landings after this date may not be considered in the future going forward. This is rather broad, but again it is only being done, as Mike Ruccio described, as a line in the sand so that in future we can take an action that might use this date.

MR. RUCCIO: To Mr. Muffley's point, should this pass, we would work with staff to develop a Federal Register Notice that formally establishes the date; and it would likely be the date that we publish it in the Federal Register. We would then send notification of that to current lobster-permitted, current lobster dealers, kind of cast a wide net.

We'd have kind of our roll-out machinery that would go into effect and try to cast a wide net so people are aware of this. Then that could be retransmitted through whatever permit system or whatever notification system you have in your state and in other states. Without the requirement for a permit federally, it is a little bit more challenging to target the messaging;

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but I think with technology the way it is now, we would get that out fairly effectively.

CHAIRMAN McKIERNAN: Anyone else? All right, can we vote on the motion? All in favor of the motion – yes, 30 seconds to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN McKIERNAN: All right, let's vote on the motion. All in favor raise your hand; any opposed; any null votes; any abstentions. **It passes ten to one no with one abstention.**

MS. KERNS: I just have a couple of questions for those states – so we have gotten permission for the PDT to make some changes to the document. I think that we can do rather quickly. I'm looking towards a couple of my PDT members. We have a couple of requirements – as Bob said before under the Herring Section – to have the document out for 30 days before the first hearing and then we have to have the document out for 14 days after the final hearing.

Depending on how much time we take to update the document, it may start to get close to those deadlines, so we'll have to be careful in order to try to have as much information to the board in time for meeting materials, which I'd like to do to not have all of this on supplemental materials. If we do require additional time, then some of this information may be on supplemental materials.

David, do you think that we can probably get there pretty quickly? That is a nodding of the yes head. Then we'll find out from which states who want to have public hearings in an e-mail, but we'll have to set those up rather quickly as well in order to meet the time frame. So if we could just work with staff in doing that as quickly as possible, we'd really appreciate it.

CHAIRMAN McKIERNAN: Bill Adler, do you have a question?

MR. ADLER: Yes, actually going back to the motion we just passed; and when you say immediately, so therefore today's date is immediately; is this the official date of the control date?

CHAIRMAN McKIERNAN: NOAA Fisheries is going to publish a proposed control date through the Federal Register, so it would be on their own schedule. Any other participating states that don't have any permit limits or any limitations might want to notify their fishermen as well.

MR. ADLER: All right, so we're not establishing today's as the control date; correct?

CHAIRMAN McKIERNAN: That's right. Jim Gilmore.

MR. JAMES J. GILMORE, JR.: Mr. Chairman, just a clarification. I think the vote was ten/one/zero/one.

CHAIRMAN McKIERNAN: All right, Toni, let's move on to Item Number 6. Craig.

REPRESENTATIVE MINER: Well, it kind of goes to my point. I mean, in terms of public notice, if this date is going to become a date that some future this fishery is going to be based on, I don't know how you can do it today. Maybe that is just the world I grew up in, I don't know, but it just seems to me that without any notice there isn't a fisherman today that can change anything from where they are today.

It almost seems inherently unfair; that's all. I mean, if we were going to make motion to establish a date at some point in the future where you could allow transactions that may actually be in the works right now; that is different than having something that established that date today. That is kind of my opposition; but I guess that's over.

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### CONSIDER ADDENDUM XXIV FOR FINAL APPROVAL

MS. KERNS: The next agenda item is Addendum XXIV. To remind the board, Addendum 24 is looking at compatible regulations between state and federal in particular for the trap transferability rules. NOAA released trap transferability rules; and some of those that were released were not consistent with state measures.

Addendum XXIV looks at providing consistency between state and federal measures for these plans. We are in the last step of the addendum. Today we are considering options for final approval by the board. The final approval will be a roll call vote. The first issue under this addendum is looking at the conservation tax.

The commission's plan has a 10 percent conservation tax on full and partial business transfers. The federal plan only had a conservation tax on partial business transfers. A tax for full business transfers was not necessary to prevent the activation of latent effort and that regulations provide sufficient controls for latent effort.

Therefore, we have two options. Option A, which is status quo under the commission plan, having a 10 percent conservation tax on full and partial business transfers. Option B is to remove the conservation tax on full business transfers. Option 2 is to look at trap increments. The final federal rule had traps transfers could proceed in ten-trap increments. The states had adopted various transfer requirements that differed by management area; so the number of traps that you could move at one time varied by state and area. The federal regulations allowed for fewer traps to be transferred at one time, allowing for more flexibility for a federal permit holder in the trap transfer process.

The two options that were considered is trap increments remain the same or trap transfer increments in ten traps for all areas where trap transferability programs exist. Issue 3 is looking at the dual-permit transfers. A person who has a state and federal permit for the same area may only transfer traps to a dual permit holder from the same state in the commission plan.

The federal plan allows a permit holder to purchase and sell traps that have a dual permit with anyone with a qualified allocation in Area 2, 3 or the Outer Cape Cod Area; so allowing someone from different states to transfer traps, basically. The two options that we have to consider; Option A, which is dual permit holders may only transfer traps to dual permit holders in the same state as it is in the commission plan; or, Option B, to allow dual permit holders to transfer allocation with dual permit holders from other states as was in the final rule.

We went out for public comment in this document. As a reminder, we did not hold public hearings. We only sent out the document out for comment to be received. We received a total of five comments; four from individuals and one from a group from AOLA. For the conservation tax, only one individual favored Option 1, to remain status quo; and three individuals favored to have a removal of the conservation tax on full business transfers.

Option 2, which is the trap transfer increments, all the comments that were received were in favor of moving to a ten-trap transfer increment. For Issue 3, dual permit holders, all the comments that were received on this issue asked for the allowance of the transfer of traps from dual permit holders to be allowed from any state. Questions?

I do want to note that when the document went out for public comment, on Page 6 the examples for Area 2 and 3 were reversed; so that a transfer for Area 2 should have read a transfer must be comprised of a minimum of 50

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traps and in units of 10 traps. The upgrading requirement will apply to the transfer – for example, a 20-foot vessel shall only transfer traps to a vessel under 23 feet. The upgrading portion of this example is from Addendum IV, which is way, way, way back; so just to be noted that that upgrading part applied to Area 2 and not to Area 3. It is fixed in the current document that went on the briefing materials.

CHAIRMAN MCKIERNAN: Any questions? David.

MR. BORDEN: I actually don't have a question, Mr. Chairman; I'm ready to make a motion when you're ready.

CHAIRMAN MCKIERNAN: Are there any questions on the draft addendum? All right, David.

MR. BORDEN: Just a one-minute statement before I do. I just remind everybody that the intent of the regulations is to synchronize the state and federal regulations. I would note that this will simplify and standardize the administration for all the state agencies if we do it correctly. **I would like to make a motion that we approve the addendum with the following options: Under Issue 1, Option B, which would remove the 10 percent conservation tax for full business transfers; under Issue 2, Option B, that traps be transferred in all areas in ten-trap increments; and then under Issue 3, include Option 2, an allowance to state-to-state dual-permit transfers.**

CHAIRMAN MCKIERNAN: Is there a second on the motion; Emerson. Any discussion on the motion? Motion to approve the addendum with the following options: Issue 1, Option B; Issue 2, Option B; Issue 3, include Option 2. Motion by Mr. Borden; seconded by Mr. Hasbrouck. All right, are we ready to vote? All in favor of the motion raise your hand; opposed; abstentions; null votes. **It passes unanimously.**

MS. KERNS: The compliance schedule that was outlined that went out for public comment is that approving this document would be effective immediately upon approval of the addendum. It would be expected that when the states did their FMP reviews and state compliance reports for the coming year; then these changes in management measures would be either actively be a proposed change if it is needed to be done; or added if you needed to add it to your transfer rules for those states that have transferability programs. Not all states have them; so it would only be necessary for those states that have transferability rules, and we would include it in the compliance reports.

CHAIRMAN MCKIERNAN: So now we need a final vote on approval of the final addendum. **Motion to approve the addendum as written; Bill; and second, Mark Gibson. Do we need a roll call on this one, Toni? All right, no abstentions; no opposition; we'll assume it is unanimous.**

### REPORT ON FISHING FOR ENERGY WORKSHOP

CHAIRMAN MCKIERNAN: The next item is Fishing for Energy Workshop Report.

MS. KERNS: There were several states and staff that attended the Fishing for Energy Workshop. This was a workshop that was put by NFWF through funding via the NOAA Marine Debris Program. I believe I'm doing that correctly. There were members from Maine, New Hampshire, Massachusetts, Rhode Island at the workshop.

One of the items that we discussed was derelict fishing gear and specific was lobster traps and other fish traps. A study was presented that looked at how effective hog rings are for the ghost panels. I'm going to let Bob go quickly through that study and then I'll discuss the recommendation from the working group.

MR. GLENN: Historically, I believe it was in the late seventies, the requirement for a ghost

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panel was put into place. The method of attachment was to use a non-stainless steel ferrous hog ring. Based on observations from guys using them in the field, the assumed half-life of a hog ring was somewhere between 60 to 100 days they figured when it would rust out over time; and that would disable the trap and make it ineffective at catching lobsters and fish.

Subsequent to that, in the last several years several agencies, including us at Massachusetts CMF, have done some studies on ghost gear and also some retrievable efforts on ghost gear. Kind of counter to that observation, what we found is that lobster traps, when abandoned on the bottom, that the escape panels as well as the escape vents that are attached with non-stainless hog rings tend to persist for multiple years.

From our study, we saw that they continued to stay attached for well over two years. Then from other subsequent gear retrieval efforts where trap tags were on the traps, they were finding lobster traps in Massachusetts Bay and off the coast of Maine that had trap tags that were six, seven and eight years old where the ghost panel and/or the escape vent had not worn through.

There was a combination of oxidation not occurring on the hog rings as well as bio-filing which kept it in place. Based on those results, the National Fish and Wildlife Foundation funded a study by a researcher, Kurt Cousins from William and Mary.

He looked at the degradation rates of hog rings. One of the primary observations, when talking to lobster industry members who actively fished the hog rings, was that our observations that we were seeing from our other studies didn't make sense because they constantly have to replace hog rings.

Their observations were that something is not right here. We have to replace these all the

time, every couple of months, and it doesn't make sense that you're seeing them persist. This researcher conducted a study, and he looked at degradation rates of hog rings on ghost panels of traps that are actively fished as well as traps that are just abandoned on the bottom and compared those over time.

In a nutshell, what he found is that over the course of the study; that the pots that were actively fished, that were being brought to the surface and allowing that process of oxidation to occur lost their weight as a measure of degradation at a much faster rate than those who were simply abandoned and left on the bottom of the ocean and then checked at the end of the study.

What this does is it kind of brings into question some of the basic tenants of what we have for gear requirements for the lobster plan, and that is the requirement of a ghost panel and escape vents. Those are important aspects but they're certainly not acting as historically and anticipated that after being lost for a couple months; that they would rust out and become inactive. Actually what the evidence suggests is that they continue to persist for quite a long time.

MS. KERNS: So then we got to discussing the study and some of other studies that have been going on. We wanted to see how could we get this discussion going further, include industry; and then if there are solutions or recommendations, how can we move them forward.

It was suggested that we use the Commission's Gear Technology Working Group in conjunction with members of industry to assess the effectiveness of the ghost panel; so review some studies that are out there that are looking at ghost panel use, have industry come forward with some of the other methods that they've been using to attach ghost panels or to provide escapement; and then come back to the Lobster



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Board for any recommendations that they determine and discuss.

In addition to fishermen, we thought it would be appropriate to include some of the trap makers as well in this discussion. The Gear Technology Working Group is a technical committee under the Policy Board; so if this is something that interests the Lobster Board, that would need to move through the Policy Board and then be tasked via them.

**MS. PATTERSON: Yes; I would like to recommend that we move this to the Policy Board to task the Gear Technology Working Group to work with industry to assess lobster ghost panel effectiveness.**

CHAIRMAN McKIERNAN: Cherie, that is a motion you're making?

MS. PATTERSON: Yes.

CHAIRMAN McKIERNAN: Is there a second on that motion; Emerson. Any discussion on the motion? David Borden.

MR. BORDEN: I don't have any objections to the motion, but I just wonder whether or not it is comprehensive enough. I just point out that we've got all these fish pot fisheries that are taking place up and down the coast, and we're in the process of rebuilding a lot of these populations. I just use as an example black sea bass where it is not uncommon for somebody to catch a nine- or ten-pound black sea bass in New England waters these days. I would just urge us if we're going to review this, I think we ought to review it in a more comprehensive manner and maybe look at the implications of some of these other pot fisheries and maybe kind of standardize whatever we come up with. Thank you.

MR. HASBROUCK: Mr. Chairman, I've received funding through NFWF and NOAA Marine Debris Program. Over the past several years

we've been actively conducting a program with Long Island Sound lobster fishermen to retrieve derelict lobster pots. We've retrieved well over 10,000 abandoned and derelict lobster pots out of Long Island Sound.

We are finding that in many cases the hog rings don't degrade as quickly as anticipated. We've got quite a bit of data on that. The other thing that we find that when the gear is not actively fished and when it is abandoned, it tends to settle into the sediment, especially if it is soft sediments there. We've also found that the pots, where the escape panel is, even if the hog rings have degraded, the panels don't fall off because the pot has settled down into the sediment as well. That is just another issue. I may be able to bring some information to this working group once it gets going.

CHAIRMAN McKIERNAN: Those are great observation and I'm sure the group would benefit from your input. All right, any other discussion? **Seeing none; let's take a vote on this motion. All in favor; opposed; abstentions; nulls. It is unanimous; thank you.**

### UPDATE ON THE LOBSTER TRAP TRANSFER DATABASE

That moves us on to update on the Lobster Trap Transfer Database. I'm going to speak to that.

We've been working monthly with the states and the National Marine Fisheries Service to create through the ACCSP a database that is attempting to house all the trap allocation data for the permit holders on the state and federal level. These are those who have allocations; so it is not all lobster permit holders.

For instance, most of the Maine and New Hampshire fishermen wouldn't be in this database at the current time; but it is those who have trap allocations through the various plan addenda that we've done previously; so it is Area 3, Area 2 and the Outer Cape. Just briefly to describe this; it is very challenging

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because as you all know the National Marine Fisheries Service has its own permitting rules and they have a different perspective than the states.

They typically permit vessels and most states are permitting individuals. We're working very hard to try to reconcile where we know it is the same entity, to combine all those data elements into one, which means asking in some cases the states to incorporate in their data those elements that the federal permit might have and vice versa for the federal government to incorporate those items that the state permit would have.

For example, in my state of Massachusetts we took a lot of effort a year ago to add company name to every lobster permit holder who had an allocation; because in most cases that's how the National Marine Fisheries Service had them. Then had them down as company where we had them down as the person. Then it means making sure that the vessel registration or the documentation is spot-on, is exactly right. That is what we've been doing to date.

Now we're going to be coming up with these forms for fishermen to apply for transfers of allocations. We expect to have everything ready by September 1<sup>st</sup>. That is when fishermen can start applying for these trap allocation transfers. They'll have to have it completed by November 30<sup>th</sup> for us to work that out. It is going as well as can be expected.

It is hard to have all these jurisdictions working on multiple datasets to try to make it consistent. What it also means is going forward if a fisherman or a vessel owner who wants to make a simple change to their permit might see a little bit of a delay if they also have a state permit with a trap allocation.

The two permitting entities, the people down at the staff level that deal with fishermen on a daily basis, are going to have to a much

stronger sense of coordination about people changing their permits. In some cases we've worked very hard to reconcile these records so that if someone has a state and federal permit and they want to go to NMFS and say replace the vessel, well, the state needs to know about that before we in this trap allocation database group will consider to approve that, because there are some negative consequences.

The plan says that if you have a state allocation and a federal allocation, you can't split them into two different businesses; so that's really what we're trying to accomplish there. The ACCSP staff has been very good to work with over these last few months, and all the states are doing their best to get this online in time. That's my report. Next is the Lobster Stock Assessment Update. David Borden.

MR. BORDEN: Mr. Chairman, not a question but in my new capacity, I handle a lot of questions from fishermen. I really would suggest that we follow kind of an intermediate step here. I totally agree with everything you just said, but I think it would be really helpful if the commission, working with NOAA, could write like a general permit letter that would go out to the industry and basically say this is what we are attempting to accomplish and this is what the timelines are. Don't put all the details in it; just let them know when things are going to transpire, because there is a lot of confusion in the industry about when something is going to take place. I think it would help.

CHAIRMAN MCKIERNAN: Yes; I'm sure with NOAA we would be doing that. Because this whole process is so involved, I'm sure we'll have some outreach. Mike, did you have a comment.

MR. RUCCIO: I just wanted to say that this is where our staff sometimes makes us look really good. They're already on that. We have the materials kind set and ready to roll out that does quite a bit of I think what you want to see in there, Dave, to try to announce that the

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program is now at the point where we can start taking applications, remind people of the timelines, has some answers to the frequently asked questions that we expect about the process.

We've just been waiting to kind of get to the point where we felt that the transfers were something that could be supported in terms of the database, and I think we're just about there. While I have the mike, I just wanted to very quickly thank – there have been a lot of people that have been involved with this from a lot of states, federal agencies ACCSP and a lot of staff have done.

If it wasn't clear from what you heard from the Chair that this is a very large lift, a lot of complexity and moving parts and a lot of people have been working really hard on it. The fact that it has gotten to this point is a testament to the work they've put into it.

CHAIRMAN MCKIERNAN: Thanks, Mike; and I just want to clarify if I misspoke. September 30<sup>th</sup> is the expected deadline for folks to get their applications into the agencies. That gives the agencies October and November, two months, to approve it; so that by the time we are issuing new permits for the calendar year, which we do at the state level, folks will have their new allocation adjusted accordingly.

### UPDATE ON LOBSTER STOCK ASSESSMENT PROGRESS

CHAIRMAN MCKIERNAN: All right, to Toni on the stock assessment.

MS. KERNS: Staff is working to set up or finalize the assessment peer review. It is going to either be in Rhode Island or Massachusetts, somewhere easy commutable to Woods Hole where we have a modeler that is on a survey that week; so we're trying to keep him close to home so he can go back and forth every day in order to prepare for his survey work.

The modelers are doing an amazing job, and I'd like to thank you all for your staff time and their ability to work on the assessment, in particular Bob and Kim and Larry Jacobson and Burton Shank from NOAA Fisheries who have been working extremely hard to model the document. Since we no longer have commission staff working on the assessment, they have stepped up to the plate and done a lot of work and we greatly appreciate it. We will have the peer review to present to the board at the August meeting.

MR. ADLER: At the August meeting; therefore, what are you going to have, the stock assessment?

MS. KERNS: Yes; the stock assessment and peer review report to the board, because the peer review will occur the week of June 8<sup>th</sup>.

MR. ADLER: Okay, so the thing basically will be finished and presented to us in August?

MS. KERNS: Correct.

CHAIRMAN MCKIERNAN: Any other questions? Bob Beal.

EXECUTIVE DIRECTOR BEAL: Mr. Chairman, talking with Pat Campfield earlier today, I think they're leaning toward Newport, Rhode Island, for the peer review; so it is pretty accessible for the Woods Hole folks. It easy to get in and out of Providence.

### POPULATE JONAH CRAB ADVISORY PANEL

CHAIRMAN MCKIERNAN: The next item on the agenda.

MS. KERNS: We have some advisory panel members to consider and approve for the Jonah Crab AP. We apologize; the nomination forms did not translate and make it on to the meeting materials; but they were on your meeting materials for the February meeting, so you did

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see them before. This agenda item was put off until this board meeting from February.

We have AP members from New Hampshire, Massachusetts, Rhode Island, New York and Maryland to approve. If states have additional advisory panel members that would like us to consider, please e-mail those nomination forms to Tina or Megan. We can have the board review those at the August meeting, but those folks could still participate on the advisory panel meeting that we would have for the draft FMP.

CHAIRMAN McKIERNAN: Terry Stockwell; do you have a question?

MR. STOCKWELL: Mr. Chairman, with my Maine DMR hat on, we do have a nominee from Maine. However, his application is in a mail snafu because the DMR offices have switched from Hallowell to Augusta. I had hoped to have brought it with me today, but we'll get in the mail to you.

MR. THOMAS O'CONNELL: Just one modification, Mr. John Gurley, since he applied has sold his business and is no longer interested so just remove his name from the motion.

MR. ADLER: So with that adjustment; is that what you're looking for is a motion to approve the ones above except for Mr. Gurley. **Is that what you want is a motion to approve?**

CHAIRMAN McKIERNAN: Yes.

**MR. ADLER: I'll make it.**

CHAIRMAN McKIERNAN: All right, is there a second; second by David Borden. **The motion is to approve Todd Richards Ellis from New Hampshire, Captain Jan Horecky from Massachusetts, William Purtell from Massachusetts, David Spencer from Rhode Island, Brian Thibeault from Rhode Island, Chris Scola from New York, and Earl Gwin from Maryland to the Jonah Crab Advisory Panel.**

Motion made by Mr. Adler and seconded by Mr. Borden. **Any objections? Hearing none; we will consider it unanimous.**

### OTHER BUSINESS

CHAIRMAN McKIERNAN: Other business. Mark Gibson.

MR. GIBSON: I just wanted to return to the stock assessment. We're going to get the report and the peer review. Even if there is not likely to be much good news about Southern New England, what is the expectation of the board's likely action in response to that? Are we going to be thinking about taking some kind of response to that at the summer meeting or take longer to digest it? How do you see that playing out?

CHAIRMAN McKIERNAN: That's the \$64,000 question. It will be presented to us in August. I assume we'll probably have to come up with new possible thresholds. Bob, what is the thinking of the stock assessment folks? What can we expect?

MR. GLENN: To use the politically correct answer to that, Dan, is that prior to the peer review I think the committee would be happier if I didn't offer those suggestions.

CHAIRMAN McKIERNAN: We'll see, Mark. Any other business? David.

MR. BORDEN: Mr. Chairman, I'll try to keep this brief and I note that we're ahead of schedule. I just wanted to talk a little bit about the last New England Council Meeting and the Closed Area 2 discussions. I think everyone will recall we raised I think two meetings ago. The commission sent a letter to the council basically requesting that the council keep Closed Area 2 closed to mobile bottom-tending gear during the period of time when the lobsters are in the area.

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I think as everyone will recall, a number of industry representatives had come forward and basically said that there were large concentrations of egg-bearing females in the area. In fact, the board asked the technical committee to review this issue. Bob Glenn as the chairman of the PDT responded; and the response basically was that up to 80 percent of the lobsters in the area seasonally are egg-bearing females.

Actually and more importantly from my perspective – and Bob can speak to this himself better than I can; but the scientific understanding in the Gulf of Maine between the inshore fishery population and the Georges Bank population is really evolving in this stock assessment. I think once we actually get the stock assessment, what we're going to see is that there is a definite connection between these two parts.

The significance of this is the council has this habitat amendment, I think as everyone knows, and one of the options in the habitat amendment is to open Closed Area 2. If that happens, conceivably we could have a large number of mobile gear boats go in there right at the height of the season when egg-bearing lobsters are in the area.

This is not a trivial matter for the commission. The commission has the responsibility under the Atlantic Coastal Act, working with NOAA, to manage the lobster resource; and the council has their own responsibilities which are to manage habitat with NOAA; but they're different responsibilities. The reason that I'm raising this is at the last meeting Dr. Pierce made a motion, which got tabled until June –

CHAIRMAN MCKIERNAN: Do you mean at the last council meeting or –

MR. BORDEN: At the last council meeting made a motion to prohibit mobile gear in any portion of Closed Area 2 north of 41 degrees 30 minutes

during the period of June 15<sup>th</sup> through October 31<sup>st</sup>. As I said, that motion got tabled until the June meeting. What we have here is that there are a lot of moving parts that are going on simultaneously; and I'm a little bit concerned that the commission is going to lose its opportunity to comment on this issue.

As I said, we submitted a letter to the council. Unfortunately, the letter didn't include specific dates on when we thought that the mobile gear should stay out of that. If as Bob Glenn stated in his memo to the board up to 35 percent of the entire egg-bearing female population from the Gulf of Maine and Georges Bank is in Closed Area 2 in the summer months, I think the last thing anyone around this table wants to see is a group of mobile gear boats go in there and work during that time period.

The inshore fisheries that are dependent upon this egg production basically employ 6,000 fishermen and are worth \$400 million. This is a big issue I think for the board. What I'd like to suggest here is that we ask the Board Chair to work with the executive director and the commission chairman and send another letter to the council specifically requesting that the council keep any portion of Closed Area 2 north of 41 degrees 30 minutes closed during the time period of June 15<sup>th</sup> to October 31<sup>st</sup>. I would be happy to make that as a motion. That is one suggestion. I've got a second suggestion, but I think it will be good to take these up separately.

CHAIRMAN MCKIERNAN: At this point we're just discussing; you haven't made a formal motion yet? You're just looking for feedback?

MR. BORDEN: Yes; I'd like to hear a reaction from the board members. If people are supportive, I'll make a motion.

CHAIRMAN MCKIERNAN: Okay, any reaction from the board? Bill Adler.

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MR. ADLER: First of all, I thought the lobstermen and the dragger men came to an agreement up in this area of Closed Area 2 with regard to the egger situation and the gear conflicts; and they came up with an approval of when they would be there and when they're weren't. I remember while NOAA was able to control the dragger solution; they couldn't control the lobster; so we here put something forward make the lobster guys conform to the agreement.

Okay; done deal. Now, what I'm listening to is that whether the feds haven't opened it up under those conditions or not; then I remember Dave saying that the scallopers weren't included in the agreement. I think what we're looking for is if they open Closed Area 2 where north of whatever; that the scallopers and the draggers must comply with those dates where they stay out. Dave can elaborate, but I believe this is what the idea is. If I'm not correct, Dave, let me know.

MR. BORDEN: In terms of the otter trawl's ground fishermen is a better way to characterize it; the ground fishermen and the lobster industry negotiated an agreement and put that in place. The agreement essentially prohibits mobile gear in the area from June 15<sup>th</sup> until October 31<sup>st</sup>. That agreement in fact was updated about a month ago.

This morning I sent a copy of the updated agreement to Toni. She has it and she can distribute it to everybody. Bill is correct; this whole issue basically comes down to the scallop industry fishing in the area. We've had ongoing discussions between the Atlantic Offshore Lobster Association and the scallop industry.

We've got a framework for an agreement, but the scallop industry essentially – and I'm not here speaking on their behalf; but they refused to sign the agreement because they need guaranteed access into the area in the spring when the eels are going up. In order to do that,

they have to get the council to approved closed-area access days earlier.

As Terry can speak to better than I can, the council has already directed the Scallop Committee to do that. I mean the pieces are all kind of moving in the right direction, but I'm just a little concerned and I think we have to be very specific on what we want going – as the Lobster Board going into this council meeting. That's the reason I'm suggesting we send another letter.

MR. STOCKWELL: Thank you, David, for bringing this to the board. To recap a very long day and a half meeting a couple of weeks ago, all action on Georges Bank was suspended and deferred until the June meeting. We didn't get there. I mean around this table all the state directors have been supportive of expanding the otter trawl agreement with the scallopers.

In fact, Dr. Pierce made a motion to in fact to remand that the scallopers develop an agreement with the lobster fishery or the council is going to do it for them. The one kind of yellow blinking light I have is that the public comment period for the Habitat Omnibus is beyond us. We've had over 200 public hearings, 170,000 public comments. We can vote to send a letter from the board, but I think it is going to resonate with all the commissioners sitting around the table that serve two functions. I'm just not sure what attention the letter is going to get.

MS. KERNS: David, the updated agreement, does it have the same dates and lat/long information that Addendum XX had. It is just new signatures?

MR. BORDEN: It is all the same. The only thing that really changed; there was some confusing language about implementation protocols and so forth; and that all got taken out of it.

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MS. KERNS: As David referenced, we do have Addendum XX which looks at the commission's side of this agreement, saying when we would pull lobster traps from the specific area within Closed Area 2. At the council meeting, commission staff that are at the meeting, we can bring up the regulations that we have listed as current lobster rules and regulations as part of the discussion through that motion and anywhere else that it would need to be brought up. I don't know if that is helpful enough. I'm trying to find a balance here between the public comment period being closed and rules and regulations that we already have in place that changes would impact our plan.

MR. BORDEN: Just to follow up both on Terry's point and Toni's point, the public comment period is closed, but I mean sending the council a letter on this issue isn't going to hurt. In other words, it is at least we take the position of what we want, because we were a little vague of what we want.

We basically said close the area during the time period when the lobsters are there. I would note that when Bob Glenn and PDT gave their recommendation, their recommendation was don't open the area. I think it would behoove us all to have a clear record of what we would prefer. Terry is right, the public comment period is over. The council will read the letter and they can act accordingly.

CHAIRMAN McKIERNAN: Ritchie White, do you have a comment?

MR. G. RITCHIE WHITE: I support Dave's motion. I wonder if the process is that the Service has to approve the council's recommendation; should this letter not go to the Service?

MR. BORDEN: To Ritchie's point, I would suggest if we're going to send another letter, it would go both to John Bullard and to Terry.

MR. RUCCIO: I think you can certainly do as you will with the letter. I don't want to dissuade you from doing that. You can certainly cc John, but at this point the council has yet to take final action; so the Service hasn't formally entered into that period where we're in review of their recommendations.

Although it might have merit in terms of letting us know your mind at this point, for the eventuality of when we review it, it is still very much in the council's forum. Terry, correct me if I'm misspeaking or mischaracterizing this, but I think addressing it probably to the council at this point is a better bet.

MR. STOCKWELL: I certainly would support moving this letter along. To Dave's point, it isn't going to hurt; but John Bullard is a member of the council so he is going get receipt of this letter wherever it is addressed. One suggestion I would have is that the letter moves ahead in time for the June 1<sup>st</sup> Habitat Committee meeting, which was just scheduled today; so the Habitat Committee will have it in their hands by then, and that might help push the development of an agreement between the scallopers and lobstermen before the council meets at the latter part of June.

CHAIRMAN McKIERNAN: Okay, so I'm hearing some support around the table. Can we take 60 seconds and put the motion up on the board, David, that you can read.

**MR. BORDEN: Yes; I'll read it to say move to request the commission to send a letter to the council and reiterate our concerns in regard to the lobster resource and request the council to keep Closed Area 2 closed from June 15<sup>th</sup> to October 31<sup>st</sup> north of 41 degrees 30 minutes.**

CHAIRMAN McKIERNAN: All right, give us a few seconds and we'll try to get that up on the board. Are there any comments or questions while we put this together? The first version I heard of the motion didn't sound like the

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second version so we should take a look at it up on the board. Bill Adler, did you have a question or a comment?

MR. ADLER: Just a comment. Dave may have put it in but closed to all mobile-tending gear.

CHAIRMAN MCKIERNAN: Well, let's take a look at what he has got and maybe we can refine it. All right, we have the motion on the board. David, do you want to read it and make sure it is yours?

MR. BORDEN: Yes; move to request the Policy Board to send a letter to the New England Fishery Management Council reiterating our concerns for lobster and request a prohibition on all mobile gear in Closed Area 2 from June 15th to October 31st north of 41 degrees 30 minutes.

CHAIRMAN MCKIERNAN: David, should that be phrased "bottom-tending mobile gear"?

MR. BORDEN: Yes, please.

CHAIRMAN MCKIERNAN: Okay, we have the motion. Do we have a second on the motion; Bill Adler has seconded the motion. Discussion? David Simpson.

MR. DAVID SIMPSON: I understand this and we do have a place here because the commission has got the lead on lobster; there is, what, \$50 million worth of scallops in that area; is that the right number? People should be aware of that. Does it require such an extreme measure or recommendation from this group or do we let those fisheries try to work out some kind of agreement so that the broader fishery gains some value here?

MR. THOMAS FOTE: Dave, I look at this more as a placeholder; that we're putting our concerns in there. Our responsibility as a commission is to protect lobster and the lobster habitat. We're just letting the council know that we

have serious concerns over this and it may be worked out. Sometimes the New England Council forgets about our recommendations or understanding especially when it came to winter flounder; so that is why I think it is a good place to put a placeholder.

