

PROPOSED COMMERCIAL FISHING REGULATIONS AND LICENSE RESTRUCTURING

During its 2002 session, the General Assembly passed a [landmark Act](#) which fundamentally restructures the regulation and licensing of the commercial fishing industry in Rhode Island. The Act requires the Department of Environmental Management to complete the restructuring process and begin issuing the new licenses required by the Ad by January 1, 2003.

The Act also requires that DEM obtain the input of the Rhode Island Marine Fisheries Council (RIMFC) before conducting a hearing on the new regulatory and licensing scheme. To this end the documents which follow were submitted to RIMFC on August 29:

1. TIMELINES AND MILESTONES

This section sets out the accelerated review and adoption process required to conform to the deadlines set out in the 2002 Commercial Fisheries Management Act. The controlling milestone, of course, is the requirement that the new licensing process be in place by January 1, 2003. Other interim milestones are dictated by the Administrative Procedures Act and by various provisions of the Fisheries Act itself.

2. PROPOSED IMPLEMENTING REGULATIONS

These regulations are intended to establish and describe the licensing and commercial fisheries management process the Department is required to implement pursuant to the 2002 Commercial Fisheries Management Act. It is prefaced by a Table of Contents to assist the reviewer in finding subject areas of particular interest. It is also hoped that the Table of Contents will assist the reviewer in comparing specific regulatory requirements to the statutory language which they interpret.

3. GUIDANCE: THE MARINE FISHERIES MANAGEMENT PROCESS

Explanation: This guidance document is included to assist the Marine Fisheries Council in tracing the relationship between the statutory requirements of the 2002 Commercial Fisheries Management Act and provisions of the Department's proposed implementing regulations. It is organized by general subject area and describes the specific requirements of the statute in something approximating plain English. The numbers in parenthesis after each requirement are for reference purposes; the first number indicating the page in the bill, the second number the beginning line of the citation, and the third number the closing line.

4. **PROPOSED FEES**

Explanation: Two tables are included in this section:

Table 1: Identifies all fees set by the new Act.

Table 2: Compares fees for various representative sizes and types of fishing vessels under the new fisheries Act as opposed to those being charged currently.

5. **MANAGEMENT PLAN FOR SHELLFISH**

This Management Plan evaluates the status of the shellfish resource with an emphasis on quahaugs, and recommends options for restoring stocks to sustainable levels.

It does not include an analysis of the relative socio-economic impacts of recommended management options, which is proposed to be conducted by the University of Rhode Island.

6. **MANAGEMENT PLAN FOR LOBSTER**

This Management Plan evaluates the status of the Southern New England lobster resource, and recommends options for restoring populations to sustainable levels.

It does not include an analysis of the relative socio-economic impacts of recommended management options, which is proposed to be conducted by the University of Rhode Island.

7. **MANAGEMENT PLAN FOR QUOTA MANAGED FINFISH**

This Management Plan evaluates the status of the resource for each species and recommends options for restoring that species to sustainable levels.

It does not include an analysis of the relative socio-economic impacts of recommended management options, which is proposed to be conducted by the University of Rhode Island.

TIMELINES AND MILESTONES

This section sets out the accelerated review and adoption process required to conform to the deadlines set out in the 2002 Commercial Fisheries Management Act. The controlling milestone, of course, is the requirement that the new licensing process be in place by January 1, 2003. Other interim milestones are dictated by the Administrative Procedures Act and by various provisions of the Fisheries Act itself.

COMMERCIAL FISHING LICENSING PROGRAM

Schedule for Developing Regulations & Issuing Licenses

8/29/02

- 8/29** DEM presents draft regulations and management plans to MFC; discusses review process and formation of Industry Advisory Cmte. *[Statute requires 60-day review of regulations by MFC prior to public hearing]*
- 8/30** DEM posts draft regulations and management plans on URI listserve and DEM Website; also issues press release notifying public regarding nature and availability of documents, meeting schedule, and review process
- 8/30-10/29** URI, via Fish, Fisheries and Aquaculture Program, undertakes coordinated review of draft regulations and management plans
- 8/30-10/29** Advisory Panels and/or Industry Advisory Cmte. undertake review of draft regulations and plans
- 9/24** MFC receives initial reports/recommendations/comments from Advisory Panels/Industry Advisory Cmte., URI, and general public; MFC offers initial recommendations to DEM *[Statute requires public hearing on regulations as proposed by DEM or as revised per recommendation of MFC]*
- 9/25** Follow-up MFC meeting, if needed
- 9/27** DEM issues public notice on draft regulations and management plans -- either as originally proposed by DEM, or as revised by DEM per recommendation of MFC, or as separate DEM and MFC proposals
- 9/28-10/29** Additional opportunity for meetings and review/comment by all parties
- 10/29** Public hearing held on proposed regulations and management plans
- 10/30** MFC develops final recommendations, which are entered into hearing record
- 11/1** DEM notifies existing license holders regarding pending changes to licenses, 12/31 expiration, and 2/28/03 renewal deadline [1st mailing] *[Statute requires notification regarding expiration and renewal deadline no later than 11/1; DEM plans to issue such notice well in advance of 11/1]*
- 11/15** DEM promulgates final regulations and management plans, accompanied by written statement from director explaining decision and providing response to public comments *[Statute requires that decision of director shall state the basis for adopting the regulations and the response to positions entered into the record]*
- 12/1** DEM notifies existing license holders regarding new license categories and protocols [2nd mailing]
- 12/1** DEM begins issuing license renewals for 2003 license year

- 12/1-** DEM and URI/Sea Grant conduct public outreach, for both licensed and non-licensed **1/31** individuals, regarding new license categories and protocols
- 1/1** DEM begins issuing new licenses for 2003 license year *[Statute requires that new licenses be made available beginning 1/1]*
- 2/28** Last day for issuing license renewals and new licenses for 2003 license year *[Statute prohibits issuance of any new or renewed licenses after 2/28]*

PROPOSED IMPLEMENTING REGULATIONS

These regulations are intended to establish and describe the licensing and commercial fisheries management process the Department is required to implement pursuant to the 2002 Commercial Fisheries Management Act. It is prefaced by a Table of Contents to assist the reviewer in finding subject areas of particular interest. It is also hoped that the Table of Contents will assist the reviewer in comparing specific regulatory requirements to the statutory language which they interpret.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Division of Fish and Wildlife

-DRAFT #4-

(August 29, 2002 Mark Up)

**Rules and Regulations
Governing the Management of
Marine Fisheries**



August, 2002

Marine Fisheries Management

AUTHORITY: These regulations are adopted pursuant to Chapter 42-17.1, Section 20-1-4, and Public Laws Chapter 02- 047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

Filed with the Secretary of
State:

Effective Date:

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Table of Contents

	Page
Rule 1 Purpose	4
Rule 2 Authority	4
Rule 3 Application	4
Rule 4 Superseded Rules & Regulations	4
Rule 5 Definitions	5
Rule 6 Regulations	8
6.1. Management Controls	8
6.1-1 Species & Gear Levels	8
6.1-2 Harvest & Gear Levels	8
6.1-3 Regulation of Gear	9
6.1-4 Times & Seasons	9
6.1-5 Area Closures & Restrictions	9
6.1-6 Quotas, Catch & Landings Limit	9
6.1-7 Limits on Entry	9
6.1-8 Control Dates	10
6.1-9 Annual Promulgation of Rules	10
6.2 Management Plans	10
6.2-1 Required	10
6.2-2 Purpose & Content	11
6.2-3 Procedure for Adopting	11
6.3 Emergencies	12
6.4 Annual Report	12
6.5 Annual Spending Plan	12
6.5-1 Plan Required	12
6.5-2 Activities Eligible for Funding	12
6.5-3 Special Projects	13
6.6 Data Reporting	13
6.6-1 Required	13
6.6-2 Manner of Reporting	13
6.7 Licensing	14
6.7-1 Information Required	14
6.7-2 Other Requirements	14
6.7-3 Application Deadlines	14

6.7-4	License Renewals; Grandfather Right	15
6.7-5	Issuance of New Licenses, Generally	15
6.7-6	Issuance of New Licenses Upon Sale of Vessel & Gear	17
6.7-7	Issuance of New Licenses Under Hardship Conditions	17
6.7-8	Requests for Reconsideration of License Denials	18
6.8	Licenses & Species Endorsements; Resident	19
6.8-1	License Endorsements	19
6.8-2	Commercial Fishing License	19
6.8-3	Principal Effort License	20
6.8-4	Multi-Purpose License	20
6.8-5	Student Shellfish License	20
6.8-6	Sixty-Five & Over Shellfish License	21
6.8-7	Gear Endorsements	21
6.8-8	Vessel Declarations	21
6.9	Dealer Licenses	22
6.9-1	General Requirements	22
6.9-2	Multi-Purpose Dealer's License	22
6.9-3	Finfish Dealer's License	23
6.9-4	Shellfish Dealer's License	23
6.9-5	Lobster Dealer's License	23
6.10	Landing Permits; Resident	23
6.10-1	General Requirements	23
6.10-2	Resident Finfish	24
6.10-3	Resident Shellfish	24
6.10-4	Resident Crustacean	24
6.10-5	Resident Multi-Purpose	24
6.10-6	Resident Miscellaneous	24
6.11	Non-Resident Licenses & Endorsements	24
6.11-1	Non-Resident License Endorsements	24
6.11-2	Non-Resident Commercial Fishing License	25
6.11-3	Non-Resident Principal Effort License; Renewals	25
6.11-4	Non-Resident Principal Effort License; New	26
6.11-5	Non-Resident Vessel Declaration	26
6.11-6	Non-Resident Landing Permits	26
6.12	Exceptions	27
6.13	Penalties	27
6.13-1	Violations	27
6.13-2	False Statements	28
6.13-3	Alterations, Forgeries & Counterfeits	28
6.13-4	Failure to Present a License	28
6.14	Severability	28

**RULES AND REGULATIONS GOVERNING
THE MANAGEMENT OF MARINE FISHERIES**

RULE 1. PURPOSE

The purpose of these regulations is to establish a process for managing marine fisheries, through the development of management plans and programs, licensing protocols, and data collection systems.

RULE 2. AUTHORITY

These Rules and Regulations are promulgated pursuant to Chapter 42-17.1, Department of Environmental Management, and Section 20-1-4, and Public Laws Chapter 02-047, "An Act Relating to Fish and Wildlife," in accordance with Chapter 42-35, Administrative Procedures, of the Rhode Island General Laws of 1956, as amended.

RULE 3. APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

RULE 4. SUPERCEDED RULES AND REGULATIONS

On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of the General Laws in Chapter 20-2, entitled "Licensing," Chapter 20-3.1 entitled "Marine Fisheries Management Modernization," and Chapter 20-6 entitled "Shellfish," shall be superseded, provided that regulations promulgated by the Director or the R.I. Marine Fisheries Council pursuant to Chapter 20-3, entitled "Marine Fisheries Council" will remain in effect until amended or replaced. Provided, furthermore, that any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken or application was filed.

RULE 5. DEFINITIONS

- (5.1) "Agent." - A representative of a licensed dealer with a place of business in the State of Rhode Island wherein transaction records of said dealer are maintained and available for inspection during normal business hours.
- (5.2) "Area Closure or Restriction." - A geographic area capable of being described by coordinates or landmarks wherein fishing for identified species of fish, shellfish or crustaceans is prohibited or restricted more stringently than is the case for the state's waters generally.
- (5.3) "Authorized Individual." - An Environmental Police Officer or any other representative of the Director authorized to administer or enforce these regulations.
- (5.4) "Bill of Lading." - An invoice which identifies a shipment of fish, shellfish or crustaceans as to seller, buyer, source, type, quantity and sale price.
- (5.5) "By catch." -Fish which have been harvested, but which are not sold or kept for personal use. It includes fish which are discarded for either economic or regulatory reasons.
- (5.6) "Catch Landings Limit." - Any duly adopted restriction on the amount of fish, shellfish or crustaceans that may legally be held at any one point in time or which can be legally landed during a given period of time, usually a calendar day.
- (5.7) "Catch or Landings Report." - A report of required information on a given quantity of fish, shellfish or crustaceans required to be forwarded to the Department at the point in time when said fish, shellfish or crustaceans are sold by a licensed fisher to a licensed dealer. "Catch report" is the report filed by the fisher. "Landings report" is the report filed by the dealer.
- (5.8) "Control Date." - A cut off date for establishing eligibility criteria for future access to a fishery..
- (5.9) "Crew." - An individual employed for purposes of assisting in the operation of a commercial fishing vessel and its gear by another person licensed to fish commercially pursuant to these regulations.
- (5.10) "Dealer." - A person, partnership, firm, association, or corporation licensed to barter or trade in any marine species.
- (5.11) "Department." - The Rhode Island Department of Environmental Management.
- (5.12) "Director." - The Director of the Rhode Island Department of Environmental Management.
- (5.13) "Discards." - Fish, shellfish or crustaceans that are discarded overboard by fishers because their possession is prohibited by regulations or for economic reasons.
- (5.14) "Entrance/Exit Ratio." - A formula established by regulation for a fishery or fisheries which identifies the number of new fishing licenses in each category that will be issued for each one that is retired and surrendered to the Department.
- (5.15) "Family Member." - The spouse, mother, father, brother, sister, child or grandchild of a licensed fisher.
- (5.16) "Fish Trap." Floating traps, weirs, pounds, nets, or any equivalent contrivance set on, in or anchored to the bottom or shore, used for the purpose of catching fish.
- (5.17) ".Fishery" - One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographic, scientific, technical, recreational, and economic characteristics; and any fishing for such stock
- (5.18) "Fishing Community" - A community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and

economic needs and includes fishing vessel owners, operators, and crew, and fish processors that are based in such communities.

- (5.19) "Gear." - Any device or mechanism other than a vessel employed to catch fish, shellfish or crustaceans.
- (5.20) "Gear Level." - As set by regulation, the amount, type capacity and design of gear that may legally be employed in a given fishery.
- (5.21) "Gill Net." - A net designed to catch fish by means of meshing or entanglement.
- (5.22) "Harvest Level." - As set by regulation, the amount of fish, shellfish or crustaceans that may be legally harvested, possessed, and/or sold by a licensed fisher during a given period of time, usually a calendar day. That amount may vary according to the type of license held and/or the species involved.
- (5.23) "Harvesting Capacity." - the ability of a fish stock or fishery to support additional fishing pressure while remaining at sustainable levels, defined as Maximum Sustainable Yield (MSY).
- (5.24) "Incapacity." - Death of, or injury that renders an active licensed fisher unable to fish for a period in excess of seven (7) days either as a result of the physical loss of function or impairment of a body part or parts, or debilitating pain.
- (5.25) "License Year." - 12:00AM, January 1 of any given year through midnight, December 31 of the same year.
- (5.26) "Lottery." - Any of a variety of techniques to distribute licenses or permits when the demand for such licenses or permits exceeds the supply, such techniques having the common characteristics of being verifiably blind, random, fair and equitable.
- (5.27) "Non-Resident." Anybody who does not present proof of Rhode Island residency..
- (5.28) "Optimum Yield." - The amount of fish which will create the greatest overall benefit to the state, particularly with respect to food production, and taking into account the protection of marine ecosystems. "Optimum Yield" is prescribed as such on the basis of the maximum sustainable yield from the fishery as reduced by any relevant economic, social or ecological factors, and in the case of an overfished fishery, provides for rebuilding to a level consistency with producing the maximum sustainable yield from such fishery.
- (5.29) "Overfishing/Overfished." - A rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.
- (5.30) "Place of Business." - A building or office located in the State of Rhode Island where a licensed fish dealer maintains records of sales and purchases which are available for inspection by the Department during normal business hours.
- (5.31) "Point of Sale." - The point in time and place where ownership of a given quantity of fish, shellfish, and/or crustaceans is transferred from a licensed fisher to a licensed dealer.
- (5.32) "Processed Products or Seafood Products." - Any fish, shellfish or crustacean which has been processed on board a fishing vessel prior to sale to a licensed dealer.
- (5.33) "Quota." - An allocation of an amount of a specific species of fish, shellfish or crustaceans available to be harvested by Rhode Island fishers. This allocation is made by regional management councils and may be further allocated by the Department by season or among different types of fishers.
- (5.34) "Rhode Island Resident" - An individual who has had his or her principal place of residence in Rhode Island and has lived in that residence for a continuous period of not less than six (6) months. Proof of residence may include a Rhode Island driver's license, automobile registration, voter registration card or a notarized statement from a City of Town Clerk.
- (5.35) "RIMFC." The Rhode Island Marine Fisheries Council.

- (5.36) "Sea Sampler/Observer." - A representative of the Director or the National Marine Fisheries Service authorized to accompany fishers during the act of fishing to conduct research and/or to monitor and confirm catches.
- (5.37) "Season." - A period of time established by regulation during which management rules specific to that period are in effect.
- (5.38) "Self-Sustaining Stock, Sustainability." - A population of a given species of fish, shellfish or crustaceans which has sufficient recruitment of new animals and survival rates for mature animals as to maintain a stable biomass over time.
- (5.39) "Shellfish Dredge." - A mechanical device which is towed behind a fishing vessel and whose purpose is to collect shellfish from the sea floor.
- (5.40) "Shellfish Seeding." - The introduction of shellfish spat or sub-legal juvenile animals into an area for purposes of increasing the population of shellfish in that area.
- (5.41) "Shellfish Transplant." - The removal of shellfish from polluted waters or bottom areas proposed to be dredged and the transport of those animals to a Management Area for harvest at a later date.
- (5.42) "Transaction Records." - Invoices or similar records of the purchase of fish, shellfish, crustaceans or other seafood products by a licensed dealer, which identify the boat and license holder from which the purchase was made.
- (5.43) "Unreasonable Hardship." - Severe economic loss resulting from the denial of a license which is unique to an individual and which has not been caused or exacerbated by prior actions of or inaction on the part of that individual.
- (5.44) "Vessel Declaration." - Registration of a vessel as a commercial fishing vessel with the Department as required herein.
- (5.45) "Vessel Upgrade." - The acquisition by a licensed fisher of a vessel that is longer, of greater displacement, or increased horsepower relative to the vessel it is replacing.

RULE 6. REGULATIONS

(6.1). Management Controls

(6.1-1) Species Endorsements

- (a) The Department will create, and may from time to time add, eliminate or modify, license endorsements that upon issuance allow the taking and sale of specific marine fish species or groups of species, and may as needed add to or delete from those endorsement categories.
- (b) Species endorsement categories shall include at a minimum Non-Lobster Crustacean, Lobster, Non-Quahaug Shellfish, Quahaug, Non-Restricted Finfish, and Restricted Finfish.
- (c) In establishing species endorsement categories, and allowing fishing of them, the Department will consider the status of each fishery, levels of participation by existing license holders, and the provisions of applicable fisheries management plans and programs.

(6.1-2) Harvest and Gear Levels

- (a) The Department shall set harvest levels and gear levels or restrictions on a fishery or endorsement specific basis, and consistent with state and/or federally sanctioned fisheries management plans or programs.

- (b) A Basic Harvest and Gear Level will be set and may be adjusted periodically. The Basic Harvest and Gear Level will apply to holders of Commercial Fishing Licenses.
- (c) Full Harvest and Gear Level will likewise be set and may be adjusted periodically. The Full Harvest and Gear Level will apply to holders of Principal Effort Licenses for the fisheries for which they hold endorsements; and to holders of Multi-Purpose Licenses for all species.
- (d) Full Harvest and Gear Levels will allow for greater levels of participation than will Basic Harvest and Gear Levels; provided that both will allow the maximum level of effort possible consistent with state and/or federally sanctioned management plans or/programs.

(6.1-3) Regulation of Gear

- (a) The Department may regulate the use and design of gear, the identification of gear, and/or the amount of the same or similar types of gear that may be deployed by season, geographic area, and/or type of license or endorsement.
- (b) The Department may regulate the transfer of gear, but only as regards to the amount of gear that may subsequently be deployed by the party to which it has been transferred.

(6.1-4) Times and Seasons

The Department may set times and seasons for harvesting each fish species or endorsement category.

(6.1-5) Area Closures and Restrictions

The Department may restrict where fishing can take place, and where it is prohibited or otherwise restricted, either by species or endorsement category.

(6.1-6) Quotas, Catch and Landings Limits

The Department may set and/or modify quotas and other restrictions on catch and landings and may do so by license type or endorsement category.

(6.1-7) Limits On Entry

- (a) The Department may limit entry into a fishery by license category, species or endorsement where a state and/or federally sanctioned fisheries management plan or program finds that fishing effort is at or exceeds sustainable levels.
- (b) The Department may regulate the total number of licenses in a fishery or endorsement category, or otherwise implement the requirements of subsection 6.1-7 (a) above, by establishing entrance/exit ratios, lotteries, waiting lists, or other allocation measures.

(6.1-8) Control Dates

- (a) The Department may establish control dates, which shall serve as a cut off date for establishing eligibility criteria for future access to a fishery.
- (b) Eligibility criteria may include, but are not limited to, historic participation and/or gear levels as documented by landings and sales.
- (c) The establishment of a control date is intended to promote awareness of potential eligibility criteria for future access to a fishery and to discourage speculative shifting of effort into that fishery. To this end, the Department may give various weighted considerations to those active in the fishery before and after the control date.
- (d) Establishing a control date does not commit the Department to any particular management regime or criteria for expansion of effort in, or transfer of effort into, a fishery.
- (e) Fishers are not guaranteed future participation in any fishery, regardless of their entry date or intensity of participation before or after a control date established pursuant to this subsection.
- (f) The Department may change a control date or may choose a management strategy which does not employ a control date.
- (g) Control dates may only be established prospectively.

(6.1-9) Annual Promulgation of Rules

Endorsement categories, harvest and gear levels, regulations affecting gear, times and seasons, area closures and restrictions, quotas and catch or landings limits, limits on entry, control dates and data reporting shall be established by rule as hereinafter described on an annual basis, no later than November 1 for the following year, provided that said regulations may run for longer periods where management conditions permit, or may be adjusted more frequently where such conditions require.

