



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 for Marine Fisheries, DFW

DATE: April 9, 2012

SUBJECT: Request for Decision on February 22, 2012 Marine Fisheries Hearing Item

Proposed regulatory changes pertaining to commercial and recreational conch (Channeled Whelk and Knobbed Whelk), have moved through the regulatory process and are hereby presented for final decision.

These matters were the subject of a public hearing held on February 22, 2012 and subsequent consideration by the RI Marine Fisheries Council at their March 6, 2012 meeting. Supporting documentation submitted along with this memorandum include the, public hearing summary documents, summary of public hearing comments, and the applicable portion of the minutes from the RIMFC March 6, 2012 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.

Adoption of regulations governing the taking of conch (*Channeled Whelk – *Busycotypus canaliculatus and *Knobbed Whelk – *Busycon carica**):** There were a suite of regulatory components that came forward from the RIMFC Adhoc Whelk Committee that were brought forward for public comment.

The Adhoc Whelk Committee agreed unanimously on the following items:

- Conchs must be landed whole, in shell
- Commercial Season – (no restrictions) open from January 1 through December 31
- Commercial Possession limit – status quo, unlimited possession
- Requirement for escape vents and “Ghost” Panels
- No requirement for mandatory bait bags when using horseshoe crabs as bait
- Regulations to prohibit the unauthorized raising of traps, pots, and devices
- Regulations to prohibit the raising of traps, pots, and devices at night
- Requirement for conch pot/trap tags

- Single whelk pots/traps must be buoyed and trawls should have a buoy at each end of the trawl (no buoy size restrictions or requirement for form core buoys)
- Recreational pot/trap limit of 5 traps per license holder
- DEM to implement land-based processing regulations

The Adhoc Whelk Committee had majority in favor, but not full support of the group on the following items:

- Minimum size limit of 2-3/4 inch shell diameter or 4 3/4 inch shell length (some supported a 3 inch shell diameter or 5 inch shell length)
- No requirement for licensing of owner-operated vessels
- No pots/traps tending requirement
- Pot limit of 300 pots (some supported a 250 pot limit or a no pot limit)
- Recreational possession limit of 1/2 bushel per person per calendar day (some supported unlimited limit)

There was no consensus from the Adhoc Whelk Committee for a requirement for a minimum buoy size for traps.

There were several written proposals submitted during the public hearing comment period for the commercial conch fishery; one proposal was for a possession limit of up to 20 bushels of conch per license per day; and supported having no total allowable harvest restrictions. The RI Fishermen's Alliance submitted their own suite of regulatory components which had support from a few people. At the public hearing the majority of the people present supported the Adhoc Committee recommendations. Some individuals suggested that RI should mirror MA on whatever incremental size increases MA might make. Other comments made suggested that pot/trap requirements should be the same across the board for all pot/trap fisheries. The Division offered an additional option for a 200 pot limit, since this was the limit MA currently had in place. The Division noted that RI and some neighboring states were in the process of trying to develop a suite of whelk regulations that would be uniform between states.

The Division made the following recommendations regarding the conch fishery:

1. Commercial & Recreational Minimize legal size - 5 1/2 inch length or 3 inch diameter alternative (whelks do not attain full maturity until sizes larger than previously thought).
2. Seasons - the Division does not see the need for a closure and recommends an open season from January through December at this time.
3. Possession limits - 35 bushels as a starting possession limit then an option that would allow the Division to drop the limit based on catch rates should a quota be enacted. The starting limit is based on SAFIS trip level reports in 2011 that show the maximum trip to be about 35 bushels or 1,700 pounds with most trips under 20 bushels.
4. Total allowable harvest (TAL) - An average of the last 3 years (2009-2011) of landings. This is about 707,000 pounds pending final 2011 SAFIS data. The stock assessment for whelk indicates that while biomass is above the B_{msy} target, overfishing may have recently begun. The Division believes it is time to move to a quota based system that will allow for specification of landings levels to reduce F below the overfishing threshold (F_{msy}).
5. Owner-operator provision - The Division does not take a position on this since it has no biological implications.