MR. BORDEN: Mr. Chairman, I was just going to quickly follow up on David's point because I think he made a good point. If this motion passed and the council agreed to implement it and NOAA agreed to implement it, then what would happen is the mobile gear fleet would have 7-1/2 months in that area to prosecute their fisheries. Now, there are other constraints that would come in like groundfish spawning periods and things like that, but none of us have any control over that. That is not something within the purview of the Lobster Board. Thank you.

CHAIRMAN MCKIERNAN: All right, any other comments on the motion? Do we need to caucus? No, need to caucus; **let's vote on the motion. All in favor of the motion; all opposed to the motion; abstentions, 4; null votes. The motion passes seven to zero to four to zero; seven in favor, none opposed, four abstentions, zero null votes.** All right, that's it for other business. David.

MR. BORDEN: I've got actually one more motion I would like to make; but before do it, with your indulgence, I would like to ask Mike or Terry just very quickly explain the process the council will go through in terms of they're going to meet in June.

Then my understanding is the staff will take maybe six or eight weeks to finalize the amendment. Then that amendment will go to the National Marine Fisheries Service, and that will start the internal review process. As part of that process, as I understand it – and I'll ask Mike if he could explain whether or not there is a public comment period and when that might take place.



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CHAIRMAN MCKIERNAN: You're talking about public comment on the council's action?

MR. BORDEN: Final action and I think –

CHAIRMAN MCKIERNAN: Mike, can you speak to that?

MR. RUCCIO: Sure, happy to. This is a formal amendment from the council; so amendments under Magnuson have kind of two prongs that end up occurring. One is the agency is, as it is outlined in Magnuson, required to make a decision on the approvability of the measures. It often gets a little bit confusing because there is an approvability set of documents that goes forward in the Federal Register. Then there is rulemaking, which would be a proposed and final rule to actually implement the measures.

These kind of get kicked off at the same time. It is a long-winded way of saying there are public opportunities for comment once the agency has received and kind of accepted the council's recommendations and then put that forward; and those will be, one, on the overall approvability of the amendment in total or in part, because we can either approve, partially approve or partially disapprove any discrete component within the amendment.

Then the actual measures that would implement the amendment; so, for example, if there is a recommendation to change how Closed Area 2 is handled, that would be a specific measure that would be proposed by the agency or an example of the measure that would be proposed by the agency that could be commented on. There is both a broad and a discrete opportunity for comment on the rulemaking that the agency would conduct.

MR. BORDEN: Okay, one of my concerns here – and I'm not trying to be Nervous Nellie – is we've got a meeting this week and the council is going to meet in June, and they're going to take action. As Terry can tell you and Mike can

tell you, their action is going to focus almost exclusively on the habitat requirements of the Magnuson Act and the groundfish protection objectives of the habitat amendment.

I'll just give you a scenario. They make their decision in June and then we don't meet until August; so that is basically two months. One of the alternatives that we have is similar to what we did for the fixed-gear sector. We could begin an addendum that essentially would prohibit mobile gear fishing in this area that we just described in the prior amendment.

And then as we do with all our fishery management plans forward a recommendation to NOAA right on the same timeline that the council recommendation was going forward. I actually crafted a motion on this that the staff has, if they put it up. **It is to move to direct the staff to initiate the process of developing an addendum to the Lobster FMP to prohibit all mobile gear in Closed Area 2 north of 41 degrees 30 minutes during June 15th to October 31st should the area reopen.** If I get a second, I'll just discuss it for one minute and then we can dispense with it, hopefully.

CHAIRMAN MCKIERNAN: Second from Bill Adler.

MR. BORDEN: Okay, I think the advantage of passing this motion is I do not anticipate that the ASMFC staff would do any work on this other than simply consolidate material. We have two or three things that are all going to take place in the next month. The council is going to finalize their position; and if they adhere to our request, then there is no need to do an amendment.

The second point is, as Bob Glenn stated, the stock assessment is going to be finalized and it is going to be peer reviewed. Part of that stock assessment is going to get into a very detailed review of this issue of connectivity between the inshore and the offshore stock; so you'll have

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the most up-to-date science that's available. The third thing that is going to take place is New Hampshire Fish and Wildlife has initiated a sampling program for this area to document the relative abundance of both eggers and v-notched lobsters in this general area. There is going to be a tremendous amount of very current scientific information that has come forward.

By passing this motion, it would be my intent to not preempt the council. The council is going to make their decision based on habitat and groundfish; but if they choose to open the area and not adhere to the first request, then I think it is incumbent upon us to do an addendum similar to what we did for the pot fishery and basically eventually forward a recommendation to NMFS to close the area.

Now, that would put NMFS in the position where they have two different recommendations from two different bodies; but that is totally acceptable from my view because the council has very different responsibilities than we do. We have the responsibility for managing the lobster resource, and we should take that very seriously. I hope this motion passes. Thank you.

MR. STOCKWELL: I'm not as pessimistic as Dave is that the council isn't going to address the Closed Area 2 issues. I'm going to be voting against this because my sense is that this is way premature. Should the council at the June meeting fail to respond to the comments from the state directors, the commission and a number of the other public comments that we've received over the recent months, then this would be a very appropriate action. We've got new staff here, a stock assessment that is about to be unfolded, and I think moving ahead and directing staff to only expand their workload by a little bit is a little bit too early.

MR. WHITE: I guess I don't understand on what authority we could do this. How can we keep a directed fishery that we don't manage in federal waters out of an area? I guess I don't understand our authority to do that.

MR. BORDEN: It is a good question, Ritchie. I actually agonized over that myself. It is almost identical to the addendum we adopted for the fixed-gear fishery. The commission basically doesn't have an enforcement presence 180 miles offshore. If this were to pass, the significance of it would be that the commission would have finalized a position with a vote, adopt an addendum; and then as is part of every addendum, we have a section in there that speaks to the federal actions that are required.

Under that section we would ask NOAA to promulgate appropriate rules in federal waters to support that; and they would do that over the duration. That is the way we have handled all of these other rules. This would be an Atlantic Coastal Act contingency that clearly lays out our responsibilities to put together appropriate management actions and clearly gives NOAA the authority to promulgate rules in federal waters. The specific language is "in support of ASMFC actions".

MR. GIBSON: Mr. Chairman, I hate to do this to my esteemed colleague, but I find myself agreeing with the chair of the council that we seem to be getting out ahead of ourselves on this. I have some serious questions about jurisdictional matters. I would like to hear from general counsel and folks like that before I embarked on – this seems to be solely an action that would be configured solely in federal waters.

I don't know that we've ever done that before with lobster. Maybe we have, but we always had, it seems to me, state waters' connections. I think we're getting way out ahead of ourselves and not respecting the process that they need

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to go through particularly at the next Habitat Committee meeting. I don't think I can support this at this time.

CHAIRMAN McKIERNAN: David, given some of the comments that you've heard and some of the jurisdictional questions, would you like to withdraw the motion until the August meeting or table it and talk about it in August?

MR. BORDEN: My suggestion, Mr. Chairman, is to table it until the August meeting.

CHAIRMAN McKIERNAN: All right, very good. Terry, did you want to speak?

**MR. STOCKWELL: No; I'd make the motion to table the motion until the August meeting.**

CHAIRMAN McKIERNAN: Okay, second on the motion. Dennis Abbott seconds the motion. Any need to discuss? All right, all in favor. **It sounds like it is unanimous, 12 votes.**

### ADJOURNMENT

CHAIRMAN McKIERNAN: Okay, any other business? All right, the meeting is adjourned.

(Whereupon, the meeting was adjourned at 4:55 o'clock p.m., May 4, 2015.)



# Atlantic States Marine Fisheries Commission

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## MEMORANDUM

July 27, 2015

**To: American Lobster Management Board**  
**From: Megan Ware, FMP Coordinator**  
**RE: Public Comment on the Draft Jonah Crab Fishery Management Plan**

The following pages represent a summary of all public comment received by ASMFC by July 24, 2015 at 5:00 p.m. (closing deadline) on the Draft Jonah Crab Fishery Management Plan.

A total of 12 written comments were received during the public comment period. Four of those comments were from the following groups and organizations: Atlantic Offshore Lobstermen's Association, Massachusetts Lobstermen's Association, New England Fishery Management Council, and the National Marine Fisheries Service. Individual written comments were primarily submitted by commercial fishermen and their locations ranged from Maine to Virginia. A summary of the written comment is provided (pages 2-5) and individual comment letters follow this memo. In the headings of the summary tables, the following abbreviations are used:

- "I" stands for individuals in favor
- "G" stands for groups in favor.

Five states within the management unit held a public hearing: Maine, New Hampshire, Massachusetts, Rhode Island, and Maryland. In total, approximately 60 individuals attended the public hearings. A brief summary of the comments received at the public hearings is provided (pages 6-7), followed by detailed summaries for each hearing (pages 7-18). Summaries of the public hearings were also included in the Briefing materials and have not changed.

## Written Comment Summary

### FISHERY DEPENDENT DATA COLLECTION (*Section 3.4.1*)

<b>Option</b>	<b>Description</b>	<b>I</b>	<b>G</b>	<b>Total</b>
<b>1</b>	Harvester Reporting	1	0	1
<b>2</b>	Harvester and Dealer Reporting	0	1	1
<b>3</b>	Harvester and Dealer Reporting with Port and Sea Sampling	2	3	5

All of those who commented on fishery dependent data collection were in favor of a mandatory reporting of landings. Two groups encouraged that all vessels landing Jonah crab from Federal waters be required to complete a VTR. While three letters supported 100% harvester reporting, one group felt the Jonah Crab FMP should mirror reporting requirements in the Lobster plan (10% harvester, 100% dealer). Those who supported port and sea sampling highlighted the fact that Jonah crab is a data poor stock and more information is needed to understand its status. One group highlighted the importance of at-sea monitoring to better understand bycatch in the fishery while another individual stated that data collection should distinguish between crabs caught incidentally and those caught in a directed fishery.

### PERMITS (*Section 4.1, Issue 1*)

<b>Option</b>	<b>Description</b>	<b>I</b>	<b>G</b>	<b>Total</b>
<b>1</b>	Status Quo	0	1	1
<b>2</b>	Discretionary State Permitting with recommendation to NOAA	0	1	1
<b>3</b>	New Jonah crab permit	0	0	0
<b>4</b>	New Jonah crab permit with trap design	0	0	0
<b>5</b>	Lobster permit or incidental permit required	3	4	7

The majority of written letters were in favor of requiring a lobster permit, or incidental permit, to land Jonah crab. Justification for this Option included the inherent connection between the lobster and Jonah crab fishery and the need to prevent the proliferation of traps. One group highlighted that all options except Option 5 limit the directed Jonah crab fishery to trap gear and that all those who currently fish for Jonah crab should be allowed to do so. Another individual supported Option 5 but felt comfortable issuing a “Jonah Crab Only” permit to those vessels that can prove a history of landings with no lobster permit. Another group supported any option that preserves the existing levels of participation in the Jonah crab fishery in order to protect the SNE lobster stock.

MINIMUM SIZE (*Section 4.1, Issue 2*)

<b>Option</b>	<b>Description</b>	<b>I</b>	<b>G</b>	<b>Total</b>
<b>1</b>	No min size	1	0	1
<b>2</b>	4" min size	1	0	1
<b>3</b>	4.25" min size	1	0	1
<b>4</b>	4.5" min size	1	0	1
<b>5</b>	4.75" min size	0	0	0
<b>6</b>	5" min size	0	2	2
<b>7</b>	5.25" min size	1	0	1
<b>8</b>	5.5" min size	0	0	0

Comments from individual fishermen generally supported a smaller minimum size than those received from organizations. Two groups supported a 5" minimum size since this is the current market standard and it would protect most females. One individual supported either a 4" or 4.25" minimum size since his catch from Area 2 is generally smaller than the Jonah crab caught offshore. One individual did not believe there should be a minimum size sighting negative repercussions to the population, including genetic shifts to smaller spawning females and increased discards. One individual supported a 5.25" minimum size with a 0.25" tolerance so that no violations would be issued for crabs larger than 5".

COMMERCIAL MINIMUM SIZE TOLERANCE (*Section 4.1, Issue 3*)

<b>Option</b>	<b>Description</b>	<b>I</b>	<b>G</b>	<b>Total</b>
<b>1</b>	No tolerance	0	2	2
<b>2</b>	5% tolerance	0	1	1
<b>3</b>	10% tolerance	0	0	0

One group was against a tolerance because they did not believe it could be properly enforced. Another group was against a tolerance but did admit that, for landings greater than 10,000 pounds, this may not be practical. One group supported a 5% tolerance because they felt this provided a way to be sustainably minded in a high volume fishery; however, implementation of the tolerance was a concern.

CRAB PART RETENTION (*Section 4.1, Issue 4*)

<b>Option</b>	<b>Description</b>	<b>I</b>	<b>G</b>	<b>Total</b>
<b>1</b>	Crab parts may be retained	1	0	1
<b>2</b>	Whole crabs only	2	3	5

The majority of written comments favored a whole crab fishery, stating that claw removal is harmful to crabs and data on post-release survivability is lacking. One individual was in favor of a parts fishery and highlighted its economic value in the mid-Atlantic region. He also noted the conservation benefit of putting a species back in the water so that it can further reproduce. One group suggested creating a conservation equivalency to allow this small but historic claw fishery

in the mid-Atlantic to continue. Another group did not support either option but felt that crab part retention should be limited to permit holders who can demonstrate a significant history.

**PROHIBITION ON RETENTION OF EGG-BEARING FEMALES** (*Section 4.1, Issue 5*)

<b>Option</b>	<b>Description</b>	<b>I</b>	<b>G</b>	<b>Total</b>
<b>1</b>	No prohibition	2	0	2
<b>2</b>	Prohibition on retention of egg-bearing females	1	3	4
<b>3</b>	No females, 1% tolerance	1	0	1

All written comments from groups favored a prohibition on the retention of egg-bearing females to ensure the long-term sustainability of the resource. Several commented that, if the minimum size is set at 5", most females will be protected and this management measure may not be necessary. One individual wrote against a prohibition on the retention of egg-bearing females, stating that this management measure causes skewed sex ratios and exacerbates population fluctuations.

**INCIDENTAL BYCATCH LIMIT FOR NON-TRAP GEAR** (*Section 4.1, Issue 6*)

<b>Option</b>	<b>Description</b>	<b>I</b>	<b>G</b>	<b>Total</b>
<b>1</b>	No possession limit	0	0	0
<b>2</b>	200 lbs/day, 500 lbs/trip	3	3	6

Of those letters which commented on a bycatch limit, all were in favor of Option 2. Most comments were directed at the implementation of the limit. One group suggested the limit be a volumetric standard rather than a poundage since most vessels do not have scales. Another group suggested a count limit.

**RECREATIONAL POSSESSION LIMITS** (*Section 4.2, Issue 1*)

<b>Option</b>	<b>Description</b>	<b>I</b>	<b>G</b>	<b>Total</b>
<b>1</b>	No possession limit	1	0	1
<b>2</b>	50 whole crabs; 100 claws per person	2	2	4

The majority of those who commented on recreational measures were in favor of a recreational bycatch limit. Letters from two groups suggested the limit be strictly 50 whole crabs and not include claws. One individual did not support a possession limit stating that the recreational fishery was not large enough to require management.

RECREATIONAL PROHIBITION ON RETENTION OF EGG-BEARING FEMALES  
(Section 4.2, Issue 2)

Option	Description	I	G	Total
1	No prohibition	1	0	1
2	Prohibition on egg-bearing females	1	1	2
3	Prohibition on females, 1% tolerance	1	0	1

Responses ranged on the retention of egg-bearing females in the recreational fishery. One group supported a prohibition on the retention of egg-bearing females so that the restrictions implemented in the commercial fishery mirror those in the recreational fishery. Another individual did not believe the recreational sector was large enough to warrant management.

DE MINIMIS CRITERIA (Section 4.3.3)

Option	Description	I	G	Total
1	Commercial and recreational landings separate	0	0	0
2	Combined commercial and recreational landings	0	2	2

Only two letters commented on *de minimis* status and both were in favor of combining the commercial and recreational landings. They also both supported a 1% threshold such that a state with landings below 170,000 pounds would qualify for *de minimis* status.

GENERAL COMMENTS

- There should be a minimum size in the recreational fishery to match regulations in the commercial fishery.
- Research on stock status and Jonah crab life cycle is needed before more management measures are put in place.
- The Jonah Crab FMP should include: 1) MPAs to protect spawning habitat; 2) a total allowable catch ideally at 5% of estimated total biomass; and 3) rights based management to improve fishery efficiency.
- There should be Area plans in the fishery to account for the regional differences in the stock.
- The descriptive language of the difference between a Jonah crab and rock crab is underwhelming and the opposite of what fishermen use in Casco Bay.
- The Jonah crab fishery is primarily in federal waters and should be jointly managed with NEFMC.
- The Board should recognize the baited drop trap in the Jonah Crab FMP and incidental trap provisions should be made for “any trap capable of catching Jonah crab”.
- Language should be added to the FMP which highlights the population fluctuations shown in trawl surveys.
- The Jonah Crab FMP should stipulate an escape vent design to ensure undersized crabs are not caught. Currently, the specifications outlined in the lobster FMP do not minimize the retention of undersized crabs.



## **Public Hearing Summary**

### *Section 3.4.1 Fishery Dependent Data Collection*

Comments on data collection in the commercial fishery did not show a clear consensus. Individuals from Maryland stated that harvester and dealer reporting aligns with their current practices but also noted that increased biological sampling is needed to characterize the fishery. At the New Hampshire public hearing, some individuals supported port and sea sampling while others preferred harvester reporting since most outlets for Jonah crab are non-dealer related.

### *Section 4.1 Permits*

Preference for permitting in the Jonah crab fishery was primarily for maintaining the status quo or requiring a lobster or incidental permit. Maryland fishermen supported upholding the status quo until further studies on the resource are conducted. New Hampshire and Rhode Island attendees unanimously supported tying the fishery to the lobster permit to prevent the proliferation of traps. Several fishermen noted that a specialized Jonah crab trap would likely still catch lobster.

### *Section 4.1 Minimum Size*

Commercial minimum size was often commented as the most important issue in the Draft FMP. At the Massachusetts public hearings, all attendees were in favor of a 5" minimum size to protect the female population. New Hampshire fishermen generally wanted a higher minimum size (5.5"). Contrastingly, Rhode Island fishermen either wanted a 4" minimum size or no minimum size. They noted that their Jonah crab catch is smaller in size and a 5" minimum size would shut them out of the fishery. Maryland fishermen were generally against a minimum size since they are a claw fishery.

### *Section 4.1 Minimum Size Tolerance*

The majority of public hearing attendees favored a 5% tolerance in order to accommodate the large volume of the fishery. Most comments were directed at how the tolerance would be implemented and suggested that a volumetric tolerance or count would be easier to implement.

### *Section 4.1 Crab Part Retention*

Besides Maryland, all states were in agreement that the Jonah crab fishery should be strictly whole crab. Maryland fishermen supported a parts fishery and pointed to their continued catch over the last 30 years as proof of its sustainability. Some attendees suggested a conservation equivalency in order to maintain the historic claw fishery.

### *Section 4.1 Retention of Egg-Bearing Females*

Overwhelmingly, public hearing attendees supported a prohibition on egg-bearing females. In Massachusetts, concern was stated over a zero tolerance on the retention of egg-bearing females due to the high volume of the fishery. Others stated that this measure is not needed since, if the minimum size is chosen correctly, females will be protected.

*Section 4.1 Incidental Bycatch Limit*

All public hearing attendees supported a bycatch limit for non-trap gear but suggested a count or bushel limit instead of a weight. Several fishermen asked for clarity on the definition of a ‘trip’ and questions were raised as to how black seabass pots should be characterized.

*Section 4.2 Recreational Fishery Management Measures*

In the recreational sector, attendees were unanimous in their support of a possession limit and a prohibition on egg-bearing females. Several attendees commented that there should be a recreational minimum size and that, if claw parts are not allowed in the commercial fishery, they should not be allowed in the recreational fishery.

*Section 4.3.3 De Minimis Criteria*

There was no clear consensus on *de minimis* criteria but fishermen in Maryland wondered how claw landings would translate into state landings.

**Jonah Crab Draft FMP Public Hearing Summaries**

***Portland, ME  
July 6, 2015  
6 Attendees***

ASMFC Staff: Steve Train (Commissioner), Toni Kerns (staff), Megan Ware (staff)

Attendees: Pam Thames (NOAA/NMFS), Jon Cornish (DMR), Kathleen Reardon (DMR)

Attendees did not have any comments on the issues presented in the Draft FMP.

***Portsmouth, NH  
July 7, 2015  
12 Attendees***

ASFMC: Dennis Abbott (ASMFC Commissioner Proxy), Douglas Grout (ASMFC Commissioner), Megan Ware (staff)

Attendees: Erik Anderson (NHCFA), Bobby Mudd, Jim Titone, Todd Ellis (Shafmaster), Joshua Carloni (NH Fish and Game), Heidi Henninger (AOLA), Josiah Beringer, John Makourky (NHCFA), Lydia Blume (ME House)

Issue 1: Fishery Dependent Data Collection

Meeting attendees stated a preference for harvester reporting (Option 1) and harvester and dealer reporting along with sea/port sampling (Option 3). Two individuals were in favor of Option 1 and AOLA supported a modified Option 3. Comments included:

- I am not in favor of Option 2 because NH doesn't have a large commercial outlet for Jonah crab. Unlike MA or RI, most NH outlets for Jonah crab are non-dealer related,

such as private sales or restaurants. Option 2 means that you can't sell to anyone that doesn't have a federal dealer permit and that would be problematic for the state.

- AOLA most closely aligns with Option 3. We would like the Commission to recommend to NOAA that VTR be required for all federal landings. At a minimum, we recommend that states maintain their current level of reporting. *\*A complete comment letter was submitted by AOLA.*

### Issue 2: Commercial Permits

All meeting participants were in favor of tying the Jonah crab fishery to the lobster fishery by requiring a lobster permit or incidental permit (Option 5). Comments included:

- Option 5 is best because most effort is directed through the lobster fishery.
- Until recently, Jonah crab was considered bycatch and no one was fishing for it directly. Therefore, Option 5 is best. I don't think that the incidental permit holders should be allowed to retain lobster.
- I agree with Option 5 but there needs to be particular attention to the details of the incidental permit. Right now it seems there is both limited access (through the lobster permit) and open access (through the incidental permit). A note on Option 4, a specialized Jonah crab trap will still have some effect on the lobster fishery so it may be hard to truly minimize impact.
- An owner/operator license is important to me.

### Issue 3: Commercial Minimum Size

The majority of participants stated support for a 5" minimum size (Option 6) and one individual supported a 5.5" minimum size (Option 8). Comments included:

- I am for Option 8 because that would preclude the majority of females. Jonah crab caught from the offshore fishery are almost entirely males and are greater than a 5" gauge. A marketable size is 6" and anything smaller than that will affect marketability. Really the minimum size should be 6".
- Lobster trap vents are large so small Jonah crabs get out of the trap anyway.
- AOLA favors Option 6 because it will protect most of the females and it aligns with historical landings. We believe that minimum size is the most critical part of the plan and the Commission must be risk averse when setting the minimum size. Option 6 is risk averse and conservation minded.

### Issue 4: Commercial Minimum Size Tolerance

Two meeting participants stated a preference for a 5% tolerance (Option 2) while one individual did not believe there should be a tolerance (Option 1) since there is no tolerance in the lobster fishery. Comments included:

- The volume in this fishery is large so there should be a 5% tolerance.
- Why should there be a tolerance in the Jonah crab fishery if there isn't one in the lobster fishery?
- AOLA supports a 5% tolerance because it balances the need to be sustainably minded and the fact that this is a large volume fishery. If the minimum size is selected correctly

and the fishery is linked to lobster traps, the number of small crabs should be low. Crabs can also be hard to measure.

#### Issue 5: Commercial Parts Fishery

All meeting participants favored a whole crab fishery due to potential damages to the resource. Comments included:

- A claw fishery damages the resource.
- There has never been a parts fishery in NH and that should not start.
- AOLA is for Option 2 but we recognize that there is a crab fishery in MD. We suggest a conservation equivalency to keep that fishery and cap it at its current size.

#### Issue 6: Commercial Retention of Egg Bearing Females

All participants favored a prohibition on the retention of egg-bearing females (Option 2). Comments included:

- There is no need to keep pregnant females since this keeps the fishery healthy. The females are too small for market anyway.
- AOLA is opposed to an egg-bearing female fishery but we think that, if the minimum size is chosen correctly, this should protect the females. Therefore, this issue serves to complicate the plan. For now we think that we should set the minimum size at 5" and then set up a monitoring program to see the number of egg-bearing females caught. In 1-2 years we can evaluate the need of this management measure.

#### Issue 7: Incidental Bycatch Limit

Participants supported a 200lb/day and a 500lb/trip incidental bycatch limit for non-trap gear (Option 2). Comments included:

- I support Option 2 because, especially with the poor state of the groundfish fishery, I don't want there to be an option for mobile gear to direct fishing effort on Jonah crab. If there is no incidental bycatch limit this may happen and have severe effects on the resource. Mobile gear should not be allowed to target the species.
- I support Option 2 but the definition of a 'day' and a 'trip' should be clearly defined in the plan.

#### Issue 8: Recreational Possession Limit

Meeting attendees were in favor of a 50 whole crab limit in the recreational fishery (Option 2) but highlighted that they did not want a 100 claw limit. Comments included:

- If the harvest of crab claws is not allowed in the commercial sector it should not be allowed in the recreational sector and the possession should be changed to just 50 whole crabs.
- A possession limit is necessary to keep the recreational sector recreational.
- Option 2 should read as a possession limit per recreational license, not per person.
- This issue does not address the different harvest methods in the recreational fishery such as hand, scuba, and trap.
- AOLA is in favor of Option 2 for whole crabs only. We also think a minimum size should be implemented in the recreational fishery that mirrors the commercial fishery.

### Issue 9: Recreational Retention of Egg-Bearing Females

All meeting participants favored the prohibition of egg-bearing females (Option 2). Comments included:

- Everyone should conserve.

### Issue 10: De Minimis criteria

Two participants expressed an interest in a combined commercial and recreational fishery with a 1% criteria (Option 2a) while all others supported a separate commercial and recreational fishery with a 3% criteria (Option 1a). Comments included:

- AOLA wants to ensure a minimum level of reporting.
- I vote for Option 1c because it is more beneficial to the state.
- I support Option 1c so that we don't get squeezed out of the fishery.

*New Bedford, MA  
July 8, 2015  
15 Participants*

ASMFC: Megan Ware (Staff), Dan McKiernan (Commissioner), Bill Adler (Commissioner), Bob Glenn (TC Chair)

Attendees: Burton Shank (NOAA/NEFSC), David Borden (AOLA), Bill D. (NOAA), Paul O'Donnell (Ocean Fleet Fisheries), Beth Casoni (MLA), Grant Moore (F/V Director), Richard Allen (Little Bay Lobster), Paul Hagan (Legal Sea Foods), Allison Murphy (NOAA), Derek Perry (MA DMF), Steve Wilcox (MA DMF)

### Issue 1: Data Collection

Participants did not have any comments on how data should be collected.

### Issue 2: Commercial Permits

All meeting participants were in favor of requiring a lobster permit or an incidental permit for the catch of Jonah crab in order to prevent the proliferation of gear. Comments included:

- AOLA supports Option 5. This is a mixed fishery (Jonah crab and lobster) and traps are virtually indistinguishable so there needs to be a direct link between the lobster permit and the Jonah crab permit. If you don't tie this to the lobster permit you will have a proliferation of traps which is not good for the large whale take reduction plan. \* *A complete comment letter was also submitted by AOLA.*
- I am for Option 5 because without tying the fishery to a federal lobster permit, the proliferation of gear will be widespread. We have worked hard to get traps out of the water.
- MLA is in favor of Option 5 because if there is another fishery with more vertical lines this will be counter-productive to the Take Reduction Plan. \* *A complete comment letter was also submitted by MLA.*

### Issue 3: Commercial Minimum Size

All meeting attendees favored a 5" minimum size (Option 6) because they believe this will protect the female population. Specific comments included:

- AOLA believes there should be a conservative minimum size in the absence of size-at-maturity data. Once we get data on this, we can reconsider this issue.
- Market size in 5" so processors don't want anything under this.
- When you go under 5", the percentage of females increases.

### Issue 4: Commercial Minimum Size Tolerance

All participants favored a 5% tolerance (Option 2) but they were not sure that a weight standard is the best way to enforce this. Comments included:

- The way it is worded, you could be in violation with just one batch but this does not say anything about the percentage of catch that is undersized. You can't take one or two totes and say what the percentage of undersized crabs are. In order to prove any kind of a violation using a sampling procedure, you are getting into confidence limits and enforcement personnel are not trained to deal with this. With sea scallops this turned into a mess. We don't want to go down that road. I think that a tolerance can be enforced with sampling but it will be a horrendous task and the sampling has to meet statistical rigor. If it isn't statistically sound, you can't go to court. The problem is when the violation is at the margin. If there is a 5% tolerance the issue is when the percentage is 4.5% or 5.5%. Since fines can be substantial, it can get out of hand. Another idea is to set a weight based indicator, so that you count the number of crabs per 100 pounds and if the number is too high, you probably have crabs below the minimum size.
- The question is how we make the tolerance reasonable so that we support the minimum size but don't create a huge administrative burden. Maybe a volumetric weight standard would be better.

### Issue 5: Crab Part Retention

All attendees were all in favor of a whole crab fishery but noted that studies are needed to determine the impacts of the claw fishery on the resource (Option 2). Comments included:

- AOLA supports Option 2. We would like to emphasize that the number of boats doing crab parts is minor so it wouldn't trouble us to cap this effort and grandfather them in to the plan. We should still recommend to NOAA that they enforce a whole crab fishery only.
- We need to do a study on the mortality of Jonah crab once the claws are removed.

### Issue 6: Commercial Retention of Egg-Bearing Females

All participants were in favor of a prohibition on the retention of egg-bearing females (Option 2) but did question the zero tolerance on this measure. Comments included:

- AOLA is in favor of Option 2 but if the Board sets the minimum size correctly, it will prohibit 99% of all female crabs from being caught. Do we want enforcement officers having to look at the under-side of crabs or can they just look at the size? A discussion needs to be had of whether this management measure is really necessary.

- What happens if you have 1 egg-bearing female in your catch? My point is that this a high volume fishery and sometimes things happen. Does one egg-bearing female get you a ticket? Is there a way to protect these guys? Is it possible to have a hard count for egg-bearing females?
- We need some mechanism for what happens when a crew misses one or two egg-bearing females. Our company wouldn't stand for eggers because no one wants to buy them but I want to protect these guys. In 1.5 years of unloading, I haven't seen one yet but that is because I don't hand examine each crab. At no point is every individual crab being examined.
- In 10,000 crabs examined during port sampling, we had one egg-bearing female.
- If you have a minimum size, the plan should be silent on egg-bearing females. It won't be an issue if you have a minimum size. I am troubled by the implication by the focus on egg-bearing females when there isn't any biological basis.

#### Issue 7: Bycatch Limit for Non-Trap Gear

All participants were in favor of a bycatch limit (Option 2) but some attendees did not think that a weight was the best way to set this limit. Comments included:

- AOLA is in support of Option 2 but I am concerned that no one will have scales on the boats to measure bycatch. Instead of doing a weight perhaps a volumetric standard would be better.
- The bycatch limit should be a count instead of a weight. A typical weight of a crab is one pound and you can take a crate and put ~130 crabs in it. This means that there is room in one crate for more than 100 lbs.
- It seems to me that the count would be easiest for enforcement personnel. For crates, the issue is how full is full? Do you need to be able to close the lid on the crate?

#### Issue 8: Recreational Possession Limit

Meeting attendees were in favor of setting a recreational limit (Option 2). Comments included:

- Why is there an option for an unlimited recreational limit? The recreational limit should be 50 whole crabs.