(6.2) Management Plans

(6.2-1) Required

The management controls set forth in subsection 6.1 must be based on fishery management plans that have been adopted by the Department or by a federal agency or regional body of competent jurisdiction. Such plans may be species specific or apply to whole endorsement categories.

(6.2-2) Purpose and Content

- (a) The central objective of all fishery management plans shall be to achieve the optimum yield from each fishery on a continuing basis while maintaining self-sustaining stocks of all marine species, and to restore overfished stocks to sustainable levels.
- (b) Plans shall, however, consider, and to the extent possible, consistent with subsection 6.2-2(a), minimize adverse impacts on access to the fishery, the economic well-being of fishers and fishing-dependent communities,

traditional practices, owner operation of fishing vessels, and safety of human life at sea.

- (c) Plans shall consider the effectiveness of proposed management measures in reducing by-catch, by-catch mortality, and discards.
- (d) Plans may not allocate access to fishery resources among participants solely on the basis of economic considerations.
- (e) Plans may consider other relevant factors as determined by the Director.
- (f) Plans shall be based on the best scientific information available.

(6.2-3) Procedure for Adopting Management Plans and Programs

- (a) Management plans and programs shall be adopted by rule consistent with the requirements of the Administrative Procedures Act and as herein described on an annual basis no later than November 1 for the following year, provided that said plans may continue in effect for longer periods if it is determined that management conditions permit or may be adjusted more frequently if it is determined that management conditions require.
- (b) Plans and programs shall be submitted to the Rhode Island Marine Fisheries Council [RIMFC] for review and advice at least sixty (60) days prior to the scheduling of any Department hearing on said plans.
- (c) RIMFC may recommend to the Director that a proposed plan or program be adopted, modified or withdrawn, and the Director may proceed to hearing on the plan or program as originally proposed or as revised by RIMFC, or both, provided that in all instances both the plan as originally proposed and as recommended by RIMFC shall be entered into the hearing record.
- (d) In adopting a proposed plan or program, the Director shall include a concise explanation of the principal reasons cited for and against its adoption and his or her response to positions entered into the hearing record.

(6.3) Emergencies

The Director may promulgate marine fisheries management rules with less than sixty (60) days notice to RIMFC if and to the extent necessary to comply with federal or regional council or commission requirements or to respond to sudden and/or imminent peril or unanticipated developments where delay would likely cause immediate harm to fishery resources or fishers pursuant to R.I.G.L. §42-35-3.

(6.4) Annual Report

(6.4-1) The Director shall prepare an annual report on the conservation and management of marine fisheries resources for the General Assembly and the citizens of the State. Said report will address particularly the status of fish stocks that are considered to be overfished or were so in the preceding year, the status of fisheries management plans or programs, levels of participation by existing license holders and the availability of new licenses and endorsements.

(6.4-2) The annual report on marine fisheries resources will be released no later than March 31 for the calendar year preceding.

(6.5) Annual Spending Plan

(6.5-1) Plan Required

- (a) License and vessel fees must be allocated by the Department according to an annual spending plan adopted with the advice of RIMFC.
- (b) The Department will submit its annual spending plan to RIMFC no later than September 1 for the following fiscal year.

(6.5-2) Activities Eligible For Funding

- (a) Protection and propagation of fisheries resources;
- (b) Enforcement of fisheries management regulations;
- (c) Shellfish transplants;
- (d) Enhancement of shellfish resources through other technologies including seeding;
- (e) Fishing port development and construction;
- (f) Staff support to and expenses incurred by RIMFC;
- (g) Lease or purchase of land or conservation easements;
- (h) Technical support to and expenses incurred by the Department for purposes of managing fisheries resources generally and for the collection, processing, analysis and maintenance of data employed in support of such management.

(6.5-3) Special Projects

Beginning on July 1, 2003, a minimum of two hundred thousand dollars (\$200,000) of license and vessel fees generated pursuant to subsection 6.5-1(a) shall be set aside annually to fund fishery conservation and restoration projects and/or fishery resource enhancement activities.

(6.6) Data Reporting

(6.6-1) Required

- (a) The holder of any type of commercial fishing, or dealer license, or landing permit of any sort shall be deemed to have consented to providing such information as the Department may require, including but not limited to, catch, effort, and areas fished.
- (b) Applicants for commercial fishing or dealer licenses or landing permits will be provided a list of applicable reporting requirements at the time of license issuance or renewal.
- (c) The Department may, pursuant to subsection 6.6-2(b), amend reporting requirements annually, no later than November 1 for the following calendar year.
- (d) The holder of a commercial fishing license or permit of any sort shall be deemed to have consented to allowing Department sea samplers or observers on their vessel while fishing in order to obtain catch and effort data or conduct related research.
- (e) The license or permit of any individual who fails to report required information in a timely fashion or who files a false report shall be subject to suspension or revocation. No new license will be issued to an individual until such time as the required reports are filed and the suspension or revocation is lifted.

(6.6-2) Manner of Reporting

- (a) Fishers and dealers will be required to file catch and efforts reports at the point of sale and fishers may also be required to maintain catch logs while fishing.
- (b) License holders will be informed in writing as to the form of such reports, their content, and the manner in which and frequency with which they are required to be transmitted by November 1 for the following year.
- (c) Data will be collected, managed and disseminated according to the coastwide minimum protocols of the Atlantic Coastal Cooperative Statistics Program (ACCSP).
- (d) Reported data may be used for management and enforcement purposes by any properly designated State or federal agency.
- (e) Any data which is released or reported to the public shall be aggregated so as to not identify individual fishers, vessels or dealers.

(6.7) Licensing

(6.7-1) Information Required

Applicants for any license or permit issued under these regulations shall provide a notarized statement containing the following information:

- (a) Full name
- (b) Age
- (c) Occupation
- (d) Residence address
- (e) Mailing address
- (f) Weight
- (g) Height

- (h) Hair color
- (i) Eye color
- (j) The name of any state or jurisdiction in which the applicant's commercial fishing license and/or permit is currently revoked or suspended.
- (k) Driver's License number and state of issuance.

(6.7-2) Other Requirements

- (a) A license must be signed and sworn to by the party to whom it is issued in order to be valid.
- (b) Licenses are valid only for the signed holder and may not be transferred.
- (c) All fees must have been paid for a license or permit to be valid.
- (d) A lost or accidentally destroyed license will be replaced for a fee of ten dollars (\$10.00), provided that the applicant submits an affidavit to the Department explaining the circumstances of the loss.

(6.7-3) Application Deadlines

- (a) The Department will notify all license and/or permit holders in writing by November 1 of any year that said license or permit expires on December 31 of that year and must be renewed according to the following schedule: For Commercial Fishing, Principal Effort or Multi-Purpose Licenses and for Vessel Declarations, by February 28 of the following year; and for all other permits or licenses by December 31 of the current year. This notice will be sent by regular mail to the mailing address given on the license or permit holder's last license application.
- (b) All applications, whether renewals or new issues, must be made in person by 3:00PM of the deadline date at the Office of Licensing and Registration, 235 Promenade Street, Providence, 02908, or must be posted to the same address with a postmark no later than the deadline date. Renewals only may be made electronically by 3:00 PM on February 28.
- (c) No Commercial Fishing, Principal Effort or Multi-purpose License will be issued or renewed after the close of business on February 28 unless said license or endorsement was applied for consistent with the requirement of subsection 6.7-3(b), above.
- (d) No license or permit will be renewed unless and until the data reporting requirements of Section 6.6 have been met.

(6.7-4) License Renewals; Grandfather Rights

- (a) Applicants who possessed a valid commercial fishing license as of December 31, 2002 may obtain a Principal Effort License, but only for the fishery endorsement categories for which they were licensed as of that date.
- (b) Applicants who possessed a valid Multi-Species License as of December 31, 2002 may obtain a Multi-Purpose License.
- (c) The provisions of this subsection apply only to the license year beginning on January 1, 2003 and the issuance of licenses pursuant to this subsection is subject to the application deadlines set forth under subsection 6.7-3.

(6.7-5) Issuance of New Licenses, Generally

- (a) The Department may as appropriate issue new Commercial Fishing, Principal Effort and/or Multi-Purpose Licenses with endorsements for any fishery sector in which excess harvesting capacity is determined to exist pursuant to a fisheries management plan adopted under the provisions of section 6.2. Such new licenses and endorsements shall be made available on January 1 for that year pursuant to rules adopted no later than November 1 of the preceding year.
- (b) In issuing new Commercial Fishing, Principal Effort or Multipurpose Licenses, the Department shall give priority to applicants in the order prescribed by law. All eligible applicants in each priority category will be issued licenses before any licenses are issued to applicants in the next lower priority category. If in any priority category there are more eligible applicants than there are licenses available for issue, those licenses will be issued by lottery.
- (c) First Priority in the issuance of new Principal Effort or Multi-Purpose Licenses shall be given to the family, and second priority to the crew, of the holder of such a license who is actively fishing that license and who has first surrendered it to the Department. A license holder will be considered to have been actively fishing that license if he or she demonstrates by dated landings slips that they have fished at least fifty (50) days in the year preceding the date that they surrender their license. Only one new license will be issued for each one surrendered and if more than one family member has applied to obtain that license, it will be issued to such a family member by lottery. Similarly, if no family member has applied and more than one crewmember has done so, the license will be issued to such a crew member by lottery. Family members or crew who apply to obtain a license pursuant to this subsection must have held a license with a lower harvest and gear level for two years or more.
- (d) Third priority in the issuance of new Principal Effort or Multi-purpose Licenses shall be given to any Rhode Island resident who has held a commercial fishing license with a lower harvest and gear level for two years or more.
- (e) Fourth priority in the issuance of new Principal Effort or Multi-purpose Licenses shall be given to any other Rhode Island resident regardless of their prior participation in commercial fishing.
- (f) Fifth priority in the issuance of New Principal Effort or Multi-Purpose Licenses shall be given to non-residents who have held a Rhode Island Non-Resident fishing license with a lower harvest and gear level for two years or more; provided that species endorsements for the quahaug and lobster endorsement categories are not available to non-residents.
- (g) Sixth priority in the issuance of new Principal Effort or Multi-purpose Licenses shall be given to any other non-resident.
- (h) The requirement that an applicant must have held a license with a lower harvest and gear level for two years or more in order to obtain a license with a higher harvest and gear level is waived during the first two years that these regulations shall be in effect, ending on December 31, 2004. During this period, a demonstration that the applicant has held a license with a lower harvest and gear level for any period of time will be sufficient.

(6.7-6) Issuance of New Licenses Upon Sale of Vessel and/or Gear

- (a) Transfer or sale of licenses and endorsements between the buyer and seller of a vessel and gear is prohibited, provided, however that if the seller of a vessel and gear who is actively fishing his or her license shall have first surrendered to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear if the requirements of subsection 6.7-6(b), following, are met. A license holder will be considered to have been actively fishing that license if he or she can demonstrate by dated landing slips that they have fished at least fifty (50) days in the year preceding the date that they surrender their license.
- (b) Applicants for new licenses pursuant to this subsection must have held for two (2) years or more a valid commercial fishing license with a lower harvest and gear level than the license, which has been surrendered.
- (c) In issuing new licenses pursuant to this subsection, the Department may do so at a lower harvest and gear level than the license surrendered by the seller where necessary to accomplish the purposes of a management plan adopted pursuant to section 6.2.

(6.7-7) Issuance of New Licenses Under Hardship Conditions

- (a) A hardship shall be deemed to exist if a license holder who is actively fishing dies or becomes incapacitated by illness or injury so as to not be able to fish for any period in excess of seven (7) days. A license holder will be considered to have been actively fishing that license if he or she can demonstrate by dated landing slips that they have fished at least fifty (50) days in the year preceding the date that they surrender their license.
- (b) The Department will require proof of hardship in the form of a death certificate or a diagnosis and prognosis of the incapacity of the license holder signed by a medical doctor (M.D. or O.D.).
- (c) Upon verifying proof that a hardship exists, the Department will issue, upon application, a license to a member of the license holder's family who is a Rhode Island resident on a one for one basis. That family member may be designated by the license holder or by mutual agreement among surviving family members if the license holder is deceased. If no such designation has been made or agreement achieved, the license will be issued to a family member by lottery. Transfers will be for the balance of the license year, and are renewable in the case of permanent incapacity or death of the original license holder, or are temporary and only for the duration of a temporary incapacity.
- (d) In the case of a hardship as defined in this subsection and only when a family member does not request that the license be issued to them, the Department may issue one license to a non-related individual, selected by the license holder, or if deceased, the license holder's next of kin.
- (e) Subsequent renewal of any license issued under hardship conditions will be subject to general license renewal requirements and deadlines as set forth in subsection 6.7-3.
- (f) In issuing licenses pursuant to this subsection, the Department may reduce harvest and gear levels where necessary to accomplish the purposes of a management plan adopted pursuant to section 6.2.

(6.7-8) Requests for Reconsideration of License Denials

- (a) Any person whose application for a commercial fishing license was denied by the Office of Boat Registration and Licensing may file a written request for reconsideration with the Commercial Fishing License Review Board.
- (b) Requests for reconsideration must be submitted to the Board in writing c.o. the Office of Boat Registration and Licensing within ten (10) days of receipt of the denial. The request for reconsideration shall state the applicant's name and current mailing address and state the specific reason why the denial is in error with reference to the considerations enumerated in subsection 6.7-8(g).
- (c) The burden of proof shall be on the applicant to demonstrate to the Board that they meet the criteria for issuance of a license.
- (d) A quorum of the Board shall review the denial, the request for reconsideration and additional evidence or testimony under oath or affirmation, if determined to be necessary by the Board.
- (e) The Board shall render a written recommendation to the Office of Boat Registration and licensing within thirty (30) working days of the receipt of the request for reconsideration. The recommendation shall include the specific grounds for its decision and the vote of the Board. A copy of the recommendation will be mailed first class, postage prepaid, to the applicant.
- (f) If a written recommendation is not rendered within thirty (30) working days as set forth above, the preliminary decision of the Office of Boat Registration and Licensing shall become final and subject to appeal pursuant to Subsection 6.7-8(i)
- (g) In reaching its recommendation the Board shall consider:
 - (1) the impact that issuance of the license will have on the fisheries management program overall;
 - (2) equity with other license holders;
 - (3) consistency with prior agency decisions;
 - (4) consistency with management plans;
 - (5) unreasonable hardship to the applicant; and
 - (6) consistency with the purposes of Chapter 20-2.1 of the General Laws of Rhode Island.
- (h) Within ten (10) working days of receipt of the recommendation of the Board, the Office of Boat Registration and Licensing shall issue a written decision affirming, denying or modifying the recommendation of the Board and shall state the rationale therefore. A copy of the decision will be mailed first class, postage prepaid, to the applicant.
- (i) The applicant may appeal the decision of the Office of Boat Registration and licensing to the Administrative Adjudication Division for Environmental Matters pursuant to Rhode Island General Laws §42-17.7-1 et seq. and the procedures set forth in the Administrative Rules of Practice and Procedure of the Administrative Adjudication Division for Environmental Matters.
- (j) The written decisions of the Board and of the Office of Boat Registration and Licensing shall be provided and made part of the administrative record upon appeal to the Administrative Adjudication Division for Environmental Matters.

(6.8) Licenses and Species Endorsements; Resident

(6.8-1) License Endorsements

Any license issued pursuant to these regulations may upon demonstration of eligibility by the applicant be endorsed to allow participation in any of the following fishery sectors at levels established pursuant to section 6.1-2:

- (a) Non-Lobster Crustacean
- (b) Lobster
- (c) Non-Quahaug Shellfish
- (d) Quahaug
- (e) Non-Restricted Finfish
- (f) Restricted Finfish

(6.8-2) Commercial Fishing License

- (a) Applicants must provide proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50), plus twenty-five dollars (\$25) per species endorsement.
- (b) The holder of a Commercial Fishing License may participate in any fishery sector for which he/she holds an endorsement at Basic Harvest and Gear Levels set by the Department pursuant to subsection 6.1-2.

(6.8-3) Principal Effort License

- (a) Applicants must present proof of Rhode Island residency and pay an annual fee of one hundred and fifty dollars (\$150) which entitles them to fish in a single species endorsement category.
- (b) The holder of a Principal Effort License may participate in any fishery sector for which he/she holds a species endorsement at Full Harvest and Gear Levels as set by the Department pursuant to subsection 6.1-2.
- (c) The holder of a Principal Effort License may obtain additional species endorsements to fish other sectors at Basic or Full Harvest and Gear Levels if such endorsements are made available by the Department, provided that he/she may not hold both a Principal Effort and Commercial Fishing License in the same sector. The annual fee for such additional species endorsements is seventy-five dollars (\$75) each.

(6.8-4) Multi-Purpose License

- (a) Applicants must present proof of Rhode Island residency and pay an annual fee of three hundred dollars (\$300).
- (b) At the time of application, applicants must identify the fishery endorsement sector or sectors into which they intend to place significant fishing effort during the license year. This declaration of intent is for informational purposes and is non-binding.
- (c) The holder of a Multi-Purpose License may participate in any open fishery endorsement sector at Full Harvest and Gear Levels as set by the Department pursuant to section 6.1-2.

(6.8-5) Student Shellfish License

- (a) Applicants must present proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50).

- (b) Applicants may be no older than twenty-three (23) years as of February 28 of the license year.
- (c) Applicants must present proof that they are a full-time student in the form of a notarized letter or transcript from the learning institution in which they are enrolled.
- (d) The holder of a Student Shellfish License may participate in the Quahaug and Non-Quahaug Shellfish endorsement sectors at Basic Harvest and Gear Levels.

(6.8-6) Sixty-Five (65) and Over Shellfish License

- (a) Applicants must present proof of Rhode Island residency.
- (b) There is no fee.
- (c) Applicants must be at least sixty-five (65) years old as of February 28 of the license year.
- (d) The holder of an Over Sixty-Five Shellfish License may participate in the Quahaug and Non-Quahaug Shellfish endorsement sectors at Basic Harvest and Gear Levels.

(6.8-7) Gear Endorsements

- (a) The Department will create gear endorsements for licenses issued pursuant to these regulations, which upon issuance will allow for the use of specified types of gear. The Department may, as needed, add to or delete from those endorsement categories. The fee for any endorsement categories so created will be no more than two hundred dollars (\$200) per year.
- (b) In establishing gear endorsements and allowing fishing with such gear, the Department will consider the status of each fishery, levels of participation by existing license holders, the impact of that type of gear on fishing mortality, and the provisions of applicable fisheries management plans and programs.
- (c) Gear endorsement categories shall at a minimum include Fish Trap and Gill Net.
- (d) The Fish Trap Gear Endorsement registers the location of each fish trap for an annual fee of twenty dollars (\$20) per location.
- (e) Gill Net Gear Endorsement allows holders of a Multi-Purpose License or Principal Effort License endorsed for Restricted and Non-Restricted Finfish to set a gill net for an annual fee of twenty dollars (\$20) for each net.

(6.8-8) Vessel Declarations

- (a) Every vessel employed in the commercial fishery must be declared with the Department at the time the owner/operator of such a vessel first applies for or subsequently renews his/her fishing license; or if a license has already been issued, prior to that vessel being used for commercial fishing.
- (b) Each such vessel must be individually and separately declared and the required fee paid.
- (c) The vessel declaration will include the name of the vessel and its owner, its length and horsepower, displacement, registration and/or federal permit number, gear type(s), principal fishery(s), and number of crew.

- (d) The annual fee for a vessel declaration is twenty-five dollars (\$25) per vessel for vessels up to and including twenty-five (25) feet in length, plus fifty cents (50¢) per linear foot for each whole foot over twenty-five (25) feet.
- (e) A declared vessel will be issued a decal, which must be prominently displayed on the port bow.
- (f) Declared vessels that are less than twenty-five (25) feet long may obtain a vessel declaration plate upon payment of an additional annual fee of fifteen dollars (\$15). The vessel declaration of the declared vessel may be temporarily transferred to another vessel less than twenty-five (25) feet long by affixing the aforementioned plate to that vessel. For purposes of this section, "temporary" shall mean not more than sixty (60) days, with one sixty (60) day extension in any given year by permission of the Department.

(6.9) Dealer Licenses

(6.9-1) General Requirements

- (a) No person, partnership, firm, association, or corporation shall barter or trade in any marine fisheries species unless having first obtained a dealer's license as provided for in this section for the applicable fishery.
- (b) Applicant for a dealer's license must demonstrate that they or their registered agent maintain a fixed place of business in the State of Rhode Island at which transaction records will be maintained and made available for inspection during normal business hours.
- (c) Each license is valid for the calendar year in which it is issued upon payment of the required fee.
- (d) A duly licensed dealer may transport any marine species otherwise subject to the requirement that a person transporting such species carry a Rhode Island commercial fishing license so long as that dealer can demonstrate by a bill of lading that the fish in question had been sold by a duly licensed person.

(6.9-2) Multi-Purpose Dealer's License

- (a) This license enables the holder to buy and sell all marine fisheries species that may legally be landed in Rhode Island, but only in the amounts specified by rule.
- (b) The annual fee is three hundred dollars (\$300).

(6.9-3) Finfish Dealer's License

- (a) This license enables the holder to buy and sell all finfish species that may legally be landed in Rhode Island, but only in the amounts specified by rule.
- (b) The annual fee is two hundred dollars (\$200).

(6.9-4) Shellfish Dealer's License

- (a) This license enables the holder to buy and sell all shellfish species that may legally be landed in Rhode Island, but only in the amounts specified by rule.
- (b) The annual fee is two hundred dollars (\$200).

