



Rhode Island  
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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TO: Janet L. Coit, Director DEM  
FROM: Mark Gibson, Deputy Chief Marine Fisheries  
DATE: November 4, 2011  
SUBJECT: Request for Decision on October 17, 2011 Marine Fisheries Hearing Items

Proposed regulatory changes pertaining to (1) commercial licensing, including the three sector management plans, (2) clarifying the language for the transfer of a commercial license upon the sale of vessel and gear, and (3) removal of scup from the list of restricted finfish species - have moved through the regulatory process and are hereby presented for final decision.

The matters were the subject of a public hearing held on October 17, 2011, and subsequent consideration by the RI Marine Fisheries Council at their November 1, 2011 meeting. Supporting documentation submitted along with this memorandum include the minutes of the RIMFC Industry Advisory Committee meeting, the public hearing annotated documents, summary of public hearing comments, and the applicable portion of the minutes from the RIMFC November 1, 2011 meeting. The proposed changes are summarized below.

*Having reviewed the entire record, and conferred with staff, I hereby urge adoption of the proposed changes as noted below. If you concur, please indicate by signing this memo at the end and returning it to me. Upon receipt of the signed memo, I will initiate the filing process. If you wish to make any changes that differ from those proposed, please delineate those changes via a separate memo.*

**Proposed changes to shellfish, finfish, and crustacean sector management plans:**

These management plans are required to be updated annually, per RIGL 20-2.1-9(5), in association with modifications to the licensing regulations. There are no significant changes being proposed in the plans this year; rather, the modifications are in the form of updates to our existing management programs, which are consistent with the associated proposed changes to the licensing regulations.

There were no specific comments offered at the public hearing on the three management plans. At the Council meeting, one Council member asked that the Division consider rewording a sentence in the Shellfish Management Plan prior to adoption of the management plans.

*I recommend adoption of the finfish, shellfish, and crustacean sector management plans, as edited per Council advice.*

**Proposed amendments to the commercial fishing licensing regulations:**

***Shellfish.*** With regard to *quahogs*, the status quo allows for one new license/endorsement to be issued for every two eligible licenses (MPL's, and PEL's with a quahog endorsement) that retired (i.e., 2:1 exit/entry ratio). Under that scenario, twenty seven (27) new Commercial Fishing Licenses (CFLs) with quahog endorsement would be made available for 2012. The RIMFC Industry Advisory Committee (IAC) supported the status quo proposal. There were no comments made at the public hearing on this item. At the Council meeting, the Council recommended to remain at status quo (2:1 exit/entry ratio) for the quahog fishery. The Division supports the Council recommendation by noting that the number of participants in the fishery is becoming less relevant from a resource management perspective. The SAFIS commercial data reporting system, along with a resurrected Division dredge survey, will allow area specific annual catch limits (ACL) to be specified and administered. The Division therefore agreed with the Council recommendation for status quo (2:1 exit/entry ratio).

*As supported by the Council, and the Division, I urge adoption of status quo (2:1 exit/entry ratio) for the quahog fishery. Twenty seven (27) new Commercial Fishing Licenses (CFLs) with quahog endorsement would be made available for 2012*

With regard to *soft-shell clams*, the status quo allows for one new license/endorsement to be issued for every five eligible licenses (MPL's, + PELs w/SS + CFLs with a soft-shell clam endorsement) that retired (i.e., 5:1 exit/entry ratio). Under that scenario, twelve (12) new Commercial Fishing Licenses (CFLs) with soft-shell clam endorsement would be made available for 2012. The RIMFC - IAC recommended modifying the current standard from a 5:1 exit/entry ratio to a 3:1 exit/entry ratio which would make twenty one (21) new CFLs with soft-shell clam endorsement available for 2012. At the public hearing there were no comments made on this item. The Division responded that it could not support a 5:1 exit/entry ratio before recovery of the resource from the 2010 depletion event at Conimicut. A soft-shell clam stock assessment had been conducted by the Division and updated with landings through October 2011. As with the Division's initial review, strong evidence of overfishing was in hand. Stock biomass was failing to regenerate on an annual basis and annualized fishing mortality rates were well above biological reference points. At some point the Division would like to establish allowable catches by area then the number of licenses would become irrelevant, however we are not at that point. The Division has no alternative but to recommend no new soft-shell clam endorsements for 2012. At the Council meeting, the Council recommended to consider a compromise, which would be to remain at status quo (i.e., 5:1 exit/entry ratio) for the soft-shell clam fishery.

*As suggested by the Council, a compromise would be acceptable until the Division can establish area specific allowable catches; therefore I urge adoption of status quo (5:1 exit/entry ratio) for the soft-shell clam fishery. Based on the number of applicable licenses that retired, twelve (12) new licenses/endorsements with soft-shell clam endorsement would be made available for 2012.*

With regard to *whelk*, there is no formal licensing system in place to control the directed effort for the whelk fishery. The Division and industry are in agreement that an endorsement should be

created with the same restrictions associated with the full harvest and gear level for whelk. The IAC supported the creation of a whelk endorsement. There was no opposition at the public hearing. At the Council meeting, the Council moved to recommend the creation of a whelk endorsement.