#### Issue 9: Recreational Retention of Egg-Bearing Females

All participants were in favor of having a prohibition on the retention of egg-bearing females in the recreational fishery.

#### Issue 10: De Minimis Criteria

There were no comments on the *de minimis* criteria.

*Narragansett, RI  
July 9, 2015  
21 Attendees*

ASMFC: Megan Ware (staff), Dan McKiernan (Commissioner), Eric Reid (Proxy Commissioner), Bob Glenn (TC Chair)

Attendees: Jeff Mercer (RI DEM), Scott Olszewski (RI Marine Fisheries), Patrick Duckworth (commercial fisherman), Richard Allen (Little Bay Lobster Co), Walter Anoushian (NOAA), Wayne Fredetter (fisherman), Don Deberarding II (fisherman), Albert Christopher (lobster fisherman), Larry Dellun, Brian Thibeault (Red Tail Fishermen), David Borden (AOLA), Greg Mataronas (RILA), John Swoboda (lobster fisherman), Derek Perry (MA DMF)

### Issue 1: Data Collection

Meeting participants did not have any comments on fishery dependent data collection.

### Issue 2: Permits

One meeting attendee stated a preference for maintaining the status quo (Option 1) while three others favored tying the Jonah crab fishery to the lobster permit (Option 5). Some of the concerns brought up were in relation to area management and the restrictions on state v. federal fishermen. Comments included:

- I am in favor of Option 1 until we get more clarification on who is a state vs. federal Jonah crab fishermen. Until we know how many state guys are landing Jonah I don't want to make any rushed decisions. I don't want the federal interests to overwhelm the interests of the state fishermen. Maybe there needs to be a difference between state and federal permitting.
- Maybe institute an exemption permit if you are crabbing so that you couldn't have any lobsters in the boat. One issue I see right now is that you could be catching sand crabs and that goes down a slippery slope.
- If you let this fishery go unchecked you will pay for it. You have to address effort now. Whales are whales and if you put a million lines in the water you will have problems.
- We need to have area management in the Jonah crab fishery that reflects the area management in the lobster fishery.
- If they attach the Jonah crab fishery to the lobster permit and I have an Area 2 lobster permit, can I fish Jonah crab in Area 3?

### Issue 3: Commercial Minimum Size

Two attendees were in favor of no minimum size (Option 1) while the rest favored a 4" minimum size (Option 2). Concerns were expressed about setting the minimum size too high and blocking the Area 2 fishermen from the fishery. Comments included:

- If you throw back females, you don't need a minimum size. We don't need a minimum size because people don't want small size crabs; there is no market for them.
- The increase in landings is due to fishermen wanting to show a record of landing because they don't want to lose this privilege. They don't want to get shut out of the fishery. I'm not sure there is really an increase in effort.
- I am for a minimum size between 4"-4.25". If we start anywhere bigger than that, the Board will just keep raising the size until we have nothing.
- We are seeing more recruitment than I have ever seen with thousands of small crabs in the water. There is no danger of a stock collapse anytime soon. I suggest taking your time and waiting for size-at-maturity studies to come and then decide what the minimum size should be. We don't even know what we are doing because we don't have the data and we aren't in danger of a stock collapse.



- We need a minimum size for the fishery to be sustainable.
- The market standard is 4.75” so we need a minimum size smaller than that.
- We will put ourselves out of business if we pick the wrong minimum size. The original minimum size you choose is never the one that is there in the end so we have to start small.
- We need area management. Otherwise the Area 2 guys will be out of work because the crabs we catch are smaller than the ones caught in Area 3.

#### Issue 4: Minimum Size Tolerance

Meeting participants were split in their favor of either a 5% (Option 2) or 10% (Option 3) tolerance. Concerns were raised as to how this tolerance would be enforced.

- I am for Option 2 because at the infancy stages of the fishery we need an on deck tolerance of at least 5%.
- If you pick a minimum size you need a tolerance. I am in favor of Option 3 right out of the gate. There is lots of volume in this fishery and there needs to be leeway.
- I am confused what the tolerance does to the minimum size. The minimum size just becomes a criteria in determining the tolerance but it sounds like small crab aren’t illegal. The way this is worded, it is not clear whether undersized crabs are allowed in the market.
- I am for Option 2 or 3. If you come in with 5000 crabs and you have 1 under the minimum size then you are screwed.
- If you don’t have a tolerance you don’t have a fishery. One reason for this is that it is really hard to measure crabs.
- If you look at the data, the fishery is already self-regulating. Almost no crabs under sexual maturity are being brought in. At this point, we should just worry about the permits and deal with the rest of the plan after we have data.
- There is no benchmark to reach sustainability so to ask fishermen to have a minimum size and a tolerance, we have to set the definition of sustainability. Economics should not be handled by the biologists.

#### Issue 5: Crab Parts

There were no comments on whether the Jonah crab fishery should be parts or whole crabs only.

#### Issue 6: Commercial Retention of Egg-Bearing Females

Two meeting attendees were in favor of no retention of egg-bearing females (Option 2) and two others did not believe this issue should be in the management plan. Comments included:

- I am for Option 2. The egg-bearing females that I have seen are always smaller than market size.
- Egg-bearing crabs are being sold and there is a market for them. We need this management measure.
- There is no need for a discussion on egg-bearing females because the minimum size will take care of this.
- A 4.5” size limit eliminates a need for this option. Do we want enforcement personnel to look at the underside of each crab?

#### Issue 7: Incidental Bycatch for Non-Trap Gear.

Attendees did not state a preference for one option or another but did offer comments on the management measure. They included:

- Sea bass pots should be considered non-trap gear.
- The bycatch limit should be set in pieces rather than pounds. It is easier to count Jonah crabs than to figure out how many crabs are in 100 pounds. A crate limit doesn't work because then we get into the issue of what defines a crate.

#### Issue 8: Recreational Possession Limits

There were no comments on this issue from meeting participants.

#### Issue 9: Recreational Retention of Egg-Bearing Females

All meeting participants favored a prohibition on the retention of egg-bearing females.

Comments included:

- I am for Option 2 but if you have a minimum size in the recreational fishery you don't need this. There is no magic about catching female crabs as there is with lobsters. There is no problem harvesting female crabs. We don't have to worry about the few that get brought in with the minimum size. This is just another regulation that will create problems.

#### Issue 10: De Minimis Criteria

There were no comments on *de minimis* criteria.

***Ocean City, MD  
June 30, 2015  
16 Attendees***

**Meeting Staff:** Toni Kerns (ASMFC), Megan Ware (ASFMC), Max Appelman (ASMFC), Spencer Talmage (ASMFC), Craig Weedon (MD DNR)

**Meeting Participants:** Jim Dawson (fisherman), Kerry Harrington (F/V Seaborn), Brad Stevens (UM Eastern Shore), Roger Wooleyhan (F/V Wooley Bocy), Shaun Wooleyhan (F/V Labrador), Lang Rose (F/V Toe Jam), Steve Ellis (NOAA), Wes Townsend (F/V Paka) Sonny Gwin (F/V SK Alex) Merrill Campbell (Southern Connections)

#### Issue 1: Fishery Dependent Data Collection

Meeting participants stated support for harvester and dealer reporting (Option 2) and harvester and dealer reporting with sea sampling (Option 3). 9 participants supported Option 2 while 1 participant supported Option 3. No comments were given on what the level of harvester reporting should be but the participants noted they currently report 100% of catch. Comments included:

- Option 2 is already what we are doing so no need to change the reporting system
- Fishermen are reluctant to have state sampling since this often leads to fishery shut-downs

- We need the biological sampling in Option 3 so that we can prove our resource is under-utilized and fishing on the species can increase

Recommendations on the wording of the options for fishery dependent data collection included:

- The dealer report should not include the areas fished since it is the harvester's job to provide that information
- In the reporting there should be a differentiation between claws or whole crabs because right now we are just reporting pounds. A conversion factor is needed for this.

#### Issue 2: Commercial Fishery Permits

One meeting participant stated support for a new crab-only permit (Option 3), one stated support for connecting the Jonah crab fishery to the lobster permit (Option 5), and all other participants supported maintaining the status quo. Comments included:

- There needs to be a study before any measures, including permits, are made for this fishery. Therefore, we should keep all permitting status quo.
- Designing a Jonah crab-only pot (Option 4) does not seem feasible. The pot will undoubtedly catch lobster.
- There is not one Area 3 permit boat in MD right now. With the control date and the potential for a limited entry fishery, we are afraid that MD fishermen will get squeezed out since landings in New England are much higher.
- I don't agree with the approved trap design (Option 4). You need to identify all users in the fishery before making management decisions.

#### Issue 3: Commercial Fishery Minimum Size

Two participants stated that they did not want a minimum size (Option 1). The other participants did not give a preferred option but generally agreed that they are only catching big crabs.

- You should be able to keep whatever is in your pot no matter the size so there should not be a minimum size.
- There should not be a minimum size because it is harmful to the fishery. Minimum sizes cause genetic shifts in the population towards smaller individuals. Removing large males can also cause sperm limitations. Furthermore, high discard rates often lead to higher mortality rates. It is important to spread out the catch among all sizes so that you have a balanced harvest. (*Brad Stevens also submitted written comment which more fully explains his view*)
- Due to the 2 inch vents on our pots, all of the crabs we catch are of a larger size.

#### Issue 4: Minimum Size Tolerance

Meeting participants did not have any comments on this management measure.

#### Issue 5: Crab Part Retention

One participant was against the harvest of crab claws (Option 2) while all others supported a claw fishery (Option 1). Comments included:

- We harvest the same number of Jonah crab claws as we did 30 years ago. This proves that this is a sustainable practice.

- The stone crab fishery provides an example of a fishery that has recovered due to the practice of declawing.
- Crabs can still mate and eat without claws.
- Declawing should not be allowed because it is harmful to the crab. The practice reduces growth and feeding rates. Furthermore, the claws grow back very slowly (up to 3 molts) and that might be the entire lifespan of the individual. Finally, you cannot properly count what is landed if you just have the claws. (*Brad Stevens also submitted written comment which more fully explains his view*)

#### Issue 6: Prohibition on Egg-Bearing Females

Three meeting participants favored a prohibition on egg-bearing females (Option 2), one participant favored a prohibition on all females (Option 3), and one participant favored no prohibition on catch (Option 1). Comments included:

- There isn't a market for crabs with eggs so Option 2 is the best.
- I don't see many egg-bearing females so Option 2 would not be an issue.
- I am for Option 3 because the more females the better.
- We are primarily a claw market in MD so we don't keep the crabs anyway.
- There is no data to show that protecting egg-bearing females helps the population. In fact, data shows that removing a portion of the females may help dampen population fluctuations. I am for Option 1 because if you just remove the males, you will end up with an unbalanced sex ration. This means less fit males will be mating with fit females. (*Brad Stevens also submitted written comment which more fully explains his view*)

#### Issue 7: Bycatch Limit for Non-Trap Gear

The participants did not state a specific preference for a bycatch limit but did have some recommendations on how the bycatch limit should be implemented.

- I recommend that they don't specify a poundage but specify the number of bushels of bycatch.
- As a point of reference, as a gill-netter it is not unusual to catch 100 pounds of claws in a day. I am not sure what the conversion to poundage is but this should serve as a reference point.

#### Issue 8: Recreational Possession Limit

There is no recreational fishery in MD and the participants had no comments.

#### Issue 9: Recreational Retention of Egg-Bearing Females

There is no recreational fishery in MD and the participants had no comments.

#### Issue 10: De Minimis

Participants did not comment on whether the commercial and recreational fisheries should be combined or not but they did comment on the percentage to qualify for *de minimis*. The comments included:

- 3% is too low, it should be more like 5%.
- Claw fishermen do not know where we are at in terms of landings because we don't have a conversion factor to whole pounds.

- There should not be any *de minimis* states because we need as much biological sampling as possible to determine the status of the fishery.

### General Comments

Meeting participants also made numerous comments on the overall Draft FMP. They are as follows:

- The Jonah crab fishery is an under-utilized resource in MD. We should not be limiting effort since the fishery has the capacity for greater effort.
- There are some things that the plan should include: 1) we need a stock assessment to support the plan; 2) a TAC should be set around a natural limit of 5-10% because if you implement a TAC you don't need these other measures; 3) a Marine Protected Area should be created for the species to protect the spawning stock and habitat; 4) a rights-based management system, such as ITQ's, should be implemented. (Brad Stevens also submitted written comment which more fully explains his view).
- The whole FMP is based on what might happen rather than fact. There is no research. My real problem is what does Delhaize have to do with the fishery? You are trying to appease grocery stores with this document. If I thought that Jonah crab was in trouble, I wouldn't be saying this. This document is the beginning of more regulations that aren't needed.
- The Jonah crab fishery is a northeast problem. We have a sustainable fishery in MD. Our biggest concern is that fishermen will overfish in the North and then move into our waters.



# ATLANTIC OFFSHORE LOBSTERMEN'S ASSOCIATION

Grant Moore, President  
[exec@offshorelobster.org](mailto:exec@offshorelobster.org)

David Borden, Executive Director  
[dborden@offshorelobster.org](mailto:dborden@offshorelobster.org)

Robert Beal, Executive Director  
Atlantic States Marine Fisheries Commission  
1050 N. Highland Street  
Arlington, VA 22201

Dear Bob:

On behalf of the Atlantic Offshore Lobster Association (AOLA) I would like to offer some preliminary comments and perspectives on the draft Jonah Crab fishery management plan. The comments are reflective of the positions taken by our Board of Directors to date and we intent to revise these comments based on what we hear at the public hearings and also based on comments from members during the next several weeks. This is an extremely important issue for most of our members and it is critical to adopt a basic fishery management program that will ensure the long term sustainability of this important resource. This is particularly true in the Southern New England (SNE) lobster stock area, which has suffered declining catches of lobster in recent years. The expanding Jonah crabs fishery in this area has allowed a number of vessels to diversify and prosper during a difficult period of time in the SNE lobster fishery. We commend the Commission for initiating this management process in a timely manner and urge the Board to adopt provisions at the next meeting in August.

Specific points:

**Statement of the problem (p.12):** We very much agree with the characterization and issues identified by the PDT. These issues are very real and need to be addressed if we want to avoid problems in the near future. Since the Jonah crab fishery is both targeted and a bycatch in the lobster fishery, it is imperative to integrate these two management programs, both use the same gear and are therefore indistinguishable. Management strategies, and any alternatives identified by the industry, should focus on solving the problems identified by the PDT.

**Goals (p. 12):** We agree with the goals and objectives of the management program but believe that objectives 1, 3, and 6 should be the main focus. We are not quite sure of the intent of objective 5, and it may not be necessary if uniform coastal regulations are adopted by the Commission.

**Management Unit (p. 12):** We support the management unit as proposed and it should include all state and federal waters.

**Monitoring program (p. 14):** Since this is a data poor stock, it is critical for the Commission to integrate and implement a fishery dependent and fishery independent data collection and monitoring program. We therefore believe that option 3 best characterizes the format to utilize. In our view, as a first step, all vessels landing Jonah crab and lobsters from federal waters should be required to complete a VTR on all trips, which will require a change in federal law.

In regards to state waters, we believe that the PDT should work with the State agencies to identify the most cost effective way of collecting crab data from State waters. Given that only a small portion of the Jonah crab catch is attributable to State waters the Commission needs to balance the need for inshore data versus the cost imposed on State agencies. At a minimum, the State agencies should continue their current lobster data collections at the same level of intensity, but extend that effort to include Jonah crab.

**Commercial Management Measures (p. 17):**

**Issue 1- Permits:** We strongly support option 5, which requires individuals to hold either a lobster license or incidental permit. The rationale for this position is well stated in the Purpose and Need of Action statement on Page 18 which says:

*“As described in the statement of the problem, 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 capable of catching lobster in state and federal waters, thus potentially impacting the effectiveness of the lobster industry’s conservation measures to reduce traps and avoid interactions with large whales.”*

This requirement is both reasonable and prudent given the extensive efforts by NOAA to reduce the number of vertical lines in the water to protect whales and other protected species. In addition, since a trap fishery for either species catches both, a separate licensing program for Jonah crab would present endless opportunities for unscrupulous individual to circumvent the trap cuts in the lobster plan.

**Issue 2- Minimum Size:** AOLA supports option 6, a 5 inch minimum size with a tolerance. There are several reasons for this recommendation. There is not a stock assessment available for this species and neither is there a great deal of up to date information on the sexual maturity rates of Jonah crab. In addition, most of the product being landed currently are males and most of the current catch is 5+ inches in size. The few scientific studies available do indicate that a 5” minimum size would allow most or all females to reproduce and a majority of the males to reproduce before recruiting into the fishery. Given the lack of current area specific stock assessment information and or sexual maturity data, we think it imperative for the Commission to be risk averse and set the size high enough in order to protect the stock. It is our belief that a 5” carapace size will ensure the long-term sustainability of the resource while additional studies are completed on this important subject. We note that the CFRF /Massachusetts DMF was recently awarded a grant to develop size specific sexual maturity estimates for Jonah crab by area, and the study will be initiated in the next few months. This information will be critical in determining an appropriate minimum size, but in the interim period we should use the scientific information available and be precautionary. Finally, as indicated in the Fishery Improvement Process (FIP) recommendation, this size is supported by the processing sector provided that there is a tolerance associated with its implementation.

**Issue 3- Tolerance:** We support option 2 which is a 5% or less tolerance, although we want to reserve comments on the specifics of how the tolerance will be administered and enforced. As you know, this is a volume fishery with some vessels landing 40,000 to 60,000 crabs a trip; therefore efforts need to be made by the management system to balance resource protection with a reasonableness standard. A critical component of any tolerance will be the mechanism by which it gets implemented and enforced.

This is important from both the fishers' and enforcement agents' perspective. In the case of the fisherman, they want a standard that is reasonable, practicable, easily used at sea, and promotes efficiency. Any requirement to handle and measure each crab will certainly promote inefficiency on the vessel, and also at the dealer level.

That being said, the Enforcement agent also want a standard that meets many of those same criteria but allows sub sampling and does not require agents to measure all of the crabs from a given trip. In reality most crab being landed are above a 5" minimum (refer to table 2 on page 55 of the FMP) and this condition is further supported by the processors who do not want to process crabs less than 5" due to yield considerations i.e., the yield goes down as the size goes down, but the cost per pound goes up due to increasing labor costs.

ASMFC has tasked its enforcement committee to meet in July to review the industry practices and develop comments for Board consideration. We think this a positive step and industry involvement in the process should, hopefully, insure that both sides strike the appropriate balance. Some of our members will be in attendance at the enforcement meeting and we intend to comment further after that session.

**Issue 4-Crab part retention:** We support option 2, which is requirement to land whole crabs. Crabs are landed for both the meat and claw markets. We therefore think it critical to insure that the crabs are landed whole to enable enforcement of the minimum size standard. That being said we do recognize that there is a small, very limited seasonal, historic, claw only market in the Mid-Atlantic, as noted on p.6:

*"The practice of declawing the Jonah crab while fishing lobster traps and pots occurs in the Atlantic Ocean off the Delmarva Peninsula Delaware/Maryland and Virginia). The Jonah crab is a by-catch species in the American Lobster Fishery, and some (est. < 5) fishing vessels (F/V) remove the claws of the large Jonah crab, which are most likely male, and return the crab to the ocean alive. The F/Vs that declaw Jonah crab typically do not retain whole crabs because they have local dockside customers that prefer only the claws. Declawing is typically conducted in LCMA5 within the EEZ, and those landings are less than 1% of the total Jonah crab fishery. majority (>90%) of the Jonah crab landings in the Delmarva Peninsula, specifically Ocean City Maryland were caught in lobster traps in LCMA3 and landed as whole crab in the last 5 years."*

It is unclear from the information in the document as to the exact volume of crab claws being landed and this should be clarified. However, it appears from the information that the declawing efforts are very limited in both poundage and geographic area and it may be possible for the State agencies to develop a conservation equivalency program or sea sampling program to ensure that the claws are only from legal crabs. If an exemption is granted to this area, it should not be extended beyond the zone where this practice is currently in operation.

**Issue 5-Prohibition on retention of egg bearing females:** We think it prudent to prohibit the retention of egg bearing female crabs in order to ensure the long-term sustainability of the resource. As the document notes, there are few egg bearing female crabs being landed now, and it is highly desirable to prevent the development of such a fishery for roe or bait. That being said a properly set minimum size will preempt any such fishery, since most of the female egg bearing crabs are far below 5" in size.



However, there are some female crabs that exceed the 5 inch carapace size so any such prohibition would require fishermen, processors and enforcement agent to examine all crabs for eggs and or administer another tolerance. As such, as a first priority, we think the Commission needs to be conservative with its selection of a minimum size, in order to protect egg bearing female crabs, but it should also weigh the industry and enforcement costs and benefits of this requirement. As an alternative, it may be possible to waive this requirement in the initial plan, but require the States to monitor landings and determine the level of egg bearing females landed solely under the minimum size standard. If the amount is minor, say 1%, no action needs to be taken, but if it is higher the issue should be addressed by an Addendum. States would also have the right to adopt more stringent State regulations under the most restrictive provision, should an area specific problem arise. This latter strategy would simplify administration of the program for the industry and State enforcement agencies.

**Issue 6- Incidental bycatch for non-trap gear:** We support option 2, 200 pounds a day up to a maximum of 500 pounds per trip. Bycatch in this fishery is extremely low, as indicated in the document, but it does exist, and therefore it is logical to allow some limited bycatch to take place. One consideration would be to limit the amount landed to a volumetric standard vs. poundage, which should enhance enforcement. Most vessels do not possess scales so it might promote compliance to use a volumetric standard such as a standard crate of crabs per day, not to exceed some number of crates total. It might be desirable to also have this concept discussed by the Enforcement committee when they meet.

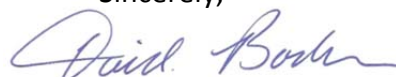
**Section 4.2. Recreational Measures( p. 19):** Given the lack of biological information on the Jonah crab resource, the cornerstone of this management program will be the minimum size. Although the recreational section of the document did not contain a minimum size option, we believe the recreational fishery should have to meet the same size standard as the commercial fishery, so in this case we recommend 5 inches. In addition, we agree with a possession limit of 50 whole crabs (Issue 1, option 2). We do not support the mutilation of crabs, i.e. the landing of claws only in the recreational fishery as it will complicate enforcement of the minimum size.

**Section 4.3.3 De minimis fishery guidelines (p. 20):** We support sub-option 2a or 1 %. Based on current reported landings, a state could land less than 170,000 lbs. of crab in their combined commercial and recreational fishery and still qualify for the de minimis standard. However, we believe that any state that qualifies for de minimis should also have to adhere to the minimum size standard and maintain a reporting/monitoring program of adequate intensity to document landings.

In conclusion we believe that the alternatives in this document should be approved at the August Board meeting for implementation in 2016. As indicated above we intend to submit our final recommendation prior to the July 24, 2015 comment deadline.

Thank you very much for the opportunity to comment

Sincerely,



David Borden  
Executive Director



## Massachusetts Lobstermen's Association, Inc.

8 Otis Place ~ Scituate, MA 02066  
Bus. (781) 545-6984 Fax. (781) 545-7837

July 13, 2015

Megan Ware  
ASMFC  
1050 N. Highland St, Suite A-N  
Arlington, VA 22201

RE: Comments on the DRAFT Interstate Fishery Management Plan for Jonah Crab

Dear Ms. Ware,

On behalf of its 1700 members, the Massachusetts Lobstermen's Association (MLA) respectfully submits this letter of comment to the Atlantic States Marine Fisheries Commission (ASMFC) on the DRAFT Interstate Fishery Management Plan for Jonah Crab, May 2015.

Established in 1963, the MLA is a member-driven organization that accepts and supports the interdependence of species conservation and the members' collective economic interests. The MLA continues to work conscientiously through the management process with the Division of Marine Fisheries (Division) and the Atlantic States Marine Fisheries (ASMFC) to ensure the continued sustainability and profitability of the resource in which our fishermen are engaged in. The MLA has been an active participant in the Atlantic Large Whale Take Reduction Team (ALWTRT) process since its creation back in 1996.

The MLA comments are as follows;

### **Option 1: Monthly Reporting**

The MLA supports the Plan Development Team (PDT) recommendation requiring ALL fishermen with a federal vessel trip reporting (VTR) must report for all trips. The MLA would also recommend requiring ALL fishermen, whether state or federally permitted; landing Jonah Crabs is required to report landings. The MLA encourages the collection of data, as recommended by the PDT, be mandatory reporting on a monthly basis to monitor the landings, seasonality of the fishery and to keep data collection current.

### **Option 2: Coastwide mandatory reporting**

The MLA supports the PDTs **100% mandatory dealer reporting** and encourages the Board to also require 100% harvester reporting. The MLA supports **Sub-Option 1: 100% harvester reporting coastwide**. The value in collecting 100% data from both the harvesters and dealers is vital to the continued success and increased profitability of Cancer Crab fishery.

### **Options 3: Coastwide mandatory reporting and fishery dependent sampling**

The MLA supports the PDTs recommendation for a 100% mandatory dealer reporting and **Sub-option1: 100%** harvester reporting. We agree with the proposed two-ticket system which will create a checks and balance system for the fishery.

## **4. Proposed Management Program Implementation**

### **4.1 Commercial Fisheries Management Measures**

The MLA supports **Option 5: Directed Fishery and incidental permit requirements**. “Participation in the directed trap fishery would only be allowed only for those persons or vessels that already hold a lobster permit from whatever jurisdiction the vessel is authorized to fish in, and all traps must conform to specifications of the lobster management plan, including the trap tag and escape vent requirements. Landing of Jonah crab by all others would require an incidental permit from a state or federal agency for the appropriate jurisdiction in which the vessel if fishing and would be subject to landing limits (outlined in issue 6).”

[http://www.asmf.org/files/PublicInput/DraftJonahCrabFMP\\_PublicComment.pdf](http://www.asmf.org/files/PublicInput/DraftJonahCrabFMP_PublicComment.pdf)

The MLA strongly encourages the PDT to not allow the creation ANY new fishery that could introduce more vertical lines into the water. The MLA would see this be counter productive the efforts of the Atlantic Large Whale Take Reduction Plan and unethical as the lobster industry has been mandated to reduce vertical lines in the water.

#### **Issue 2: Minimum size**

The MLA supports **Option 6: 5” minimum** size for Jonah Crabs. The current Jonah Crab market demands are for a 5” or larger crab and we encourage the PDT to approve this option.

#### **Issue 3: Commercial minimum size tolerance**

The MLA supports **Option 1: No tolerance for undersized crabs**. The MLA also recommends the development of an acceptable tolerance, specific for the volume crab fishery that are landing tens of thousands of pounds where a zero tolerance is impractical on this scale.

#### **Issue 4: crab Part Retention:**

The MLA supports **Option 2: Only whole crabs may be retained and sold**. The MLA does not support any type of mutilation at sea where a species can be exploited and encourage the PDT to accept Options 2.

#### **Issue 5: Prohibition on Retention of Egg-Bearing Females**

The MLA supports **Option 2: Egg-bearing females may not be retained**. The MLA strongly encourages the PDT to implement this option to ensure the continued success and sustainability of the resource just as it has done in the lobster fishery.

#### **Issue 6: Incidental Bycatch limit for non-trap gear**

The MLA supports limiting the amount of bycatch for non-trap gear types are done by on a count rather than by pounds. Although the PDTs **Option 2: 200 pounds per day up to a max of 500 pounds** per trip is a good starting point we recommend using a 100 count per day up to 500 count per trip to allow uncomplicated enforceability by law enforcement.

### **4.2 Recreational Fisheries Management Measures**

#### **Issue 1: Possession limits**

The MLA supports **Option 2: 50 (whole crabs); or 100 claw possession limit per person**. The MLA strongly encourages the PDT to implement the 50 count for recreational permit holders.

## **Issue 2: Prohibition on Retention of Egg-Bearing Females**

The MLA supports **Option 2: Egg-bearing females may not be retained**. The MLA strongly encourages the PDT to accept and implement the same restrictions on this as with the commercial fishermen. While there was no mention of a tolerance for the recreational fisherman there should be a zero tolerance implemented.

### **De Minimis Criteria Options**

The MLA supports **Option 2: Recreational and Commercial combined de minimis status**. The MLA supports sub-Option 2A: X= 1%. A state which has landings less than 170,000 pounds of crabs landed for both the recreational and commercial fisheries should be allowed the de minimis status. The MLA strongly encourages the PDT to require these states to be held to the minimum size standard and require reporting and monitoring programs to ensure the continued success and sustainability of the resource.

Currently within the Draft Plan there are certain measures that are subject to change under adaptive management and the MLA encourages the PDT to keep these in place for any future actions.

**4.4.2** “The following measures are subject to change under adaptive management upon approval by the American Lobster Management Board: (1) Fishing year and/or seasons; (2) Area closures; (3) Overfishing definition, MSY and OY; Reference points (4) Rebuilding targets and schedules; (5) Catch controls for both the commercial and recreational fishery, including trip/bag and size limits; (6) Effort controls; (7) Bycatch allowance (8) Reporting requirements; (9) Gear limitations; (10) Measures to reduce or monitor bycatch; (11) Observer requirements; (12) Management areas and unit Draft Jonah Crab FMP for Public Comment 23 (13) Definition of a trap; trap requirements and specifications (14) Recommendations to the Secretaries for complementary actions in federal jurisdictions; (15) Research or monitoring requirements; (16) Frequency of stock assessments; (17) De minimis specifications; (18) Maintenance of stock structure; (19) Catch allocation; and (20) Any other management measures currently included in the FMP.”

[http://www.asmf.org/files/PublicInput/DraftJonahCrabFMP\\_PublicComment.pdf](http://www.asmf.org/files/PublicInput/DraftJonahCrabFMP_PublicComment.pdf)

In closing, the MLA agrees with the Atlantic State Marine Fisheries Commission on the importance of creating a Jonah Crab Plan which is essential to properly manage the fishery to ensure the continued success and sustainability of the resource. We are encouraged that this Plan will allow for more research on the species along with implementing a stock assessment.

Thank you for taking the time to read our comments and the consideration for our recommendations to the DRAFT Interstate Fishery Management Plan for Jonah Crab. If you have any further questions please feel free to contact me at 781-545-6984 or at [beth.casoni@lobstermen.com](mailto:beth.casoni@lobstermen.com).

Kind regards,

*Beth Casoni*

B. Casoni  
Executive Director, MLA



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116  
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

July 10, 2015

Mr. Robert Beal  
Executive Director  
Atlantic States Marine Fisheries Commission  
1050 N. Highland Street, Suite 200 A-N  
Arlington, VA 22201

Re: Comments on Draft Interstate Fishery Management Plan for Jonah

Dear Mr. Beal:

Thank you for the opportunity to review the Draft Interstate Fishery Management Plan for Jonah Crab (ISFMP). This ISFMP, if adopted, will manage a fishery that takes place almost entirely in the Exclusive Economic Zone. According to the Magnuson-Stevens Fishery Conservation and Management Act, management of fisheries in federal waters is the purview of the regional fishery management councils. The Council recognizes, however, that there are immediate challenges facing this fishery that can be more rapidly addressed by the Atlantic States Marine Fisheries Commission (ASMFC). For this reason, we support the development of an IFMP to address management issues in the short-term while reserving our prerogative to manage this fishery in the future.

While the Council supports the development of an ISFMP, we are concerned that the draft FMP does not fully address all of the issues highlighted in my letter of January 30, 2015. That letter highlighted five issues raised during Council discussions on Jonah crab. Please consider the following comments as the ASMFC deliberates this action.

The draft ISFMP does not consider specific limits on the number of traps fished or the total catch in the Jonah crab fishery. From an examination of observer data, it is clear that Jonah crab distribution overlaps that of many other fisheries, particularly in the Gulf of Maine and northern Georges Bank (see attached figure). This suggests a possibility that the Jonah crab fishery may expand into new areas. While we recognize that some of the management options link participation in this fishery to lobster permits and trap limits for that fishery, we are concerned that an increase in Jonah crab trap activity, or a change in the distribution of Jonah crab effort, could lead to increasing gear conflicts between mobile and fixed gear fishermen. The IFMP does not address how these conflicts will be addressed.