(6.9-5) Lobster Dealer's License

- (a) This license enables the holder to buy and sell all crustacean species, including lobster, that may legally be landed in Rhode Island, but only in the amounts specified by rule.
- (b) The annual fee is two hundred dollars (\$200).

(6.10) Landing Permits; Resident

(6.10-1) General Requirements

- (a) A Landing Permit or a valid Rhode Island Resident Commercial Fishing, Principal Effort, or Multi-Purpose License with the appropriate Species Endorsement(s), but not both, is required to land, sell, or offer for sale any seafood product legally harvested outside of Rhode Island waters.
- (b) The Department will issue a Landing Permit upon proof that a Rhode Island resident holds a valid federal permit(s) to harvest a given species or group of similar species, provided that the landing permit so issued will only allow the landing of those species authorized by said federal permit.
- (c) A Landing Permit is issued to an individual and not a vessel, although the vessel(s), which will generate the landings, must be identified. The landing permit may not be transferred and does not attach to a vessel when it is sold.
- (d) The individual in charge of a vessel subject to this subsection must be in possession of a Landing Permit issued to that individual in order for that vessel to legally enter Rhode Island waters.

(6.10-2) Resident Finfish Landing Permit

- (a) Permits the landing, sale, or offering for sale of finfish species, but only in amounts specified by rule.
- (b) The annual fee for a Finfish Landing Permit is two hundred dollars (\$200).

(6.10-3) Resident Shellfish Landing Permit

- (a) Permits the landing, sale, or offering for sale of surf clams, blue mussels, ocean quahaugs, or sea scallops, including processed products, but only in the amounts specified by rule.
- (b) The annual fee for a Shellfish-Landing Permit is two hundred dollars (\$200).

(6.10-4) Resident Crustacean Landing Permit.

- (a) Permits the landings, sale, or offering for sale of any crustacean species including lobster, but only in the amounts specified by rule.
- (b) The annual fee for a Crustacean Landing Permit is two hundred dollars (\$200).

(6.10-5) Resident Multi-Purpose Landing Permit

- (a) Permits the landing, sale, or offering for sale of any marine fishery species or product, but only in the amount specified by rule.
- (b) The annual fee for a Multi-Purpose Landing Permit is three hundred dollars (\$300).

(6.10-6) Resident Miscellaneous Landing Permit

- (a) Permits the landing, sale or offering for sale of any seafood product not specified elsewhere in this subsection, but only in the amount specified by rule.
- (b) The annual fee for a Miscellaneous Landing Permit is two hundred dollars (\$200).

(6.11) Non-Resident Licenses and Endorsements

(6-11.1) Non-Resident License Endorsements

The requirements of subsection 6.8-1 apply.

(6-11.2) Non-Resident Commercial Fishing License

- (a) Applicants must be at least eighteen (18) years old.
- (b) The holder of a Non-Resident Commercial Fishing License may fish at the levels and for the species specified in subsection 6.8-2, provided that his/her state of residence affords Rhode Island residents the same privilege and in a manner that is not more restrictive.
- (c) It shall be the applicant's burden to prove that his/her state of residence provides Rhode Island residents the privileges referenced in subsection 6.11-2(b) through a certified copy of the relevant regulation. This copy is to be forwarded to the Marine Fisheries section of the Division of Fish and Wildlife for review and approval a minimum of two weeks before a license may be issued.
- (d) The annual fee for a Non-Resident Commercial Fishing License shall be one hundred and fifty dollars (\$150) plus fifty dollars (\$50) per endorsement.

(6.11-3) Non-Resident Principal Effort License; Renewals

- (a) Applicants must have held a Rhode Island non-resident commercial fishing license as of December 31, 2002.
- (b) Applicants may obtain a single fisheries sector endorsement for the fishery for which they were licensed as of December 31, 2002, and will be subject to any other restrictions applicable to the license they held as of December 31, 2002.
- (c) The rights granted applicants pursuant to subsections 6.11-3(a) and 6.11-3(b), above, apply to the 2003 license year only, and then only within the deadlines set forth under subsections 6.7-3.
- (d) All such rights expire as of Midnight, February 28, 2003.
- (e) Applicants must demonstrate that their state of residence complies with subsection 6.11-2(b) as regards treatment of Rhode Island fishers.
- (f) The annual fee for a Non-Resident Principal Effort License shall be four hundred dollars (\$400), plus one hundred dollars (\$100) per endorsement.
- (g) The holder of a Non-Resident Principal Effort License may harvest, land and sell any species of fish for which he/she holds the appropriate endorsement at Full Harvest and Gear Levels established pursuant to subsection 6.1-2.

(6.11-4)Non-Resident Principal Effort License; New

- (a) Consistent with the provisions of subsection 6.7-5(a), the Department may issue new licenses only where a duly adopted management plan finds excess harvesting capacity in a specific fishery endorsement sector.
- (b) New licenses will be made available in the priority order established by law and as further described in subsection 6.7-5(b).

(6-11.5)Non-Resident Vessel Declaration

- (a) Applicants must comply with the requirements of subsection 6.8-8, provided that temporary transfers of vessel declarations between vessels less than twenty-five (25) feet in length are not permitted.
- (b) The fee for a Non-Resident Vessel Declaration shall be fifty dollars (\$50), plus one dollar and fifty cents (\$1.50) for each whole foot over twenty-five (25) feet in length overall.

(6.11-6)Non-Resident Landing Permits

- (a) A Non-Resident Landing Permit is required to land, sell, or offer for sale in Rhode Island any seafood product legally harvested by a non-resident outside of Rhode Island waters.
- (b) The Department will issue a Non-Resident Landing Permit upon proof that an individual holds a valid commercial fishing license issued by his or her state of residence, or a federal permit(s) to harvest a given species or group of similar species, provided that the Landing Permit so issued will only allow the landing of those species authorized by said state license or federal permit.
- (c) The annual fee for a Non-Resident, Non-Restricted Finfish, Shellfish, Crustacean or Miscellaneous Landing Permit is four hundred dollars (\$400), and the annual fee for a Non-Resident, Multi-Purpose landing permit is six hundred dollars (\$600).
- (d) New Non-Resident Landing Permits will only be issued for restricted species if the landing is charged to the quota of the state in which the vessel making the landing is registered or documented; or, if the state where the vessel making the landing is registered or documented allows Rhode Island residents to land against its quota for that species; or, if the Department pursuant to a duly adopted fisheries management plan determines there to be excess harvesting capacity in the Rhode Island commercial quota for that species.
- (e) Renewal of Non-Resident Landing Permits for restricted species are considered to be new permits subject to the provisions of subsection 6.11-6(c) unless the applicant can show evidence of Rhode Island landings of more than one thousand pounds of that species per year in four of the five years preceding the application. Having made that demonstration, a holder of a Non-Resident Landing Permit for a restricted species who held that permit as of December 31, 2002 may renew it annually as set forth herein.
- (f) If a non-resident vessel is upgraded by twenty percent (20%) or more in length, displacement or horsepower, renewal of a Landing Permit for a restricted species will be considered a new permit application, issuance of which is subject to the requirements of subsection 6.11-6(c).

- (g) Transfers of Non-Resident Landing permits are prohibited and do not attach to a vessel upon its sale.

(6.12) Exceptions

If the operator of a vessel carrying seafood products notifies the Division of Law Enforcement at least four hours before entering Rhode Island waters that he/she intends to dock in a Rhode Island port for specified purposes other than landing, selling, or offering that seafood for sale, and if permission to do so is first obtained from the Division of Law Enforcement, no landing permit is required.

(6.13) Penalties

(6.13-1) Violations

- (a) Violations of these regulations may subject the violator to the revocation or suspension of any license, endorsement or permit issued pursuant thereto.
- (b) Revocations or suspensions may be appealed to the Administrative Adjudication Division.

(6.13-2)False Statements

- (a) Any person who willfully misrepresents any fact or facts required to be provided in support of any license, endorsement, or permit application provided for herein, or who is party to such willful misrepresentation, shall be punished by a fine of not more than fifty dollars (\$50).
- (b) Any license, endorsement, or permit obtained as a result of such false statements or misrepresentations shall be null and void and shall be surrendered to the Department forthwith.
- (c) No new license, endorsement, or permit may be issued to any violator of this section for a period of one (1) year from the date that penalties are imposed.

(6.13-3)Alterations, Forgeries and Counterfeits

- (a) Any person who falsely makes, alters, forges, or counterfeits, or who causes to be falsely made, altered, forged or counterfeited, a license, endorsement, or permit issued pursuant to these regulations, or who shall have in his or her possession such a license, endorsement, or permit, knowing it to be false, altered, forged or counterfeit is guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) and imprisonment for not more than ninety (90) days, or both.
- (b) No new license endorsement or permit may be issued to any violator of this section for a period of one (1) year from the date that penalties are imposed.

(6.13-4)Failure to Present a License

Holders of any type of commercial fishing license must have them on their person while fishing and must present them for inspection upon request by individuals authorized by the Director. Refusal to present a license is subject to the same penalties as fishing without a license.

RULE 7. SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

THE 2002 COMMERCIAL FISHERIES MANAGEMENT ACT

Explanation: This section includes a copy of the 2002 Act, which establishes a new commercial fisheries licensing process and management system. It serves as the basis for the proposed regulations that the Department is submitting for the Council's review and comment.

2002 -- 2771 SUBSTITUTE A

=====

LC01698/SUB A/3

=====

<http://www.rilin.state.ri.us/PublicLaws/law02/law02047.htm>

GUIDANCE: THE MARINE FISHERIES MANAGEMENT PROCESS

Explanation: This guidance document is included to assist the Marine Fisheries Council in tracing the relationship between the statutory requirements of the 2002 Commercial Fisheries Management Act and provisions of the Department's proposed implementing regulations. It is organized by general subject area and describes the specific requirements of the statute in something approximating plain English. The numbers in parenthesis after each requirement are for reference purposes; the first number indicating the page in the bill, the second number the beginning line of the citation, and the third number the closing line.

GUIDANCE:

THE MARINE FISHERIES MANAGEMENT PROCESS

A. Powers and Duties:

1. Regulate the use and design of gear (8-14) (17-19), and identification of gear. (17-14)
2. Limit the amount of gear that may be employed. (8-15)
3. Restrict where fishing can take place (8-16), by fishery, where it may be prohibited, where it may be limited. (17-19, 20)
4. Limit effort and/or catch by type of license or endorsement. (17-12, 13)
 - a. Set basic harvest and gear levels: (8-22-26)
 - (1) Fishery specific
 - (2) Consistent with state or federally sanctioned management plans/programs
 - (3) Provide the maximum (?) level of participation possible under such plans/programs
 - b. Set full harvest and gear levels: (9-12-17)
 - (1) Same as above, but higher levels
 - c. Create fishery specific endorsements: (8-34-9-1-7)
 - (1) To be established annually based on:
 - a. Status of each fishery
 - b. Participation levels of existing fisheries
 - c. Provisions of applicable management plans
5. Restrict when fishing can take place (8-16), times and seasons by species (17-20, 21)
6. Restrict/limit access/entry, restrict the number of license holders (8-18; 17-22, 23)
 - a. Particularly where there is "adequate" or "greater than adequate" harvesting capacity, and
 - b. For which either a "total allowable catch" has been set or a "total allowable level of fishing effort" has been established "for the purpose of preventing overfishing" or "the dissipation of the economic yield" from the fishery (19-32-20-2)
 - c. Different "levels of access" can be provided to license holders or "potential" license holders based on : (20-4-6)
 - (1) Past performance (participation)
 - (2) Dependence on the fishery
 - (3) Other criteria
7. Set "control dates" prospectively for following purposes (20-7-12):
 - a. Participants in a fishery who enter before that date may be treated differently than those who enter after as regards:

- (1) Participation levels
 - (2) Entrance
 - (3) Increases (level of) in effort
8. Establish quotas and limitations on catch and landings (8-17; 20-13-15):
- a. By type of license
 - b. By endorsement
 - c. For both "Basic Harvest and Gear Levels" and "Full Harvest and Gear Levels"
 - d. May be "allocated proportionately" (?) among license holders, as needed
9. When vessels and gear are sold or transferred we may restrict the subsequent use of that gear in R.I. waters in order to accomplish the purposes of a "duly adopted" management plan or duly adopted " plan to reduce effort" (14-27-30)

B. Factors To Be Considered By Managers:

- 1. The effect of any measure on Rhode Islanders' access to the fishery (17-32, 33). We are to provide residents who wish to fish an opportunity to do so. (7-28)
- 2. The effectiveness of any proposed limitation in achieving fisheries conservation or restoration goals and requirements. (18-2, 3)
- 3. Effectiveness in reducing by-catch, discards, mortality in by-catch discards. (18-4-6; 19-4-5)
- 4. Improving "efficiency in utilization" of fisheries resources (18-4-6)
- 5. Impact of measure on persons (already) in fishery (18-9-16). We are directed to respect the interest of license holders to continue to fish "in a manner that is economically viable." (8-2, 3) We may not eliminate the ability to fish commercially of any existing license holder. (8-4-6). In developing management measures, we are to consider (18-9-16):
 - a. Present participating ranges(?) and average levels (?) by different types or classes of participant
 - b. Historical practices in the fishery
 - c. Historical dependence on the fishery
 - d. Economics of the fishery
 - e. Impacts on safety of life at sea (19-6-7)
 - f. Cultural and social framework of the fishery and affected communities, importance of fishery resources to fishing communities, minimize adverse impacts on (fishing communities). (19-1-3)
- 6. We are to "preserve and enhance" full-time commercial fishing "with a high degree of owner operated vessels" as "a way of life" and "significant industry." (8-7-9)
- 7. Any other "relevant" considerations. (18-17)
- 8. Measures must prevent overfishing while achieving "optimum yield" from each fishery on a continuing basis. (8-21, 22)
- 9. We must employ best science available. (18-23, 24)
- 10. We must consider the ecological, economic and social consequences of our actions on the fishery as a whole. (18-24, 25)
- 11. While we must consider efficiency in the utilization of the fishery resource, no measure can have "economic allocation" as its sole purpose. (18-26-28)

12. We must take into account and allow for "variations" among and contingencies" in fisheries and catches. (18-31, 32)

MARINE FISHERIES MANAGEMENT PROCESS (Cont.'d)

C. Procedural Requirements for Developing Management Plans: (20-16-21)

1. Plans for the conservation and management of the fishery resources of the state must be adopted through rule making.
2. Advice (review) of RIMFC required as part of rule making.
3. Conservation and Management plans shall be adopted "prior to and at the same time as"(?) adoption of any license restrictions on effort or catch. (This is problematic for year one (beginning January 1, 2003))
4. In developing such plans, priority shall be given to resources "with the highest value" to the state either for commercial or recreational purposes.

D. Rule Making: (19-8-24)

1. Must conform to APA.
2. Must be consistent with regulatory agenda for fisheries management
3. Must be submitted to RIMFC for their review and recommendation at least sixty days prior to date scheduled for DEM hearing.
4. RIMFC may recommend that a proposed rule be modified or withdrawn.
5. DEM hearing may be on either on rule as originally proposed or on revision proposed by RIMFC.
6. Both rule as originally proposed and RIMFC's recommendations are to be entered into hearing record.
7. Findings required to support: (19-25-28)
 - a. A statement of the principal reasons for and against adoption.
 - b. A response to positions entered into the hearing record.

E. Emergency Rules: (19-20-24; 19-27, 28)

1. Director may promulgate rules with less than sixty day notice to RIMFC in the following circumstances:
 - a. If, and to the extent necessary to comply with federal requirements.
 - b. To respond to "sudden developments" where delay would likely harm fishery resources or "participants."
2. The reasons necessitating immediate action must be stated in the Director's decision.

F. Annual Report: (20-22-25)

1. For General Assembly and citizens
2. Concerning conservation and management of state's fisheries resources, "noting particularly the status of any fishery resources that are considered to be overfished or were considered to be overfished in the preceding year."

LICENSING

A. Types of License and Fees

1. Commercial Lobster License (\$200/yr.): (3-21, 22)
 - a. Residents only
 - b. R.I. registered boats only
2. Non-Commercial (Lobster) Pot License (\$40/yr.): (3-23, 24)
 - a. Residents only
3. Non-Commercial (Lobster) Diver License (\$40/yr.): (3-25, 26)
 - a. Residents only
4. Seller (Lobster) License (\$200/yr.): (3-27)
5. Dealer (Lobster) License (\$200/yr.) (3-33, 34)
6. Commercial Fishing License (\$50/yr., \$25/endorsement): (12-7-11)
 - a. Residents only
 - b. Allows participation in fisheries sectors by endorsement at "basic harvest and gear levels"
 - c. "Basic harvest and gear level" is the "maximum" level of participation consistent with state or federal management plans or programs. (8-23-26).
 - d. Endorsement categories: (8-34; 9-1-7)
 - (1) Non-Lobster Crustacean
 - (2) Lobster
 - (3) Non-Quahog Shellfish
 - (4) Quahog
 - (5) Non-Restricted Finfish
 - (6) Finfish
 - (7) Others (by rule-making)
7. Principal Effort License (\$150/yr; \$75/endorsement): (12-12-22)
 - a. Residents only
 - b. May only be obtained by individual who possessed a valid commercial fishing license as of 12/31/02.
 - c. May only be obtained for fishery sector (endorsement category) for which an individual was licensed as of 12/31/02.
 - d. Allows participation in that sector at "full harvest and gear levels."
 - e. May obtain additional endorsements to fish other sectors at full harvest and gear levels if and when they are made available (by DEM).
 - f. May not obtain both Commercial and Principal Effort License (double-dip) for same sector.

8. Multi-Purpose/Multi-Species License: (\$300/yr.) (12-23-29)
 - a. Residents only
 - b. May only be obtained by individuals who possessed a valid Multi-Purpose Species license as of 12/31/02.
 - c. Allows holder to fish all fisheries sectors at "full harvest and gear levels."
 - d. License must accommodate a non-binding declaration by the applicant identifying in which fishing sector(s) he/she intends to "place significant fishing effort" during the license year.

9. Student Shellfish License (\$50/yr.): (12-31-33)
 - a. Residents only
 - b. Must be maximum of 23 yrs. old
 - c. Must be full-time student and provide proof
 - d. Allows the "taking of shellfish."

10. Student Commercial Fisherman: (9-20, 21)
 - a. Resident
 - b. Maximum of 23
 - c. No fee set
 - d. This category is included only in definitions. It may refer to Student Shellfish License (?)

11. Over Sixty-Five Shellfish License (No fee): (12-34-13-2)
 - a. Resident only.

12. Vessel Declaration: (13-4-18)
 - a. To be obtained (filed) by a vessel owner or operator at time of license renewal, or if license has already been issued, before the vessel is employed in commercial fishing.
 - b. A separate Declaration must be obtained for each such vessel.
 - c. Information to be provided: (10-23-27)
 - (1) Name of vessel
 - (2) Length
 - (3) Horse power
 - (4) Registration #
 - (5) Federal permit #
 - (6) Gear type(s)
 - (7) Principal fishery(s)
 - (8) Average projected crew size
 - d. Declaration for vessel of twenty-five feet or less may be transferred temporarily to another vessel not more than twenty-five feet long so long as that other vessel is identified as a commercial fishing vessel by the display of a (license) "plate."
 - e. Those filing an application (and paying a fee) will be issued a decal (to be displayed on the vessel)

- f. Holders of decals for vessels not more than twenty-five feet long may obtain a (license) plate that can be transferred to another vessel per above.
 - g. Fee for Declaration is \$25 for first twenty-five feet of length, plus 50¢ foot for each additional whole foot (annual).
 - h. Fee for plate is \$15 per year.
13. Shellfish Dredging License (\$200/yr.): (13-20-22)
- a. Residents only
 - b. Allows quahogs, mussels, surf clams to be harvested by dredges hauled by a power boat
14. Fish Trap License (\$20/yr.): (13-23, 24)
- a. Required for each trap location
15. Gill Net License (\$20/yr.): (13-25-28)
- a. Must first obtain a Multi-Species License or a Principal Effort License endorsed for finfish
16. Miscellaneous Gear Licenses: (13-29-34)
- a. May be established by rule for "specific" fisheries and gear.
 - b. Residents only
 - c. Fee not to exceed \$200/yr.
17. Non-Resident Commercial Fishing License (\$150/yr., \$50/endorsement): (15-28-16-16)
- a. Same requirements as for resident, except:
 - (1) Minimum age set at 18.
 - (2) Provided that applicant's state of residence "affords the same privilege in a manner that is not more restrictive to R.I. residents."
 - b. Allows participation at Basic Harvest and Gear Level.
 - c. New licenses to fish for species that are subject to "restrictions or quotas" may be issued on a "species specific" reciprocal basis. (16-15-20)
18. Non-Resident Principal Effort License (\$400/year, \$100/endorsement): (14-3-15-21)
- a. Same requirements as for resident, except:
 - (1) Reciprocity language as above.
 - b. Subject to any license restrictions that were in place as of 12/31/02, which may be changed by management plans.
 - c. New licenses may be issued:
 - (1) In accordance with applicable "qualifying criteria."
 - (2) Per adopted management plan.
 - (3) Reciprocity language as above.
 - d. Renewals conditioned on reciprocity.
 - e. New licenses for quotas species subject to restrictions as above.
19. Non-Resident Vessel Declarations: (16-8-14)

- a. Same requirements as for residents
 - b. Fees: \$50 for up to twenty-five feet, \$1.50 per additional whole foot.

- 20. Non-Resident Landing Permit (\$200/yr.): (16-21-26)
 - a. For any "non-quota" species harvested outside of R.I. waters.

- 21. Multi-Purpose Species Dealer License (\$300/yr.): (16-29-31)
 - a. Residents only
 - b. May deal in all "marine products."