6. Buoying of pots – All pots must be buoyed with a size requirement for foam core buoys. The Division believes that a buoy of defined construct is necessary for proper marking and recognition of gear by industry and other marine stakeholders. We would not oppose however an appropriate materials substitute for foam core.
7. Escape vents and ghost panels – Requirement for escape vents and ghost panel. Existing open top (traditional) whelk pots would meet these requirements.
8. Tending requirements - Tending requirement of at least once every 7 days, as a natural complement to escape venting and responsible fishing.
9. Mandatory Bait bags, or equivalent (i.e. bait cage) – Requirement for bait bags when using horseshoe crabs as bait, should be required to minimize the amount of horseshoe crabs needed for bait.
10. “Unauthorized raising of pots” - refers to all commercial fisheries and the Division sees no need to recapitulate this in conch regulations. However RIGL 20-7-12 (“removal of branded numbers”) and 20-7-12.1 (“unauthorized possession”), are applicable only to lobster pots so a regulatory extension of this to conch gear is warranted. (option 2 – use regulatory language similar to lobster regulations)
11. Raising Pots at Night - With a quota based management system the Division sees no need for a prohibition on night fishing. Similarly, we see no need for a pot limit or a pot tagging program. Under quota management, these types of efficiency issues should be left to businesses.
12. Commercial Pot Limit - Similarly, with a quota based management system, the Division see no need for a pot limit or a pot tagging program.
13. Mutilation -The Division supports the requirement to land whelk whole and in shell.
14. For recreational measures - the Division supports, allowing residents and non-residents to participate, a 5-pot recreational limit, and the ½ bushel possession option.
15. We also support the taxonomic name revision for channeled whelk to *B. canaliculatus*.

At the Council meeting, with a 6 to 1 vote the Council recommended the following:

To enact regulations governing the taking of whelk in RI waters as follows:

- Minimum shell size of 2 ¾” diameter or 4 ¾” length
- Commercial conch pot limit of 300 pots
- All traps must be tagged beginning 2013
- Conch must be landed whole, in-shell and remain so until transferred to a licensed dealer (“mutilation” - to apply to both commercial and recreational fisheries)

Recreational harvest of conch restricted as follows:

- Restricted to residents only
- ½ bushel per person per day limit
- Recreational pot limit of 5 per person
- All traps must be tagged beginning 2013

The Council noted that the following items warrant implementation, however they should be withheld until a comprehensive pot/trap program is implemented to create a uniform set of regulations across all/most pot/trap fisheries:

- Owner-operator vessel restrictions
- Buoying of conch pots

- Escape vents and ghost panels
- Tending requirements
- Unauthorized raising of conch pots
- Removal of branded #s or ID tags from conch pots
- Raising of pots at night
- Unauthorized possession of conch pots

The Council recommended that the following items not be implemented at this time:

- Commercial season designation (should be open all year)
- Commercial possession limit
- Total allowable catch
- Mandatory bait bags

The Council also recommended separate management of smooth and knobbed whelk. Any type of quota, possession limit or seasons should apply only for smooth whelk, the targeted species. Knobbed whelk should be separate, as they are two separate fisheries. They also unanimously recommend that the Council and the Division be required to revisit the conch management plan within the next year with a view for potential modifications to the plan.

Taking the Council and industry concerns into account, as a compromise I can agree with the Council recommendations for the 2012 conch season. Although the Division has recommended an alternative management program centered on a total allowable catch, recent data collected by the Division and MADMF indicates that our understanding of the whelk fishery and stock dynamics is incomplete. It would be wise to continue to collect data during the 2012 season and as recommended by the Council revisit the conch management plan prior to the next fishing year. The Division is in the process of collaborating with neighboring states and we would be better positioned to make modifications for the 2013 season after those data collections and discussions have taken place. Additionally, the Division is still in the process of pursuing comprehensive trap/pot requirements for all pot fisheries and would rather administer regulations uniformly instead of one fishery at a time. Therefore, I urge adoption of the following for 2012:

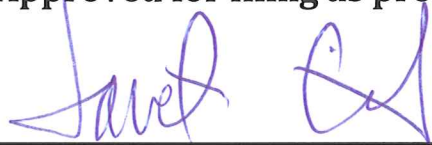
- Commercial and recreational minimum shell size of 2¾ inch diameter or 4 ¾ inch length
- Season from January through December
- Commercial conch pot limit of 300 pots (but tagging program not implemented until 2013 if still recommended at that time)
- “Mutilation” - conch landed whole, in-shell and remain so until transferred to a licensed dealer. (Conch landed whole, in-shell to apply to recreational fishery as well)
- Recreational harvest limit of ½ bushel per person per day limit
- Harvest of conch restricted to residents only
- Recreational pot limit of 5 per person (same as lobster) but not implemented until 2013 if still recommended.
- Taxonomic name revision for channeled whelk to *B. canaliculatus*.

I also urge the Department to pursue a legislative change to update statutory definitions and taxonomic name revisions to "whelk" - (Channeled Whelk - Busycotypus canaliculatus, and Knobbed Whelk - Busycon carica) instead of referencing "conch" which are not found in Rhode Island state waters.

Time Sensitivity - None



Approved for filing as presented



Janet L. Coit, Director



Date