The draft ISFMP makes few provisions for at-sea monitoring of the fishery. The fishery dependent data options in the document focus on reporting requirements and dockside sampling. This is a cause for concern, since questions have been raised recently about finfish bycatch in other trap fisheries. A lack of observer data makes it difficult to resolve these questions in any definitive way. State at-sea sampling of the lobster fishery tends to focus on near-shore areas and not the offshore activity associated with targeting Jonah crab. As this is an expanding trap fishery, it is important that interactions between this fishery and other species be carefully monitored. Since recent news articles report objections of some trap fishermen to observer coverage, it is critical for the IFMP to clearly state that at-sea monitoring of this fishery is required and a plan should be developed for providing that coverage.

With respect to vessel reporting, all Jonah crab vessels should be required to submit VTRs that report all catches, consistent with other federally-managed fisheries. Since this is an expanding fishery, the options that would require less than 100 percent of all harvesters to report their catches and effort should not be adopted.

Four of the five permit options in the draft ISFMP would limit the directed fishery to the use of trap gear. There is an option that proposes to allow incidental landings of Jonah crab by gear other than lobster traps, with options for either unlimited catches or catches limited to a trip limit. It is never explained why targeting of Jonah crab should be limited to trap fishermen, and so it is not clear that there is a conservation reason for doing so. Since there are no options that propose to limit the total catches of the trap fishery (except for coincidental limits on lobster traps that might constrain crab fishing), it appears that the only reason to limit catches by non-trap gear is to allocate the directed fishery to trap fishermen. Regulations implementing this ISFMP in federal waters implemented under the Atlantic Cooperative Fishery Conservation and Management Act (ACFCMA) will need to comply with the National Standards found in the Magnuson-Stevens Act. Measures whose sole purpose is economic allocation would conflict with National Standard 5, which states that no measure shall have economic allocation as its sole purpose. A rationale for limiting the directed fishery to trap gear needs to be clearly explained, and it should clearly address the conservation benefits of doing so.

With respect to the incidental catch trip limit for non-trap gear, Option 2 proposes to limit catches to 200 lbs/day with a maximum of 500 lbs/trip. There are no analyses that explain how these values were determined, and as a result it is not clear if they are high enough to accommodate current non-trap participants in the fishery. An examination of non-trap observer data for the years 2008 through 2014 shows that about 3 percent of individual hauls catch 200 pounds or more of Jonah crab, matching or exceeding the proposed daily limit in one haul. While most of this catch was discarded due to a lack of markets, if markets develop it would be preferable to land these animals. Dealer data also show that some vessels occasionally land well over 500 pounds of crab. Option 2, if adopted will convert these landings to discards. In addition, the trip limit should be modified so that the trip total is based on an even multiple of the daily total. The formula used for the lobster incidental catch trip limit for trawls bases the total trip amount on five days of the daily limit; applying the same approach for Jonah crab would suggest a 1,000 pound trip limit.

While this is not a substantive comment on the proposed measures, the Council will decide whether to develop management measures for the Jonah crab fishery later this fall. I recommend this possibility should be described in Section 4.6.7 of the document.

I hope that these comments will be useful as the final measures for the Jonah crab fishery are developed. We look forward to continuing cooperation with ASMFC on this and other fishery management issues. Once again, thank you for providing the opportunity to comment on the IFMP. Please contact me if you have questions.

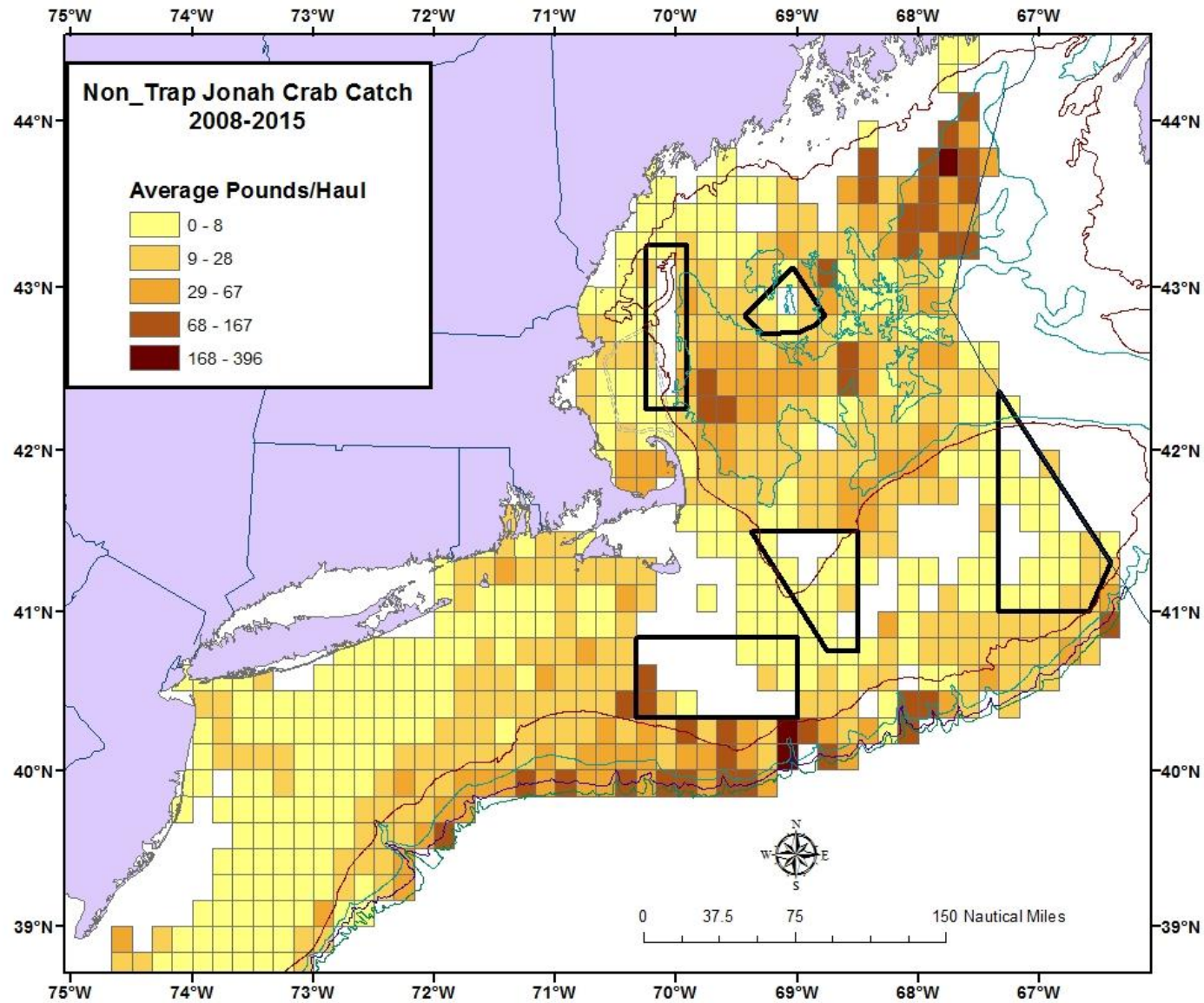
Sincerely,

A handwritten signature in cursive script that reads "Thomas A. Nies".

Thomas A. Nies  
Executive Director

cc: Mr. John Bullard

Figure 1: Average catch per haul (or set) of Jonah crab by non-trap gear. Only ten-minute squares with more than three observed tows are plotted. Partial year data for 2015. NMFS NEFOP/ASM data.







UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
GREATER ATLANTIC REGIONAL FISHERIES OFFICE  
55 Great Republic Drive  
Gloucester, MA 01930-2276

JUL 16 2015

Mr. Robert Beal  
Atlantic States Marine Fisheries Commission  
1050 N. Highland St, Suite A-N  
Arlington, VA 22201

Dear Bob:

I first want to thank you and your staff for diligently and expeditiously crafting a draft Interstate Fishery Management Plan (FMP) for Jonah crab. I would also like to commend the hard work of the Jonah Crab Plan Development Team (PDT) for providing a wide range of draft management measures for the American Lobster Board and the general public to consider. However, I do have some concerns, which I would like to highlight.

Connection to the Atlantic Large Whale Take Reduction Plan (ALWTRP)

The draft FMP contains several statements that the continuation and potential future expansion of the Jonah crab fishery may compromise the effectiveness of the ALWTRP. This characterization is not consistent with how the ALWTRP functions. As you know, the ALWTRP is a program required by the Marine Mammal Protection Act to reduce the risk of serious injury and death of large whales. One of the key areas of the Plan's focus is injuries or deaths caused by entanglement in commercial trap/pot fishing gear. The current ALWTRP includes restrictions on pot and trap gear use, configuration, and marking. These requirements apply to all pot and trap gear capable of interacting with large whales and do not apply only to specific fisheries such as lobster. Therefore, the Jonah crab trap fishery is already required to follow measures under the ALWTRP.

The ALWTRP also includes a 5-year monitoring strategy that incorporates measures to evaluate its overall effectiveness and the level of compliance. Evaluating the frequency and severity of large whale interactions with fishing gear will require several years of monitoring to determine whether changes have occurred. However, the ALWTRP does provide for dynamic evaluation of ongoing changes that may affect whale interactions or takes. If we observed an increase in trap/pot fishing effort, or observed an increase the number of vertical lines in the water beyond the levels previously analyzed, we may pursue changes to the ALWTRP prior to the completion of the 5-year monitoring period. Such changes would occur through the Atlantic Large Whale Take Reduction Team. Moreover, if complementary Federal measures are needed under the Jonah Crab FMP, we would ensure the appropriate consultation with our Protected Resources Division staff occurs to ensure measures are compliant with the Marine Mammal Protection and Endangered Species Acts. This consultation would evaluate how the FMP measures may affect whales and other protected species and would determine any necessary changes to ensure compliance with these two acts. While a Jonah crab FMP is not needed to guarantee the



effectiveness of the ALWTRP, formal management may provide additional information to inform future ALWTRP actions.

### Reporting Requirements

I support the inclusion of reporting requirements in the draft FMP. Fishery-dependent data collection programs will give both state and Federal scientists and managers better information. The Lobster plan currently requires 100-percent dealer and at least 10-percent harvester reporting, as well as at-sea and port sampling, and fishery independent data collection programs. The draft FMP includes harvester reporting options ranging from 10 percent to 100 percent. Selecting an option that differs from the Lobster Plan and Federal regulations could vastly expand mandatory Federal reporting, create conflicting requirements, and cause confusion amongst the industry. I encourage the Lobster Board to consider this when discussing potential reporting requirement options.

### Permitting Options

The draft FMP includes multiple permitting options ranging from status quo to establishing new permits to target or incidentally retain Jonah crab. I support options that preserve existing levels of participation in the Jonah crab fishery. The permit options described in the draft FMP consider potential crab trap proliferation and a potential implied negative impact on the Southern New England lobster stock. There are no data in the draft FMP that indicate that crab trap proliferation is currently taking place. The document suggests that approximately 98 percent of the Jonah crab harvest comes from vessels with lobster permits whose traps are capped under the Lobster Plan. Further, the number of traps used by the majority of Jonah crab harvesters is limited because most states require a lobster or general crustacean permit to catch, retain, and sell Jonah crab. It would seem, from the information in the draft FMP, that the vast majority of effort in the Jonah crab fishery is already restricted by Lobster Plan and state regulation.

Should the Lobster Board pursue a limited-access permit option for Jonah crab, it should include qualification criteria for all historic participants, not just lobster permit holders. The document does not seem provide any justification for excluding historic crab-only harvesters from the fishery. Specifically, the draft FMP identifies the number of crab-only harvesters as being less than 10 permits, at least some of which are not active. It is difficult to imagine this level of effort having a meaningful potential impact on the crab or lobster fishery. At present, excluding crab-only permitted harvesters does not appear to satisfy any of the goals and objectives included in the draft FMP. It would be difficult for us to justify a limited-entry option that excludes crab-only harvesters in Federal waters unless additional, robust justification is developed and provided. Absent such justification, I think it would be very difficult for us to explain why it was necessary to exclude historic crab-only harvesters if such a measure were legally challenged.

### Other Management Alternatives

Similar to permitting requirements, I believe the draft FMP includes many management alternatives that would benefit from further justification. I would urge the Lobster Board to support a fishery that only allows the retention and sale of whole crabs. The document does not contain information on the post-release survivability of Jonah crab after one or both claws has been removed. While I believe the protection of egg-bearing females and allowing Jonah crab to spawn prior to harvest is important for the sustainability of the stock, the draft FMP does not

contain information to inform such decisions. The draft FMP states that "there is a lack of Jonah crab maturity data in U.S. waters." Without such information, it might be hard for the Lobster Board to make an informed decision on what is best to sustainably manage Jonah crab. Rather, the Board would be basing its decision on the market-driven preferred size.

The draft FMP does effectively highlight the recent increases in landings. I believe the Lobster Board could consider a coastwide limit on Jonah crab landings. Such a measure, based on some level of historic landings, could be justified by the information contained in the draft FMP. Putting a catch limit in place, in conjunction with reporting requirements, would prevent additional pressure on the Jonah crab stock and halt the potential expansion of the fishery, while allowing for the collection of information that could inform future decisions on minimum sizes, retention of claws only, and/or limited entry considerations.

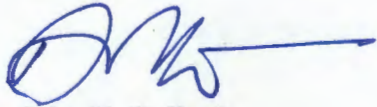
#### Tolerances

I do not support the proposed possession and landing tolerances for some amount of crabs below the commercial minimum size and for egg-bearing females included in the draft FMP. The Law Enforcement Committee advised against including tolerances in the draft FMP, as did the PDT. Such tolerances would be virtually unenforceable at-sea and challenging to monitor in landings. The Law Enforcement Committee suggested relying on the discretion of enforcement officers. Relying on the Law Enforcement Committee's technical expertise, I fully support its recommendation.

I believe some measures included the draft FMP may lend themselves to state-only implementation. These include reporting requirements, a minimum size, prohibition on retaining egg-bearing females, crab parts retention, and incidental bycatch for non-trap gear. We will certainly work with the Commission on comparable Federal measures, such as a limited access program, if the Lobster Board recommends such a program. As you know, our process is cumbersome and proposing, analyzing, and finalizing Federal regulations will require more time to implement.

Thank you for the opportunity to comment on the draft FMP for Jonah crab. I look forward to the discussion of all comments at the August Commission Meeting. If you have any questions, please contact Allison Murphy at (978) 281-9122 or [allison.murphy@noaa.gov](mailto:allison.murphy@noaa.gov).

Sincerely,

  
for John K. Bullard  
Regional Administrator

cc: Dan McKiernan, ASMFC Lobster Board Chair  
Megan Ware, ASMFC Fishery Management Plan Coordinator

## Amy Hirrlinger

---

**From:** Comments  
**Sent:** Monday, July 20, 2015 11:49 AM  
**To:** Amy Hirrlinger  
**Cc:** Megan Ware  
**Subject:** FW: Jonah Crab FMP

**From:** Don DeBerardino II [mailto:dondnanuk@gmail.com]  
**Sent:** Saturday, July 18, 2015 9:45 PM  
**To:** Comments  
**Subject:** Jonah Crab FMP

Please accept my comments on the Jonah Crab Fishery Management Plan,

First of all I believe we should have "AREA" plans, for instance Area 3 is Totally different than Area 2. We all agree that the biggest and most harvested Jonah Crab come from Area 3. Just like the lobster management is different for both areas. Area 539 and 537 are totally different areas. Less than 2% of Jonah Crabs are harvested in area 539, compared to 71.5% harvested in area 537! If processors are wanting bigger crabs which only come from area 537 than only bring in big crabs for them. Here in Rhode Island we have a very good dockside sale of live lobster and crabs. Both Jonah and Sand crabs. By setting the same standard to us to those who sell to processors would wipe our sales as we DO NOT catch the BIG Jonah Crab as they do in area 537. If dealers want bigger crabs than they should only buy big crabs. By making us that crab in area 539 as the same as area 537 would be taking a lot from our livelihood, and removing a very unique fabric of culture from our docks. We have over the last few years have found what people are looking for "live crabs". Every culture that you can name has bought live crabs and lobster from me, generations of folks Grandparents down to grandchildren. Whole families come to the docks to buy "Fresh Live product", off the boats".

Thank you Don DeBerardino II  
F/V UMIAK

These are my comments on the Jonah Crab FMP:

A.(section 3.4.1)

Issue # 1 Fishery Dependent Data Collection - Option 1

B.(section 4.1)

Issue # 1 Permits -Option 5

Issue # 2 Min. Size - Option 2 We can always go bigger but we will never go smaller.start here and change if changes are needed.Also area difference 539 vs 537

Also option 3

Issue # 4 Crab Part Retention - Option 2

Issue # 5 Retention of Egg Bearing Females - Option 2

Issue # 6 By catch Limit for Non-Trap Gear - Option 2

C.(section 4.2)

Issue # 1 Possession Limit - Option 2

Issue # 2 Retention of Egg Bearing Females - Option 2

D.(section 4.3.3)

???

Maggie Raymond <maggieraymond@comcast.net>  
Jonah Crab FMP

Megan Ware  
1050 North Highland St., Suite 200 A-N  
Arlington, VA 22201

Ms. Ware:

The majority of the Jonah Crab fishery takes place in federal waters and therefore the fishery should be jointly managed with the New England Fishery Management Council as the lead.

Maggie Raymond  
Associated Fisheries of Maine

Peter & Linda Roberts <roblobsta@comcast.net>  
Rock Crab vs Jonah Crab

Ms. Ware,

Have read the proposed verbiage on the regulation of what is being referred to as the “Jonah Crab”—(erroneously?)

With a fair degree of formal education (Master’s Degree and teaching biology for almost 30 years) and hands-on commercial lobster fishing, I noticed a disturbing point in the use of the common name “Rock Crab” in the literature and photos when referring to what to many/most(?) fishermen has been commonly referred to as the Jonah Crab (a.k.a. eel grass crab, limber legs, etc.).

Now I realize common names are just that, and they are no substitute for the scientific names, but to needlessly “muddy the waters” by misusing (reversing?) the common names of these two species is unfortunate. In my locale the species that the proposed action(s) are clearly aimed at, “common name”- wise is the one we call the “Rock Crab” with its massive claws and slower reaction, and the other species with the smaller claws and very quick reaction is what we call the “Jonah Crab”.

The photos are unmistakable, but the descriptive verbiage is woefully inaccurate/inadequate. Anyone who has any firsthand experience with these two species learns to tell them apart, very quickly. Pick up one with the massive claws (heretofore a “Rock Crab”) carelessly and you have a second or two to correct your hand/finger position before you get ‘bitten’. Pick up the other species with the smaller but much quicker claws (heretofore a “Jonah Crab”) and you are almost guaranteed to be ‘bitten’.

Maybe I, and all the other fishermen in eastern Casco Bay, have been using the “wrong”/reverse common names for these two species for my approximately 60 years of commercial lobster fishing, but it doesn’t seem likely.

Your thoughts?

Peter Roberts

Lic. # 4256

## Comments on ASMFC Draft FMP for Jonah Crab

Provided by Bradley G. Stevens, PhD, Professor, University of Maryland Eastern Shore

**General:** This FMP is woefully inadequate and misguided. Although the authors of the document were well intentioned, and included many traditional management concepts and assumptions, these are outmoded and have been proven incorrect for many fisheries. It does not incorporate features that are known to support sustainable fisheries. It will most likely lead to overfishing and eventual collapse of the Jonah crab fishery. Comments and responses to specific management measures (section 4.1) are listed below, and justification for these is included.

The Jonah Crab FMP is based on assumptions, paradigms, and dogmas of fishery management that have been in use for over 100 years, and which have largely been proven faulty. Most fisheries based on these ideas have suffered collapse or overfishing. The approach used for this FMP is “selective harvest” incorporating the traditional 6-S management philosophy, which includes restrictions on species, stock, size, sex, season, and space (Zhou et al., 2010). For most fisheries this approach has unforeseen impacts including reduced size, reproduction, production, and diversity. Selective harvest of certain species results in their being harvested or removed disproportionately to their abundance. This causes changes in biodiversity, which can result in increased predation or competition. Selection for large sizes may result in reduced size at maturity, favoring slow growing organisms. These human induced changes outpace natural change and increase the variability in abundance and genetic variability. Selection for single sex (usually males in crab fisheries) skews sex ratios and favors smaller mates with lower fecundity. Selection for season can cause shifts in migration and spawning time, leading to mismatches. Selection for space tends to increase harvest on other locations, especially since harvests usually target populations closest to ports, favoring those farther away.

Species (such as crabs) with long life spans use a “bet-hedging” strategy to spread risk over time. This can involve either protracted spawning periods (as for king crabs, Stevens, 2006; Stevens & Swiney 2007), or highly variable, episodic recruitment.

In contrast, an approach incorporating “Balanced harvest” would include harvesting all stocks, sex, sizes, species that can be used by humans. This should incorporate a progressive “Tax policy”, i.e. the most productive segments (usually juveniles) should sustain higher exploitation. The ideal goal is to harvest all utilizable components in proportion to their abundance. In this situation bycatch may be beneficial, if sustainable. Management goals for balanced harvest should include:

- diversify selection to a wider variety of S’s
- eliminate bycatch
- mimic natural predation
- include harvest refugia (MPAs)

### Responses to proposed management measures:

- 1) **Permits** – no opinion, as it has little biological impact.
- 2) **Approved trap design:** What is it? Is there an optimal design for Jonah crab? Or does this need to be developed and tested? What is adequate escape port size?
- 3) **Minimum size.** There should be no minimum size limit
  - a) **Rationale:** Fishery management has long-term evolutionary consequences on populations. Minimum legal size (MLS) can cause a genetic shift to smaller spawners

that is not easily reversible (e.g. silversides *Menidia menidia*, Conover and Munch 2002). Harvesting the smallest individuals allows the larger, faster growing, more productive individuals to reproduce, the OPPOSITE effect produced by most fishery management plans.

- b) Removal of large male crabs skews sex ratios which can lead to sperm limitation, reduced mating frequency, and reduced fecundity in the Lithodid crabs *Paralithodes brevipes* and *Hapalogaster dentata* (Wada, et al., 2000; Sato and Goshima, 2006; Sato, et al., 2007). When M:F sex ratios are low, male snow crabs *Chionoecetes opilio* conserve (Sainte-Marie and Sevigny, 1999), so that individual females may not receive enough to successfully fertilize a clutch (Rondeau and Sainte-Marie, 2001). In model studies, removing the largest fish almost always produces population declines, whereas unselective fishing produced higher yields and biomass than selective fishing (Garcia et al., 2012). Increasing the size range of retained crabs produces a more natural distribution of ages, with fewer small crabs and more large ones, which would ultimately contribute to greater reproductive potential.
  - c) Fecundity of crabs is proportional to biomass or length<sup>3</sup> such that animals that are 2X larger produce 10x more eggs, i.e. one old spawner is worth 10 young ones. Therefore it is beneficial to retain the large spawners. A broad spectrum of age classes also confers stability, but fishing removes older, larger age groups, leading to age truncation (Berkeley et al. 2004). Diverse age structure functions as a storage mechanism for reproductive capacity, i.e. a “seed bank” that can stabilize recruitment via differences in timing or survival of larvae. A broad spectrum of hatch timing also reduces the effect of match-mismatch with larval food sources. Studies on fish have shown that larval survival is highly correlated with parent age, and less with size; in other words, older fish produce better larval survival, and faster growth (though this has not yet been verified for crabs).
  - d) Size limits are not compatible with Ecosystem Based Fishery Management (EBFM), which requires diversity in both size and genetic variability. Most fishery populations have episodic “sweepstakes” recruitment events (Berkeley et al, 2004) in which only a small portion of recruits survive with less genetic variability than the spawners, leading to a highly variable gene pool, and possible localized overfishing. Generally speaking, large populations (of fish or crabs) are not “unit stocks”, but instead are comprised of many small breeding subpopulations.
  - e) Use of MLS causes large numbers of crabs to be discarded, leading to unknown amounts of discard mortality. Abandoning the use of MLS would eliminate discarding and its associated mortality completely.
- 4) **Size tolerance** – NA. see #3
- 5) **Crab part retention** – option 2. Only whole crabs should be sold.
- a) **Rationale:** Claw removal is harmful and can kill the crab if not done properly. Claws of most crabs grow back very slowly. It may require 3-4 molts to reform a full size claw, which may take longer than the remaining lifespan of the crab. Crab landings cannot be determined from claw counts because some crabs may only have one claw. In contrast, landing of whole crabs allow measurement and counting of landed crabs.
- 6) **Prohibition on egg-bearing females** - There should be no prohibition of female catch.
- a) **Rationale:** Fisheries targeting a single sex (as in male-only crab fisheries) not only cause skewed sex ratios, but can exacerbate population fluctuations. Strong stock-recruitment



relationships generally do not exist for invertebrate species, which are largely r- selected. In most years, they produce orders of magnitude more larvae than needed; survival and recruitment are largely a function of environmental variability. In some species (snow crabs), cannibalism of recruits by previous year classes causes wide population fluctuations. Removing excess females when populations are large can help dampen such cycles, and does not significantly reduce reproductive potential over the long term. Therefore, allowing removal of females (when populations are adequate) can be an effective management tool, is consistent with EBFM and systems management principles, and helps to maintain size diversity as well as sex ratios.

- 7) **Incidental bycatch limit** – option 2 (limit)
- 8) **Recreational fishery**: is not large enough to require management.

**IN ADDITION, the FMP needs to include the following** (with justifications given below)

- 1) Marine protected areas for no crab fishing. These should include any area where crabs aggregate for spawning, with a radius of 5 n. mi., and should constitute large portions (10 to 50%) of each NOAA statistical area. e.g. the southern 20% of every stat area.
  - a) MPAs have been shown to improve conservation for species with short-distance dispersal, and sedentary or sessile adults, such as crabs (Botsford, 2005). MPAs protect a portion of stock from removal, protect some habitat from damage, and produce an increase in density, biomass, and size of individuals, which leads to increased reproduction and recruitment. In the US, MPAs have only been implemented as a last resort for overfished stocks, rather than as a preventive measure. MPAs of any size provide a buffer against variable recruitment because there is always an unexploited portion of stock (Pitchford et al., 2007).
  - b) Many fishers target their activities on mating/spawning areas because they believe that males will concentrate there, but data argue the opposite. Tanner crab (*C. bairdi*) mating aggregations cover only a few hectares but may include virtually all reproductive females within a 15 km radius (Stevens, et al., 1994), yet density of male Tanner crabs does not increase significantly during spawning aggregations (Stevens, et al., 2000). This suggests that those males within a few km of the reproductive females will likely contribute virtually all of the sperm needed for reproduction, while those more than a few km away are entirely superfluous, in which case. Thus, fishing activities should be prohibited within close proximity to known spawning areas. Concentrated fisheries leave relatively few spawning individuals located in ideal locations (Loher and Armstrong, 2005). For these reasons, management should incorporate location-specific sex/size ratios into harvest strategies, with the goal of refocusing harvest on non-reproductive animals in order to reduce fishery impacts on population reproduction.
- 2) Total Allowable catch – even though there is no stock assessment, there must be a TAC set at some experimental level that can be adjusted. An ideal level would be 5% of estimated total stock biomass.
  - a) A primary rule for sustainable management is “Stay within natural ranges of variation” (Fowler, 1999). This applies directly to exploitation rates. In marine ecosystems, most predators consume only about 5% of prey biomass. Predators that consume much more or less than that risk extinction of themselves or their prey. Human exploitation occurs at levels that are well beyond several standard deviations of the mean, removing much more of the available biomass than any natural predator, until the fishery becomes

- unsustainable. The only way to fish sustainably is to behave like a natural predator, and limit removals to about 5% of total biomass.
- b) Therefore a maximum total allowable catch (TAC) must be set experimentally, monitored closely to determine if it is appropriate, and adjusted annually as needed.
- 3) Rights-based management – Fishers should be given rights-based access to the fishery that can be traded or sold. These are usually set based on the most recent 3 years of fishing history, which can be negotiated. Examples include Individual Transferable Quotas (ITQs).
- a) The Jonah crab fishery is an S-fishery (Orensanz et al., 2005) defined as 1) small-scale in terms of geographic range, size of vessels, and income; 2) involve sedentary species; and 3) are highly spatially structured in small metapopulations linked by larval drift. Most crab species are associated with specific habitats, and do not move large distances from where they settle, thus constitute S-fisheries. Management of S-Fisheries must incorporate incentives for fishers (ownership of rights) that coincide with their needs and those of society, allowing them to make their own decisions about how and when to harvest.
  - b) One of the most important keys to sustainable, successful fisheries is the use of rights-based access (Hilborn, 2007). In the traditional “Olympic” style fishery, all fishers compete against each other such that one fisher’s gain is another’s loss. It emphasizes the “Tragedy of the commons” (Hardin, 1968) wherein a common property resource (crab/fish populations) is decimated because it is not in the individual interest of any single user to conserve it, because any conservation (i.e. fish not removed) may be removed by another user. In contrast, individual or group rights to a fishery (such as ITQs or cooperatives) give each user the right to exploit a specific quantity or location without competition from another user, resulting in improved efficiency through lower costs and higher product quality.
  - c) Virtually all large fisheries in the US have incorporated rights-based management, including Pacific halibut (ITQs), Bering Sea crab (Crab rationalization), Bering Sea Pollock, and North Atlantic groundfish (Sector management). Therefore it would be prudent to incorporate rights into the FMP for Jonah crab now, as transition from an Olympic to a rights-based scheme at a later time would involve much greater social and economic cost.

### **Additional Research Needs**

Biological research needs for Jonah crabs include: Fecundity; size and AGE at maturity; abundance; habitats used by different age groups; molting frequency, and growth rates.

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## Amy Hirrlinger

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**From:** Comments  
**Sent:** Tuesday, July 21, 2015 1:31 PM  
**To:** Amy Hirrlinger  
**Cc:** Megan Ware  
**Subject:** FW: Johan Crab

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**From:** James Violet [mailto:jv89@msn.com]  
**Sent:** Monday, July 20, 2015 7:33 PM  
**To:** Comments  
**Subject:** Johan Crab

I would like to make the following comments regarding the Interstate Fishery Plan for Johan Crab:

My name is James Violet. I fish the 70' F/V Excalibur out of Newport R.I. I have targeted Johan Crab for the past 20 years and land around 750,000 lbs per year. I fish in Area 3. I suggest the following:

1. Do not allow the landing of female Johan crab.
2. Link a Johan Crab permit with a area specific Lobster permit.
3. A 4.5" carapace minimum size limit.
4. Mandatory reporting of Johan crab landings.
5. Conduct a comprehensive review of Johan Crab biological life cycle , get some nmfs on board observer reports and combine this with trip reports ,so educated decisions can be made before making any unnessary burdensome regulations.

Regards,

James Violet  
F/V Excalibur  
401-714-3433

**From:** Jim Dawson [<mailto:jimdawson1@verizon.net>]

**Sent:** Wednesday, July 22, 2015 5:53 PM

**To:** Megan Ware

**Cc:** ROB OREILLY; Joe Cimino

**Subject:** Jonah crab

Megan, just spoke with Tony, she said to write a comment so you had it for official records:

I am advising the board to officially recognize my style of trapping, the baited drop trap, which has proven history, yet was TOTALLY ignored and forgotten about pertaining to lobster on an oversight by them to do so.

My gear is MUCH different than a habitat trap. Yes, it catches lobster as well as every other thing that will go into a trap. For some unknown reason, certainly NOT rational, the board feels as though they can eliminate historical users? ANYONE who lands a product historically, should have a right to land that product using the methodology they have been. For my case, it is the baited drop trap. For the official record, everything will be cleared up if there is an incidental catch provision made for "any trap capable of catching Jonah crab". I am formally requesting that a gear code be added at the time of the issuance for the Jonah crab permit for the "baited drop trap" such as BPTF on the VTR.