- 22. Finfish Dealer License (\$200/yr.): (16-32-34)
 - a. Residents only
 - b. May deal in all finfish species

- 23. Shellfish Dealer License (\$200/yr.): (17-1-3)
 - a. Residents only
 - b. May deal in all shellfish species

- 24. Commercial Landing Permits
 - a. General requirements: (24-24-28)
 - (1) Must be obtained by a vessel operator for each "named" vessel.
 - (2) Required for a vessel to "land, sell or offer for sale" any seafood products harvested outside of state waters.
 - (3) Must present evidence of having a valid state or federal commercial fishing license.
 - (4) New Non-Resident Landing Permits may not be issued unless:
 - (a) Landings are charged to the species quota assigned to the non-resident's home state; or
 - (b) Non-resident's home state issues new licenses to R.I. fishermen to land against its quota for that species; and
 - (c) Applicant demonstrates to the satisfaction of the Director historic participation and landings of the species (in R.I.); and
 - (d) Landing vessel must be same or, if upgraded, may be no more than 20% larger in length, displacement or horsepower than vessel it replaces.

 - b. Categories of Landing Permits:
 - (1) Resident Finfish Landing Permit (\$200/yr.)
 - (a) For "non-restricted" (quota) species, as defined by rule (25-22-26)
 - (2) Non-Resident Finfish Landing Permit (\$400/yr.)
 - (a) As above
 - (3) Resident Shellfish Landing Permit (\$200/yr.)
 - (a) For surf clams, blue mussels, ocean quahogs, sea scallops harvested in "federal waters."
 - (4) Non-Resident Shellfish Landing Permit (\$300/yr)
 - (a) As above

- (5) Resident Multi-Purpose (Species) Landing Permit (\$300/yr.)
 - (a) For all Marine products except "restricted" (quota) finfish, as defined by rule
- (6) Non-Resident Multi-Purpose Landing Permit (\$600/yr.)
 - (a) As above.
- (7) Resident Miscellaneous Landing Permit (\$200/yr.)
 - (a) For all other seafood products not specified
- (8) Non-Resident Miscellaneous Landing Permit (\$100/yr.)
 - (a) As above

Note: It's unclear how a resident can legally land a quota species harvested outside of state waters. There does not appear to be an appropriate category of landing permit provided for.

25. Commercial Aquaculture License (\$200/yr.):

- a. Required to sell aquaculture products to licensed dealers
- b. Issued on calendar year basis
- c. Allows "taking, possession, sale, importation and transportation" of aquaculture species.

B. General Licensing Requirements and Provisions

- 1. License must be signed by holder to be valid (9-31)
- 2. License may not be transferred except where otherwise provided for. (9-33-10-2)
- 3. Information required: (10-16-20)
 - a. Name
 - b. Age
 - c. Occupation
 - d. Residence
 - e. Mailing address
 - f. Weight
 - g. Height
 - h. Hair color
 - i. Eye color
 - j. Other information as may be required by regulation
- 4. Must be "sworn."
- 5. Fee must be paid.
- 6. Applications for licenses must be post-marked or made (in person) by close of business on February 28 of each year, for that year. (10-29-11-1)
- 7. DEM must notify all license holders in writing by November 1 of any year that their license expires on December 31 and must be renewed by February 28 (if they wish to fish during the year beginning on January 1). (11-1-3)
- 8. No licenses may be issued after February 28 unless submitted in compliance with 6, above. (10-33, 34)
- 9. Lost or accidentally destroyed licenses will be replaced for a fee of \$10. The application must be accompanied by an affidavit explaining the circumstances of the loss. (11-4-8)
- 10. Since current license renewals expire at midnight on December 31, 2002, we need to either:
 - a. Be prepared to issue new licenses well before current ones expire, or

- b. Provide for current licenses to run through February 28, 2003 to give current holders time to renew

C. Appeals To License Denials By A Commercial Fishing License Review Board

- 1. Board created: (21-10-18)
 - a. "In" DEM
 - b. Five members; staggered five year terms
 - c. Appointed by Governor with Senate approval
 - d. Members:
 - (1) Three commercial fishermen, one from each sector
 - (2) One person "with professional knowledge of fisheries management."
 - (3) Lawyer with five years of experience, environmental "expertise," serves as Chair
 - e. Quorum of three
- 2. Appeals process:
 - a. Request for reconsideration must be filed within ten days of denial. (21-23, 24)
 - b. Burden is on applicant to prove "that they meet the criteria for a license." (21-28, 29) (This seems much more restrictive than the long list of mitigating factors that the Board is authorized to consider.)
 - c. Board issues written recommendation to Licensing Office within thirty days of receipt of request and must state specific grounds for its decision and vote. (21-30, 31)
 - d. Licensing Office must issue a written decision affirming, denying or modifying the Board's recommendation, which must explain its reason for doing so (21-33-22-1)
 - e. Further appeal to A.A.D. permitted.
- 3. Reconsideration criteria: (21-25-28)
 - a. Impact of issuance on "overall fisheries management program"
 - b. "Equity" with other license holders
 - c. Consistency with prior agency decisions
 - d. Consistency with (fisheries) management plans
 - e. "Unreasonable hardship" to applicant
 - f. "Consistency with the purposes of the act"

D. Transfer of Licenses

- 1. Transfer upon sale of vessel and/or gear: (14-5-9)
 - a. Seller must first retire his/her license and surrender it to the state. (14-15-17)
 - b. DEM "shall" issue a new license to the purchaser of the vessel and or gear whose previous owner has surrendered his/her license, provided that:
 - (1) The purchaser has held a lower (or same?) level of license for at least two years; or (?)
 - (2) Is a family member or crew of the retiring license holder; and
 - (3) The transfer does not increase the total number of licenses in "a fishery subject to effort or catch restrictions."
 - c. DEM may restrict "the subsequent level of use of the gear to: (14-27-30)
 - (1) Accomplish the purpose of a duly adopted management plan, or

- (2) Other duly adopted program to reduce effort.
2. Transfer in case of hardship:
- a. Transfer to a family member: (14-18-22)
 - (1) License being transferred must be held by an individual "who has actively participated in (the) commercial fishery." (Does this require that the license is being actively fished at the time of the "hardship"?)
 - (2) "Hardship" is defined as "incapacity or death" of the license holder. "Incapacity" is not further defined.
 - (3) "Family member," is defined as including spouse, mother, father, brother, sister, child or grandchild of transferor.
 - (4) Transfer is effective upon "registration" with DEM. (mandatory)
 - b. Transfer to others by "Operator Permit": (14-22-26)
 - (1) Same conditions as set forth under (1) and (2), above.
 - (2) Purpose is to allow "for the continued operation of a fishing vessel."
 - (3) Subject "at a minimum" to the same conditions and restrictions that applied to (original) License holder. (Suggests that license can be downgraded?)
 - (4) Since no other qualifying criteria for transferee are set forth, it would appear that license can be transferred to anybody, at transferor's discretion (?)
 - (5) DEM "shall" make available. (mandatory)

E. Issuance of New Licenses

- 1. Commercial Fishing License (Basic Harvest and Gear Levels):
 - a. No statutory guidance provided.
- 2. Principle Effort and Multi-Purpose Licenses (Full Harvest and Gear Levels); (14-1-14)
 - a. "Priority" assigned to applicants who have held a lower level of license for two years or more
 - b. "Preference" assigned to members and crew of a retiring license holder. (Are the "preferred" applicants a subset of the "priority applicants?") Is there significance to the terms "priority" as opposed to "preference?")
 - c. Conditions precedent to increasing the number of licenses in a fishery: (14-1014)
 - (1) Must be supported by rule-making;
 - (2) Must be consistent with a management plan in effect as of January 1 of the year in question;
 - (3) Must be based on the "status of the resource;"
 - (4) Must be based on the "economic condition" of the fishery.

Note: This is problematic for year one (January 1, 2003).
 - d. Priority to R.I. residents. (14-13, 14)

F. Penalties/Sanctions:

- 1. Suspension/Revocation: (11-16-21)
 - a. For violations of "this chapter" and regulations adopted pursuant thereto.

- b. For violations of rules "pertaining to commercial fishing" adopted pursuant to this Title
 - c. For violations of rules pertaining to reporting data adopted pursuant to this Title.
 - d. Appeals per Administrative Procedures Act. (A.A.D. would hear appeals. Commercial Fishing License Review Board does not appear to have jurisdiction.)
2. False statements: (11-22-29)
- a. Must be willful
 - b. Applies to identification and "other facts" on license.
 - c. \$50 fine
 - d. License becomes null and void and must be surrendered for one year after imposition of penalty. No new license may be issued during that period.
3. Alterations, Forgeries, Counterfeits: (11-30-34)
- a. Are misdemeanors subject to fine of not more than \$500 and/or imprisonment of up to ninety days (20-1-16)
 - b. Applies equally to act and "knowingly" possessing.
4. Aquaculture
- a. Taking, possession, importation of species used in aquaculture without a "permit issued by the Director" is a misdemeanor subject to a fine of not more than \$500 and/or imprisonment of not more than one year. Product may be "forfeited to the state." (27-7-11)
 - b. Activities "in excess" of those authorized by permit is a misdemeanor subject to a fine of not more than \$1,000 and/or imprisonment of not more than one year. Gear and product subject to forfeiture. (27-21-25)
 - c. Damaging, disturbing or interfering with aquaculture operation or cultivated species or stealing cultivated species is a misdemeanor subject to a fine of not more than \$1,000 and/or imprisonment of not more than one year. Vessel, gear subject to forfeiture (27-26-33)

ENFORCEMENT/INSPECTION

- A. Identification of Commercial Fishing Vessels: (9-28-30)
 - 1. Vessel must have been "declared" on license
 - 2. Vessel must display a decal or (license) plate.

- B. Inspection Authority: (10-4-10)
 - 1. License holder is deemed to have consented to the "reasonable inspection" by the Director's agents of any boat, gear, vehicles, structures "used in conjunction with" the licensed activity.

- C. Display of License: (10-11-15)
 - 1. Licensee must carry license on their person while fishing
 - 2. Licensee must present license on demand to authorized person.
 - 3. Refusal to present a license is subject to the same penalties as fishing without a license.

- D. Landing Permits, Exception: (25-15-19)
 - 1. A commercial fishing vessel with "seafood products" on board and which does not have a landing license may enter R.I. waters and be secured to a dockside facility for purposes other than landing, selling or offering for sale such products so long as permission has first been obtained from the Division of Law Enforcement.

- E. Dealers Exempted: (9-26-28)
 - 1. A duly licensed dealer may transport species covered by the requirement to hold a commercial fishing license so long as it has "previously been sold by a duly licensed person."

- F. Scallops, Season: (26-7-13)
 - 1. Open season applies to "free and common" fishing only

- G. Minimum Size of Shellfish: (26-14-30)
 - 1. Size limits set by statute apply to "free and common" fishery only, except for quahogs.

POWERS AND DUTIES OF RIMFC

- A. Powers: (20-26-21-2)
 - 1. Advise the Director on all rules, except emergency rules.
 - 2. Advise Director on development of a marine fisheries regulatory agenda.
 - 3. Advise Director on annual plans for the use of funds generated by licensing program.

4. Can establish committees, conduct meetings and hearings.

B. Industry Advisory Committee Created: (21-3-8)

1. To be established by RIMFC

2. Purpose:

a. To provide coordination among fisheries sectors;

b. To review plans and recommendations that affect more than one sector;

c. To advise on matters that affect commercial fishing "as a whole."

3. To include representatives of each commercial fisheries sector and of each "manner" of commercial fishing.

DATA COLLECTION

A. Purpose:

1. Licensing system should "facilitate" data collection and management to allow for more "efficient" and "effective" (fisheries management (8-19, 20)

B. Reporting Required:

1. Licensees are "deemed to have consented" to reporting requirements established by this Title. (10-4-10) (where are they?)
2. I found no other language regarding data collection in the Act.

ALLOCATION AND USE OF FUNDS

- A. \$200,000 "Set Aside": (4-5-16)
1. Beginning on July 1, 2003, \$200,000 in license and vessel fees is to be allocated for:
 - a. Fishery conservation and restoration; and
 - b. Resource "enhancement"
 2. Must be allocated according to an annual plan adopted by DEM with the advice of RIMFC.
- B. Remainder of Receipts: (4-18-26)
1. May be spent for:
 - a. Protection and propagation
 - b. Enforcement
 - c. Shellfish transplants
 - d. Enhancing shellfish resource through other technologies including seeding
 - e. Fishing port development and construction
 - f. Staff support of and expenses incurred by RIMFC
 - g. Lease and purchase of land, conservation easements
 - h. Technical support to and expenses incurred by DEM for the collection, processing, analysis and maintenance of data for fisheries management.

TIMELINES

December 31, 2002:

- Moratorium expires
- Management plans for and specific measures to manage any fishery which requires access, effort or other controls or restrictions (not already reflected in current regulations) must be in place, and must have been developed by rule making
- New licenses must be available for current license holders and new entrants to any fisheries or license categories where new entry is to be permitted.

December 11, 2002:

- Absolute last day that management plans and regulations have to be filed with Secretary of State to allow for twenty days delay in becoming effective per APA.

November 27, 2002:

- Last day that a public hearing on management plans and regulations could be held, assuming that we allow ourselves two weeks to review and respond to hearing record. Additional response time requires moving date of hearing up.

September 27, 2002:

- Last day that proposed management plans, management regulations, and licensing regulations could be communicated to RIMFC and still provide them the sixty (60) day notice before hearing required by law.

PROPOSED FEES

Explanation: Two tables are included in this section:

Table 1: Identifies all fees set by the new Act.

Table 2: Compares fees for various representative sizes and types of fishing vessels under the new fisheries Act as opposed to those being charged currently.

Fees, Endorsements, Declarations, Permits (Annual) As of January 1, 2003

Resident License Categories	Species Endorsements							Vessel Declarations		Gear Endorsements			Landing Permits				
	Base Fee	Non-Lobster Crustacean	Lobster	Non-Quahog Shellfish	Quahog	Non-Restricted Finfish	Restricted Finfish	Declaration	Transfer Plate (<25 feet)	Fish Traps	Gill Net	Misc	Finfish Landing	Shellfish Landing	Crustacean Landing	Multi-purpose landing	Misc Landing
Finfish Dealer (P. 16, Lines 32-34)	\$200																
Shellfish Dealer (P. 17, Lines 1-3)	\$200																
Lobster Dealer (no specific authority)	\$200																
Non-Resident License Categories																	
Commercial Fishing License (P. 15, Lines 24-27)	\$150	\$50		\$50		\$50	\$50	\$50, plus \$1.50 /ft. over 25 ft.		\$20 per trap	\$20	\$200 max.	\$400	\$400	\$400	\$600	\$400
Principal Effort (P. 14, Line 38 - P. 15, Line 23)	\$400	\$100		\$100		\$100	\$100	\$50, plus \$1.50 /ft. over 25 ft.		\$20 per trap	\$20	\$200 max.	\$400	\$400	\$400	\$600	\$400

Table 2

**Resident
Commercial Fishing License;
Fee Comparisons**

<u>Example:</u> 80' Offshore Boat (Federal Zone)			
Now		January 1, 2003	
Multipurpose		Multi-purpose	\$300.00
		Vessel Declaration	<u>\$ 52.50</u>
	\$300.00		\$352.50
Lobster		Principal Effort/Lobster	\$150.00
		Vessel Declaration	<u>\$ 52.50</u>
	\$200.00		\$202.50
Finfish		Principal Effort/Finfish	\$150.00
		Vessel Declaration	<u>\$ 52.50</u>
	\$200.00		\$202.50
Federal Permit only Landing Permit		Landing Permit `	\$200.00
		Vessel Declaration	<u>\$ 52.50</u>
	\$200.00		\$252.50
<u>Example:</u> 25' In-shore Boat			
Now		January 1, 2003	
Multi-purpose		Multi-purpose	\$300.00
		Vessel Declaration	\$ 25.00
		Transfer Plate	<u>\$ 15.00</u>
	\$300.00		\$340.00
Rod & Reel		Principal Effort/Finfish	\$150.00
		Vessel Declaration	\$ 25.00
		Transfer Plate	<u>\$ 15.00</u>
	\$200.00		\$190.00
Lobster		Principal Effort/Lobster	\$150.00
		Vessel Declaration	\$ 25.00
		Transfer Plate	<u>\$ 15.00</u>
	\$200.00		\$190.00
Shellfish		Principal Effort/Shellfish	\$150.00
		Vessel Declaration	\$ 25.00
		Transfer Plate	<u>\$ 15.00</u>
	\$200.00		\$190.00

Example: 50' Near Shore Boat

Now

Multipurpose
\$300.00

Finfish
\$200.00

Lobster
\$200.00

January 1, 2003

Multi-purpose \$300.00
Vessel Declaration \$ 37.50
\$337.50

Principal Effort/Lobster \$150.00
Vessel Declaration \$ 37.50
\$187.50

Principal Effort/Finfish \$150.00
Vessel Declaration \$ 37.50
\$187.50

MANAGEMENT PLAN FOR SHELLFISH

This Management Plan evaluates the status of the shellfish resource with an emphasis on quahaugs, and recommends options for restoring stocks to sustainable levels.

It does not include an analysis of the relative socio-economic impacts of recommended management options, which is proposed to be conducted by the University of Rhode Island.

**Commercial Fishing License Restructuring Implementation,
Shellfish Fishery Sector**

**Source Document for RI Marine Fisheries Council, Shellfish Advisory
Panel, and Public Hearing Proceedings**

**Rhode Island Department of Environmental Management
Division of Fish and Wildlife
Marine Fisheries
3 Ft. Wetherill Road
Jamestown, RI 02835
August 2002**

Commercial Fishing License Restructuring Implementation, Shellfish Fishery Sector

Bay Quahaug Endorsement:

Stock Status- The quahaug resource in Narragansett Bay is currently fully exploited with biomass below that needed to produce maximum sustainable yield (MSY). A non-equilibrium production model is used by the Rhode Island Division of Fish and Wildlife (RIDFW) to assess the overall stock in Narragansett Bay (Gibson 1999). The assessment was updated in 2002 to incorporate new landings and survey data and to adjust nominal license effort for active participants. The adjustment, based on RIDFW boat counts and analysis of dealer landing slips, eliminates latent effort from the calculations. The new results indicate that stock biomass in 2001 was only about 60% of that needed to support MSY (Figure 1). Fishing mortality rates (F) have declined over the past decade and in 2001 were at the $75\% F_{msy}=0.20$ target and below the $F_{msy}=0.26$ over fishing definition (Figure 2).

Recent low biomass follows an extended period of heavy over fishing and was likely exacerbated by an increase in predators of benthic invertebrates. The reduction in F in recent years is related to declining effort (Figure 3). Because of the low stock levels, landings are currently well below the MSY level for a rebuilt stock (Figure 4). Projections indicate that the stock can increase in biomass at a moderate rate if F remains at current levels (Figure 5).

While the assessment is on a bay wide basis, resource status may vary spatially within the overall stock area depending on intensity of harvest, proximity to protected spawning beds, and hydrodynamic conditions which disperse larvae. The distribution of quahaugs in the bay is patchy and the fishery selectively exploits patches of higher value product (new recruit necks) as they appear. Because of these factors, the bay wide assessment represents an average condition not necessarily those at a local level.

Management Program- Quahaugs are managed entirely within state waters by the Department of Environmental Management with advice from the Rhode Island Marine Fisheries Council. The Department, through the RIDFW, uses a series of management areas and a rotational transplant/harvest system to manage the resource. Permanent and conditional pollution closures restrict the fishery in addition to seasons, possession limits, and management closures.

Fishery Management Goals and Objectives-

Goals and Objectives- *To be added*

Bay wide fishing mortality rates (F) should be maintained at the target level and below the F_{msy} over fishing definition to allow for biomass rebuilding. This will require maintaining effort at current levels, effectively capping participation. The rotational harvest and transplant/spawner sanctuary program should be expanded to include more areas. Recent boat counts and analysis of dealer landings slips indicate that about 350 active shell fishers prosecute the quahaug fishery. Gibson (1999) recommended a target fishing mortality rate equal to 75% of the F_{msy} value to preserve an adequate level of spawner biomass in the face of uncertainty. Since current active effort is sufficient to generate F at the target level on a bay wide basis, additional effort will move the fishery toward the over fishing level and reduce the rate of biomass rebuilding. New licenses will essentially compete for a limited yield with current licenses.

Licensing Options and Recommendations-

Current shell fishers using multipurpose or shell fishing licenses are eligible for the new multipurpose and principal effort/shellfish endorsement licenses. These license holders would be entitled to the commercial limits specified in existing regulations (12 bushels state wide, 3 bushels in management areas.)

New entrants, eligible under the basic harvest license, can be limited by the number of licenses issued and the harvest level authorized. Harvest level can be managed through season and possession limit. Various combinations of season length and possession limits for new basic licenses can be envisioned and translated into equivalent existing effort units assuming proportionality of the product of limit per day and number of allowable fishing days. Through the assessment-projection model, one can evaluate the impact of various new effort levels to future resource status and fishery performance. In order to offset new effort additions, additional restrictions would be needed on current participants. Examples are given below and many other permutations are possible.

Option One- Status quo effort, no new licenses, no change in current regulations. Results are shown in Figure 5. The fishery is maintained at target F level, stock rebuilds to B_{msy} in six years.

Option Two- 10% addition of new effort over current levels. This amounts to 175 new licenses limited to a May 1 to November 30 season with a 3 bushel statewide possession limit and a 1.5 bushel management area possession limit. F rises to 0.22

which is above the management target but below the over fishing definition. Biomass rebuilds to B_{msy} in seven years (Figure 6). The same results can be expected with the addition of 60 new, full participation licenses. To offset a 10% new effort increase and maintain F at current levels, effective possession limits or days available for fishing would need to be reduced by 10% for current participants.

Option Three- 25% addition of new effort over current levels. This amounts to 325 new licenses limited to a May 1 to November 30 season with a 4 bushel statewide possession limit and a 2 bushel management area possession limit. F rises to 0.25 which is above the management target but below the over fishing definition. Biomass rebuilds to B_{msy} in ten years (Figure 7). The same results can be expected with the addition of 145 new, full participation licenses. To offset a 25% new effort increase and maintain F at current levels, effective possession limits or days available for fishing would need to be reduced by 25% for current participants.