*As supported by the Council, and the Division, I urge adoption of a whelk license endorsement for 2012.*

**Restricted finfish.** With regard to restricted finfish, the status quo allows for one new license/endorsement to be issued for every five eligible and active licenses (MPL's, and PEL's with restricted finfish endorsements) that had some reported landings of restricted finfish during the prior calendar and retired, (5:1 exit/entry ratio). Under that scenario, three (3) new PELs with restricted finfish endorsements would be made available for 2012. The IAC supported the status quo proposal. Significant stock rebuilding has occurred for a number of finfish species currently designated as "restricted" for license endorsement purposes. Scup, black sea bass, and striped bass are considered fully rebuilt. Summer flounder is very close to its rebuilding target and a certification of rebuilt status is expected later this year. Rhode Island state fishery law provides for a balancing of conservation and priority for existing industry with opportunities for new participants. In view of the above, the Division recommends modifying the current standard (5:1 exit/entry ratio) to a new standard of a 1:1 exit/entry ratio for restricted finfish in 2012. This would provide for 6 new PELs with restricted finfish endorsements to be made available, given that 6 with activity were retired. At the public hearing there was support to remain at status quo (5:1 exit/entry ratio). The Council voted to recommend adoption of a new standard, a 1:1 exit/entry ratio for 2012.

*As supported by the Council, I urge adoption of a new 1:1 exit/entry ratio for the restricted finfish fishery. Based on the number of applicable licenses that retired in 2011, six (6) new PEL licenses/endorsements with RFF would be made available for 2012.*

**Lobsters.** With regard to lobsters, the Council voted to recommend status quo, no new lobster endorsements, which was also recommended by the IAC. There was no opposition at the public hearing. The Southern New England (SNE) lobster fishery is at low abundance and facing significant management restrictions at the ASMFC level. Addendum XVII is under consideration and will likely lead to further cuts in exploitation. The current Fishery Management Plan (FMP) does not provide for any new participants. Given that, the Division recommends no new lobster endorsements for 2012.

*As supported by the Council, and the Division, I urge adoption of the status quo with regard to lobster licensing - no new lobster endorsements for 2012.*

**Horseshoe crabs.** With regard to horseshoe crabs, currently there is no formal licensing system to control directed effort in the horseshoe crab fishery. Participants in the horseshoe crab fishery are permitted by the Division and are required to submit catch reports to the Division however the reporting is outside of the standard Atlantic fisheries information system (SAFIS). The Division had recommended that a licensing endorsement be created with the same restrictions associated with the full harvest and gear level for horseshoe crabs. This will bound the

participants in the fishery and create the vehicle to move catch reporting into logbooks and SAFIS. The Division stock assessment shows that horseshoe crab abundance is low and well below the  $B_{msy}$  rebuilding target. Fishing mortality rate is below  $F_{msy}$  but apparently not low enough to trigger significant rebuilding. The fishery is managed with quotas and seasons and these may need to be further restricted. The IAC supported moving the current permitting process from the Marine Fisheries staff to the Division of Licensing but suggested it remain as a no-fee “permit” instead of making it an endorsement. There was no opposition at the public hearing for creating this endorsement. At the Council meeting, concern was expressed about the need for rapid reporting because a low bait quota is exhausted quickly and faster reporting than logbooks is needed. Council’s position was that a new endorsement would not address the timeliness problem and so voted to recommend remaining with status quo, a no-fee horseshoe crab permitting process conducted by marine fisheries staff.

*I urge adoption of the Council status quo position. Significant questions were raised during the meeting regarding reporting and license status. It would be premature to establish an endorsement at this time.*

**Proposed amendment to Section 6.7-8 clarifying the language concerning the transfer of a commercial license upon the sale of vessel and gear:**

The changes proposed by the DEM Office of Licensing to section (6.7-8) merely clarify the regulations for transferring a commercial license upon the sale of a vessel and gear by emphasizing that the vessel must be a “commercially declared” vessel. These clarifications were supported by the IAC. At the public hearing there was no opposition. The Division supports the DEM Office of Licensing request to add language to the transfer of license upon sale of vessel and gear section (6.7-8) that identifies the vessel as “commercially declared”. At the Council meeting no action was taking by the Council. The Council voiced concerns that the proposed changes were confusing and suggested the Department further review the proposed language and report back to the Council at a later date.

*Since this item is not time sensitive, I agree with the Council that this item needs further review by the Department and therefore will be brought back to the Council for consideration at a future Council meeting.*

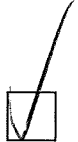
**Proposed amendment to remove scup from the list of restricted finfish species:**

The coast wide scup population has attained a very high level, well in excess of the rebuilding target. A large commercial quota increase was awarded to Rhode Island in 2011 and it is unlikely to be fully caught by the end of the state fishing year on October 31. Another large quota increase will accrue next year (2012), exacerbating the problem. The Division recommends moving scup from the restricted finfish to unrestricted finfish category so that the full commercial fishing power of the state can be brought to bear on the quota. At the public hearing all the comments that were made were opposed to removing scup from the restricted finfish category, participants preferred scup remain a restricted finfish for now. The Council voted to recommend remaining with status quo and not remove scup from the restricted finfish category.

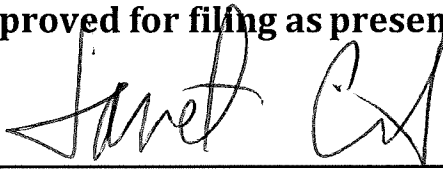
*I urge adoption of the Council status quo recommendation. While the Division’s intent to provide for a broader participation is laudable, significant details remain*

*unaddressed such as the ability of current industry to fully harvest quota under no or large possession limits beginning in May and the process by which scup would move back to restricted status should resource status deteriorate.*

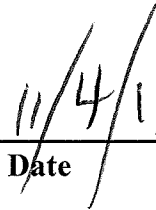
**Time Sensitivity**- Regulations require that licensing rules be promulgated by December 1<sup>st</sup> of each year. Given the 20 days between filing with the secretary of state and effectiveness, staff needs to file on Thursday November 10<sup>th</sup>. We would appreciate a decision by COB on Monday the 7<sup>th</sup>.



**Approved for filing as presented**



Janet L. Coit, Director



Date