Currently, as it stands, it appears as though the board decided to have no incidental catch for lobster except for a select few sea bass fishermen. What right does the board feel they have to exclude ANY individual with historical landings? I cannot allow for such actions to ever take place in the future as consistency MUST be followed and should not vary nor waiver for only a select few.

Jim Dawson.



www.littlebaylobster.com

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July 24, 2015

Atlantic States Marine Fisheries Commission  
1050 North Highland St., Suite 200 A-N  
Arlington, VA 22201

Via email to Megan Ware, [mware@asmfc.org](mailto:mware@asmfc.org)

**Subject: Comments on the Jonah Crab FMP**

Dear Commissioners:

I operate a fleet of 11 offshore lobster boats, each of which harvests Jonah crab in addition to lobsters. I support the implementation of basic conservation measures for Jonah crabs, but I have not seen any evidence to support the statement in the draft FMP that: "Sustainable management practices will maximize economic benefits to affected communities and ensure that these sources of income will remain stable far into the future."

I suggest that language be inserted into the FMP that the current high abundance of Jonah crabs may simply not be sustainable, based on the historical record and the experience in Canada. Data provided in the FMP indicates that long-term average abundance of Jonah crabs over the period from 1982 to 2012 has fluctuated by a factor of 8 in the NMFS Spring Trawl Survey in SNE and by a factor of 2 in the Fall Trawl Survey. Recent years have been among the highest for Jonah crab abundance. Fishermen also report that the abundance of Jonah crabs is higher now than it has ever been, even during the 1980s when fishing pressure was much less. Considering this history, we should expect Jonah crab abundance to decline in the future, regardless of management. The FMP should anticipate that decline and prepare everyone involved for that eventuality. The combined lobster and crab fisheries should not be thrown into regulatory turmoil if the Jonah crab resource declines.

The FMP states that: "In Canada, the Jonah crab has quickly showed downward trends (both fishery independent and dependent data) after increased fishing pressure, indicating it may be important for managers to respond quickly to increases in harvest in US waters (see section 1.1.1 statement of the problem). Jonah crab fisheries have developed in Atlantic Canada and despite a prohibition on landing females, minimum legal sizes, and a TAC, several LFAs in Canada have reported declining catch of Jonah crabs (Pezzack et al. 2011, Robichaud et al. 2006). An assessment of offshore Canadian Jonah crabs in LFA 41 determined fishing effort was not sustainable despite a prohibition on landing females, a minimum size set at the size of maturity (128 mm), and a TAC of

920 tons (Pezzack et al. 2011). CPUE of the commercial fishery and fisheries independent data both showed declining trends after only a few years of directed fishing (Pezzack et al. 2011).”

I don't necessarily agree that fishing pressure caused the decline in Jonah crab abundance in Canada, but there has been a dramatic decline. If we combine the historical abundance data in New England with the experience in Canada, we can be quite sure that the FMP now under consideration will not ensure that income from the Jonah crab fishery will remain stable far into the future. It is misleading for the FMP to give fishermen, processors, marketers, and the public the impression that the FMP can ensure a stable Jonah crab resource and fishery.

My comments on the management options in the draft FMP are enumerated below, with further explanation after the summary of my positions:

### **Fishery Dependent Data Collection**

I support Option 3, 100% dealer and harvester reporting with port/sea sampling conducted by state and federal agencies. The data collection system should distinguish between crabs caught incidental to lobster fishing and crabs caught in a directed crab fishery. Otherwise catch per unit effort data loses much of its usefulness.

### **Permitting Requirements**

I support Option 5 for permitting requirements – directed fishing for Jonah crabs should only be allowed with tagged lobster traps fished from a vessel with a lobster permit. In consideration of the facts that the Jonah crab fishery developed as an integral part of the lobster fishery and that we expect the abundance of Jonah crabs to decline in the future, it would be a mistake to allow a separate and distinct fishery for Jonah crabs to develop during this period of high abundance. This is particularly true now that the states and the federal government will implement an FMP with prescribed legal requirements. I would support a provision that would issue “Jonah Crab Only” permits to vessels that can prove a history of fishing Jonah crabs without a lobster permit. I would suggest that proof of landings of 25,000 pounds or more of Jonah crab in 2014 or 2015 should be required to obtain a Jonah Crab Only permit, provided that the first landing of Jonah crabs occurred prior to the control date of June 2, 2015.

### **Minimum Size**

I support a minimum size of 5.25” with a one-quarter-inch tolerance. No violations would be issued for crabs larger than 5”. Crabs smaller than 5” would be illegal to possess and would be subject to seizure. I would expect normal officer's discretion to prevail in cases where an occasional small crab might be found in the catch but there was obviously no intent to violate the law. My rationale for supporting a minimum size is explained further following my summary positions.

### **Escape Vents**

In my comments on the Jonah Crab Public Information Document, I proposed an escape vent requirement for crab traps or combination crab and lobster traps. Although the draft FMP does not propose an escape vent requirement, I continue to believe that an escape vent designed to allow undersize crabs to escape would improve the sustainability of the crab fishery. The escape vent regulations in the lobster FMP are not sufficient to minimize the retention of undersize crabs. At present, Area 3 lobster traps are allowed to have two circular so-called “crab vents” of 2 11/16” diameter. These vents are actually lobster vents and they retain all but the smallest crabs. In the interests of both crab and lobster conservation, a combination of circular and rectangular escape vents could be installed in traps that would meet the requirements of the lobster management plan through the circular vents and also utilize rectangular escape vents to minimize the retention of undersize crabs. The choice of a size for a crab escape vent does not need to be complicated with selectivity studies that will still require a subjective judgment as to the appropriate escape/retention percentage. Crab morphology is such that an effective escape vent need only match either the minimum shell width chosen for the minimum size, or the corresponding shell length. The relationship between shell width and shell length can easily be determined by measuring some reasonable number of crabs.

### **Retention of Crab Parts**

Any allowance for crab part retention should be limited to permit holders who can demonstrate that they have a significant history of landing crab parts. Only those permit holders should be given a letter of authorization to land crab parts. A letter of authorization to land crab parts should not be transferable.

### **Retention of Egg-bearing Females**

I support Option 1, no prohibition on retention of egg-bearing females as long as some minimum size is adopted. Any of the proposed minimum sizes will provide sufficient protection for egg-bearing and non-egg-bearing females. We should not put unnecessary regulations on the books; they simply create more work for enforcement officers and more potential problems for fishermen. If a prohibition on retention of egg-bearing or non-egg-bearing females is adopted with a tolerance, all of the problems associated with statistically valid sampling of large catches will come into play.

### **Incidental Catch Allowance**

I support Option 2 for the possession limit for the bycatch limit for non-lobster-trap gear (200 pounds per day up to a max of 500 pounds per trip).

I support Option 2 for the recreational fishery possession limit (50 (whole crabs) or 100 claw limit per person).



## **Rationale for Positions**

### **Permitting Requirements**

As I noted in my summary comments, the Jonah Crab resource appears to be at a historical high point, with additional large year-classes having been detected in the Gulf of Maine. The currently permitted lobster traps have more than enough fishing power to harvest any conceivable Jonah crab catch. Additional traps and boats attracted to a transitory Jonah crab abundance would create over-capacity and overcapitalization. New England and the rest of the Nation have paid the price for overcapacity and overcapitalization in the New England fisheries and don't need to repeat that mistake with the Jonah crab fishery.

Whereas trap fishing gear is considered a threat to large whales, putting more trap fishing gear with more vertical lines in the ocean would clearly increase that threat, even if the gear complies with the Atlantic Large Whale Take Reduction Plan. The Plan relies on a combination of limited trap numbers and gear modifications to reduce the threat of injury to whales. The offshore lobster fishery has reduced total trap numbers for the dual purpose of conserving lobsters and reducing the risk of entangling whales. That effort would be compromised by allowing more traps into the crab fishery.

### **Minimum Size**

I support a 5.25" minimum size with a one-quarter-inch tolerance for many reasons other than the preference of the market for large crabs. Most importantly, in a fishery without direct control over the exploitation rate, a minimum size provides essential protection for the portion of the population below that minimum size. We do not have the scientific ability to set a total allowable catch (TAC) for Jonah crab and we will not for the foreseeable future. Without a minimum size, there would be nothing to prevent the crab resource from being decimated. Although the market currently limits the size of crabs that can be sold in quantity, we all know that new markets develop all the time. Experience with other New England fisheries demonstrates the folly of relying on markets to provide protection to valuable resources as their scarcity increases.

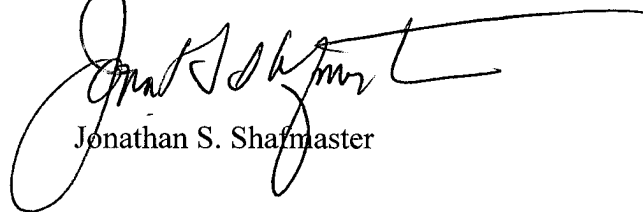
A minimum size is also necessary to obtain the greatest possible yield per recruit from the Jonah crab resource. Jonah crabs grow in length and in weight with each molt. The same number of crabs harvested would provide more weight and more value if they are allowed to grow. Conversely, a smaller minimum size will decrease the total yield from the Jonah crab resource. A minimum size is necessary to prevent "growth overfishing."

We know from experience in the lobster fishery that fishermen become dependent on animals near the minimum size as the resource is fished down. When that happens it is very hard to raise the minimum size because fishermen will temporarily lose a large percentage of their catch. Setting a larger minimum size when the resource is abundant and the size distribution is good has much less of an impact on fishermen.

The question of a tolerance applied to the minimum size has received a lot of attention. I support the concept of a tolerance. Most recently, there have been suggestions made to set the minimum size below the desired minimum size for the purpose of creating a tolerance. I think this would be a mistake, because the concept of a tolerance is lost and the minimum size becomes the size that is set. I suggest setting the minimum size at the desired size, and creating a tolerance of one-quarter-inch below the minimum size. In that way the desired minimum size remains the focus of the regulation and the tolerance does what it is intended to do, rather than lowering the minimum size.

Thank you for your consideration of my comments.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Jonathan S. Shafmaster', with a long horizontal flourish extending to the right.

Jonathan S. Shafmaster

JSS/vo  
1A861

Seaside Enterprises Inc  
 Joe Kelly  
 28521 Whites Neck Rd  
 Parksley Va 23421  
 Phone: 757 665 4333  
 Fax: 757 665 1463  
 CELL# 757-999-1198

**FAX**

To: MEAGAN WARE From: Joe  
Fax: 703-842-0741 Pages: 3  
Phone: Date: 7-22-15  
Re:

COMMENTS OF THE JONAH CRAB FISHERY

July 22,2015

To Whom it may Concern:

As a trap fisherman in the southern mid atlantic region, the jonah crab fishery and its future future management are of the utmost importance to my ability to make a living. In this region historically the jonah is valued for its claws, and as such took a page out of the Fla. Stone crab fishery book with the snapping of the claw versus landing the whole crab. Aside from the lack of a whole crab market until recently, there are many other reasons for this practice. As snowbirds retreat down south in the winter and acquire a taste for the stone crab claws, the jonah claws are gaining in popularity for their size, taste, and reasonable price. Another reason for taking the claws is a matter of volume, with local vessels often packing with ice. In that respect, it is much easier to pack 15 – 20 pounds of claws that 50 crabs may yield than it would be to pack 70 lb. Of live crab those 50 crabs would weigh. From my experience the jonahs would need a vast amount of ice to completely bury the crab or mortality would be high. Once a crab dies it begins to spoil and is no longer fit to eat. Shelf water temperatures run higher locally than on the New England coast, and with smaller vessel sizes it would be less practical to hold the crabs in live wells.

On top of that the thought of conservation enters into the equation, with the species being put back in the water a larger number would to survive to reproduce versus the whole crab being landed which could eventually deplete the stocks.

The jonah has always been a bycatch of the lobster fishery, and targeting the the crab by a new fishery of fisherman should be discouraged in the future. Before any proposals are put in place to manage the fishery, a better handle on the stock assessments is needed. Because one region is depleting its stocks is no reason to give those vessels a free ticket to access other regions in search of the last crab. The last

thing needed in a management plan is to change the fishing practices that have taken place historically.

Sincerely Yours,

Joe Kelly, Capt. \ owner,

F. V. Toots #240278

*Joe Kelly* 7-22-15



# Atlantic States Marine Fisheries Commission

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## MEMORANDUM

July 24, 2015

**To: American Lobster Management Board**  
**From: Law Enforcement Committee**  
**RE: Draft Jonah Crab Fishery Management Plan Comments**

The Law Enforcement Committee (LEC) of the Atlantic States Marine Fisheries Commission held a teleconference call on Thursday, July 23<sup>rd</sup> to review and consider input on draft management options for the draft Jonah Crab Fishery Management Plan. The following members participated in the call:

Jon Cornish (ME)  
Honnie Gordon (USFWS)  
Wayne Hettenbach (USDOJ)  
Katie Moore (USCG)  
Pat Moran (MA)  
Eric Provencher (NOAA)  
Rama Shuster (FL)  
Jason Snellbaker (NJ)  
Carter Whitten (NC)

Additionally, prior to the conference call, a subcommittee of the LEC participated in a field visit to the dockside and processing operations for Jonah crab in New Bedford, MA. The subcommittee was made up of:

Kurt Blanchard (RI)  
Jon Cornish (ME)  
Pat Moran (MA)  
Eric Provencher (NOAA)

The following comments and recommendations are made on behalf of the LEC.

### **Commercial Fisheries Management Measures**

#### ***Issue 1: Permits***

**The LEC recommends Option 5 (Participation only for those persons or vessels that already hold a lobster permit).**

Enforcement is well established for the current American lobster fishery and we feel that, rather than implementing an entirely new permit, trap, and participant system for Jonah crab, enforcement would best be served by continuing to manage this fishery under the existing lobster fishery. It would potentially eliminate the proliferation of traps and lines for a different fishery and the management of a new set of permit-holders, with the inherent complications that would be likely to ensue. It has been our observation that the current lobster fishery successfully uses lobster traps to harvest Jonah crabs in large quantities and enforcement would be easily

incorporated into existing, established enforcement protocols and platforms for the lobster fishery.

The LEC discussed the possible need and advantage of being able to assess the extent of the Jonah crab fishery, and to the extent an endorsement attached to lobster or other gear permits would aid that assessment, we do not see a problem with implementing such an endorsement.

***Issue 2: Minimum Size***

**The LEC recommends Option 5 (4.75” minimum size).**

Based on our observations and information from industry and biological experts, this size limit seems optimal, particularly in that it would obviate the need for a minimum size tolerance, or a tolerance for the number of female crabs.

***Issue 3: Commercial minimum size tolerance***

**The LEC recommends Option 1 (No tolerance for undersize crabs).**

In general, size or numeric tolerances introduce a serious enforcement complication that appears unnecessary for this fishery if an optimal minimum size limit is selected. In large part we recommend the 4.75-inch minimum size because we understand it would accommodate the bulk of the currently harvested crabs, and would match up well with marketable sizes. Tolerances are notoriously difficult to enforce in the field. For example, a large off-load may require a team of officers to check. Courts have also ruled that limited sampling of a catch may be inadequate for purposes of prosecution. In this particular fishery, once crabs are off-loaded at processing sites, or are being transported in commerce, the otherwise reasonable amount of sorting, separating, and re-batching of crabs would make any effective enforcement of a size tolerance impossible. In short, a size tolerance would reduce the amount of effective enforcement that may be brought to bear.

The LEC also discussed the value of clearly marking containers coming off of vessels to facilitate identification of catch once it enters a processing site or dealer facility. Because of the potential for immediate separation or sorting of a vessel’s catch, such identification would provide a level of protection for both the fisherman and the dealer in the event of enforcement inspections.

***Issue 4: Crab Part Retention***

**The LEC recommends Option 2 (only whole crabs may be retained and sold).**

Introducing an option to retain parts or remove claws will complicate effective enforcement of a minimum-size standard, and introduces an opportunity to move undersized crabs through the system. Adding an additional measurement standard for claws, such as a count per pound or something similar, will greatly complicate enforcement requirements to monitor and inspect fishing.

***Issue 5: Prohibition on Retention of Egg-Bearing Females***

**The LEC recommends Option 2 (Egg-bearing females may not be retained).**

We do not support a tolerance for the reasons spelled out under Issue 3. Additionally, it will be possible to enforce a prohibition on egg-bearing females because female crabs and egg-bearing females are relatively easy to identify in the field.

***Issue 6: Incidental Bycatch limit for non-trap gear***

**The LEC recommends Option 2 (200 pounds per day up to a max of 500 pounds per trip)**

We believe a strict bycatch limit is consistent with our recommendation to establish the Jonah crab fishery within the structure and permit system of the American lobster fishery.

**Recreational Fisheries Management Measures**

***Issue 1: Possession limits***

**The LEC recommends a third option requiring a minimum size limit**

Apart from a 50-whole-crab limit, the LEC recommends that the same whole-crab minimum size limit apply to recreational harvest as is established for commercial harvest. We do not recommend allowing possession of parts or claws if that is not allowed for the commercial fishery. We believe this recommendation is consistent with efforts to establish a minimum size limit that fully protects egg-bearing females. It eliminates confusion and ambiguity about whether undersized crabs were caught commercially or recreationally. In both Maine and Massachusetts, the same size limit is applied to both commercially and recreationally harvested lobsters and has served well for that fishery. We believe it would be equally effective for the Jonah crab fishery.

***Issue 2: Prohibition on Retention of Egg-Bearing Females***

**The LEC recommends Option 2: Egg-bearing females may not be retained.**

We make this recommendation consistent with our previous comments regarding the commercial management measures addressing egg-bearing females.

The LEC greatly appreciates the opportunity to provide enforcement input and advice regarding the development of a fishery management plan for Jonah crab.





# Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201  
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## MEMORANDUM

July 22, 2015

**To: American Lobster Management Board**  
**From: Jonah Crab Advisory Panel**  
**RE: Advisory Panel Recommendations on Draft Jonah Crab FMP**

The Advisory Panel (AP) met in person on July 22, 2015 in Providence, Rhode Island to comment on the Draft Jonah Crab Fishery Management Plan. Below is a summary of their meeting. One AP member, David Spencer, was not able to attend the meeting but submitted comments which can be found on page 3.

### *Advisory Panel Attendees*

Todd Richard Ellis (NH) commercial  
Jan Horecky (MA) commercial  
William Purtell (MA) commercial  
Brian Thibeault (RI) commercial  
*Staff*  
Megan Ware, FMP Coordinator

### *Other Attendees*

Jeff Mercer (RI DEM)  
John Williams  
Dick Allen (Little Bay Lobster)  
Grant Moore (F/V Director)  
Bob Glenn (MA DMF)  
David Borden (Commissioner)

### **3.4.1 Fishery Dependent Data Collection**

- AP members were in favor of harvester and dealer reporting along with port and sea sampling (Option 3). While a specific level of harvester reporting was not discussed, the AP members did note that their states require 100% harvester reporting and they support the continuation of this practice.

### **4.1 Commercial Fishery Permits**

- The AP members were in consensus that the best option is the one which ties participation in the Jonah Crab fishery to the lobster permit, or requires an incidental permit (Option 5). Comments on this option included:
  - Tying the Jonah crab fishery to the lobster fishery caps effort to those with a lobster license
  - Option 5 prevents the proliferation of traps. If traps get added through the creation of a separate Jonah crab fishery, this could prompt further trap reductions in the lobster fishery according to the Large Whale Take Reduction Plan

### **4.1 Commercial Fishery Minimum Size and Tolerance**

- Minimum size and tolerance received the most discussion at the meeting. The AP members felt these two issues could not be discussed separately and are therefore presented together. A consensus was not reached on these issues and the various opinions are presented below.

- One member was in favor of a 4.75” minimum size and tolerance (either 5% or 10%). He noted that tolerance is particularly important in the infancy of the management plan.
- Another AP member favored a 4.75” minimum size, citing the 5” market standard. He did not support a tolerance because he questioned its enforceability.
- The third AP member in attendance favored a 4.5” minimum size with no tolerance. The 4.5” was presented as a starting point so that, if adjustments are made in the future, the fishery isn’t pigeon hold into a minimum size that provides no leeway.
- Finally, there was also support for a 4.5” minimum size with a 5% tolerance. This option was said to provide flexibility for future changes in market demand (ie: if a market for females develops).

#### **4.1 Commercial Fishery Crab Part Retention**

- AP members did not favor either of the options currently presented in the Draft FMP and, instead, proposed a third option which maintains the status quo. This alternative option would allow those who currently participate in the claw fishery to continue to fish and would institute a maximum claw count to cap effort in this portion of the fishery. Some of the AP members felt that if a minimum size is instituted in the whole crab fishery, there should be some cap in the claw fishery.

#### **4.1 Commercial Fishery Retention of Egg-Bearing Females**

- All AP members in attendance were in favor of a prohibition on the retention of egg-bearing females (Option 2) to protect the spawning stock.

#### **4.1 Bycatch Limit for Non-Trap Gear**

- The AP was in consensus that there should be a bycatch limit (Option 2); however, instead of a weight limit, the AP suggested a count limit. A specific limit proposed was 200 crabs per day or 500 crabs per trip. The AP supported ASMFC using a three day trip to calculate a bycatch limit (rather than a five day trip).

#### **4.2. Recreational Possession Limit**

- All AP members in attendance supported a recreational possession limit (Option 2). The AP suggested that the limit read as 50 whole crabs and not include the 100 claw limit.

#### **4.2 Recreational Retention of Egg-Bearing Females**

- There was consensus that there should be a prohibition on the retention of egg-bearing females (Option 2) in the recreational fishery.

#### **4.3.3 De Minimis Criteria**

- The AP did not have any comments on how *de minimis* criteria should be set.

*The following comments are from Joan Crab AP member David Spencer. He was unable to attend the meeting but asked to submit comments on the Jonah Crab FMP.*

The following are my comments on the AP positions for the Jonah Crab FMP.

#### 3.4.1 Fishery Dependent Data Collection

I agree with the AP. I would also add that there should be an industry data collection fleet in place that adequately covers the federal waters portion of the resource. State waters only sampling is not even remotely reflective of the resource.

#### 4.1 Commercial Fishery Permits

I agree with the AP. Continued open access is unacceptable and a stand-alone limited access program would be nearly impossible to achieve and have it be meaningful, not to mention that it would take many years to achieve.

#### 4.1 Commercial Fishery Minimum Size and Tolerance

I support a 5" minimum size with a 5% tolerance. The vast majority of crabs presently landed go to the processors who for the most part require a 5" minimum. If we are instituting a management plan that hopes to achieve some conservational benefit, why would the minimum size be set lower than is the current practice by the majority of the fleet? We need to take a precautionary approach rather than an approach where industry postures for the lowest level that they can get away with. Tolerance is a critical part of this management plan.

#### 4.1 Commercial Fishery Crab Part Retention

I do not support the continuation of crab part retention. I fear that this could undermine the minimum size portion of the document.

#### 4.1 Commercial Fishery Retention of egg bearing females

I agree with AP

#### 4.1 BY-Catch Limit for Non Trap Gear

I agree with AP. However, I don't have strong feelings on either a count or weight option.

#### 4.2 Recreational Limit

I agree with the AP

#### 4.2 Recreational Retention of Egg Bearing Females.

I agree with AP

#### 4.3.3 De Minimis Criteria

States requesting for De Minimis should not be exempted from minimum size requirements and tying the lobster permit to the harvesting of Jonah crab.

Thank you for the opportunity to comment. I apologize for not attending the meeting.  
David Spencer



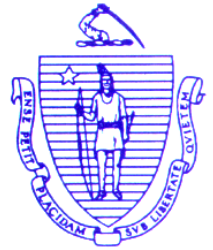
**David E. Pierce**  
*Acting Director*

# *Commonwealth of Massachusetts*

## **Division of Marine Fisheries**

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*Commissioner*

**Mary-Lee King**

*Deputy Commissioner*

July 27, 2015

To the ASMFC Lobster Management Board,

The Massachusetts Division of Marine Fisheries (MA DMF) began port and market sampling for Jonah crabs in 2013 after noticing a sharp increase in state landings. The rising trend in landings has continued. Massachusetts landed nearly 12 million pounds in 2014, which is more than double the landings from any year prior to 2012. Jonah crabs are now one of the ten most valuable fisheries in the state.

The MA DMF port and market sampling program has conducted 11 trips opportunistically since November, 2013. We collect data on Jonah crab carapace width, sex, egg status, and statistical area of catch. We have measured a total of 9,416 crabs, 93.1% of crabs are over five inches, and 98.5% are over 4.75 inches. Only 25 females (0.3% of sample) have been found, and only one of those had eggs. We have observed a recent decline in the median size of crabs and an increase in the number of crabs below five inches. We are unsure if this decrease in size is due to fishing pressure removing larger individuals, changes in market demand, or seasonal variation. Canadian Jonah crab scientists have documented a decrease in the size of crabs during the spring in their commercial Jonah crab fishery. Most of our 2015 sampling was conducted in the spring which may explain the decrease in size.

The most accepted published paper on Jonah crab maturity was conducted off of Nova Scotia, Canada (Moriyasu et al. 2002). This paper estimated the size at 50% male maturity at 127.6 mm (5") and was the basis of the Canadian Department of Fisheries and Oceans (DFO) selecting a 130 mm minimum size. Despite a minimum size, a prohibition on retaining females and a quota, Canadian scientists believe that "low (relative to most fisheries) fishing pressure contributed to substantial reduction in the population", and that "any future fishery be limited by very low fishing effort" (Pezzack et al. 2011).

There are no published estimates for size at maturity for male or female Jonah crabs in Southern New England where 90% of the U.S. fishery operates, though we have recently received funding to conduct a maturity study which will be starting this year and should be completed early in 2017.

The following pages gives a brief summary of the data collected by MA DMF port and market sampling program, landings data, analysis of at-sea observer data, probabilities of detecting minimum size violations within a given tolerance range, and email correspondence with Washington, Oregon and Canadian scientists and law enforcement officials regarding the enforcement of minimum sizes and tolerances in high volume crab fisheries.

Derek Perry  
Marine Fisheries Biologist- MA DMF

Robert Glenn  
Chief Marine Fisheries Biologist- MA DMF  
Lobster Technical Committee Chair

With contributions from  
Burton Shank  
Research Fishery Biologist - NOAA/NEFSC

**Table 1. Descriptive statistics from 9,416 Jonah crabs measured by the MA DMF port and market sampling program.**

	size (mm)	size (inches)
average	140.6	5.5
median	141	5.6
min size	82	3.2
max size	172	6.8

**Table 2. Number and percentage of females sampled from the MA DMF port and market sampling program (n=9,416).**

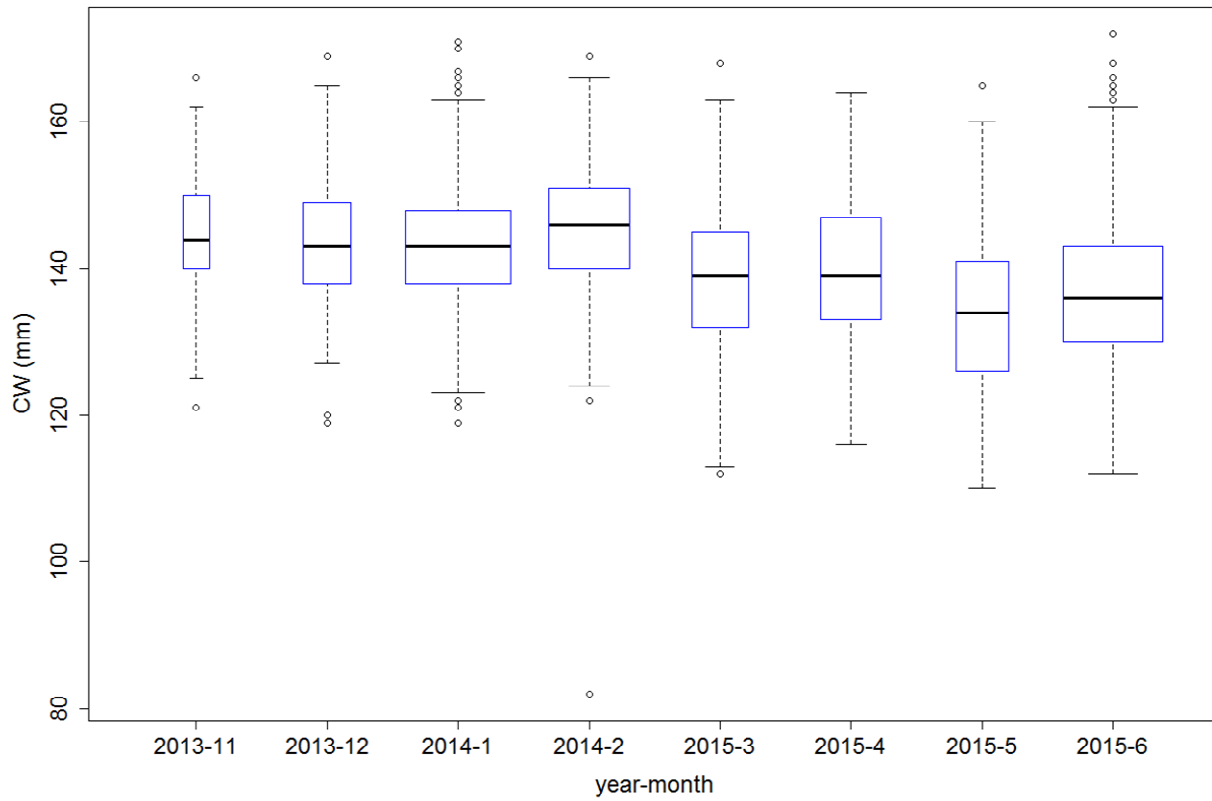
	Number	%
Females	25	0.3

**Table 3. Number of crabs below given size thresholds from MA DMF port and market sampling program (n=9,416).**

	#	%
< 139.7mm (5.5")	4118	43.7%
<133.35mm (5.25")	2095	22.2%
<127mm (5")	651	6.9%
<120.65mm (4.75")	144	1.5%
<114.3mm (4.5")	20	0.2%
<107.95mm (4.25")	1	0.0%
<101.6mm (4")	1	0.0%

**Table 4. Weight of individual male Jonah crab by size derived from length-weight relationship from MA DMF Resource Assessment Trawl Survey.**

	wt/crab (lb)
139.7mm (5.5")	1.08
133.35mm (5.25")	0.93
127mm (5")	0.81
120.65mm (4.75")	0.70
114.3mm (4.5")	0.59
107.95mm (4.25")	0.50
101.6mm (4")	0.43



**Figure 1. Box plot of MA DMF port and market sampling program (n=9,416). Black lines are medians, blue boxes are 50% interquartile range, circles are outliers.**

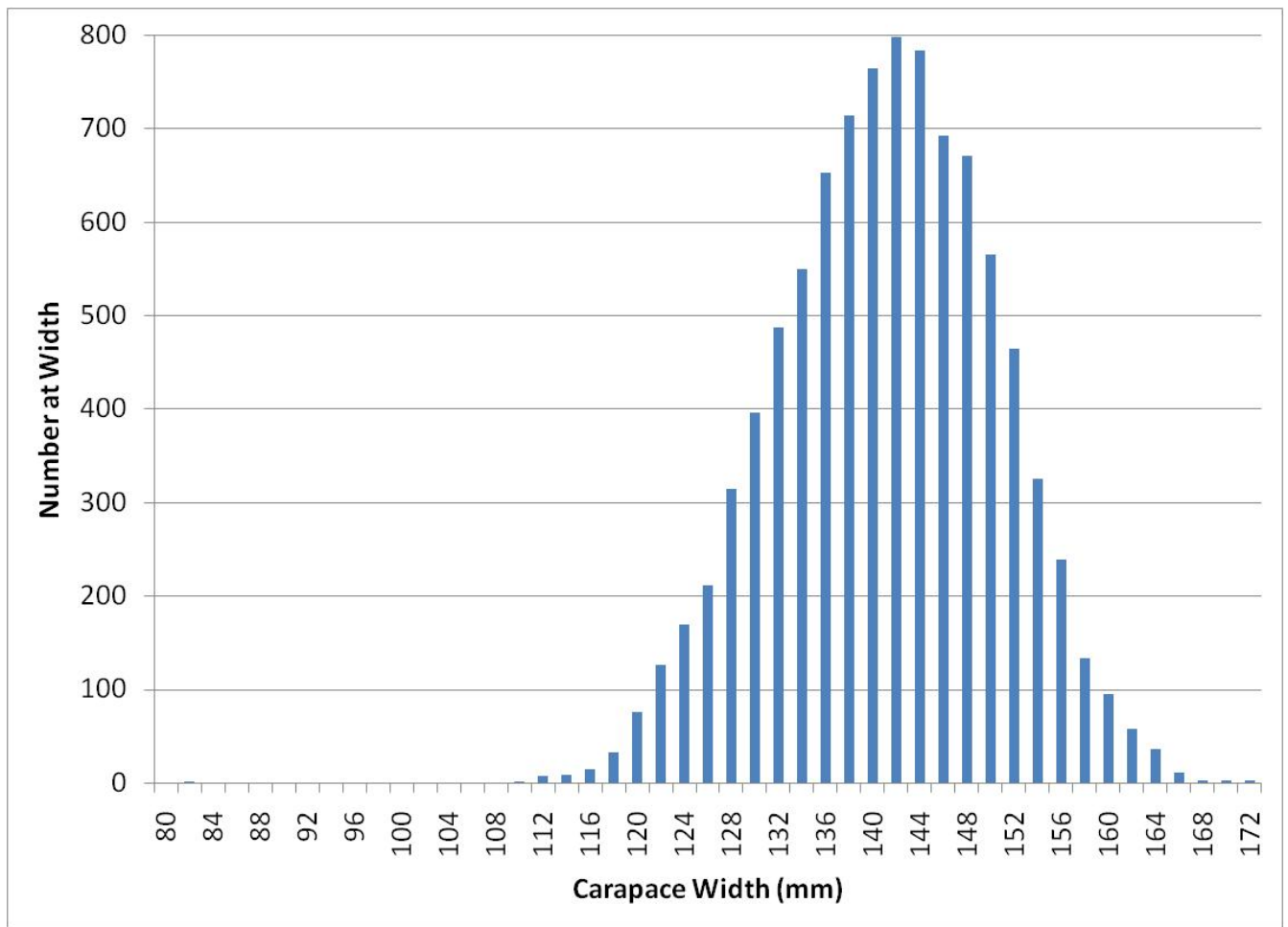


Figure 2. Histogram of MA DMF port and market sampling data using 2mm size bins.