Option Four- 50% addition of new effort over current levels. This amounts to 491 new licenses limited to a May 1 to November 30 season with a 12 bushel statewide possession limit and a 3 bushel management area possession limit. F rises to 0.3 which is above both the management target and over fishing definition. Biomass does not reach B_{msy} (Figure 8). The same results can be expected with the addition of 293 new, full participation licenses. To offset a 25% new effort increase and maintain F at current levels, effective possession limits or days available for fishing would need to be reduced by 25% for current participants.

Option Five- 20% addition of new effort over current levels. This amounts to 204 new licenses with a year around season, a 3 bushel statewide possession limit and a 1.5 bushel management area possession limit. F rises to 0.24 which is above the management target but below the over fishing definition. Biomass reaches B_{msy} in eight years (Figure 9). The same results can be expected with the addition of 117 new, full participation licenses. To offset a 25% new effort increase and maintain F at current levels, effective possession limits or days available for fishing would need to be reduced by 25% for current participants.

In addition to stock status and fleet impacts, effort inflation has implications for fishery performance at the individual licensee level. As new effort is added above current levels, landings per individual are reduced (Figure 10). The reduction is fairly small at low levels of effort inflation but becomes significant when effort is increased to the over fishing definition so that biomass rebuilding is prevented.

Current fishing effort in the Rhode Island quahaug fishery is at a sustainable level and biomass rebuilding is possible. A slight increase in effort can be sustained with only a small extension of the rebuilding period. Accordingly, it is recommended that new basic licenses be admitted such that the number of licenses and associated season-possession limitations constitute a 10% effort increase. As discussed by the IWG shellfish subcommittee, it is further recommended that conditions for license upgrade from basic to full harvest level be developed. The IWG suggested that an individual demonstrate a minimum of 50 day fishing during two years as a basic harvester to be eligible for upgrade. Also, it is suggested that both the student license and “over 65” license holders be held to the reduced daily limit applicable to the basic harvester. Student licenses would be valid from May 1 to November 30 and over 65 licenses would be valid year around.

Current Regulations Pertaining to Seasons and Possession Limits- R.I. Marine Fisheries Statutes and Regulations

4.3 Statewide Catch Limits -- (Daily Take)

Quahaugs, Soft-shelled Clams, Sea Clams, Bay Scallops, Mussels, and Oysters
except in Management Areas

4.3.1 Resident Limit - No License Required. -- Unless otherwise specified in regulations adopted by the Marine Fisheries Council, any resident of this State may without a license, take in any one (1) day during the open season, if applicable, not more than one half (1/2) bushel each of quahaugs, soft-shelled clams, sea clams, oysters, and mussels, and not more than one (1) bushel of scallops; provided that those quahaugs, soft-shelled clams, sea clams, oysters, mussels, or scallops shall not be sold or offered for sale. (RIGL 20-6-1) [Penalty - Part 4.7; (RIGL 20-6-9)]

4.3.2 Commercial Limit - License Required. -- Unless otherwise specified by regulation of the Marine Fisheries Council, a holder of a commercial shellfishing license may take and/or possess, in any one (1) day, up to twelve (12) bushels of [bay] quahaugs, twelve (12) bushels of soft-shell clams, and three (3) bushels of oysters. RIGL 20-6-10(a). Commercially licensed persons may take and/or possess up to 200 bushels of surf clams, or 26 cages (832 bushels) of ocean quahaugs, in any one day (midnight to midnight) (RIMF REGULATION) [Penalty - Part 3.3, Part 4.4; RIGL (20-3-3)]

4.3.3 Non-resident Limit - Licensed Individuals Only. -- A holder of a non-resident shellfishing license may take in any one (1) day not more than one (1) peck each of oysters, quahaugs, soft-shelled clams, surf clams, or mussels. Any person taking more than these allowances in any one (1) day shall be fined upon conviction, one hundred dollars (\$100) for each bushel or part of a bushel exceeding the prescribed quantity or be imprisoned for not exceeding thirty days, or both. [RIGL 20-6-10(b)]

4.4 Allowance of Shellfish Taking Under License. --

(a) Unless otherwise specified by regulation of the Marine Fisheries Council, a holder of a commercial shellfishing license may take and/or possess, in any one (1) day, up to twelve (12) bushels of quahaugs, twelve (12) bushels of soft-shell clams, and three (3) bushels of oysters. Commercially licensed persons may take up to 200 bushels of surf clams in one day. (RIMF REGULATION) [Penalty - Part 3.3, Part 4.4; RIGL (20-3-3)]

(b) A holder of a non-resident shellfishing license may take in any one (1) day not more than one (1) peck each of oysters, quahaugs, soft-shell clams, or mussels. Any person taking more than these allowances in any one (1) day

shall be fined upon conviction one hundred dollars (\$100) for each bushel or part of a bushel exceeding the prescribed quantity or be imprisoned for not exceeding thirty days, or both.

(RIGL 20-6-10)

4.8 Shellfish Management Areas - Catch Limits for Quahaugs, Soft-shelled Clams, Sea Clams, Mussels, and Oysters. – Bristol Harbor Shellfish Transplant Area, Potter Pond, Pt. Judith Pond, Ninigret (Charlestown) Pond, Quonochontaug Pond, Winnapaug (Brightman) Pond, Potowomut, Greenwich Bay, Mill Gut, Kickemuit River, Bissel Cove, High Banks, Sakonnet River, and Jenny’s Creek have been declared special Shellfish Management Areas in their entirety for a period of five years. Shellfish Management Area status shall expire five years from the filing date of this document unless renewed by subsequent R.I. Marine Fisheries Council actions. No person may possess more than the maximum shellfish management area daily catch limit while in a management area. The following daily catch limits have been established for the Management Areas listed above:

Quahaugs, Soft-shelled Clams, Sea Clams, Mussels, and Oysters*

Maximum Daily Take by
BOAT HARVEST

R.I. Resident (no sale)	1 peck each/day/person
Commercial	3 bu each/day/license holder maximum of 6 bushels each/boat/day; and maximum of two licensed shellfishers per boat
Licensed Non-Resident (no sale)	½ peck each/day/license holder
* Oyster season is open from September 15 to May 15 annually	

SHORE DIGGING

This maximum daily catch limit for shoredigging of soft shell clams, bay quahaugs, mussels, and oysters [in season] is:

R.I. Resident (no sale)	1 peck each/day/person
Commercial	3 bu each/day/license holder
Licensed Non-Resident (no sale)	½ peck each/day/license holder
* Oyster season is open from September 15 to May 15 annually	

Daily catch limits apply to all Management Areas unless otherwise specified.
The use of diving apparatus is prohibited while shoredigging.

(RIMF REGULATION) [Penalty – Part 3.3; (RIGL 20-3-30)]

4.10 Greenwich Bay Shellfish Management Area

4.10.1 The conditionally approved waters of Greenwich Bay are established as a Shellfish Management Area for a five-year period. This area is defined as west of a line between the flagpole at the Warwick Country Club and the end of Sandy Point on the Potowomut Shore.

4.10.2 Shellfish harvesting will be allowed only when declared open by the D.E.M. Office of Water Resources based upon water quality considerations. Regulations by the Office of Water Resources shall supersede the regulations below.

4.10.3 SHORE DIGGING will be permitted between sunrise and sunset daily. The maximum daily catch limit for shore digging of bay quahaugs, soft-shelled clams, mussels, and oysters [in season] is:

Resident shoredigger (no sale)	1 peck each/person/day
Licensed non-resident (no sale)	½ peck each/person/day
Commercial License holder	
oysters [in season]	3 bushels/license holder/day
soft-shellfed clams	3 bushels/license holder/day
mussels	3 bushels/license holder/day
bay quahaugs	one peck/license holder/day [EXCEPT: Mondays, Wednesdays, and Fridays beginning the second Wednesday of December until April 30 annually, when the daily limit shall be 3 bushels/license holder/day.]

The use of diving apparatus is prohibited while shore digging.

BOAT HARVEST

4.10.4 The entire area is closed to all shellfishing from a boat except as follows: Beginning on the second Wednesday of December shellfishing will be permitted only between the hours of 8 A.M. and NOON on Mondays, Wednesdays, and Fridays until April 30 annually. Effective June 26, 2002, the waters east of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods will be open to harvesting from a boat between sunrise and sunset daily until sunset September 2, 2002. Shellfishing will be subject to water quality status as specified by the D.E.M. Office of Water Resources.

4.20 Surf Clams and Ocean Quahaugs.

4.20.1 Gear Restrictions The following gear restrictions shall apply to vessels fishing in the territorial waters of Rhode Island for surf clams:

4.20.1-1 It is unlawful for any vessel to operate with any hydraulic dredge with a blade, knife, or manifold which is greater than 48 inches in maximum width.

4.20.1-2 It is unlawful for any vessel to operate more than one dredge while harvesting surf clams.

4.20.2 Trip Limits The following limits shall apply to vessels fishing in the territorial waters of Rhode Island:

4.20.2-1 It is unlawful for any dredge vessel to take and/or possess more than 200 bushels of surf clams per vessel.

4.20.2-2 Except as allowed in Part 6.8.3, it is unlawful for any vessel to catch, harvest, possess, have on board, land, or off load, any surf clams which are less than 5 inches in the longest shell diameter.

4.20.2-3 Vessels properly licensed to do so may land surf clams and ocean quahaugs legally taken outside the territorial waters of Rhode Island in excess of the trip limit established by Part 4.20.2-1, provided that no vessel engaged in fishing for surf clams or ocean quahaugs within territorial waters may possess or have on board more than the prescribed limit.

4.20.2-4 It is unlawful for any dredge vessel to take and/or possess more than 26 cages (832 bushels) of ocean quahaugs.

(RIMF REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

Suggested Regulatory Changes

- Change statutory language to reflect new licensing bill
- Specify basic harvest level
 - Statewide: 3-12 bushels
 - Management Areas: 1½ -3 bushels
- Basic harvest license valid from May 1 through November 30
- Harvest limits and season for principal effort and multipurpose license holders would be those currently in place
 - Statewide: 12 bushels
 - Management Areas: 3 bushels
- Specify eligibility requirements for license upgrade
 - Commercial license holder must demonstrate a minimum of 50 days fished during previous two years
- Specify harvest level for “over 65” and student license holders same as basic license
- Student license valid May 1 to November 30, over 65 license valid year around

Other Shellfish Endorsement:

Stock Status- Other species of shellfish commercially harvested include soft-shelled clams, oysters, surf clams, and blue mussels. These species are not routinely assessed by RIDFW. Insufficient data is available to conduct analytical assessments. However, catch per unit effort indices suggest that both soft-shell clams and oysters are at relatively high levels of abundance (Figure 11). Since abundance seems relatively high for some species and lacking information on mortality rates, there is no basis to impose more restrictive regulations on the other shellfish endorsement.

Management Program- Steamer clams, oysters, blue mussels, and surf clams are managed in state waters by the Department of Environmental Management with advice from the Rhode Island Marine Fisheries Council. Additional federal regulations apply to surf clams and ocean quahaugs in the EEZ. The Department uses seasons and possession limits to manage the state waters fishery. Permanent and conditional pollution closures further restrict the fishery in addition to the above management measures.

Fishery Management and Licensing Recommendations- No changes are recommended to the management program for other shellfish until better data is available on resource status. New commercial licenses can have basic harvest levels equal to current licensees.

Current Regulations- See above

Suggested Regulatory Changes- None

Gibson, M.R. 1999. Assessment of quahaugs (*Mercenaria mercenaria*) in Narragansett Bay: technical analyses in support of a bay wide quahaug management plan. RI Division of Fish and Wildlife. Res. Ref. Doc. 99/2.

Ganz, A, et al. 1999. Narragansett Bay Quahaug Management Plan. RI Division of Fish and Wildlife. Report to the Narragansett Bay Project and RI Marine Fisheries Council.

Fig.1- Narragansett Bay Quahaug Estimated Stock Biomass vs. Bmsy Level

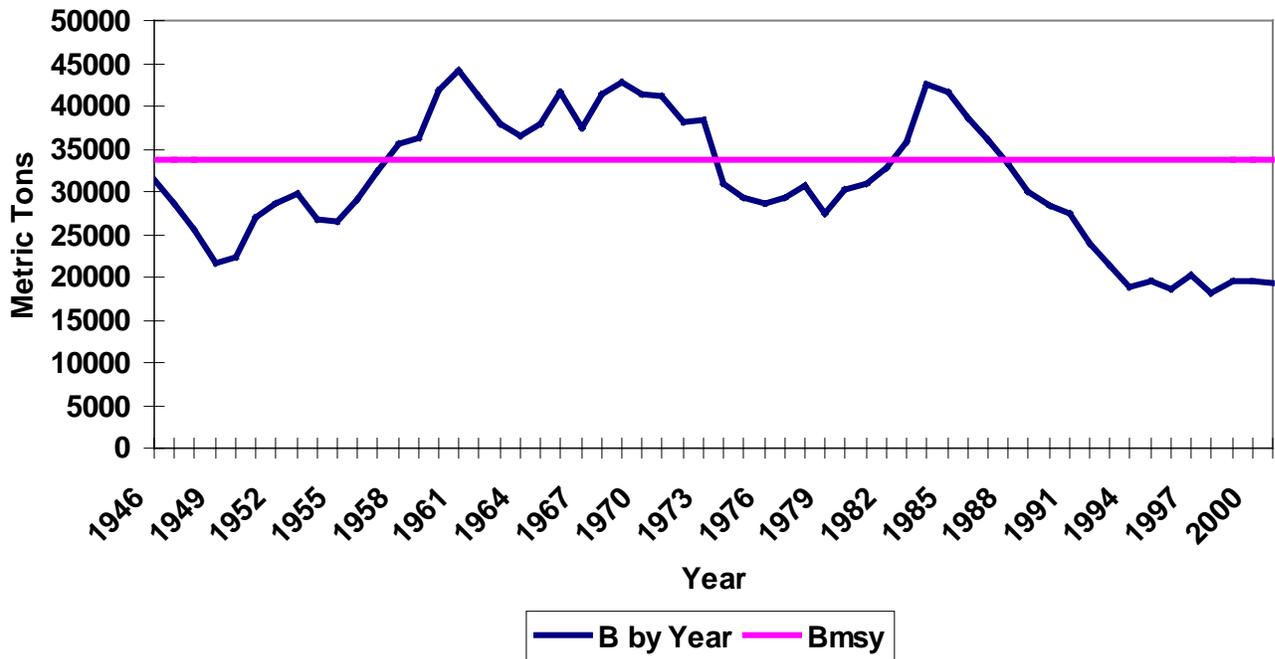


Fig.2- Narragansett Bay Quahaug Stock Fishing Mortality Rate Compared to Fmsy Reference Point

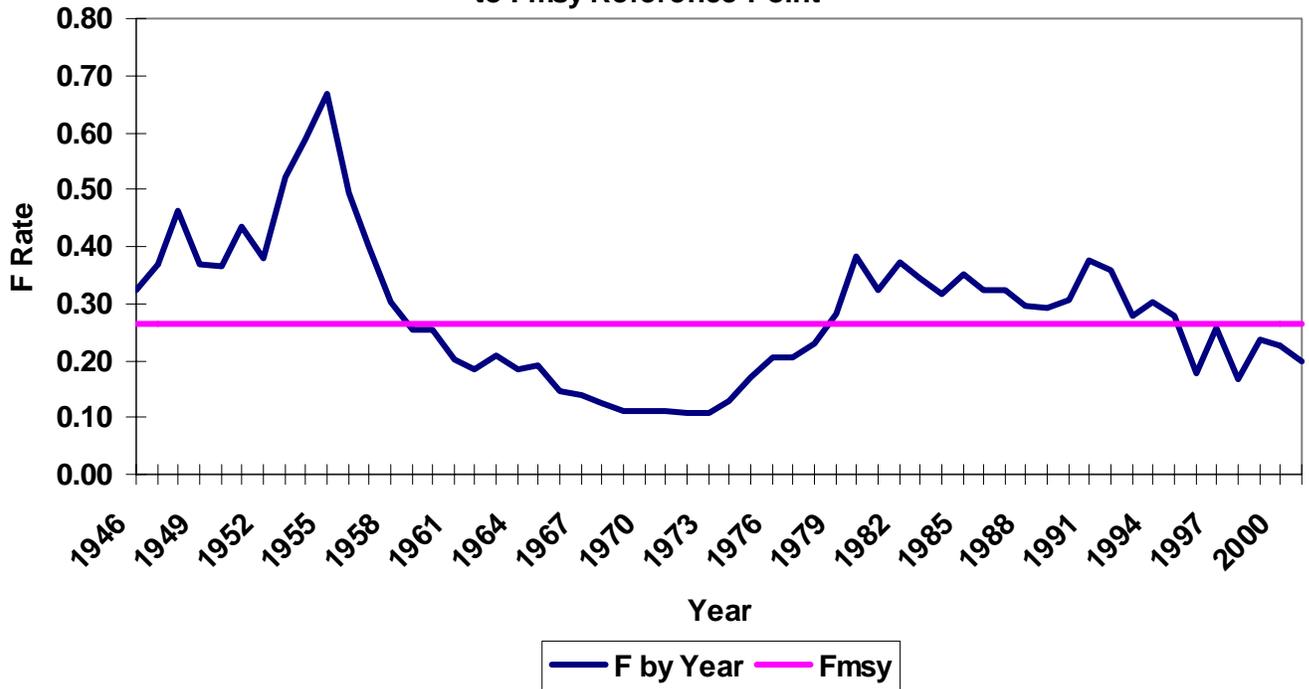


Fig.3- Fishing Effort in the RI Quahaug Fishery as Total Licenses and Active Licenses

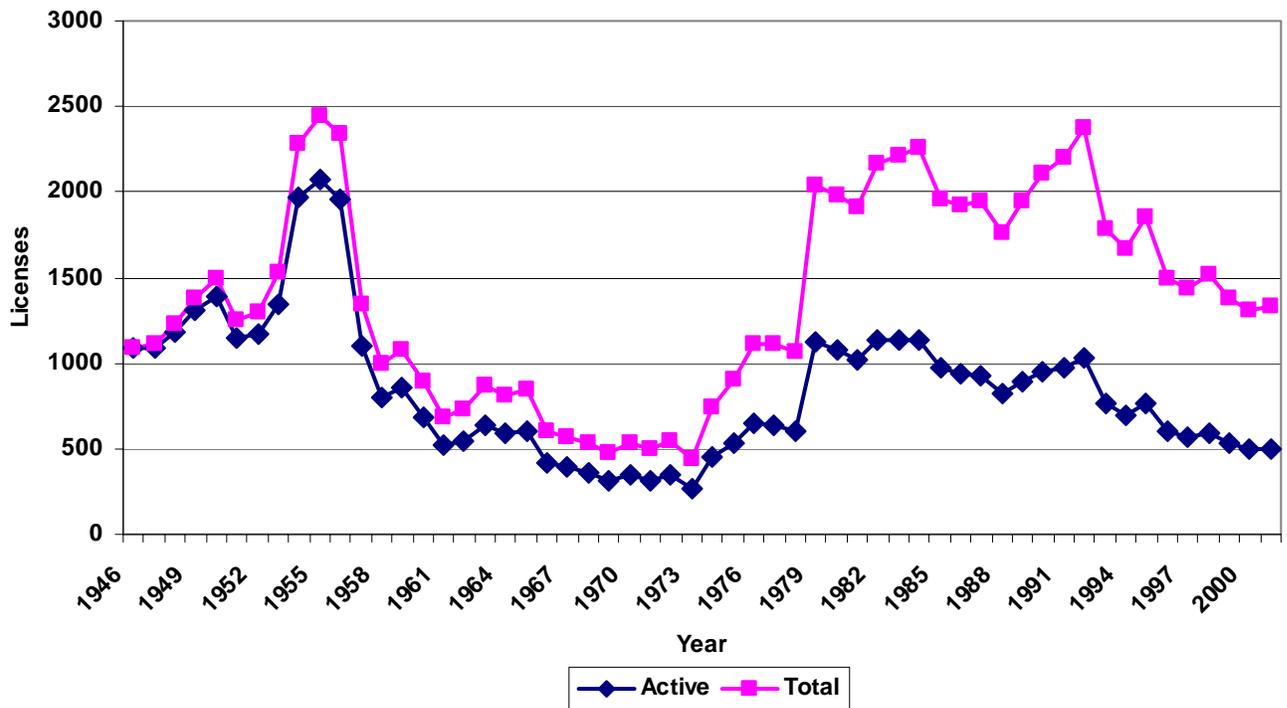


Fig.4- RI Quahaug Landings 1946-2001 Compared to the MSY Reference Level

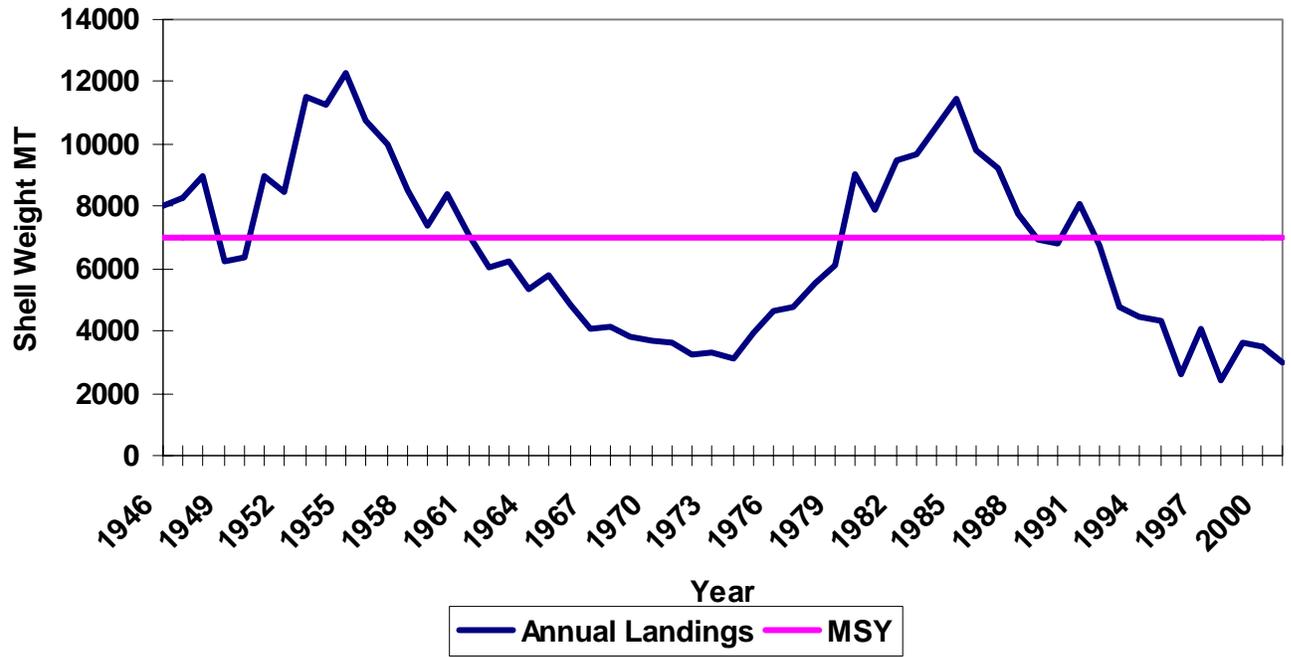


Fig.5- Narragansett Bay Quahaug Stock Biomass and Fishery Landings Projection Under Status Quo Effort