Table 5. Number of crabs below 127 mm (5”) (upper table) and the number of female crabs (lower table) from MA DMF port and market sampling program in 2013-2014 and 2015.

	# measured	# below 127 mm	% of sample
2013-2014	4833	38	0.8%
2015	4583	613	13.4%

	# measured	# of females	% of sample
2013-2014	4833	8	0.2%
2015	4583	17	0.4%

### Commercial Landings Data

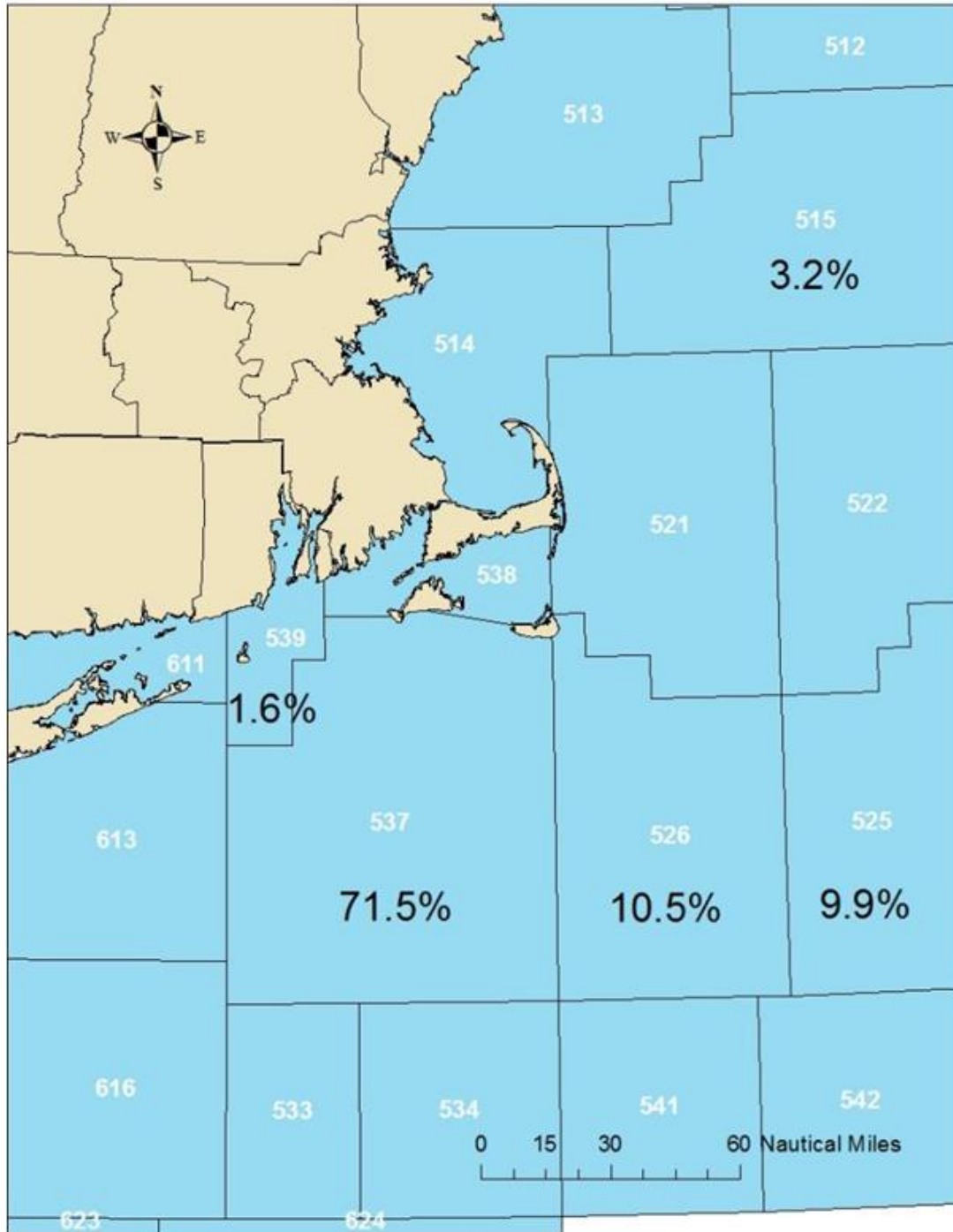
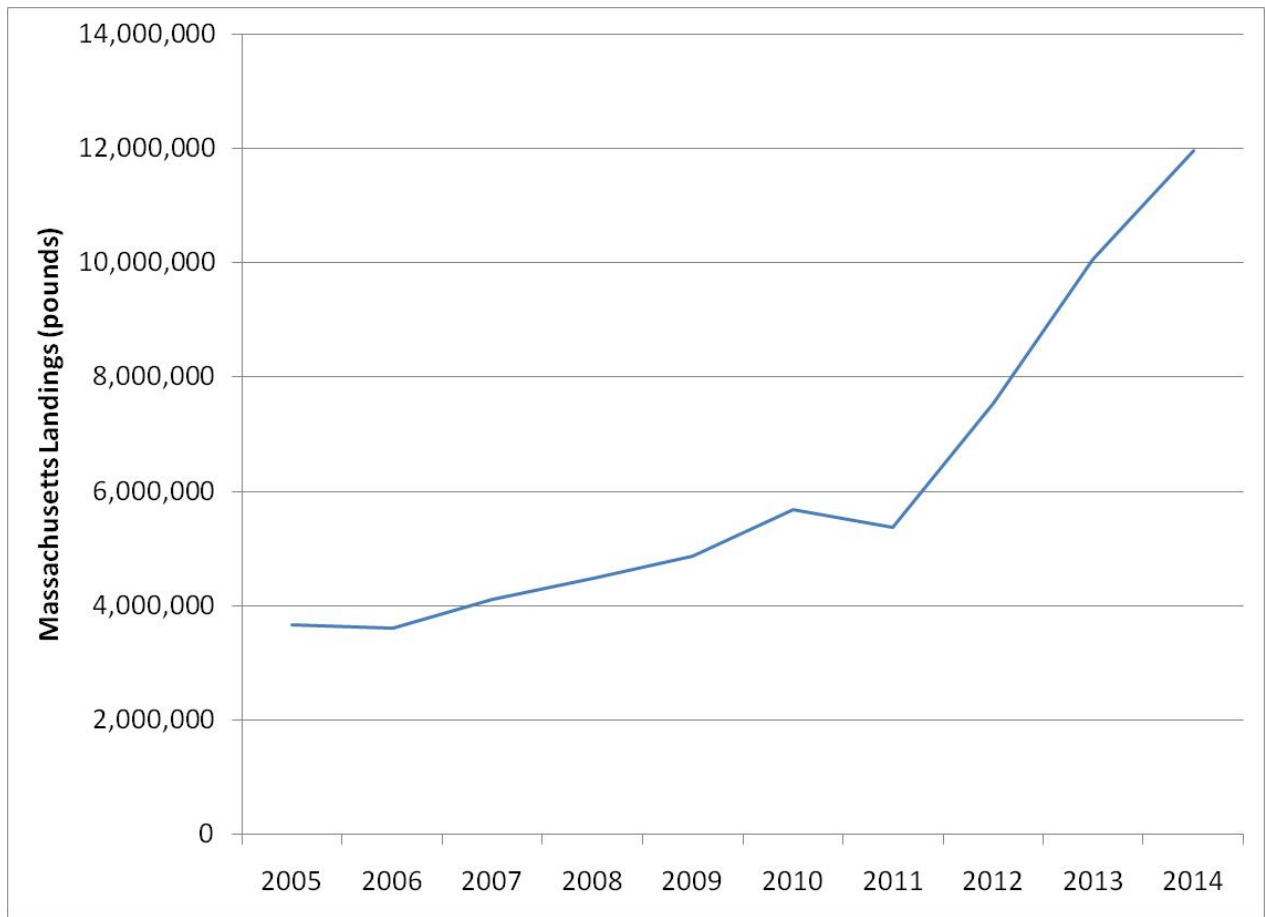


Figure 3. 2012-2014 Massachusetts and Rhode Island Jonah crab landings by stat area from NMFS VTRs, and MA and RI trip level reporting. Areas with landings representing less than 1% are omitted.





**Figure 4. Massachusetts Jonah crab landings 2005-2014 (SAFIS).**

## **II. Size and sex composition of catch and landings in the Jonah crab fishery**

We analyzed existing data on the size and sex composition of catch and landings in the Jonah crab fishery to examine spatial variations in size and sex compositions and current sorting and retention practices with the goal of understanding how different minimum size regulations will affect the Jonah crab population and current fishing practices. Throughout the analysis, we refer to reference carapace width values of 4.75, 5.0 and 5.25 inches as these include the center of the range of minimum sizes being considered under the draft Jonah crab FMP.

Fishery-dependent data on the Jonah crab fishery in Southern New England is unfortunately sparse as most data-collection programs have only started within the past year or have not been active recently. For this analysis, sea sampling data includes data from the NMFS Northeast Fisheries Observer Program (NEFOP) and the Commercial Fisheries Research Foundation (CFRF) Lobster Research Fleet. The NEFOP data consists of only three observed trips in offshore SNE in 2014 and 2015, with coverage in statistical areas 537 (offshore), 525, and 526. The CFRF Lobster Research Fleet is a project where lobster fishermen have been collecting data from their catch at-sea since 2013, including data on Jonah crab catches since 2014. The CFRF Jonah crab data includes ~150 samples of about 100 Jonah crabs each, collected by several lobster vessels from both inshore (537, 538, and inshore 539) and offshore (613, 616, offshore 537, 526, 525, and 561) statistical areas. Fishermen select which days to collect samples but the trawl is randomly determined within the day. The combined NEFOP / CFRF data set is not sufficient to discern many spatial patterns from seasonal cycles or vessel effects. Thus, it is hard to know if observed differences between NEFOP and CFRF Offshore data, collected in similar locations and under similar conditions, are due to processes we are unable to model or are simply due to variability and small sample sizes. However, we assumed the data are reasonably representative of the fishery for the purpose of this analysis. We also expect that this analysis can be dramatically improved within a couple years, given continued data collection. The port sampling data comes entirely from Massachusetts DMF sampling conducted within the past year, either at offload or at processors, as all NMFS port sampling was deemed inappropriate either due to its age or incorrect of spatial coverage.

Based on preliminary analysis of length composition and fishery selectivity, we determined that it was appropriate to split inshore samples from offshore samples, though greater spatial heterogeneity almost certainly exists within SNE. Under this plan, all NMFS sea sampling data and MADMF port sampling data is considered offshore while the CFRF data was split into inshore and offshore components as detailed above. Each sampling event was then further examined for minimum sample sizes and crab retention rates before being included in the analysis.

### **Characterization of raw catch composition, sex ratios, and retention rates**

Length compositions of the raw (unsorted) catch are different between sexes and between inshore and offshore habitats with larger crabs observed offshore (Figure 5). Males have a modal size between 125 and 130mm in the inshore while modal sizes are 130 to 135mm offshore. Inshore female modal size is similar to offshore modal size (~110 – 115mm) with a longer left tail to the distribution in the inshore. For both inshore and offshore habitats, the length compositions of the sexes clearly segregate.

The cumulative size composition of the catch for the combined sexes also differs between regions and agencies (Figure 6, Table 6). On average for NEFOP data, 9% of the catch is below 127mm (5") but CFRF offshore and inshore have smaller distributions with 30 and 42% of the catch below 127mm respectively. Cumulative size compositions by sex also illustrate the difference in sizes between the sexes (Figure 7, Table 6). 88%, 90%, and 93% of captured females are below 5 inches for NEFOP, CFRF Inshore and CFRF Offshore respectively while only 6%, 38% and 19% of males are below 5 inches for the respective data sets. The differences in the cumulative size compositions between inshore and offshore habitats indicate that setting minimum sizes will differentially impact fishermen in the inshore vs. offshore habitats.

The proportion of the catch at size that is female decreases steeply with increasing size, approaching zero at larger sizes (Figure 8). The catch at size switches from predominantly female to predominantly male around 120, 115, and 100mm for NEFOP, CFRF Offshore and CFRF Inshore, respectively. At five inch carapace widths (127mm), the average raw catch is 15, 8, and 2% female, respectively.

We calculated model-based retention rates at-size based on whether crabs of a given size were retained or discarded. Final model structure was a binomial General Additive Model (GAM) with probability of retention estimated based on carapace width, sex, region, and agency. There are apparent differences in retention rates at size both across agencies, regions, and sexes (Figure 9). Probabilities of retention are generally high for large males with ~77%, 83% and 70% of 5-inch males being retained in the NEFOP, CFRF Offshore and CFRF Inshore data sets respectively. The

low retention rates of females for CFRF data may be an artifact of the different collection methodology as fishermen may be deciding the disposition of a crab after collecting data from it. However, the lower retention rate of females than males in the NEFOP data (77% retention for 5-inch males vs <40% retention for 5-inch females) suggest that there is some active sex-specific sorting taking place at sea.

We calculated the cumulative proportion of the raw catch that was retained at-size as the product of the cumulative length composition and the probability of retention at size. We calculated total cumulative retention both by number of individuals and by portion of the sampled weight, using length-weight relationships from MADMF. The results indicate that smaller size classes represent relatively little of the retained catch (Figure 10 and 11) and more sorting / discarding is occurring inshore than offshore. For example, of the total crabs caught, 5, 10, and 17% were both retained and at or below a 5-inch carapace for NEFOP, CFRF Offshore and CFRF Inshore, respectively. Patterns are similar but with lower values for total cumulative retention by weight due to higher retention rates for larger crabs. On average, 93, 75, and 62% of the catch by number and 94, 83 and 77% of the catch by weight were retained for NEFOP, CFRF Offshore and CFRF Inshore data sets, respectively.

We calculated mean cumulative length compositions for landed Jonah crabs using retained crabs from sea sampling and the MADMF port sampling data (Figure 12, Table 8). The percentage of the catch below reference thresholds showed geographic patterns that parallel the raw length composition data with higher proportions of smaller crabs in the inshore than offshore. On average, 23% of the landed crabs from CFRF Inshore were below a five-inch carapace while CFRF Offshore, MADMF, and NMFS averaged 12, 6, and 2% of the catch below a five-inch carapace, respectively. The samples from inshore were also more variable within the range of the reference sizes with proportions of the catch below five inches ranging from <10 to >60% among samples. While it should be noted that the ranges displayed in the figure represent both sampling variability and actual variations in size compositions, this range may be what enforcement might expect to encounter under current sorting practices, as the typical sample sizes represented here are comparable to sample sizes enforcement may take to check compliance with minimum size regulations (i.e. 50 – 200 individuals).

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Table 6. Cumulative proportion of the raw catch, by number, from sea sampling data for standard reference sizes.

	Agency / Region	Carapace Width (Inches)		
		4.75	5	5.25
Combined Sexes	NMFS	4%	9%	23%
	CFRF Inshore	22%	42%	70%
	CFRF Offshore	20%	30%	45%
Females	NMFS	71%	88%	98%
	CFRF Inshore	89%	90%	90%
	CFRF Offshore	86%	93%	95%
Males	NMFS	1%	6%	20%
	CFRF Inshore	18%	38%	68%
	CFRF Offshore	9%	19%	36%

Table 7. Proportion of raw catch-at-size that is female for reference sizes by agency and region.

Agency / Region	Carapace Width (Inches)		
	4.75	5	5.25
NMFS Offshore	39%	15%	4%
CFRF Inshore	6%	2%	0%
CFRF Offshore	24%	8%	2%

Table 8. Mean cumulative percentages of landed crabs smaller than reference sizes by agency and region.

Agency / Region	Carapace Width (Inches)		
	4.75	5	5.25
MADMF Offshore	2%	6%	18%
CFRF Inshore	2%	23%	62%
CFRF Offshore	4%	12%	3%
NMFS Offshore	1%	2%	10%

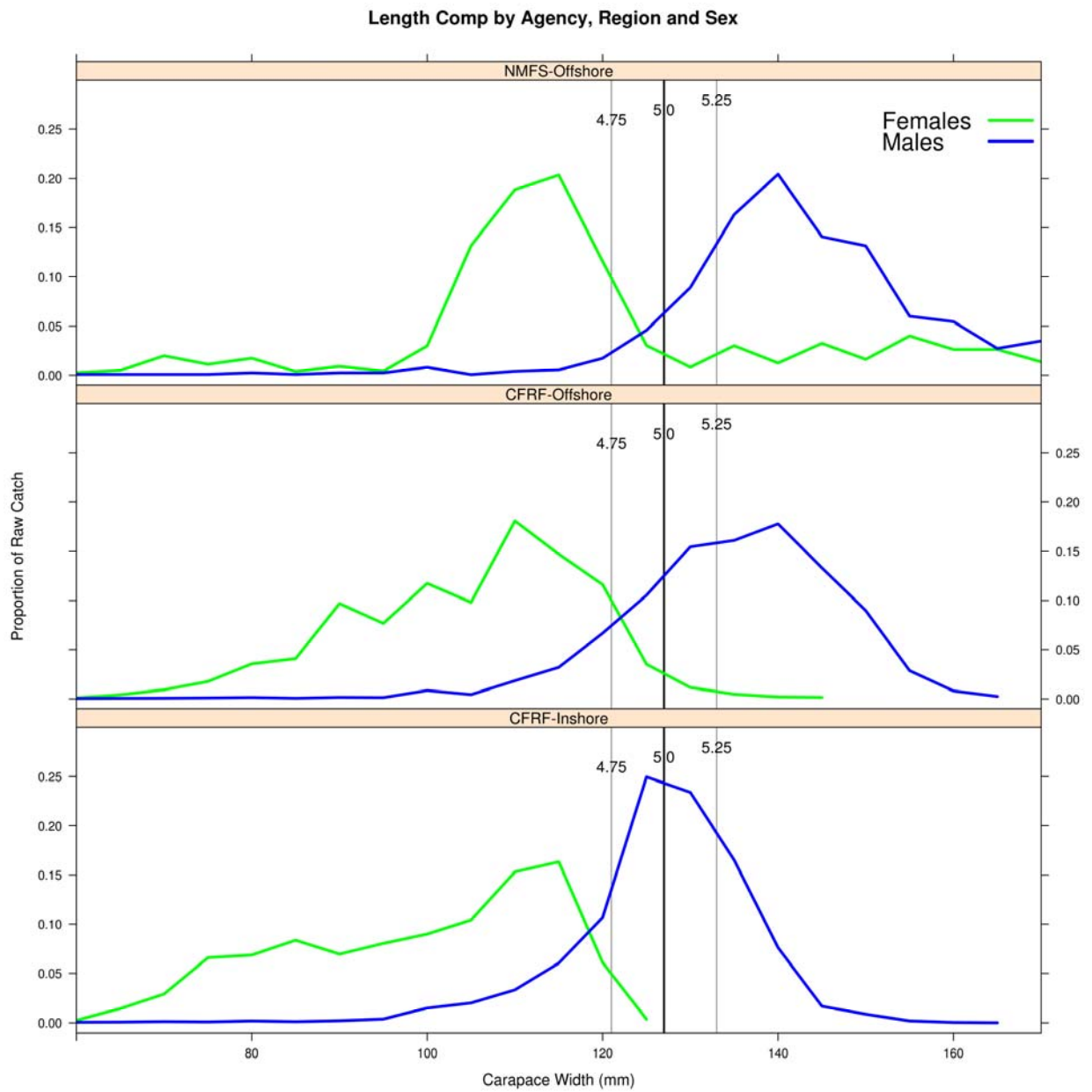


Figure 5. Proportional length composition of raw catch from sea sampling by region (inshore vs offshore) and agency. Gray and black vertical reference lines indicate the core proposed minimum sizes between 4.75 and 5.25 inches.

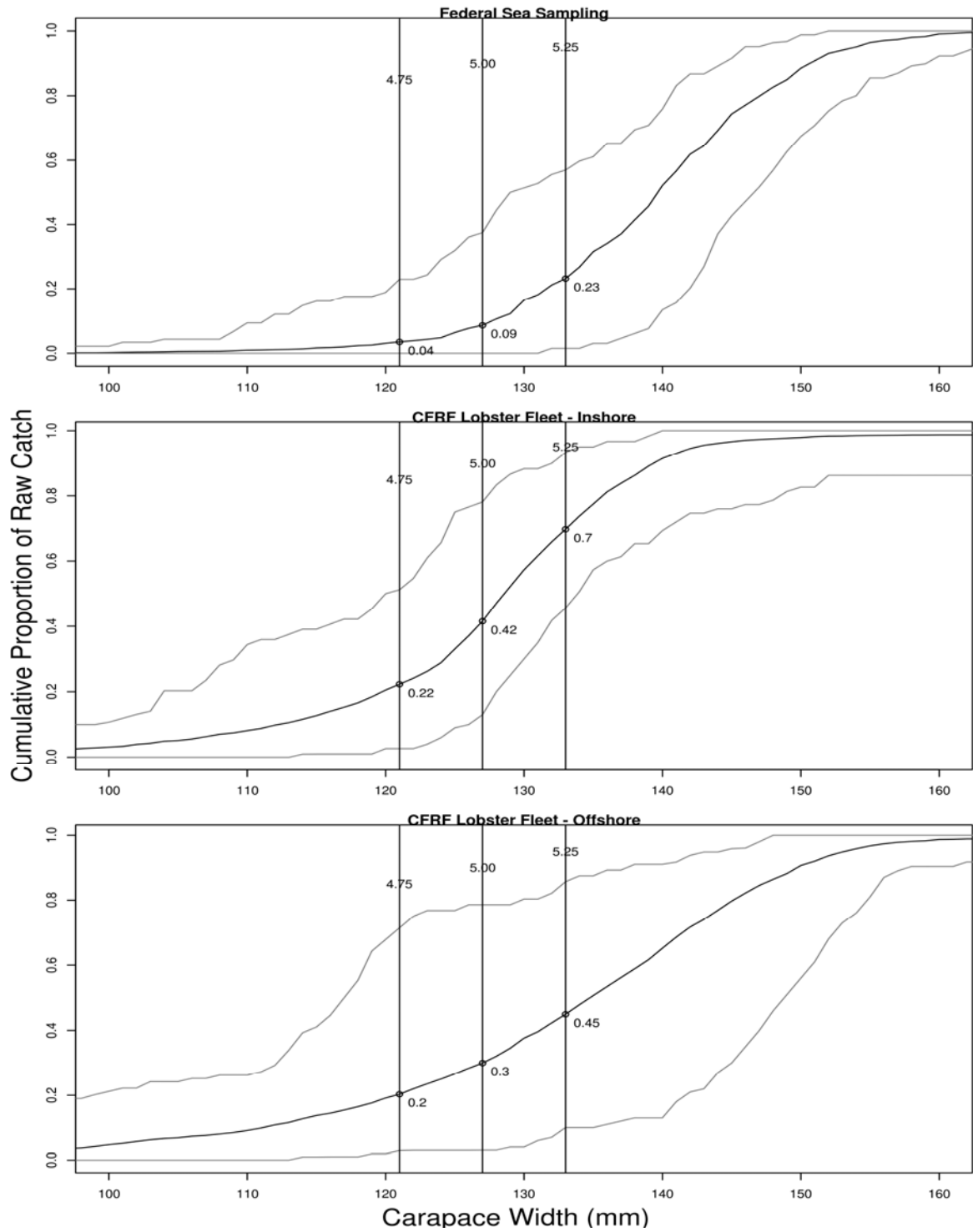


Figure 6. Cumulative proportions by number of the raw catch with sexes combined by region and agency. The central dark line indicates the mean across samples while the lighter gray lines indicate the range across trips. Marked values at the 4.75, 5, and 5.25 inch reference sizes indicate the proportion of the catch smaller than the reference values.

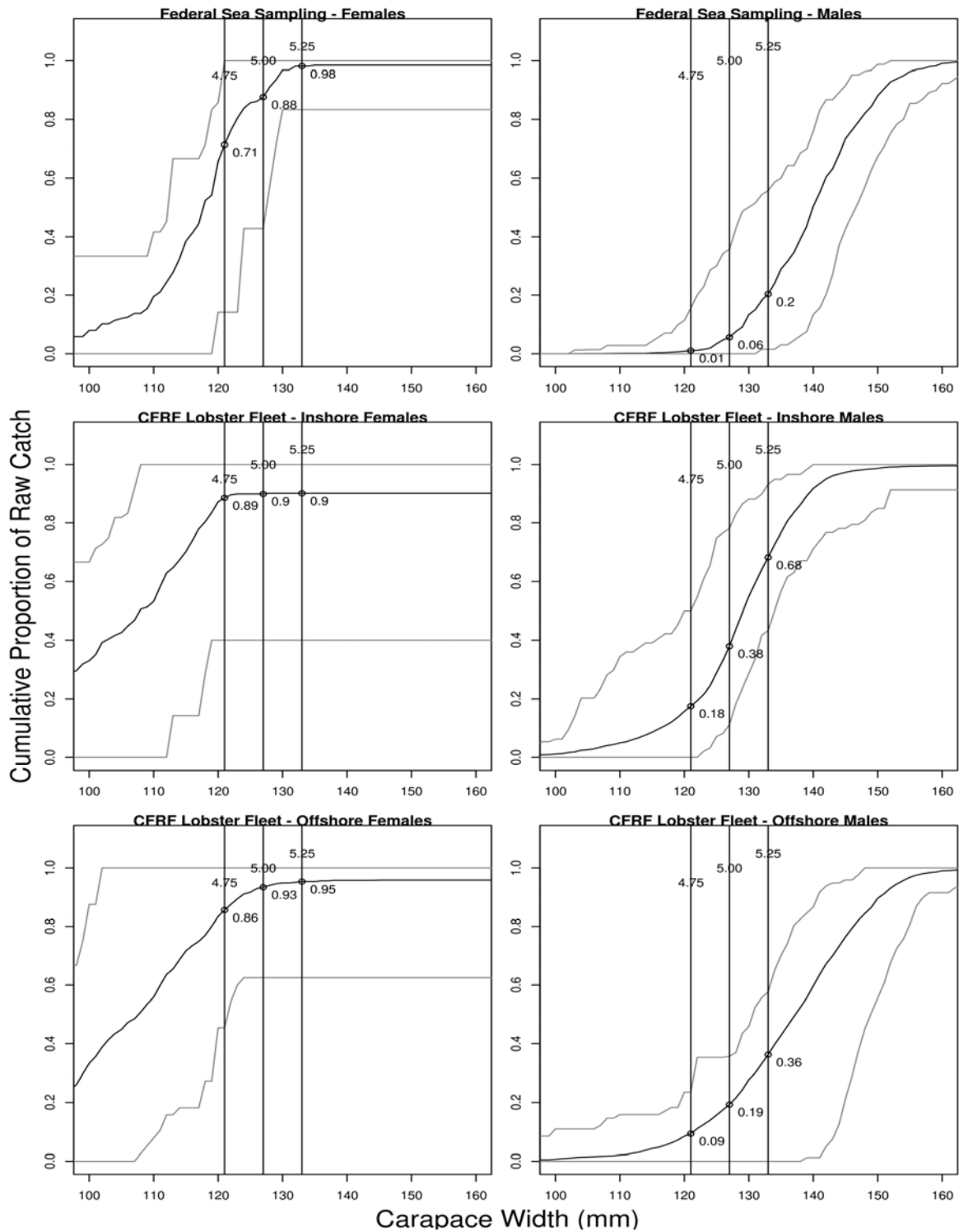


Figure 7. Cumulative proportions by number of the raw catch by sexes, region and agency. The central dark line indicates the mean across samples while the lighter gray lines indicate the range across trips. Marked values at the 4.75, 5, and 5.25 inch reference sizes indicate the proportion of the catch smaller than the reference values.

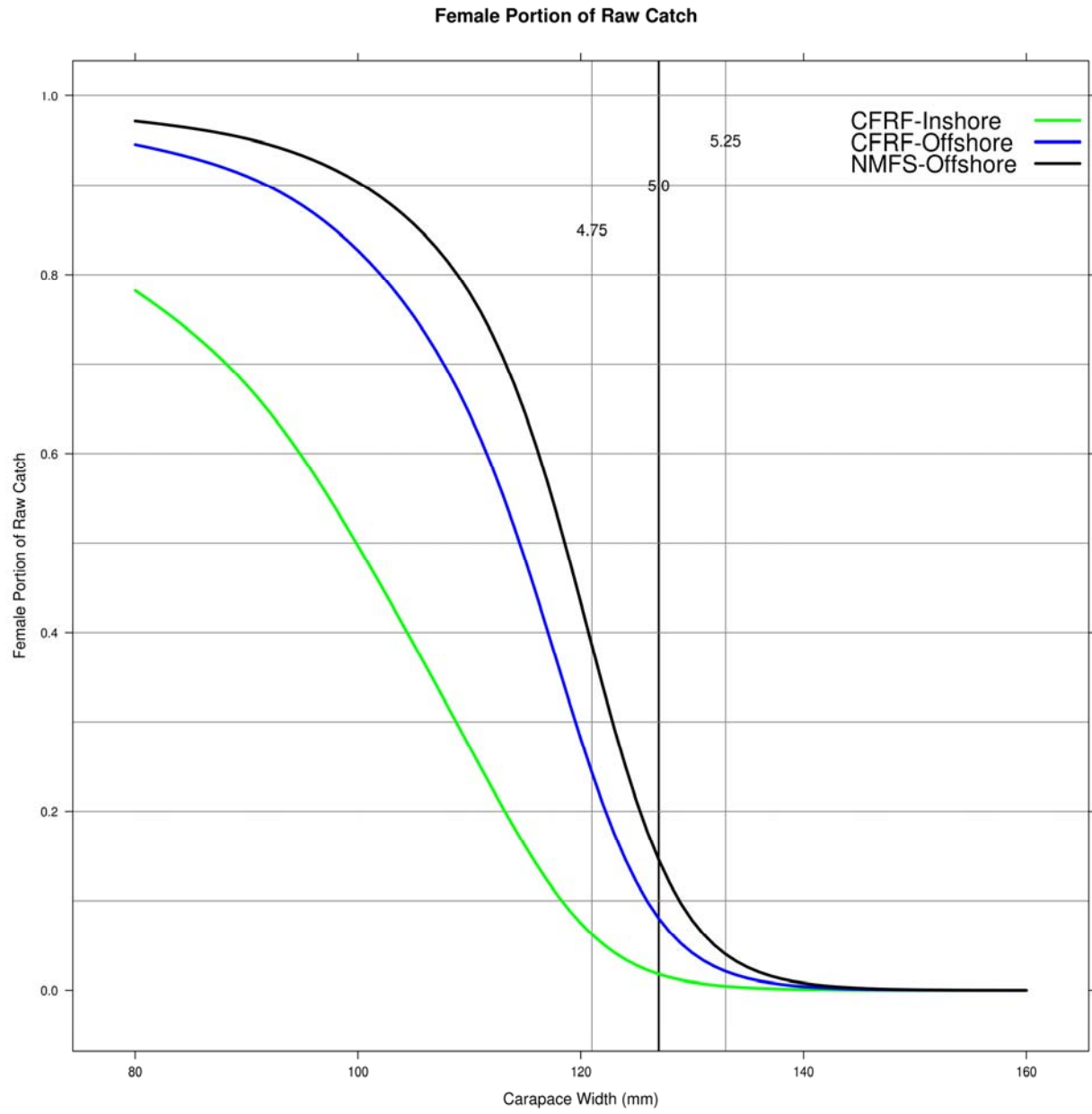


Figure 8. Mean proportion of catch at size that is female by agency and region.



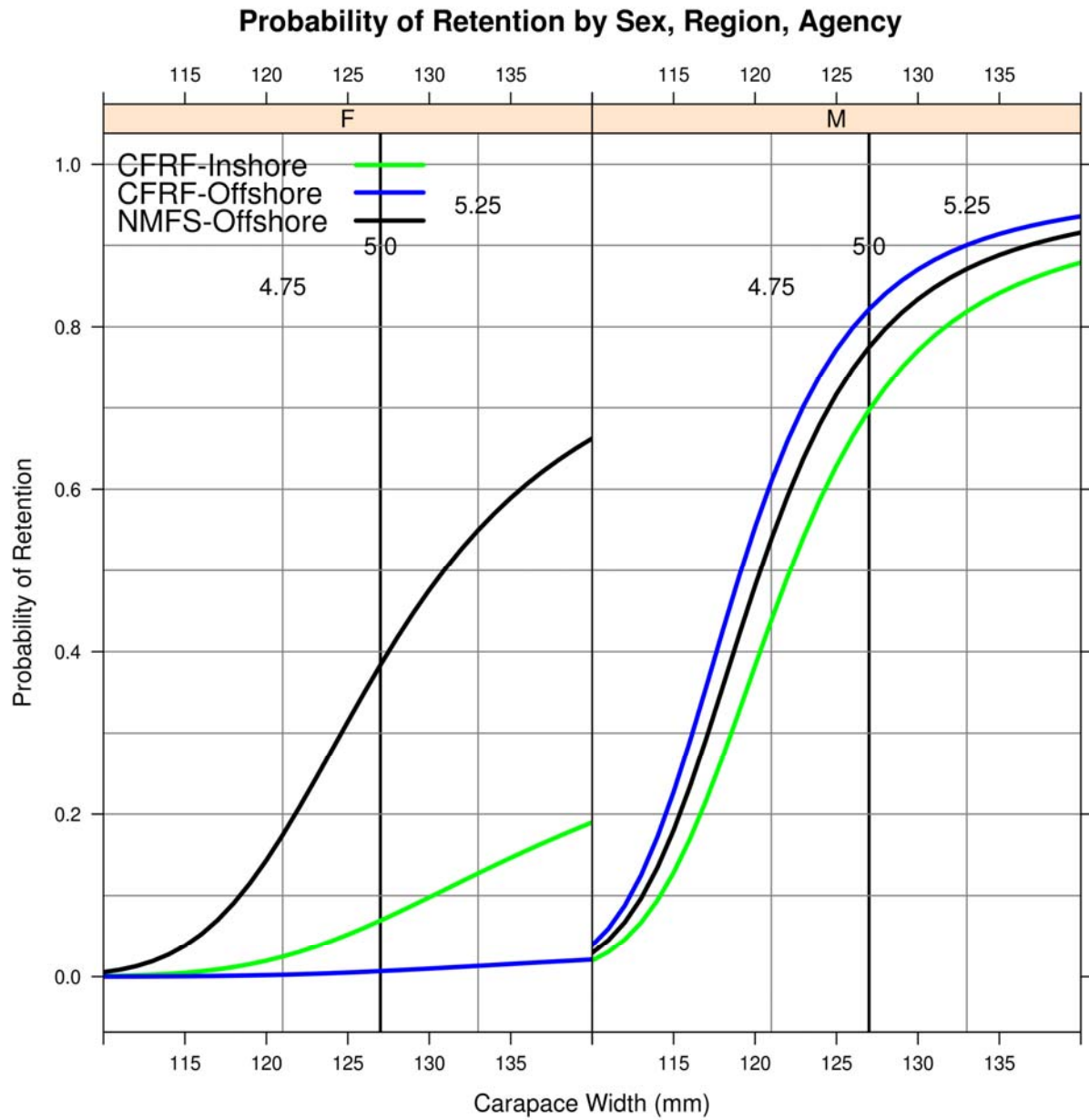


Figure 9. Model-based probability (or percent) of retention given catch at size by agency and region. The much lower retention rates of females in CFRF suggest a potential observer effect associated with the different collection methodology.

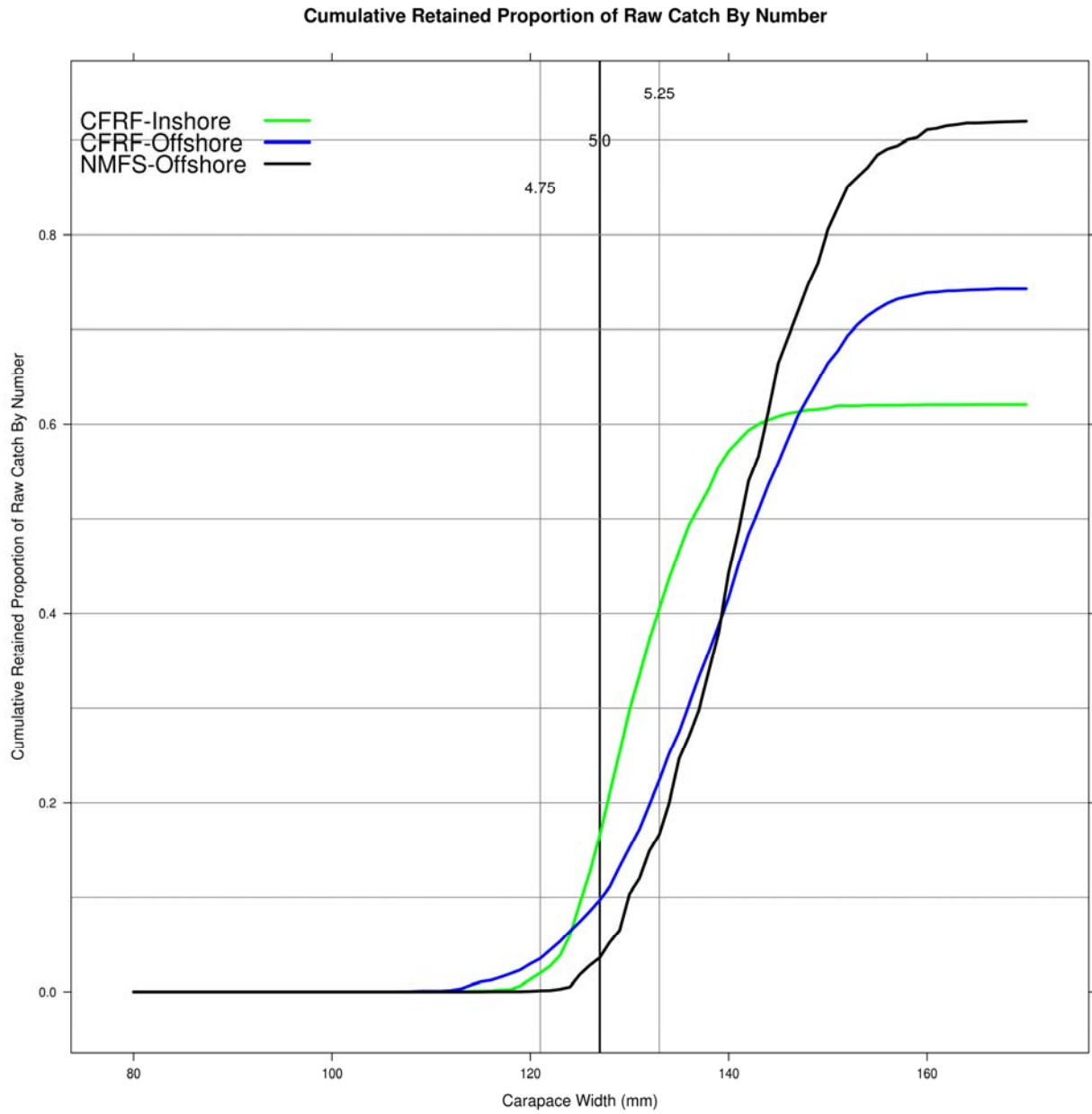


Figure 10. Cumulative retained proportion of raw (unsorted) catch at-size, by number. Values reflect the product of the cumulative catch size composition and the probability of retention.

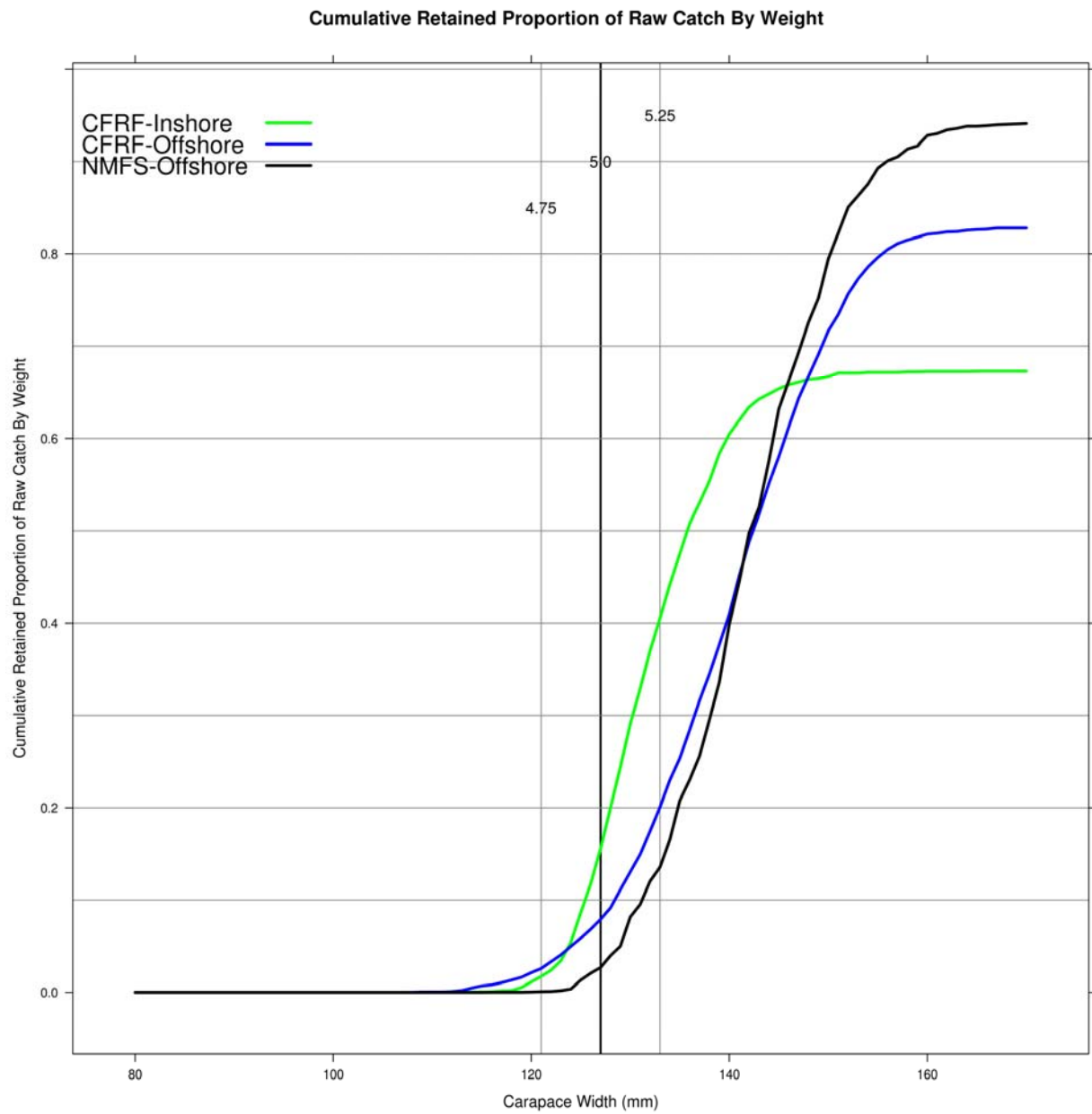


Figure 11. Cumulative retained proportion of raw (unsorted) catch at-size, by weight. Values reflect the product of the cumulative catch size composition and the probability of retention.

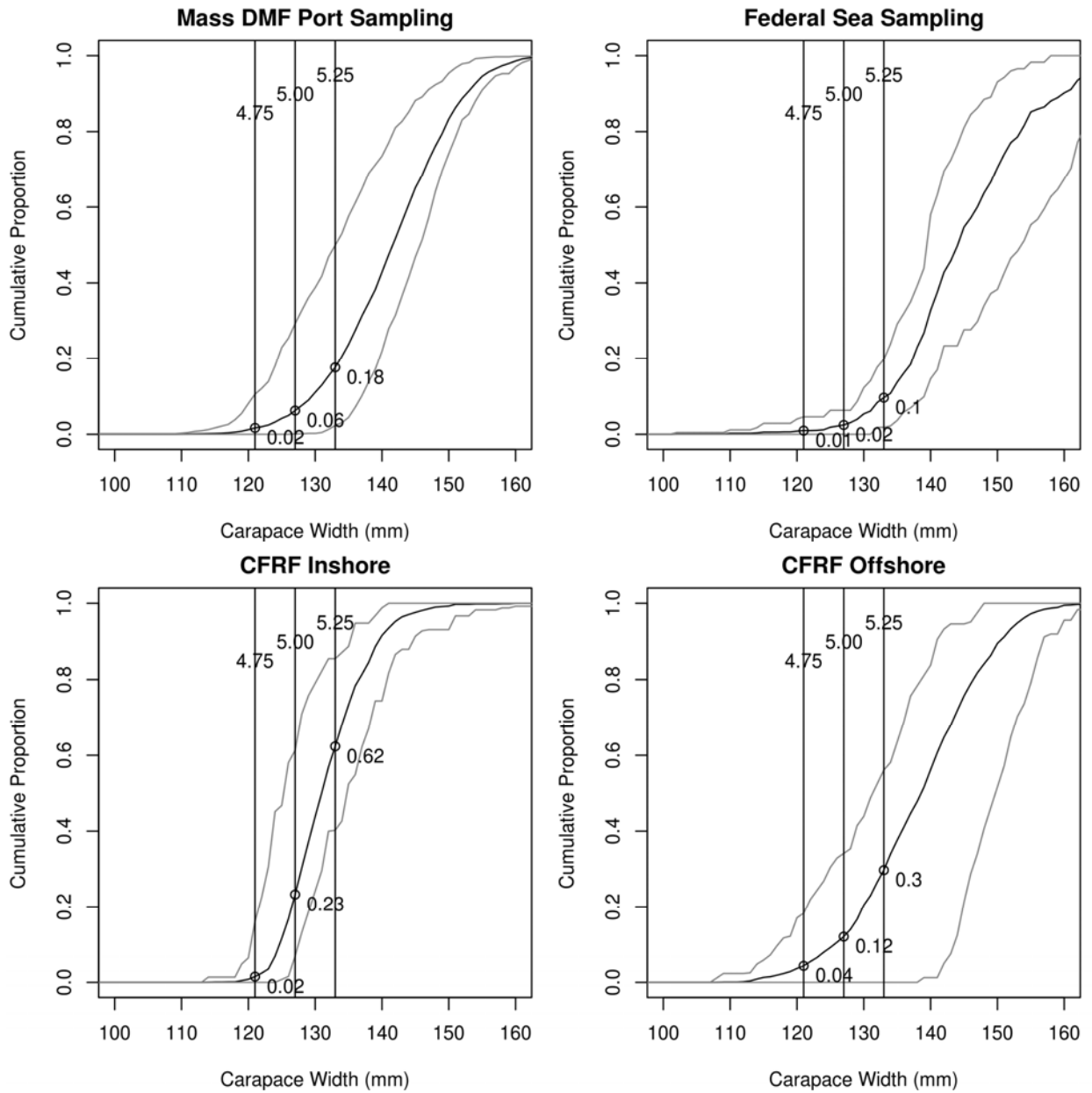


Figure 12. Cumulative size composition of landed catch by agency and region. The central dark line indicates the mean across samples while the lighter gray lines indicate the range across trips. Marked values at the 4.75, 5, and 5.25 inch reference sizes indicate the proportion of the catch smaller than the reference values.

### **III. Observations on sampling for enforcement of minimum sizes and tolerances.**

Because the Jonah crab fishery is effectively a volume-based fishery, there is a discussion on implementing fishing regulations with both a minimum size and a tolerance on the minimum size. Thus, it is necessary to determine how to sample the catch at the time of offload to determine if the minimum size and tolerance is being observed. There are two types of error associated with determining if regulations are being followed:

1. False Positives: The probability of concluding that the catch is composed of too many undersized crabs when, in fact, the catch is within the tolerance.
2. False Negatives: The probability of concluding that the catch does not contain too many undersized crabs when, in fact, the catch is above the tolerance.

It should be recognized that the two types of errors act in opposition; the greater the probability of committing one type of error, the less the probability of committing the other error. Increasing sample size decreases the probability of both types of error.

Table 9 demonstrates the relationship between the two errors. On the left are the number of small crabs that would need to be observed in a catch subsample of a given sample size to determine that the catch is above a 5% tolerance given different confidence rates. On the right are the proportions of sublegal catch that could be landed that would be detected 50% of the time as undersized catch, given the sample sizes on the left. For example, if one observed 5 undersized crabs from a sample of 20, they could conclude with 99.9% confidence that the catch is undersized. However, the proportion of the landed catch that is sublegal could be as high as 27.9% and only be detected with this sampling procedure 50% of the time.

Figure 13 is a graphical depiction of the right side of Table 9 showing how the proportion of undersized catch that is detectable above the threshold decreases with increased sampling.

Table 9. Error rates associated with different sample sizes and confidence levels.

Sample Size	Number of Shorts to Determine Catch Above 5% Tolerance			Fishing Rate of Shorts to Detect Undersized Catch 50% of the Time		
	Confidence			Confidence		
	95.0%	99.0%	99.9%	95.0%	99.0%	99.9%
20	3	4	5	18.1%	23.0%	27.9%
40	4	6	7	11.6%	16.6%	19.1%
60	6	7	9	11.1%	12.8%	16.1%
80	7	9	11	9.6%	12.1%	14.6%
100	9	11	13	9.7%	11.7%	13.7%
120	10	12	14	8.9%	10.6%	12.2%
140	11	14	16	8.4%	10.5%	11.9%
160	13	15	18	8.6%	9.8%	11.7%
180	14	16	19	8.2%	9.3%	11.0%
200	15	18	21	7.9%	9.4%	10.9%
300	21	24	28	7.3%	8.3%	9.6%
400	27	31	35	7.0%	8.0%	9.0%
500	33	37	41	6.8%	7.6%	8.4%
600	39	43	48	6.7%	7.3%	8.2%
700	45	49	54	6.6%	7.1%	7.9%
800	50	55	60	6.4%	7.0%	7.6%
900	56	61	66	6.3%	6.9%	7.5%
1000	62	67	73	6.3%	6.8%	7.4%

### Detection of Under-Sized Crab Fishing

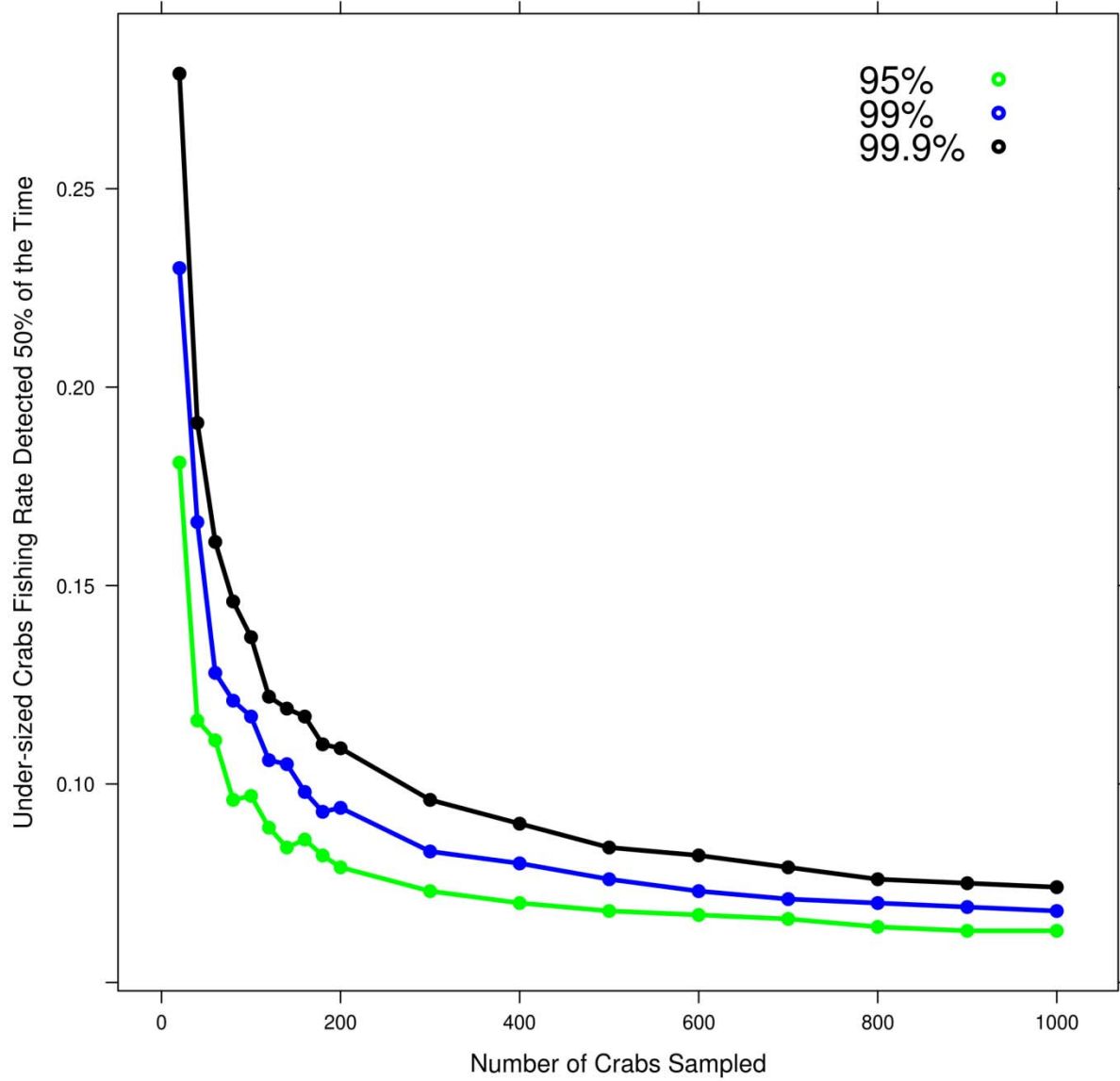


Figure 13. Graphic depiction of the relationship between sample size and detectability of under-sized catch given a 5% tolerance, a 50% false negative error rate, and different false positive error rates.

**Appendix**  
**Email chain #1**

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**From:** Chadwick, Dan L (DFW) [mailto:Dan.Chadwick@dfw.wa.gov]  
**Sent:** Tuesday, July 21, 2015 7:12 PM  
**To:** Perry, Derek (FWE)  
**Cc:** Childers, Rich K (DFW); Ayres, Daniel L (DFW); Fishing Regulations (DFW); Rothaus, Don P (DFW); Chadwick, Dan L (DFW); Velasquez, Don E (DFW); WILDCOMM (DFW)  
**Subject:** crab regulation




Mr. Perry,

I am writing in response to your question on minimum size for crab. Along the Washington Coast we have a large volume fishery with some vessels landing well over 50,000 pounds in a trip. At the beginning of the season (first pick) pots can have anywhere between 20 and 40 legal 6 1/4 inch Dungeness crab per pot. The fishermen dump them into a picking bin and the crew will sort out the undersize and throw the legal crab into the tank. We do not have a tolerance for undersize, however officers understand that they will encounter some undersize that inadvertently go into the tank. If a skipper jams gear down their crew's throat then the undersize volume will go up. We have boats that are very clean (literally no undersize on board) and other boats that are sloppy. If a skipper does not want undersize on board they won't have them. I have had other deckhands tell me their skipper told them, "that's what they make attorneys for" and they keep many undersize. If you put a percent tolerance in the law you will likely have fishermen that will try to catch up to that percentage. Say 2% is allowed, then some will fish up to that 2% undersize. This is a business for them right? If the law does not allow any undersize and the enforcement approach is reasonable then it all works. With all of that said, we will not get really excited about enforcement action (on the coast of Washington) unless it is 2% and over undersize for the load. Not saying we haven't issued tickets for less with repeat offenders but that is what we use for a gauge. You tie an officer's hands when a tolerance is built into the law.

If you have any questions feel free to call me.



Captain Dan Chadwick  
Washington Department of Fish and Wildlife  
Law Enforcement Program  
Region 6

 360-581-3337  
 [Dan.Chadwick@dfw.wa.gov](mailto:Dan.Chadwick@dfw.wa.gov)  
 [WDFW Police on Facebook](#)  
 [Outdoor Police Beat](#)



## **Email chain #2**

---

**From:** Schwartz, Tim [mailto:tim.schwartz@state.or.us]  
**Sent:** Monday, July 20, 2015 6:11 PM  
**To:** Perry, Derek (FWE); CORBETT Kelly C  
**Subject:** RE: crab regulations/enforcement of min size

Hello Derek,

The enforcement of minimum size, specifically allowing a % tolerance, continues to be a topic of discussion up here in Oregon. But, I believe we've quelled that, and over the past few years have been pretty consistent in our message to the industry. I've personally spoken with many captains who've said 1% undersize for the total landing amount is too much. Others have used the excuse of inexperienced deck hands, sloppy weather, etc., and therefore requested an 8% tolerance, which I believe is ridiculous.

Ours is a bit different though in that the rule states undersize are prohibited. Period! It doesn't allow for a tolerance so the enforcement of this falls back to the discretion of the trooper. No two situations are alike so we trust our troopers to enforce this, and other regulations, in a consistent manner, considering the totality of circumstances surrounding the probable violation. I've always been pretty clear to our troopers that we will not put out a tolerance % to the industry as that would result in further confusion and a willingness to further violate the laws. Additionally, how could we in good faith even consider it?

Now, when it comes time to sorting through an offload with undersize it becomes rather daunting. Depending upon the size of the offload, we may go through and measure all undersize crab, sort them into a different tote and look at the percentage when taking action. For large loads, we may just go through 5 totes and track the undersize, by percentage, against the amount contained in the totes and apply that percentage to the entire off load. We supply the percentage of undersize amount to the courts, either way, and they often times use that in determining the extent of fines, forfeitures, etc. We can also cite as a violation rather than a crime. Again, this comes down to the individual trooper and the facts surrounding the case. We may take action on an undersize amount of 1% of the load or 4% of the load depending. I personally think 5% is too much, regardless of the offload amount.

It is my opinion that an allowed percentage, by rule/law, would put too much a burden on the enforcement folks. Up here, I can go to a dealer and start sorting through totes of crab. If I see undersize in the first two layers of a crab tote, I'm going to call in some help and get down to business, going through the totes and documenting/weighing. If a tolerance was allowed by rule/law, you would see undersize throughout and would therefore have to go through all the effort( sorting, weighing) just to see if they were over the threshold. Furthermore, if there was an allowed 5% tolerance, you'd see folks pushing that and landing crab with 8, 9, 10, 11..% undersize, not to mention the targeting of them. I can imagine the enforcement folks wouldn't be too keen on having to conduct hours of work just to see if there was a violation either. I believe it's better to simply make undersize unlawful and trust your enforcement folks to provide consistent and fair enforcement.

That's my quick version anyway. Feel free to give me a call at the below number if you'd like to further discuss. Take care.

Tim



**Tim Schwartz, Lieutenant**  
**Fisheries Section**  
**Oregon State Police**  
**Fish & Wildlife Division**  
**503-791-5249**

**From:** Perry, Derek (FWE) [mailto:derek.perry@state.ma.us]  
**Sent:** Monday, July 20, 2015 12:30 PM  
**To:** CORBETT Kelly C  
**Cc:** Schwartz, Tim  
**Subject:** RE: crab regulations/enforcement of min size

Hi Kelly,

Thank you very much for your response. Our Jonah crab fishery has been virtually unregulated for a long time. While most of our fishermen are very much in favor of the FMP and a minimum size, they are also very vocal about their concerns about complying with a minimum size. I'm encouraged to hear that you have a similar volume fishery for a similar species and you do not need a tolerance.

Lt. Schwartz, I am very interested in hearing what you have to say about how the fishery is enforced, especially the minimum size. Our fishermen are pushing for a 5% tolerance which basically undermines the minimum size regulation and raises concerns regarding how our law enforcement officers will be able to sample a sufficient number of crabs per trip.

Thank you very much,

Derek Perry  
Massachusetts Division of Marine Fisheries  
Invertebrate Fisheries  
1213 Purchase Street  
New Bedford, MA 02744  
phone: (508) 990-2860 ex. 148  
fax: (508) 990-0449

**From:** Kelly Corbett [<mailto:kelly.c.corbett@state.or.us>]  
**Sent:** Monday, July 20, 2015 1:55 PM  
**To:** Perry, Derek (FWE)  
**Cc:** SCHWARTZ Tim  
**Subject:** RE: crab regulations/enforcement of min size

Good Morning Derek,

In Oregon we do not have any amount or percentage of short Dungeness crab landing allowance by regulation as you can see in our OAR 635-005-0495 minimum size requirement below. Briefly, in terms of landings, the beginning of each season in the Oregon Dungeness crab fishery can be very high volume, for some vessels even over 100,000 lbs. As the season progresses though the volume of landings decreases substantially and then we have weekly trip limits (1200lbs) for the last two months of each season. A size requirement in this fishery has been in place since the early 1900's and in its current form since 1948. I won't say we don't have any issues with minimum size compliance each year but I think these are relatively minor due to 1) the very long history of this regulation, 2) solid understanding by the majority of our industry (harvesters and buyers) the biological protection this requirement helps ensure and 3) a very active enforcement agency that addresses issues immediately when they are identified.

In Oregon our enforcement of fish and wildlife regulations is conducted by Oregon State Police Fish and Wildlife Division, which is a separate agency from ODFW, so I've have cc'd the lieutenant of fisheries, Lt. Tim Schwartz. I'm sure Tim could provide you with better insight on tolerance/officer discretion regarding the minimum size regulation.