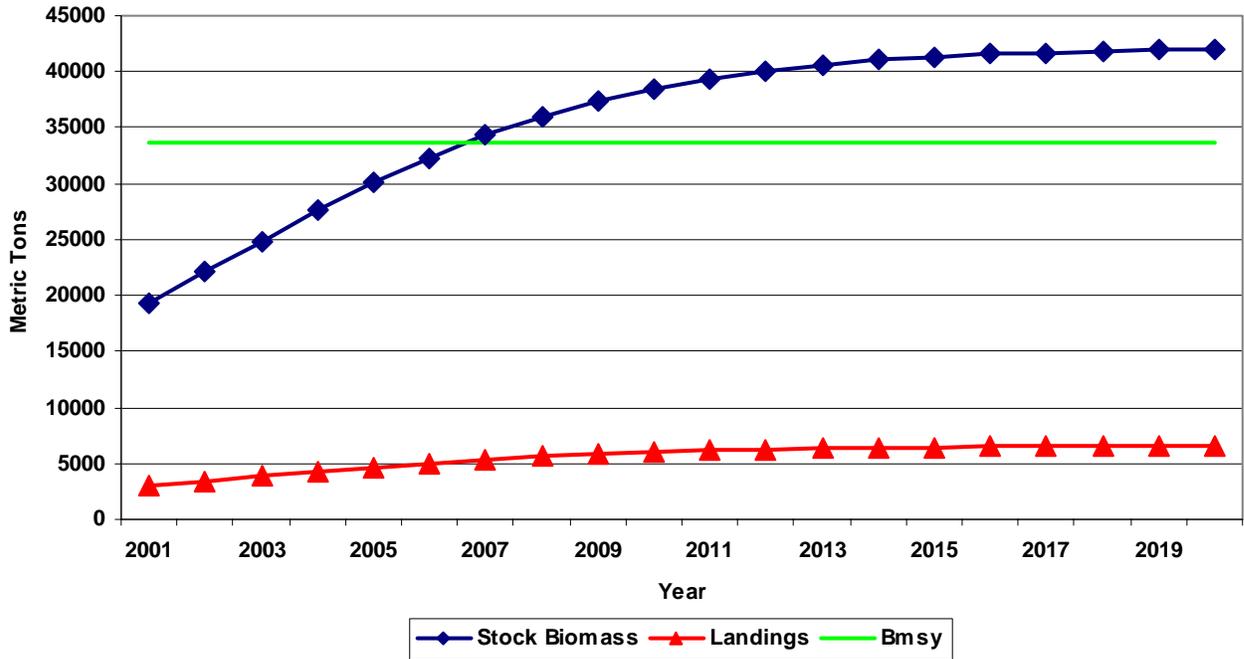


Fig.6- Narragansett Bay Quahaug Stock Biomass and Landings Projection with 10% Increase In Effort

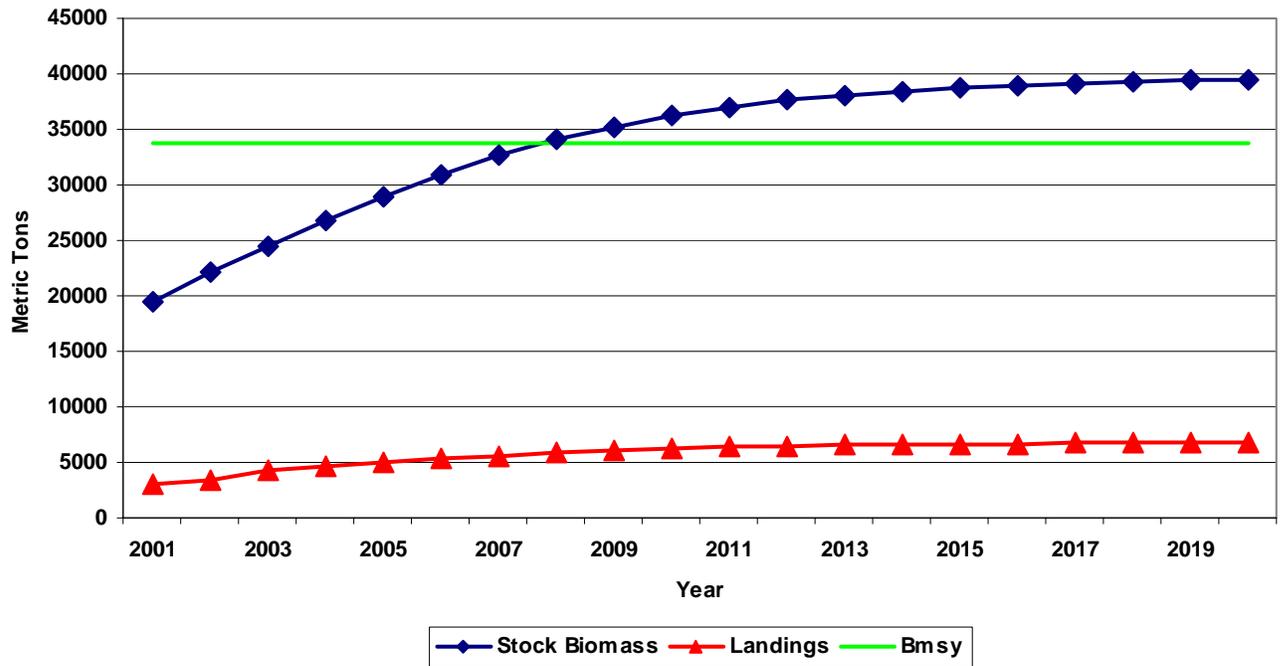


Fig.7- Narragansett Bay Quahaug Stock Biomass and Landings Projection with 25% Increase In Effort

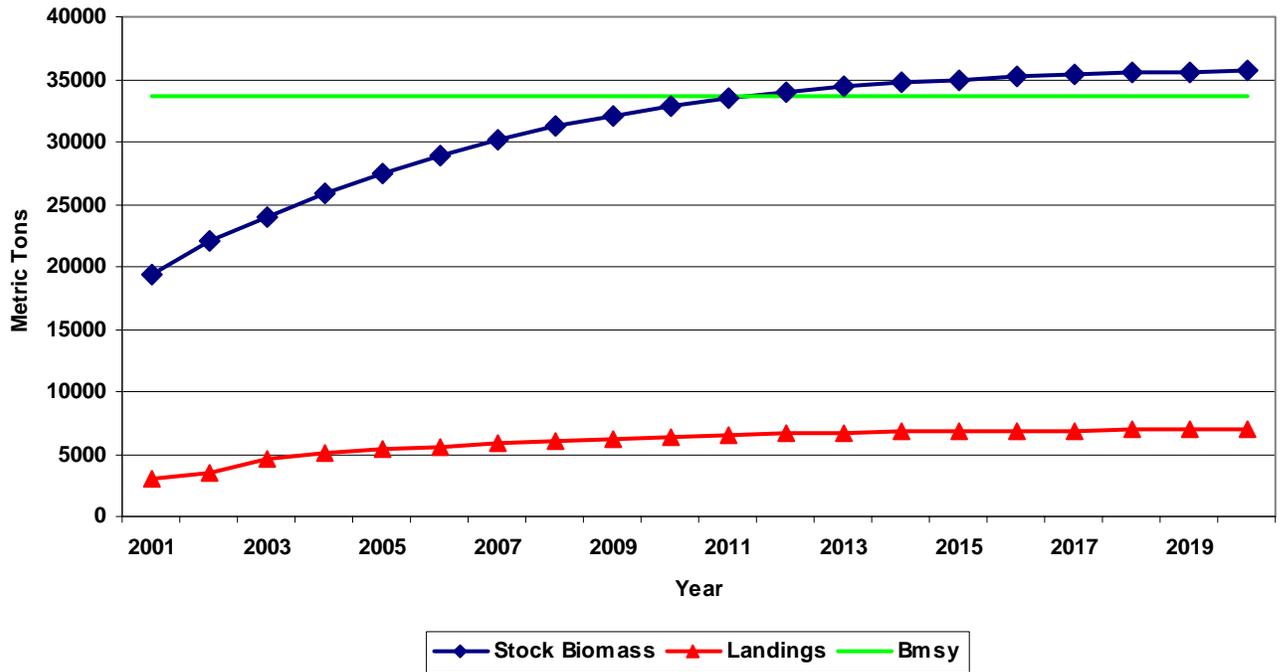


Fig.8- Narragansett Bay Quahaug Stock Biomass and Landings Projection with 50% Increase in Effort

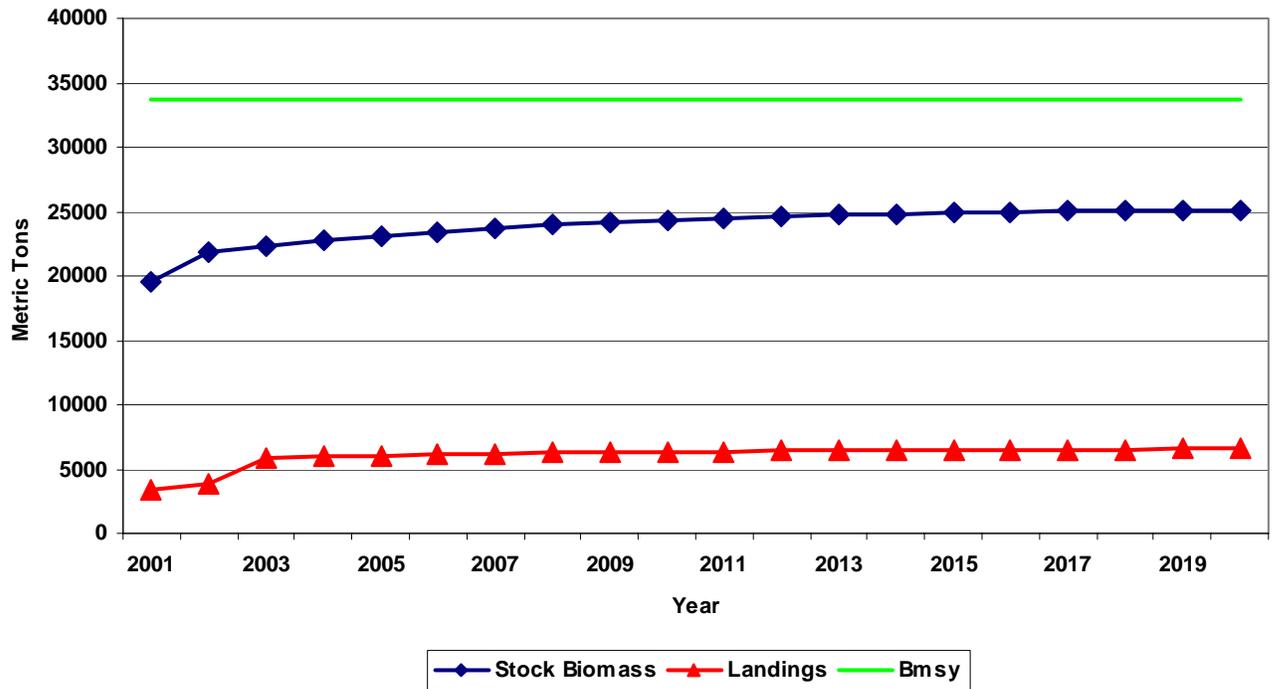


Fig.9- Narragansett Bay Quahaug Stock Biomass and Landings Projection with 20% Increase in Effort

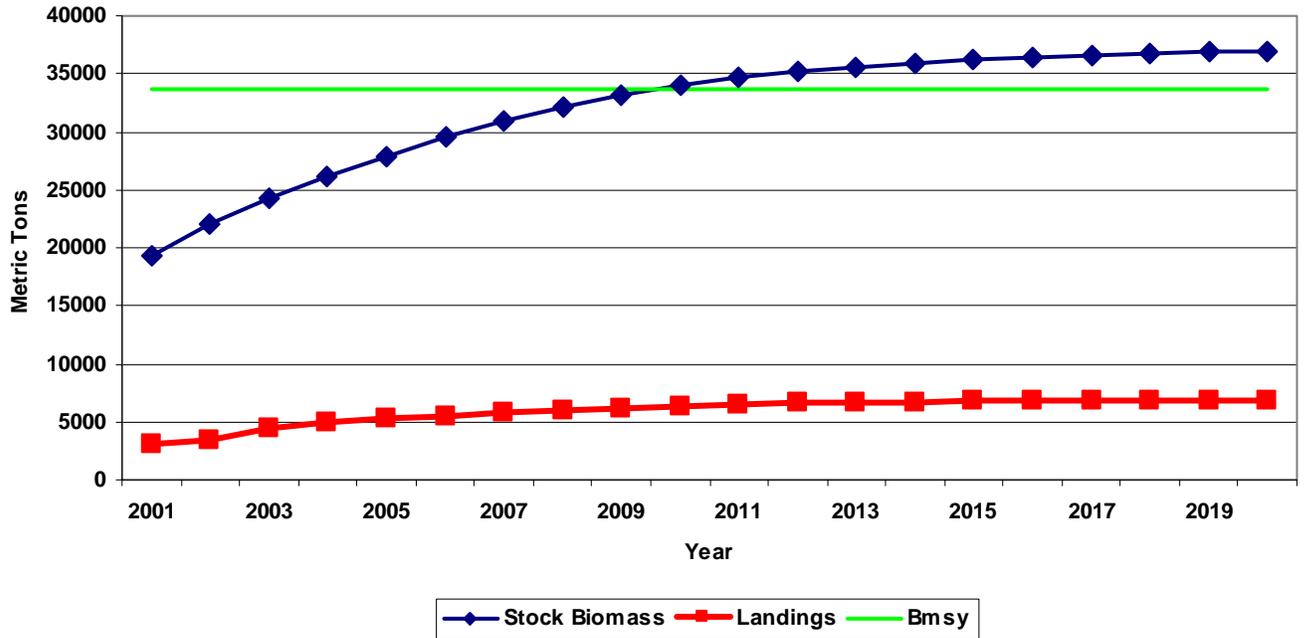


Fig.10- Average Future Landings per Active License in the RI Quahaug Fishery vs. Effort Inflation Level from New Licenses

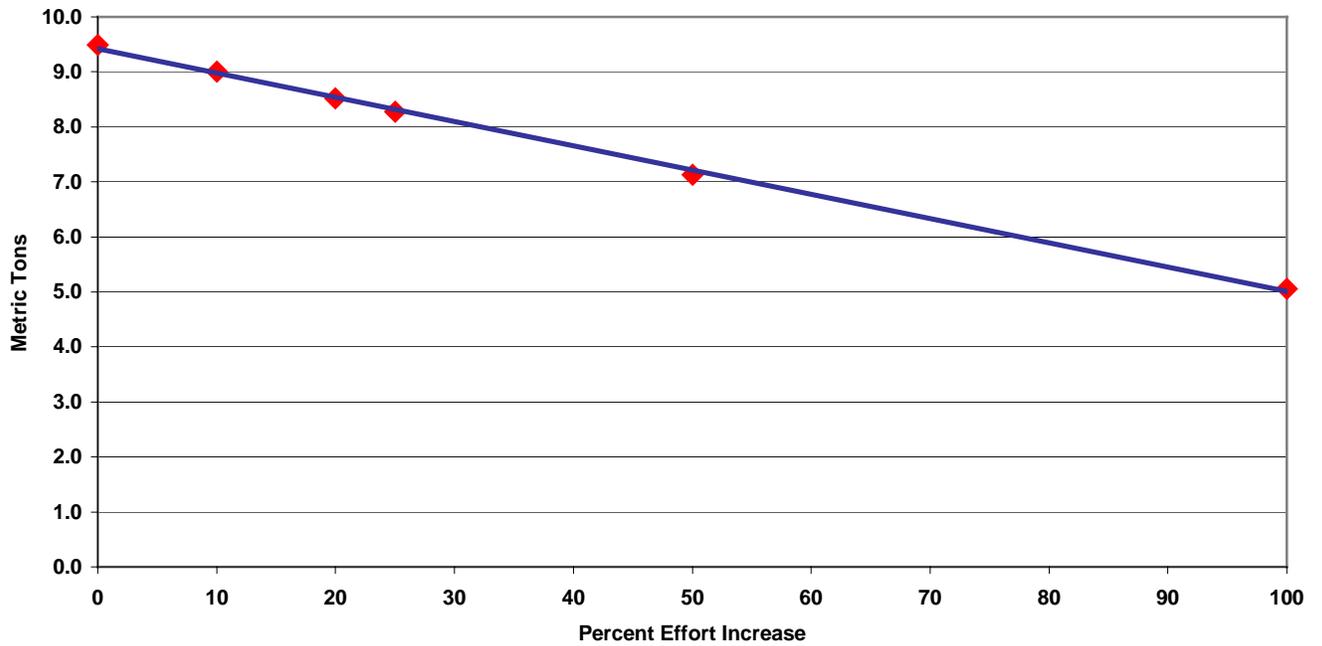
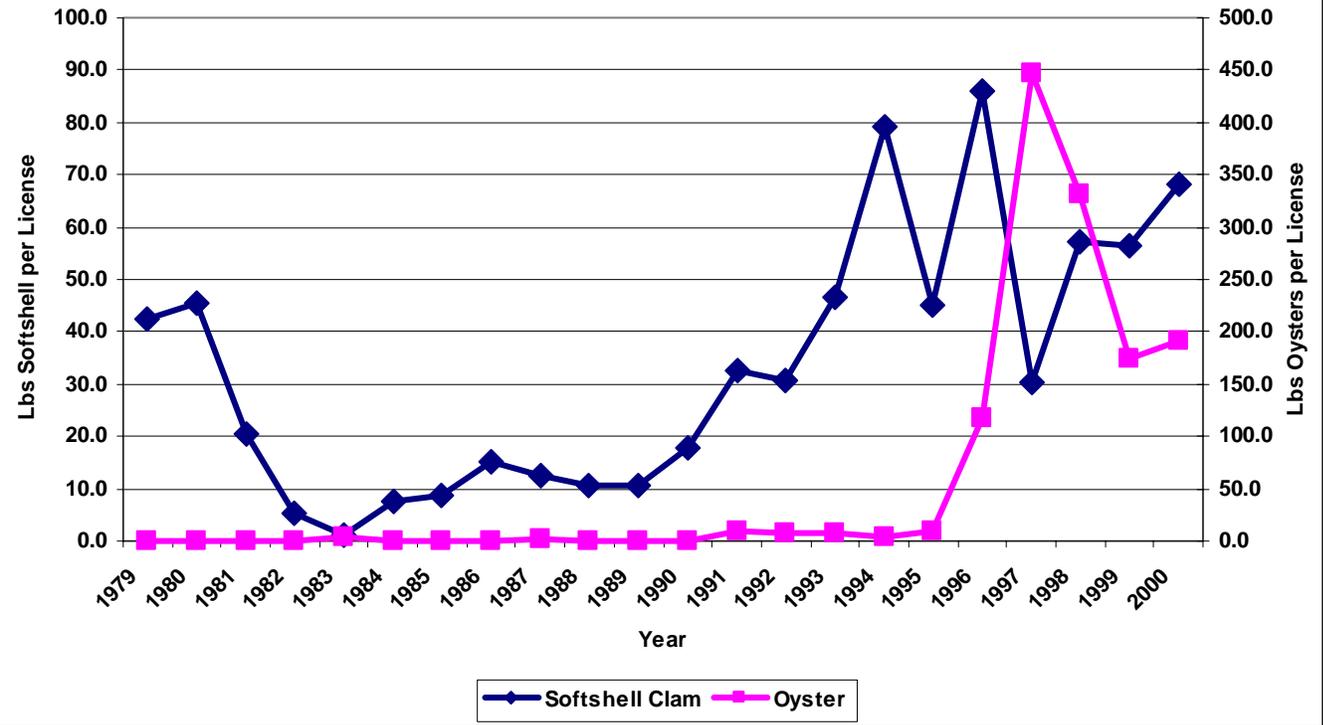


Fig.11- Landings per Active License of Softshell Clams and Oysters in RI



MANAGEMENT PLAN FOR LOBSTER

This Management Plan evaluates the status of the Southern New England lobster resource, and recommends options for restoring populations to sustainable levels.