**635-005-0495**

**Size and Sex**

- (1) It is *unlawful* to take, land or possess for commercial purposes:
- (a) Female Dungeness crab; or
  - (b) Male Dungeness crab less than 6-1/4 inches measured the shortest distance through the body of the crab from edge of shell to edge of shell from directly in front of the tenth anterolateral spine.

(2) Any undersized or female Dungeness crab taken from the Pacific Ocean must be released within 15 minutes of capture unharmed into the Pacific Ocean at the point of capture.

(3) It is *unlawful* to possess or transport Dungeness crab that have been mutilated prior to landing so that the size or sex cannot be determined.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109, 506.129 &

I hope this helps and let me know if you have any further questions.



**Kelly Corbett**

Commercial Crab Project Leader

Oregon Department of Fish and Wildlife | Marine Resources Program

2040 SE Marine Science Drive | Newport, OR 97365

[www.dfw.state.or.us/MRP/](http://www.dfw.state.or.us/MRP/)

541.867.0300 ex. 244

Fax 541.867.0311

**From:** Perry, Derek (FWE) [<mailto:derek.perry@state.ma.us>]

**Sent:** Thursday, July 16, 2015 9:07 AM

**To:** 'Kelly.C.Corbett@state.or.us'

**Subject:** crab regulations/enforcement of min size

Hi Kelly, I'm a lobster/crab biologist for the state of Massachusetts. We are in the process of coming up with a FMP for Jonah crabs (*Cancer borealis*) which will likely include a minimum size. There has been a great deal of debate centered around the enforcement of the minimum size. The fishing industry is very adamant about the need for an enforcement tolerance around any minimum size due to the volume of crabs that they are landing. Some of our fishermen are landing over 50,000 pounds on multi-day trips. How does Oregon enforce their commercial Dungeness crab minimum size? Do you have a tolerance or are the officers encouraged to use their discretion? Are your fishermen landing similar volumes of crabs/trip? Any input you could provide would be greatly appreciated.

Derek Perry

Massachusetts Division of Marine Fisheries

Invertebrate Fisheries

1213 Purchase Street

New Bedford, MA 02744

phone: (508) 990-2860 ex. 148

fax: (508) 990-0449

### Email chain #3

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**From:** Tremblay, John M. [John.Tremblay@dfo-mpo.gc.ca]  
**Sent:** Friday, January 31, 2014 2:17 PM  
**To:** Perry, Derek (FWE)  
**Cc:** MacDonald@bos-mailsec-004.state.ma.us  
**Subject:** RE: Jonah crabs

Hi Derek:

Interesting that the price is increasing in your area...maybe our fishermen will become more interested in the near future. I should say that the offshore lobster fishery did appear to have an effect on Jonah crab abundance. From the summary bullets of the doc I sent yesterday: "The cause of the decline in Jonah crab abundance cannot be given with certainty, but the decline detected in the areas fished suggests it is due to fishing down of the biomass present at the start of the fishery."

Carl may be able to comment on your questions about the gauge and compliance.

Regards, John

**From:** Perry, Derek (FWE) [<mailto:derek.perry@state.ma.us>]  
**Sent:** January-31-14 2:42 PM  
**To:** Tremblay, John M.  
**Cc:** [MacDonald@chl-mailsec-003.state.ma.us](mailto:MacDonald@chl-mailsec-003.state.ma.us)  
**Subject:** RE: Jonah crabs

Hi John,

Thank you for getting back to me. It does seem like we were in Narragansett a long time ago, it was a lot warmer then!

Our market for Jonah crabs has been expanding rapidly. It is now our fifth biggest fishery in the state. The price per pound has nearly doubled in the last four years. We've been hearing from some of our fishermen that they are now having to move further offshore to catch crabs and the size of the crabs they are catching is going down, so we are concerned. It is currently an unregulated fishery. I'm hoping that we can implement a 127 mm minimum size and have a male only fishery. We have some whelk fishermen using unmarketable Jonah crabs as bait, but I don't believe we have many lobstermen using them as bait yet. Some fishermen will smash an occasional crab in the trap as bait but I don't think it is prevalent, though maybe it is. Most of the Jonah crab catch is coming from trap fishermen in Southern New England that have redirected their efforts from lobsters to Jonah crabs after the collapse of SNE lobster.

Thank you for responding and I would love to hear from Carl or anyone else who might have an idea of what the fishermen are using for a gauge, the level of compliance with the minimum size, and any insight into how the Canadian fishermen feel about having a minimum size without a percentage of sublegal tolerance.

Thank you,

Derek Perry  
Massachusetts Division of Marine Fisheries  
Invertebrate Fisheries  
1213 Purchase Street  
New Bedford, MA 02744  
phone: (508) 990-2860 ex. 148  
fax: (508) 990-0449

**From:** Tremblay, John M. [<mailto:John.Tremblay@dfo-mpo.gc.ca>]  
**Sent:** Thursday, January 30, 2014 3:38 PM  
**To:** Perry, Derek (FWE)  
**Cc:** [MacDonald@chl-mailsec-003.state.ma.us](mailto:MacDonald@chl-mailsec-003.state.ma.us)  
**Subject:** RE: Jonah crabs

Hi Derek:

Good to hear from you. Seem like a while ago that I was in Narragansett.

There are several Jonah crab fisheries in the Maritimes Region (directed and bycatch). All have a 130 mm carapace width minimum and females cannot be landed. Attached is the most recent advisory report, this one for Jonah crab in the offshore lobster fishery. Jonah crab is categorized by DFO as a “secondary species” and as such has no science program directed at it. In addition the directed fisheries have had little activity for several years because of the low market price.

There is continued interest by the lobster fishery to retain Jonah as bait and in fact we are dealing with a related issue right now. One concern we have is getting accurate data on the weight of Jonah retained and used as bait. Not clear whether the logs completed by fishermen are capturing the information. We have the same challenge with rock crab, which can also be used as bait.

With regard to the minimum size regulation, I have not heard that it is a problem for fishermen, but I do not know how well it is enforced. I know there have been charges for retaining female crab in the past.

I assume there is an official gauge, but I will defer to the management side to confirm.

The landed weights you mention (4500 kg per trip) would be on the high side for most Jonah fishermen here. Assume these weights are from a trap fishery? I can see that it could be challenge to measure all the crab. The offshore lobster fishery likely landed this weight of Jonah at times but this is with bigger boats and more traps, and after several days.

These kinds of weights would not be unusual for our snow crab fishery in some years, and I am sure the size limit is observed there. This is a higher value fishery though, they can get these catches with less than 50 traps and I think there would be fewer animals to measure per unit weight.

Our fish managers are changing the species they deal with right now, but I am ccing Carl MacDonald who would have the most knowledge related to your questions.

Hope your discussions go well!

Regard, John

M. John Tremblay, Ph.D.  
Research Scientist | Chercheur Scientifique  
Head, Lobster Unit | Chef de l'Unité de homard  
Population Ecology Division | Division de l'écologie des populations  
Science Branch | Direction des Sciences  
Fisheries and Oceans Canada | Pêches et Océans Canada  
Bedford Institute of Oceanography | Institut océanographique de Bedford  
1 Challenger Drive, Dartmouth, N.S. B2Y 4A2  
[John.Tremblay@dfo-mpo.gc.ca](mailto:John.Tremblay@dfo-mpo.gc.ca)  
Telephone | Téléphone +1 902 426 3986  
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Mobile | Portable +1 902 293 7787

*If you have received this communication by mistake, please notify the sender immediately and delete the communication without printing, copying or forwarding it. Thank you.*

*Si vous avez reçu cette communication par erreur, veuillez en aviser l'expéditeur immédiatement et la supprimer sans l'imprimer, la copier, ou la faire suivre. Merci.*

**From:** Perry, Derek (FWE) [<mailto:derek.perry@state.ma.us>]  
**Sent:** January-30-14 10:39 AM  
**To:** Tremblay, John M.  
**Subject:** Jonah crabs

Hi John,

I don't know if you remember me or not, I work for the Massachusetts Division of Marine Fisheries. We met this past October at a Commercial Fisheries Research Foundation meeting in Narragansett, RI. I'm hoping you can give me some insight into your Jonah crab fishery. We are working with a group of stakeholders trying to figure out how to best manage this resource. Our fishery is currently unregulated. One of the things we are talking about is a 5 inch minimum size, but the fishermen in the group would like to be allowed a tolerance limit of 10-15 percent of crabs under 5 inches. They believe that it would be too difficult to measure the crabs with the volume they are landing. Is this an issue in the Canadian fishery? How is compliance with your 5 inch minimum size? Is there an official gauge? What do most fishermen use to measure their catch? We have some boats that will regularly land over 4500 kg of crabs per trip. Are your boats doing a similar volume?

I appreciate any insight you can provide into your fishery.

Thank you,  
Derek Perry  
Massachusetts Division of Marine Fisheries  
Invertebrate Fisheries  
1213 Purchase Street  
New Bedford, MA 02744  
phone: (508) 990-2860 ex. 148  
fax: (508) 990-0449



# Atlantic States Marine Fisheries Commission

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## MEMORANDUM

July 27, 2015

**To:** American Lobster Management Board

**From:** Robert Glenn, American Lobster Technical Committee Chair

**RE:** TC Concerns on NMFS Observer Coverage of the Lobster Fishery

The technical committee has concerns about some aspects of the Standardized Bycatch Reduction Methodology (SBRM) and Northeast Fisheries Observer Program (NEFOP) coverage of the Northeast Lobster fishery. Last October, at the Northeast Fisheries Management Council meeting, the discussion of cod bycatch in the lobster fishery highlighted the critical need for more information about interaction with non-target species in the lobster fishery. The discussion also illustrated the need for cooperation/coordination among stakeholders and management agencies in the collection and dissemination of fishery-dependent data. It was our understanding from that discussion, the NE Council Groundfish PDT and the ASMFC Lobster TC would be tasked to work together to assess the available groundfish bycatch data and make a plan to move forward to assure appropriate future data collection through existing state and federal observer programs, but because the NEFMC dropped this as a priority for 2015, this meeting did not occur. In the meantime, the SBRM program reprioritized their funding and NEFOP coverage to begin a large effort to characterize bycatch in the lobster fishery starting in May 2015. No attempts were made to coordinate this sampling effort with ongoing state observing programs for the lobster fishery. For 2015, SBRM calls for a total of 619 sea-days in the U.S. lobster pot fishery (Table 1).

**Table1.** Northeast Fisheries Observer Program, Seaday Schedule, April 2015 - March 2016, Version 1

Reference #	Funding	Fishery Description	Water Body or Trip Length	Geographic Area	Total Trips
550	POPDY	Lobster Pot (negear 200)	na	CT	7
551	POPDY	Lobster Pot (negear 200)	na	MD	3
552	POPDY	Lobster Pot (negear 200)	na	NJ	25
553	POPDY	Lobster Pot (negear 200)	na	NY	12
554	POPDY	Lobster Pot (negear 200)	na	MA	266
555	POPDY	Lobster Pot (negear 200)	na	ME	218
556	POPDY	Lobster Pot (negear 200)	na	NH	47
557	POPDY	Lobster Pot (negear 200)	na	RI	41





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## MEMORANDUM

Full details can be found at - <http://www.nefsc.noaa.gov/fsb/SBRM/>

Members of the TC met with Paul Rago (NMFS NEFSC), Susan Wigley (NMFS NEFSC), and Amy Martins (NMFS NERO) on June 10, 2015 in Woods Hole, MA, to gain a better understanding of the SBRM process and objectives. We learned that the SBRM analysis to determine the number of sea-days and to prioritize coverage is based only on federally permitted vessels that are required to fill out Vessel Trip Reports (VTR). Due to historic exemptions, the lobster fishery is unique where only vessels that hold other federal permits in addition to their federal lobster permit must submit VTRs (lobster-only federal permits do not submit VTRs).

The TC has several concerns about the SBRM process used to allocate observer sea-day coverage and about the NEFOP lobster sampling program in general. We do not feel that the proposed sampling as currently distributed is capable of generating accurate estimates of groundfish bycatch rates in the lobster fishery, nor is it capable of accurately describing catch characteristics in the lobster fishery. The major issues we see are as follows;

1. The sample frame is not a representative subsample of NE lobster fleet.
2. The regional distribution of sampling is not proportional to catch or fishing effort.
3. The observer coverage does not address poor lobster sampling resolution in offshore areas.
4. The program overlaps with existing state sampling programs.

The sampling frame for 2015/2016 NEFOP for the lobster fishery only includes federally permitted vessels that are required to submit VTR's. This population of vessels only constitutes a very small fraction of the whole fishery and is not distributed proportionally to catch or fishing effort (Figure 1). For example, in Maine, where 85% of total US lobster pounds were landed in 2013 (Figure 2), the boats submitting VTRs represented up to 6.2% of the ME landings and only up to 4.6% of the ME permits, depending on the statistical area (SA) (Table 2, Figures 3 - 5). In Massachusetts, SA 514 (the area within MA which accounts for the majority of the state's catch), 25.6% of all MA permit holders who fish in that area are required to fill out a VTR and their catch accounted for 32.8% of the total SA 514 MA landings in that year (Table 2, Figure 3, 6 & 7). In offshore areas of Massachusetts, the proportion of the total vessels required to fill out VTR's is much higher (between 62 and 100%) (Table 2). In the SBRM analysis to determine the matrix of coverage, Massachusetts warranted more trips than Maine, despite accounting for only 10% of the total lobster harvest in 2013. In this discussion, it is important to recognize that the NE lobster fishery varies spatially for effort, catch, and bycatch. The SBRM matrix distributed trips by state and quarter rather than using NMFS statistical area. NMFS statistical areas are the standard form of data collection for stock assessments and should be considered when spatially allocating trip distribution, along with effort and permits. Landings and trips for Massachusetts and Maine are heavily skewed toward inshore areas.



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## MEMORANDUM

The sampling frame needs to incorporate state-only permits and all federal permits to accurately characterize groundfish bycatch rates and the catch characteristics of lobster landings. By concentrating only on vessels required to submit VTRs, the SBRM ignores the vast majority of the harvest in the top producing statistical areas. Any expansion of data produced by this program to characterize bycatch or lobster harvest by the NE lobster fleet would not be representative and would be subject to major biases due to lack of adequate spatial stratification of sampling effort (based on state instead of stat area), and for not accounting for differing fleet dynamics among the different permit types. We understand that the NMFS staff from the NEFSC acknowledged some of these limitations and indicated that the groundfish bycatch estimates would not be expanded beyond the sampling population (federally permitted vessels required to fill out VTR's). However, it is our fear that in the absence of any additional data, the "best available science" will be used by assessment committees tasked with accounting for all sources of groundfish mortality and or by managers who are mandated to address all possible sources of groundfish mortality. We submit that a comprehensive approach to allocate sampling effort which uses a sampling frame that includes all permit types and accounts for spatial variation in harvest and fishing effort by statistical area would be capable of producing more robust estimates of groundfish bycatch rates.

In addition to the mismatch of fleet and sample frame, the SBRM and NEFOP coverage creates a duplication of effort and some potential conflicts with the State programs. To characterize the commercial catch of the heavily fished inshore areas, the ASMFC lobster TC relies on the fishery dependent data collected by the state commercial lobster sea sampling and landings programs. The sea sampling programs in Maine and Massachusetts have a 30 year history of working with the industry to provide accurate data on the inshore lobster catch. Maintaining a positive relationship with fishermen is paramount to the long term success of these programs. In this most recent stock assessment we completed an analysis on appropriate sampling intensity for lobster data throughout the range by statistical area. We found that most inshore areas are heavily sampled with more than enough trips to characterize the inshore lobster harvest, but the offshore areas are mostly lacking. The new 2015 NEFOP coverage of the lobster fleet is doubling that effort in already heavily sampled areas where states already have established productive relationships with the industry to collect bycatch and lobster data. The Lobster TC and state biologists are willing and able to work with NEFOP and SBRM to develop protocols to collect the necessary bycatch data in addition to lobster data. This approach would prevent duplicative sampling, allow for a more efficient distribution of NEFOP sampling coverage in under-sampled areas (offshore) AND allow for needed bycatch data collection throughout the lobster fleet which then could be expanded appropriately by all end users.

The Lobster TC recognizes that bycatch data within the lobster fishery needs to be collected. Maine's program has been collecting, at minimum, presence/ absence data on bycatch in the inshore lobster fleet since 2006. Massachusetts and New Hampshire programs have revised their protocols in 2015 to include bycatch monitoring. It is our hope that all state agencies involved



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## MEMORANDUM

with lobster monitoring can work with NMFS to develop a fishery dependent sampling program that is capable of accurately characterizing groundfish bycatch rates and lobster catch characteristics of the lobster fishery.



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## MEMORANDUM

**Table 2.** Landings and permit information by Statistical Area for Maine and Massachusetts for 2013 (MA DMF and ME DMR).

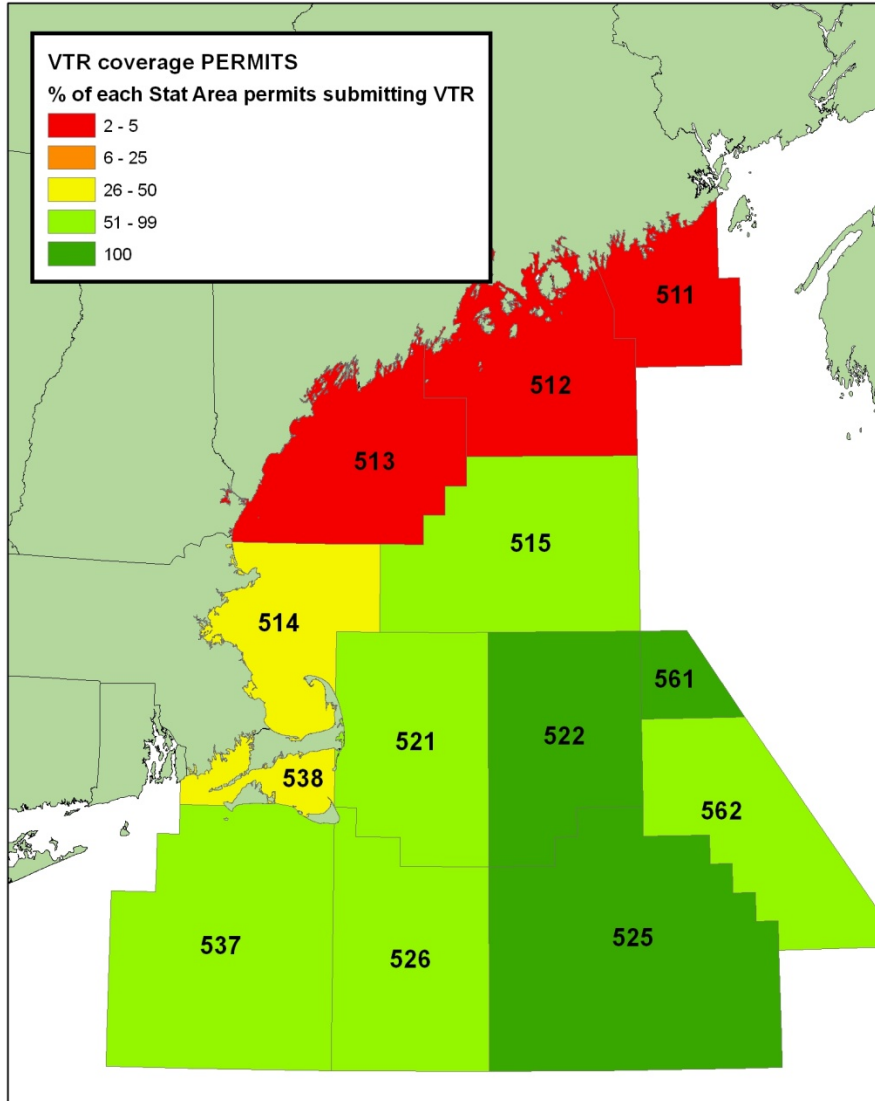
Stat_Area	511	512	513	514	515	521	522	525	526	537	538	539	561	562
state	ME	ME	ME	MA	MA	MA	MA	MA	MA	MA	MA	MA	MA	MA
total landings (lbs)	22,838,996	79,357,801	24,576,339	11,269,526	106,749	1,521,900	344,275	441,139	189,371	568,505	126,905	1,814	70,441	964,221
total permits	835	2224	1393	746	56	154	67	29	24	59	61	7	49	31
<i>State-only</i>	622	1732	1004	444	0	41	0	0	2	4	28	0	0	1
<i>Federal (non-VTR)</i>	186	447	325	111	1	15	0	0	2	18	15	1	0	0
<i>Federal with VTR</i>	27	45	64	191	55	98	67	29	20	37	18	6	49	30
% of permits that are VTR	3.2	2.0	4.6	25.6	98.2	63.6	100.0	100.0	83.3	62.7	29.5	85.7	100.0	96.8
% of Area's landings represented by VTR holders	6.2	4.7	2.7	32.8	100.0	41.1	100.0	100.0	100.0	63.7	22.0	100.0	100.0	100.0



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## MEMORANDUM



**Figure 1.** Percent of permit holders within each Statistical Area required to submit a VTR in the NE Lobster Fishery (includes only data from MA DMF and ME DMR).

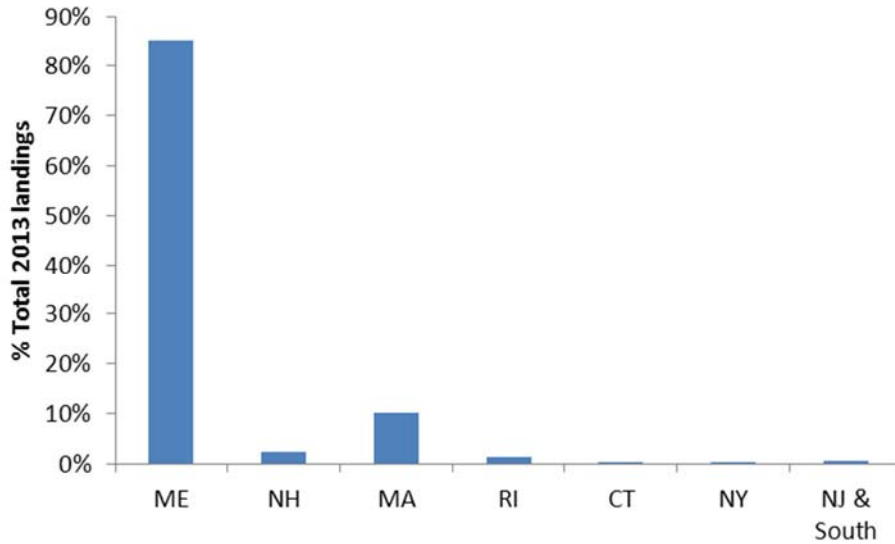


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## MEMORANDUM



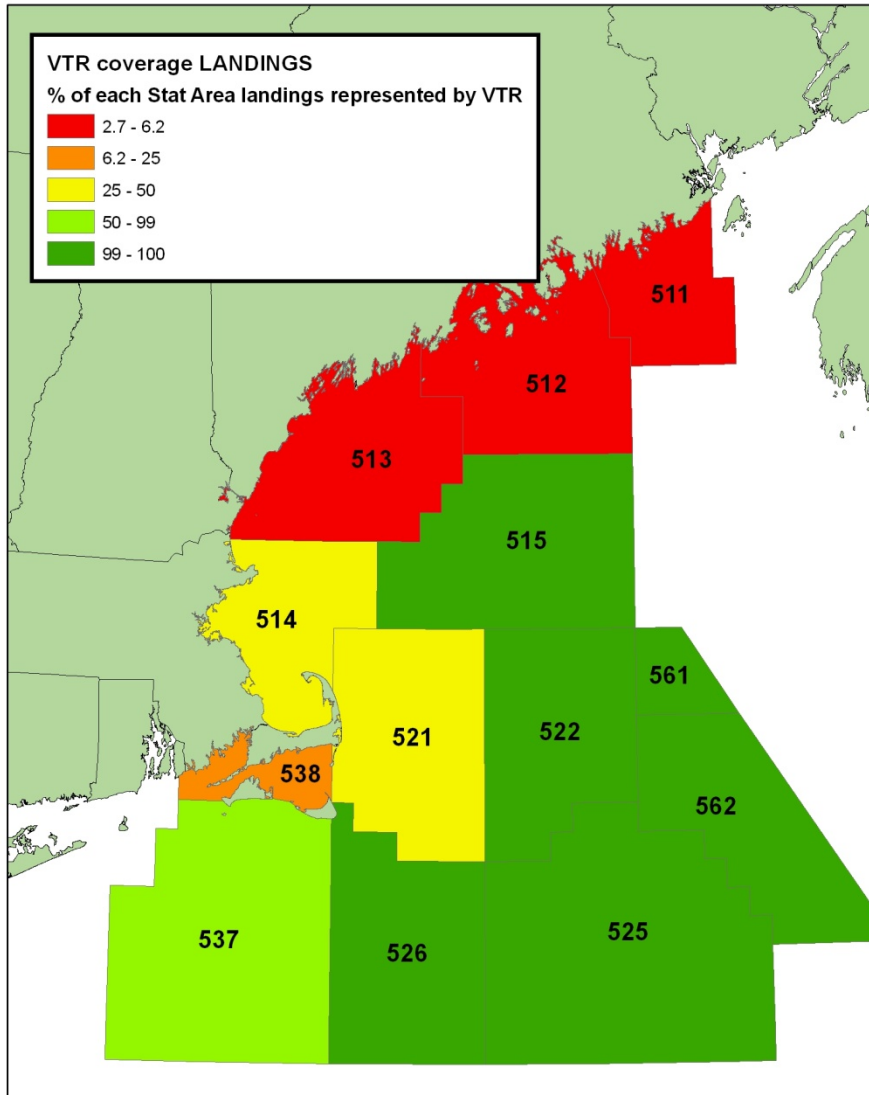
**Figure 2.** Percent of the total U.S. lobster landings that occurred in each state in 2013.



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## MEMORANDUM



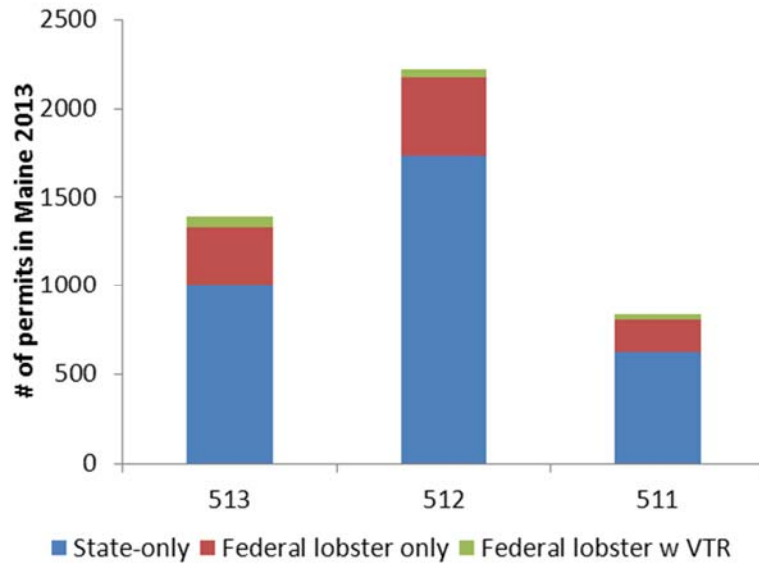
**Figure 3.** Percent of the landings within each Statistical Area represented by permit holders with VTR reporting requirements in the NE Lobster Fishery. (Includes only data from MA DMF and ME DMR).



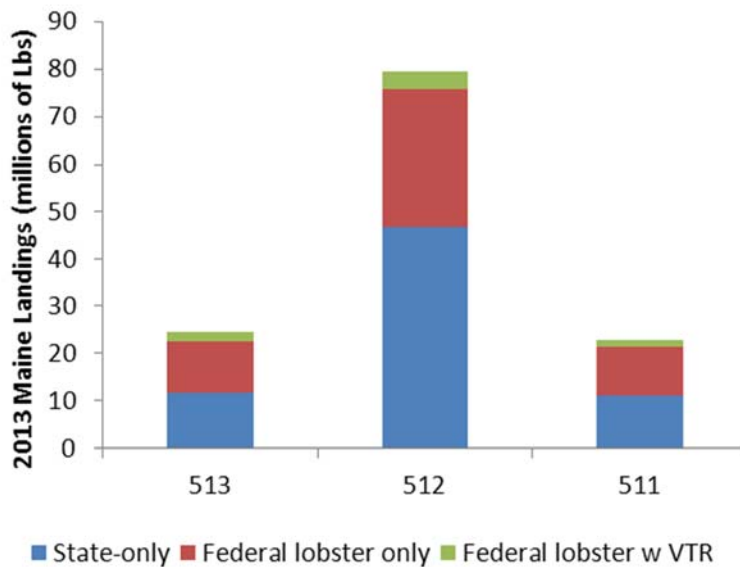
# Atlantic States Marine Fisheries Commission

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## MEMORANDUM



**Figure 4.** Breakdown of Maine permit type in 2013. Statistical Area determined by port landed (ME DMR).



**Figure 5 .** Breakdown of Maine landings (millions of lbs) by permit type in 2013. Statistical Area is determined by port landed (ME DMR).

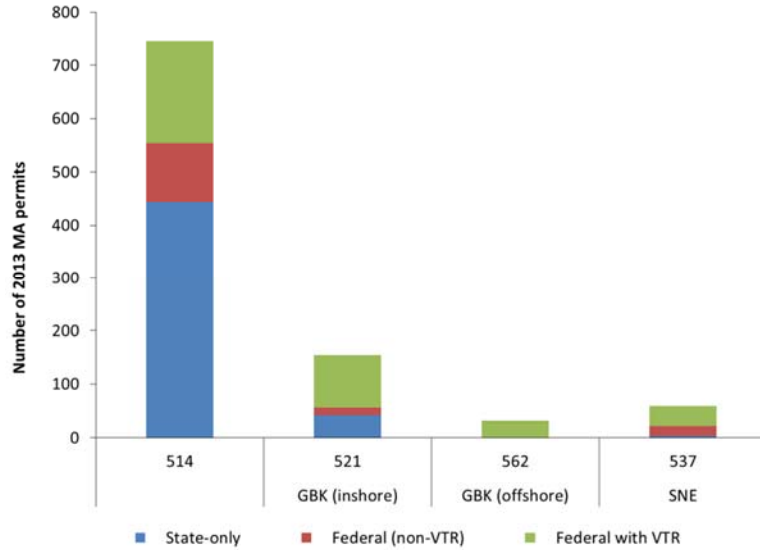




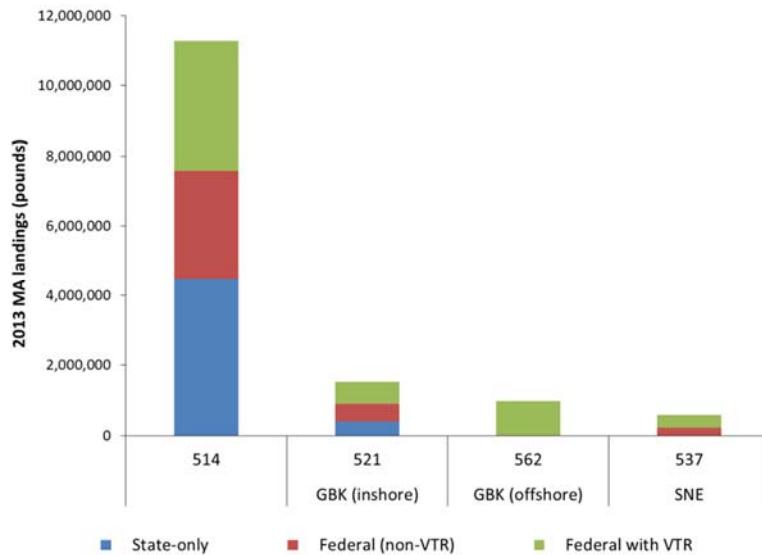
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**Figure 6.** Breakdown of Massachusetts permit type by the four statistical areas with the highest MA landings in 2013. (MA DMF).



**Figure 7.** Breakdown of Massachusetts landings permit type for the four statistical areas with the highest MA landings in 2013 (MA DMF).