It does not include an analysis of the relative socio-economic impacts of recommended management options, which is proposed to be conducted by the University of Rhode Island.

**Commercial Fishing License Restructuring Implementation,
Crustacean Fishery Sector**

**Source Document for RI Marine Fisheries Council, Lobster Advisory
Panel, and Public Hearing Proceedings**

**Rhode Island Department of Environmental Management
Division of Fish and Wildlife
Marine Fisheries
3 Ft. Wetherill Road
Jamestown, RI 02835
August 2002**

Commercial Fishing License Restructuring Implementation, Crustacean Fishery Sector

Lobster Endorsement:

Stock Status- The lobster resource in Narragansett Bay and RI coastal waters is currently over exploited and at a medium level of abundance. A two-stage DeLury model is used by the Rhode Island Division of Fish and Wildlife (RIDFW) to assess the local stock (Gibson 1999, 2000). The local assessment was updated in 2002 to incorporate additional landings and survey data accumulated since the last assessment. The new results indicate that fishing mortality rate (F) is above the F10% over fishing definition of the Atlantic States Marine Fisheries Commission (ASMFC). Average F calculated for the period 1999-2001 was 1.13 (Figure 1), well over the F10% limit of 0.84 applicable to the Cape Cod to Long Island Sound stock area (ASMFC 2000). Abundance of legal size lobster and recruit size lobster, or lobsters one molt away from the legal gauge, has declined in recent years (Figure 2). Average abundance for the period 1999-2001 was 0.80 million and 2.28 million for legal and recruit size lobsters respectively. These levels are comparable to that which existed in the late 1980's but well below the peak levels of the early 1990's. The decline in abundance of recruit and legal lobster from 1996 to 2001 was preceded by a decline in abundance of newly settled juveniles from 1990 to 1996 (Figure 3). This indicates that continuous over fishing of the resource was coincident with weakening recruitment to the stock. It is not clear why recruitment has declined but the decline and over harvesting of adults are both responsible for the poor performance of the fishery in recent years (Figure 4).

Although the new legislation does not allow for reductions in current participation through licensing, further restrictions on existing participants are possible. A projection scenario was run which reduced fishing mortality by 26% to the ASMFC $F_{10\%}$ level, i.e. no new licenses are issued and additional restrictions are placed on current participants beyond that required by ASMFC. This could be achieved for example by reducing RI area 2 traps from 186,579 to 139,580 or by setting a February through September open season. Results indicate that the stock can increase in abundance and that landings can exceed 2001 levels if F is reduced to the reference point (Figure 5). Because both the assessment and management area cover multiple jurisdictions but the license restructuring legislation covers only RI state licenses, complications arise in projecting outcomes of various scenarios. For projections that reduce or add RI effort, one is assuming that comparable management actions are taken by other jurisdictions having fishers in

area 2. Put another way, the projections pertain specifically to that share of the area 2 fishery and resource prosecuted by RI fishers. Unfortunately, that is not restricted to state waters making interpretation difficult.

Management Program- Lobsters are managed within state waters by the Department of Environmental Management with advice from the Rhode Island Marine Fisheries Council and RIDFW. Regional management of the lobster resource is the responsibility of the ASMFC. Amendment 3 to the fishery management plan (ASMFC 1997) governs the interstate management program and a peer reviewed coast wide stock assessment (ASMFC 2000) provides information on lobster biology and resource status. The Department complies with the plan through a set of management measures that includes minimum gauge and escape vent sizes, trap limits, and protection of egg-bearing females. The ASMFC management program is organized by area with Rhode Island part of inshore area 2. Both state (RI-MA) and federal waters are included in area 2 making cooperative management essential. Future management in area 2 may include limits on participants and allowances for transfer of gear allocations between fishers.

Fishery Management Goals and Objectives -

Goal- The following goal is adapted from the coast wide goal of the Atlantic States Marine Fisheries Commission (ASMFC 1996).

Rhode Island will have a healthy American lobster resource and a fishery management regime which provides for sustainable harvest, cooperative management by stakeholders, and appropriate opportunities for fishery participation.

Objectives-

1. Maintain fishing mortality rates and brood stock abundance at levels which minimize the risk of stock depletion and recruitment failure.
2. Optimize yield from the fishery while maintaining harvest at a sustainable level.
3. Maintain existing social and cultural characteristics of the fishery wherever possible
4. Promote economic efficiency in harvesting and use of the resource

5. Increase understanding of American lobster biology and improve data collection, stock assessment models, and relationships between harvesters and scientists.

Licensing Options and Recommendations-

Current RI lobster fishers in state waters holding multipurpose or lobster fishing licenses are eligible for the new multipurpose or principal effort/shellfish endorsement licenses. These license holders would be entitled to fish consistent with existing regulations that are compliant with ASMFC Amendment 3. New entrants, eligible under the new basic harvest license, can be limited through the number of licenses issued and the harvest level authorized. Harvest level can be managed through seasons and trap limits. Various combinations of season length and trap limits for new basic licenses can be envisioned and translated into equivalent existing trap units using data on the distribution of landings by month and the average number of traps deployed by active fishers. Through the assessment-projection model, one can evaluate the impact of various new effort levels on future resource status and fishery performance. We assume that fishing mortality rate is proportional to the number of traps deployed although there is equivocal evidence on this (ASMFC 2000). More complicated relationships however, are beyond the scope of this demonstration. Depending on the fishing mortality rate objective (increased F , status quo F , or achieve $F_{10\%}$), there may be impacts to existing fishers in terms of required trap reductions to offset the new effort. For example, if managers wanted to add new participants while simultaneously holding F at current levels or reducing it, existing fishers would need to give up traps. Several examples are given below and many other permutations of licenses, seasons, and trap limits are possible.

Option One- Maintain current effort level with no new licenses and no change to current regulations. No reduction in fishing mortality rate is achieved and resource remains over fished. Abundance and landings remain at current levels (Figure 6).

Option Two- 10% addition of new effort over current levels. This amounts to 140 new licenses limited to a June through September season and a 200 trap limit. The same results can be expected with the addition of 50, full participation licenses. Fishing mortality rate rises without offset and abundance and landings remain at current levels (Figure 7). In order to maintain F at status quo levels or reduce to $F_{10\%}$, reductions in existing traps of 10% and 35% are required respectively.

Option Three- 25% addition of new effort over current levels. This amounts to 350 new licenses limited to a June through September season and a 200 trap limit. The same results can be expected with the addition of 120, full participation licenses. Fishing mortality rate rises without offset, landings remain near 2001 levels over the long term, and abundance is reduced over option 2 (Figure 8). In order to maintain F at status quo levels or reduce to F10%, reductions in existing traps of 25% and 50% are required respectively.

Option Four- 50% addition of new effort over current levels. This amounts to 700 new licenses limited to a June through September season and a 200 trap limit. The same results can be expected with the addition of 240, full participation licenses. Fishing mortality rate rises without offset, landings decline below 2001 levels over the long term, and abundance of both legal size and recruit lobster is substantially reduced over the status quo option (Figure 9). In order to maintain F at status quo levels or reduce to F10%, reductions in existing traps of 50% and 75% are required respectively.

In addition to overall stock status and landings impacts, effort inflation has implications for fishery performance at the individual licensee level. As new effort is added above current levels, landings per pot deployed in the fishery are reduced (Figure 10). The reduction is fairly small at low levels of effort inflation but becomes significant when effort is increased beyond 10%.

It is clear from the above that the lobster resource is overfished and undergoing a decline in abundance and fishery performance. Addition of new fishing effort from new participants will exacerbate this problem unless severe restrictions are placed on current fishers. Accordingly, it is recommended that no new lobster licenses be issued and that the state continue to work within the ASMFC process to reduce fishing mortality and to rebuild the lobster resource throughout the region.

Current Regulations Pertaining to Effort Limitations- R.I. Marine Fisheries Statutes and Regulations

15.11 Minimum Size of Lobsters Taken -- Egg Bearing Females

(a) Unless otherwise specified by regulations adopted by the Marine Fisheries Council, no person shall catch or take from any of the waters within the jurisdiction of this State or have in his or her possession within this State any lobster or parts thereof, cooked, or uncooked, which is less than the size specified in the minimum gauge increase schedule described below, and as measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the carapace.

6/1/2000	3-9/32" (83.34mm)	That is a 1/32" increase in minimum gauge size [up from 3-1/4" (82.55mm)]
----------	-------------------	---

(b) No person shall have in his or her possession within this State any female lobster bearing eggs or from which the eggs have been brushed or removed.

(c) In addition to any penalties specified in other Sections of this Chapter, every person violating any of the provisions of this Section shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each lobster in violation of this regulation or be imprisoned not exceeding thirty (30) days, or both. Any person, licensed under this Chapter, catching and taking any lobster as described in subsections (a) or (b), and immediately returning the lobster alive to the water from which it was taken shall not be subject to these fines or penalties. The possession of any lobster as described in subsection (a) or (b), cooked or uncooked, shall be prima facie evidence that the lobster was caught and taken in violation of this Section. Any person convicted a second time of a violation of this Section shall be fined five hundred dollars (\$500) and be deprived of the privilege of fishing for lobsters within the State for three (3) years after conviction under a penalty of sixty (60) days' imprisonment or a fine of five hundred dollars (\$500) or both for each offense. (ref RIGL 20-7-10) (Revocation of license under RIGL. 20-7-7 - Part 15.7)

15.12.2 Maximum Trap Size -- It shall be unlawful to place, set, keep, maintain, supervise, lift, raise, or draw in from any of the waters in the jurisdiction of this state, or cause to be placed, set, kept, maintained, supervised, lifted, raised, or drawn in from any of those waters any pot or other fixed gear contrivance designed or adapted for the catching or taking of lobsters, with a volume greater than 22,950 cubic inches.

15.12.3 Trap Limit/Reduction Schedule - Effective June 1, 1999, it shall be unlawful for any person licensed under this chapter to place, set, keep, maintain, supervise, lift, raise, or draw in from any of the waters in the jurisdiction of this state any pot or other fixed gear contrivance designed or adapted for the catching or taking of lobsters which exceeds the trap limits allowed by the following schedule:

6/1/1999	1200 traps per vessel
6/1/2000	1000 traps per vessel
6/1/2001	800 traps per vessel

RIMFC REGULATION [Penalty - Part 3.3 (RIGL 20-3-3)]

15.13 Escape Vent Sizes - Penalty -- Effective June 1, 1999, it shall be unlawful to fish for or take lobsters by use of any lobster trap within the territorial waters of the State of Rhode Island unless the trap is equipped with:

15.13.1 Subsection I

15.13.1-1 A rectangular escape vent with an unobstructed opening not less than 1 - 15/16 inches (49.2mm) by 5-3/4 inches (146mm); or

15.13.1-2 Two circular escape vents, each with an unobstructed opening not less than 2 - 7/16 inches (61.9mm) in diameter; or

15.13.1-3 An unobstructed gap caused by raising both ends of a bottom lath in the parlor section 1 - 15/16 inches (49.2mm) from the bottom; or

15.13.1-4 An unobstructed gap caused by separating both ends of 2 vertical laths on the end of the parlor section by 1 - 15/16 inches (49.2mm); or

15.13.1-5 An unobstructed gap created by cutting wires in a wire trap in such a manner as to meet the minimum size and number of vents required under Paragraphs 15.12.2-1 and 15.12.1-1.

15.13.1-6 Lobster traps not constructed entirely of wood must contain a ghost panel with the following specifications:

(a) The opening to be covered by the ghost panel must be rectangular and shall not be less than 3-3/4 inches (9.53 cm) by 3-3/4 inches (9.53 cm).

(b) The panel must be constructed of, or fastened to the trap with one of the following untreated materials: wood lath, cotton, hemp, sisal, or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter.

(c) The door of the trap may serve as the ghost panel if fastened with a material specified in previous paragraph.

(d) The ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap.

15.13.2 Subsection II -- The vent or gap shall be: installed or made in the parlor section on the sides or end panel. No horizontal rectangular vent or gap or circular vent shall be located more than three (3) inches from the sill of the trap. Traps equipped with multiple parlor sections must adhere to the escape vent requirements specified above in each parlor section. Any fisherman not complying with the provisions of Section 1 or Section 2 shall be fined not more than twenty dollars (\$20) for each trap not conformed to the specifications.

(RIMFC REGULATION) (Penalty 20-1-16 - Part 1.16 and 15.12)

15.14.1-12 - Trap Limits and Trap Tag Allotments – The following table describes the trap limits, schedule of trap reductions, and maximum allotment of trap tags for Rhode Island state waters of ASMFC Lobster Management Area 2. The maximum trap tag allotment includes a 10% over-allotment for routine losses.

Lobster Management Area	License Type	Effective Date	Trap Limit	Trap Tag Allotment
2	State only	6/1/2000	1,000	0 - 1,100
2	State only	6/1/2001	800	0 - 880

15.14.1-13 - In state waters, no vessel shall deploy, place, set, keep, maintain, supervise, lift, raise, or draw in or from any waters in the jurisdiction of this state any lobster trap gear (1.3 Definition) that has not been affixed with a valid lobster trap tag pursuant to RIMFC regulation 15.14.1 issued to the owner/operator of the vessel.

RIMFC REGULATION [Penalty 3.3 (RIGL 20-3-3)]

15.17 Raising Pots at Night -- No person shall raise or unduly disturb any lobster pot or trap within the territorial waters of this State between the hours of one (1) hour after sundown and one (1) hour before sunrise. Every person violating this Section shall, upon conviction, be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or be imprisoned not exceeding one (1) year, or both. However, in situations of emergency upon application being made, the owner of the lobster pots or traps may be authorized to remove the pots or traps by the Director of Environmental Management or the Director's designee during the prohibited hours. All boats, pots, or other equipment used in violation of this Section shall be seized and forfeited to the State. (RIGL 20-7-13)

15.18 Landings of lobsters taken by gear or methods other than trap – Limits

Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to not more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips of five (5) days or longer. RIMFC REGULATION [Penalty - Part 3.3 (RIGL 20-3-3)]

15.21 Blue Crabs – Harvest Restrictions -- No person shall possess, take or attempt to take more than twenty-five (25) blue crabs from any of the waters in this State except when taken by a scoop or crab net, trot, or hand line. Taking of blue crabs shall be restricted to residents of this State. No person shall take blue crabs from the waters of the State between the hours of sunset and sunrise. RIMFC REGULATION [Penalty - Part 3.3 (RIGL 20-3-3) ref (RIGL 20-7-15)]

15.24 Horseshoe Crabs – It is illegal for any person to harvest horseshoe crabs, Limulus polyphemus, in Rhode Island for commercial purposes without a multi-purpose commercial marine license and a Horseshoe Crab Harvest Permit; or to harvest horseshoe crabs for recreational purposes without a Horseshoe Crab Harvest Permit.

15.24.1 Harvest Permit – Persons harvesting horseshoe crabs from the shoreline or waters in the State of Rhode Island must apply for a Horseshoe Crab Harvest Permit from the Division of Fish and Wildlife. A Horseshoe Crab Harvest Permit is required for all harvesters of horseshoe crabs. Horseshoe Crab Harvest Permits shall be valid only for the calendar year of issuance. The conditions of the permit requires a weekly report of landings either by telephone or in writing. In addition, a monthly report in writing is required on forms furnished by the Division of Fish and Wildlife. The report must include the number of crabs taken, locations of harvest, and use (bait, biomedical purposes, or other reasons). These reports shall not be made public and shall be kept only for statistical purposes. Failure to report will result in forfeiture of the Harvest Permit and/or revocation of license and permit as provided for in RIGL 20-4-5.

15.24.2 Quota – A total allowable harvest (quota) of horseshoe crabs for the bait fishery and biomedical industry will be established annually. The quota will be the amount allocated to the State of Rhode Island by the Atlantic States Marine Fisheries Commission (ASMFC) or as determined by the R.I. Division of Fish and Wildlife based on the current stock status. The quota may only be harvested by licensed, permitted commercial fishermen in accordance with all rules and regulations promulgated by the Rhode Island Marine Fisheries Council or the Rhode Island Department of Environmental Management.

15.24.3 Possession

- A. Commercial – Bait and biomedical fishery – Any person issued a multi-purpose commercial marine license and Horseshoe Crab Harvest Permit may possess horseshoe crabs in numbers not to exceed the established annual quota. Horseshoe crabs employed in the biomedical industry for purposes of extracting bodily fluids shall be returned to the waters from which they came within 72 hours following the completion of the intended biomedical procedure. For the year 2001 the Department has established a quota of 14,655 crabs for the bait fishery and 34,194 crabs for the biomedical industry.
- B. Recreational – Any R.I. resident with a Horseshoe Crab Harvest Permit may possess not more than five (5) horseshoe crabs in any calendar day.

15.24.4 Harvesting Restrictions

- A. No person shall harvest horseshoe crabs for commercial or recreational purposes on or within 100 feet seaward of Patience and Prudence Islands in Narragansett Bay.
- B. No person shall harvest horseshoe crabs from waters or shoreline of the state during the period 48-hours preceding and 48-hours following the new and full moons during the months of May, June, and July, annually.

(DEM - Director REGULATIONS)

Suggested Regulatory Changes

- Change statutory language to reflect new licensing bill
- Specify basic harvest level (trap limit)
- Specify basic harvest license season
- Harvest limits and season for principal effort and multipurpose license holders would be those currently in place
- Specify eligibility requirements for license upgrade

- Commercial license holder must demonstrate a minimum of ? during previous two years

Other Crustacean Endorsement:

Stock Status- The commercial crab fishery in state waters is relatively small with landings of Jonah, rock, and blue crabs being made. Horseshoe crabs, although not a true crab, are also harvested. Total Rhode Island landings of these species are currently about 3 million pounds, worth 2 million dollars. However, only a small amount of this is taken from state waters. Landings of deep sea red crabs are also made but these come strictly from federal waters and participation is limited by federal permit. The various crab stocks are not routinely assessed by the RIDFW but increasing survey abundance and landings trends suggest a healthy resource (Figure 11).

Horseshoe crabs in Rhode Island were found to be over fished and at low abundance (Gibson and Olszewski 2001). A quota system with additional seasonal harvest restrictions has been instituted and landings have been reduced to low levels (Figure 12).

Management Program- Crustaceans other than lobster and horseshoe crabs are managed in state waters by the Department of Environmental Management with advice from the Rhode Island Marine Fisheries Council. The Department uses minimum sizes, seasons, quotas, and possession limits to manage the state waters fishery.

Fishery Management and Licensing Recommendations- No changes are recommended to the management program for other crustaceans and horseshoe crabs. Crab landings and abundance are following increasing trends and no new restrictions are needed. The spawning period closures have greatly restricted the horseshoe crab fishery and no additional limits are needed. New commercial licenses need not be limited and can have harvest levels equal to current licensees.

Current Regulations Pertaining to Effort Limitations- R.I. Marine Fisheries Statutes and Regulations

See lobster regulation section above.

Suggested Regulatory Changes

- No changes needed for open fishery other than to specify license type required for this endorsed sector

Literature Cited

Atlantic States Marine Fisheries Commission (ASMFC). 2000. American lobster stock assessment report for peer review. Stock assessment report No. 00-01 (Supplement) of the Atlantic States Marine Fisheries Commission. July 2000.

Gibson, M.R. 1999. Assessment of the American lobster in the Rhode Island inshore area. RI Division of Fish and Wildlife. Res. Ref. Doc. 99/1.

Gibson, M.R. 2000. Alternative assessment and biological reference points for the Rhode Island inshore lobster stock with estimations of unfished stock size. Report to the Atlantic States Marine Fisheries Commission and lobster assessment peer review panel.

Gibson, M.R., and S. Olszewski. 2001. Stock Status of Horseshoe Crabs in Rhode Island in 2000 with Recommendations for Management. RI Division of Fish and Wildlife. Research Reference Document 01/01.

Fig.1- RI Inshore Lobster Fishing Mortality Rate From DeLury Assessment Model Compared to ASMFC Overfishing Definition for SCCLIS Area

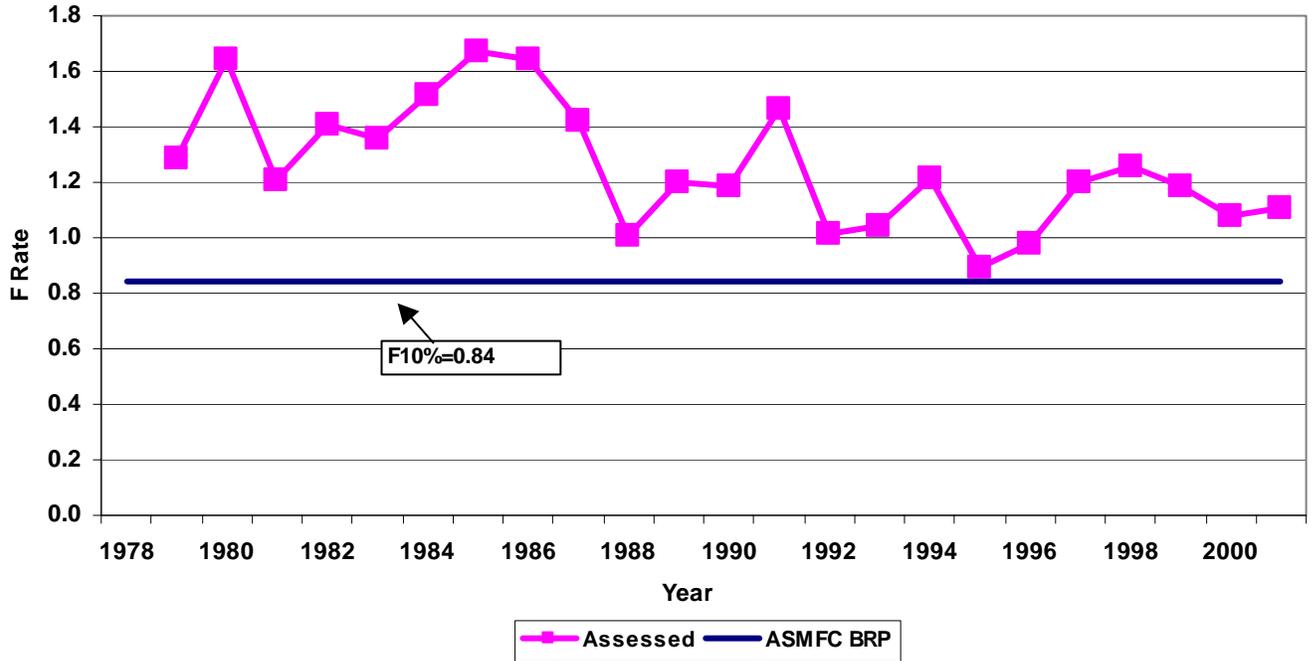


Fig. 2- RI Inshore Lobster Abundance From DeLury Assessment Model

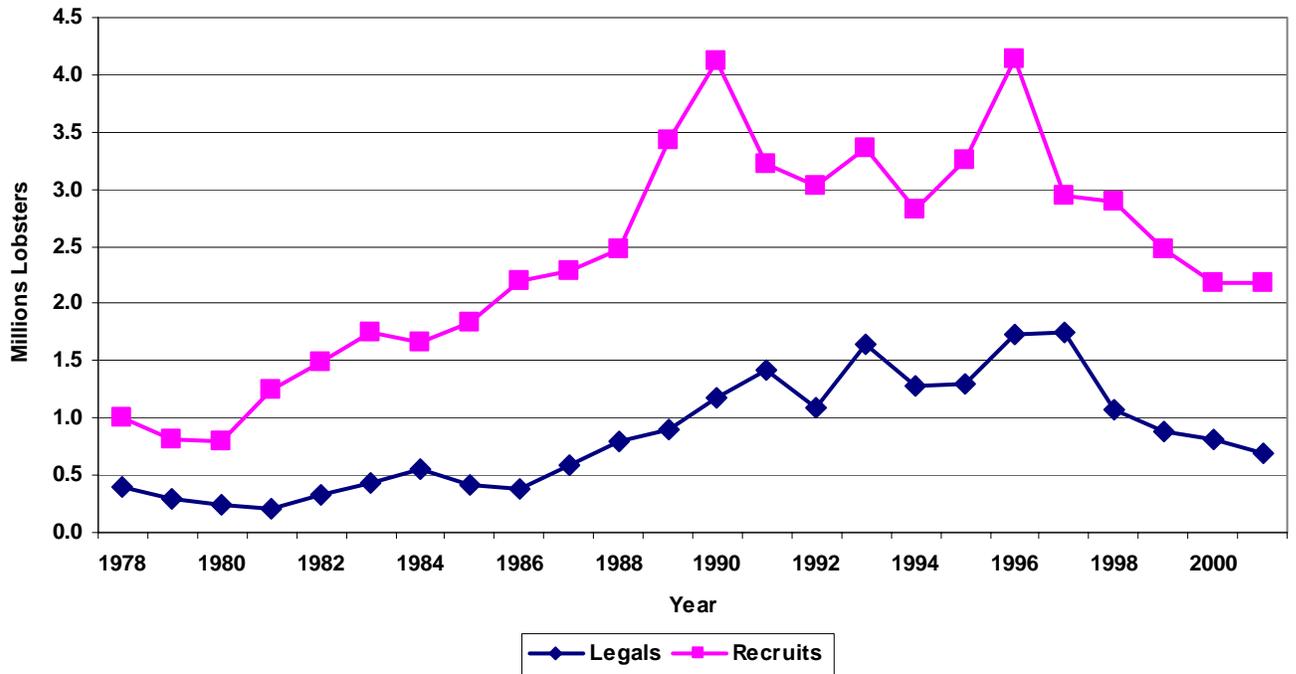


Figure 3- RI Lobster YOY Settlement Index from Wahle Suction Sampler Survey

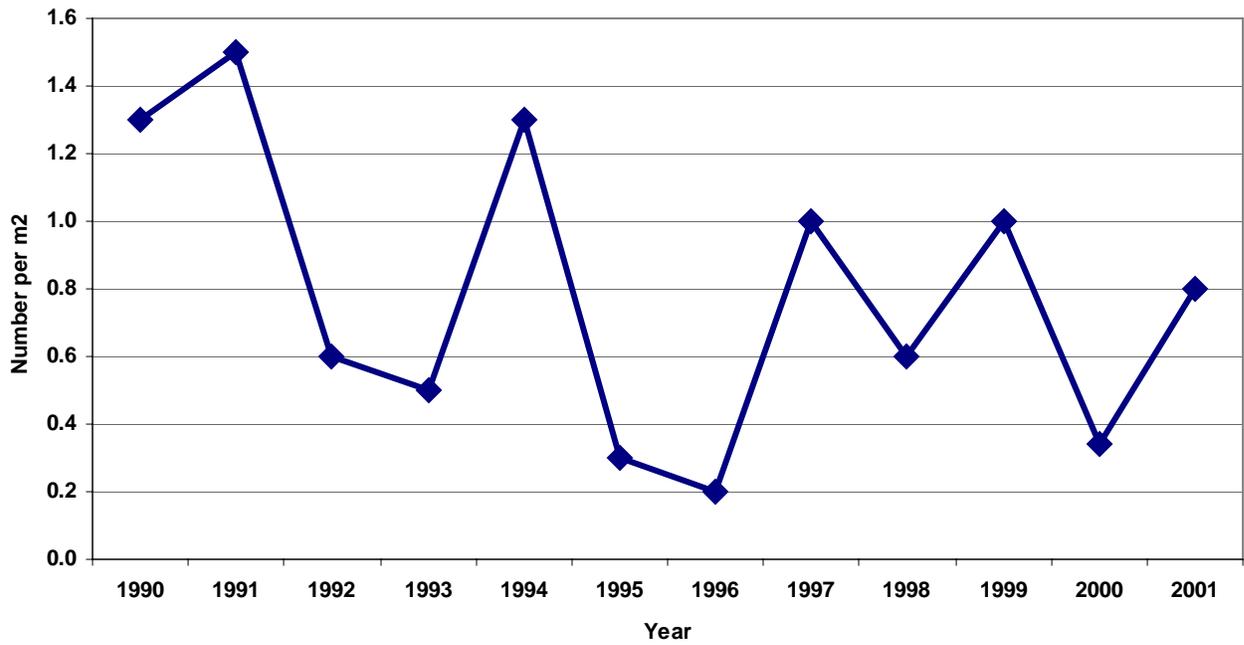


Figure 4- RI Inshore Lobster Landings in Number and Fishery Catch per Unit Effort

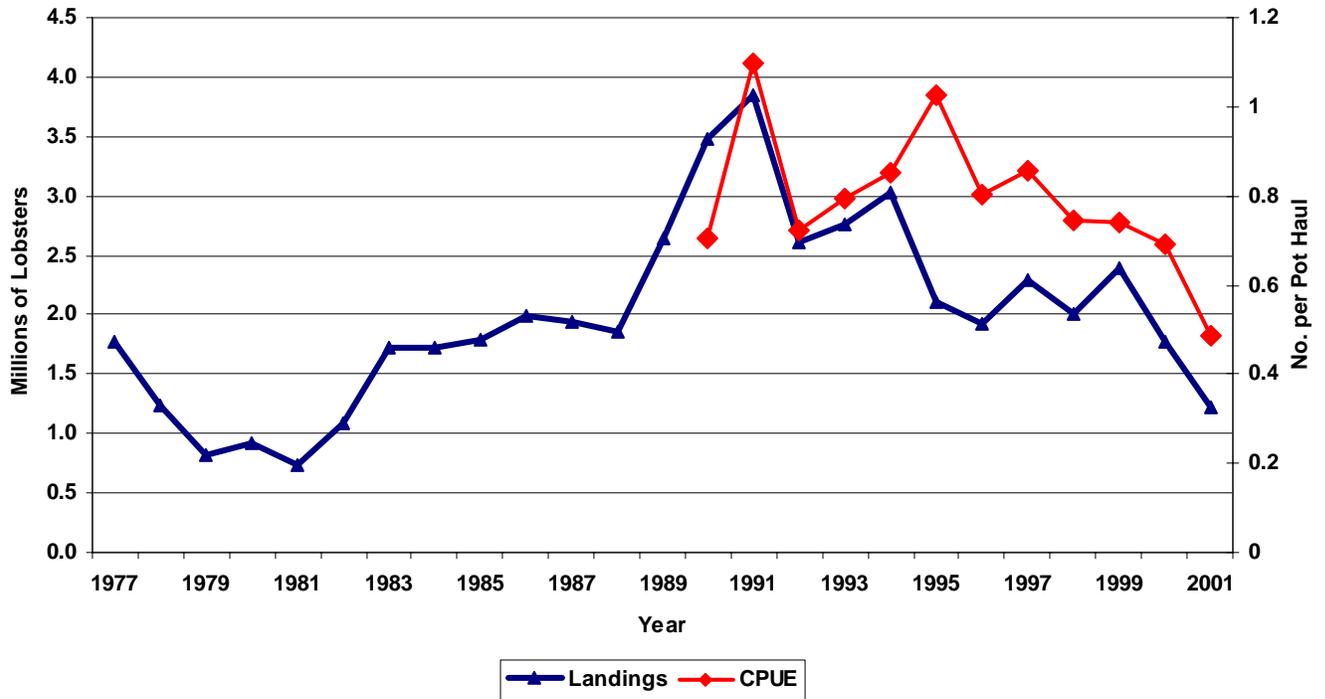


Fig.5 - RI Inshore Lobster Stock Abundance and Landings Projection With Effort Reduced to ASMFC 10% Level

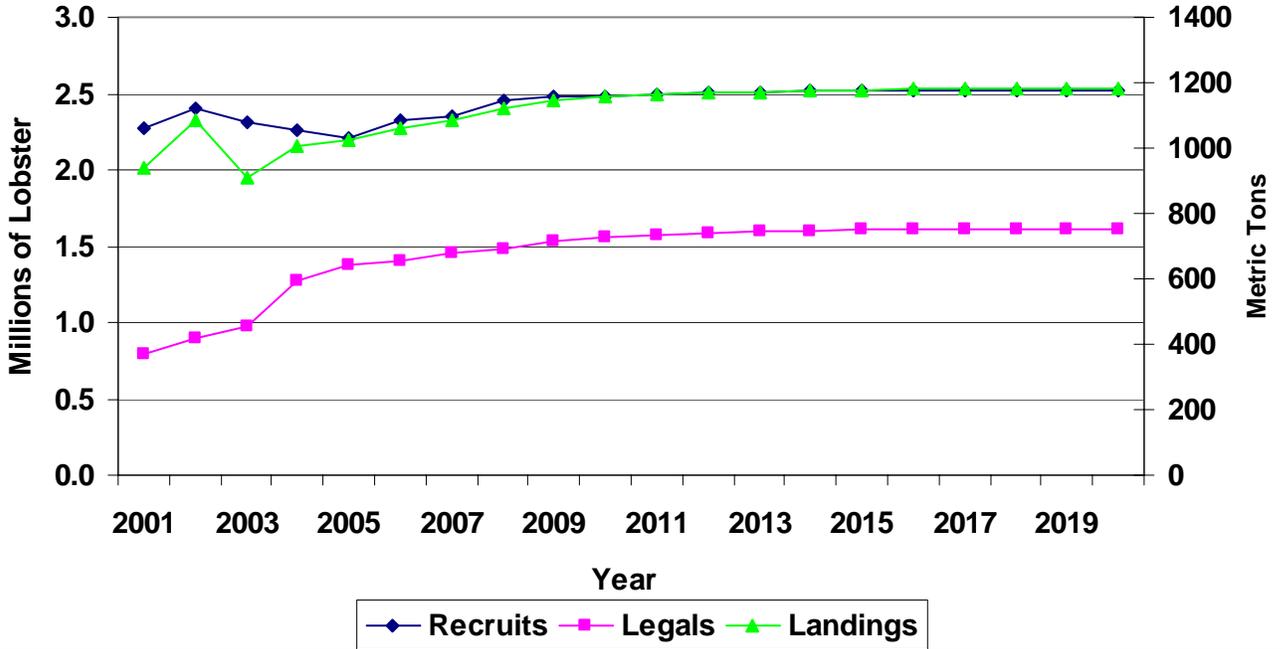
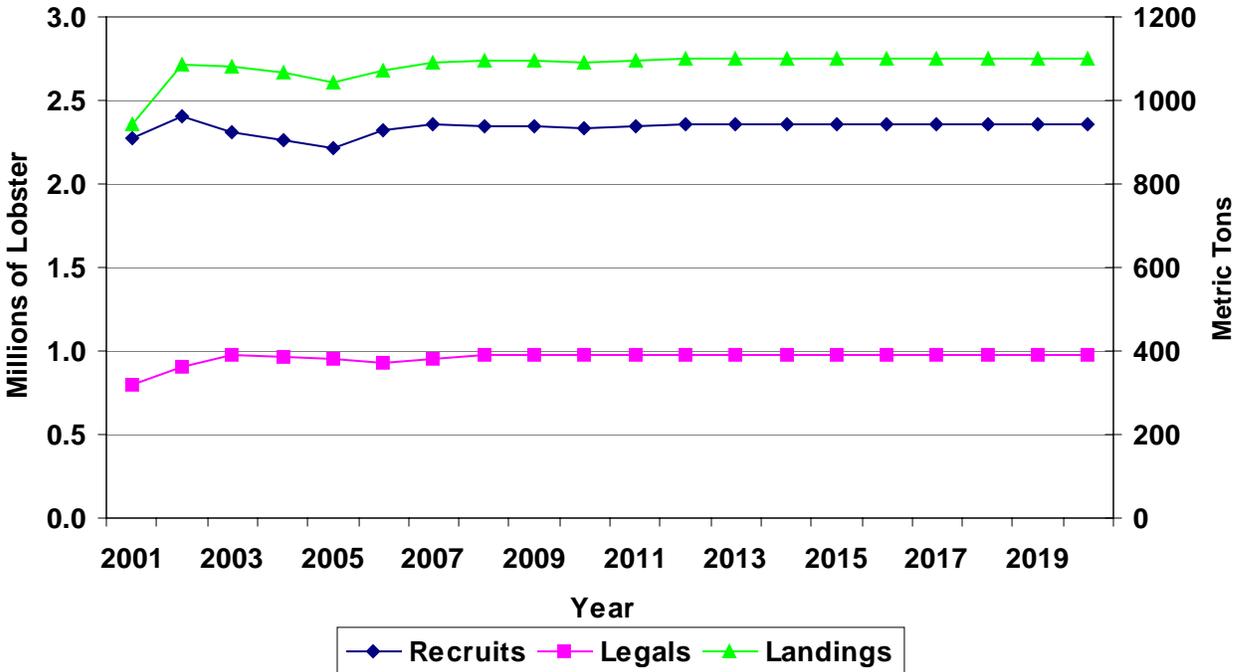
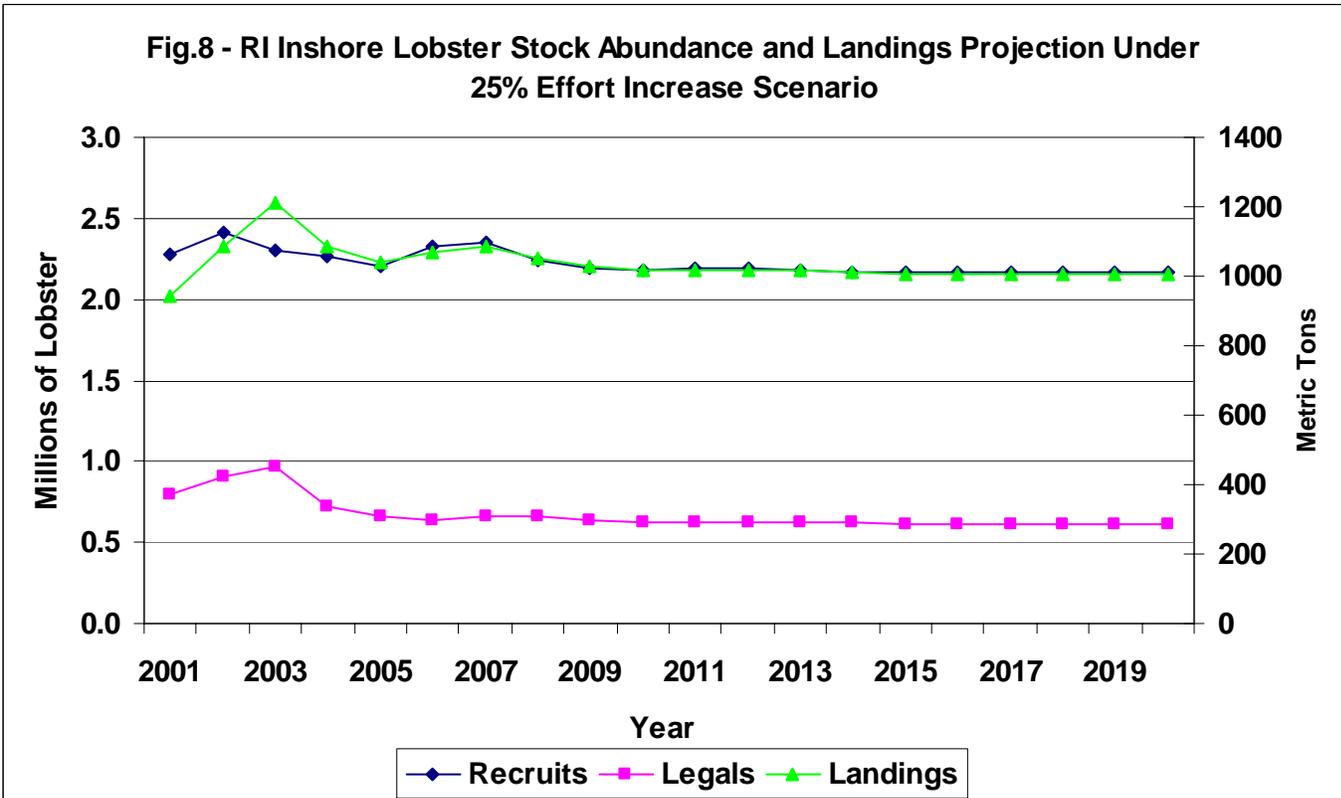
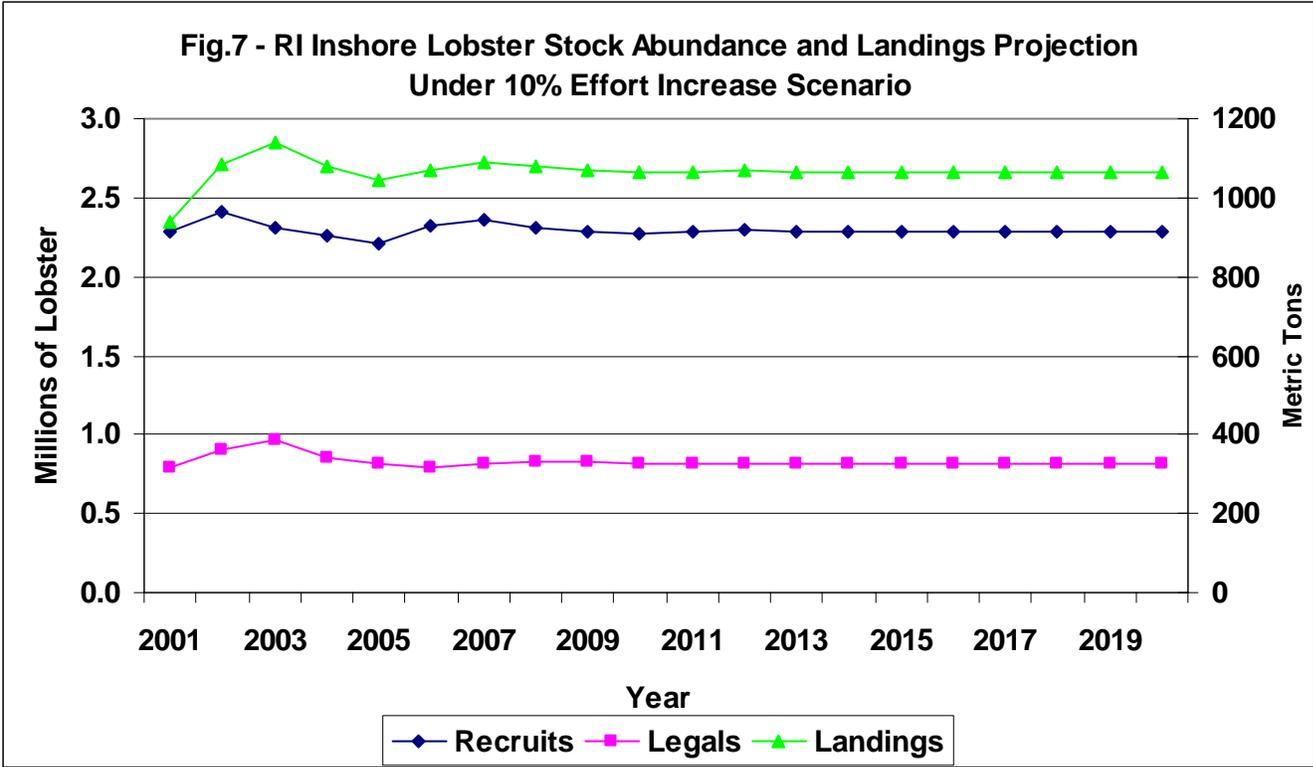


Fig.6 - RI Inshore Lobster Stock Abundance and Landings Projection Under Status Quo Effort





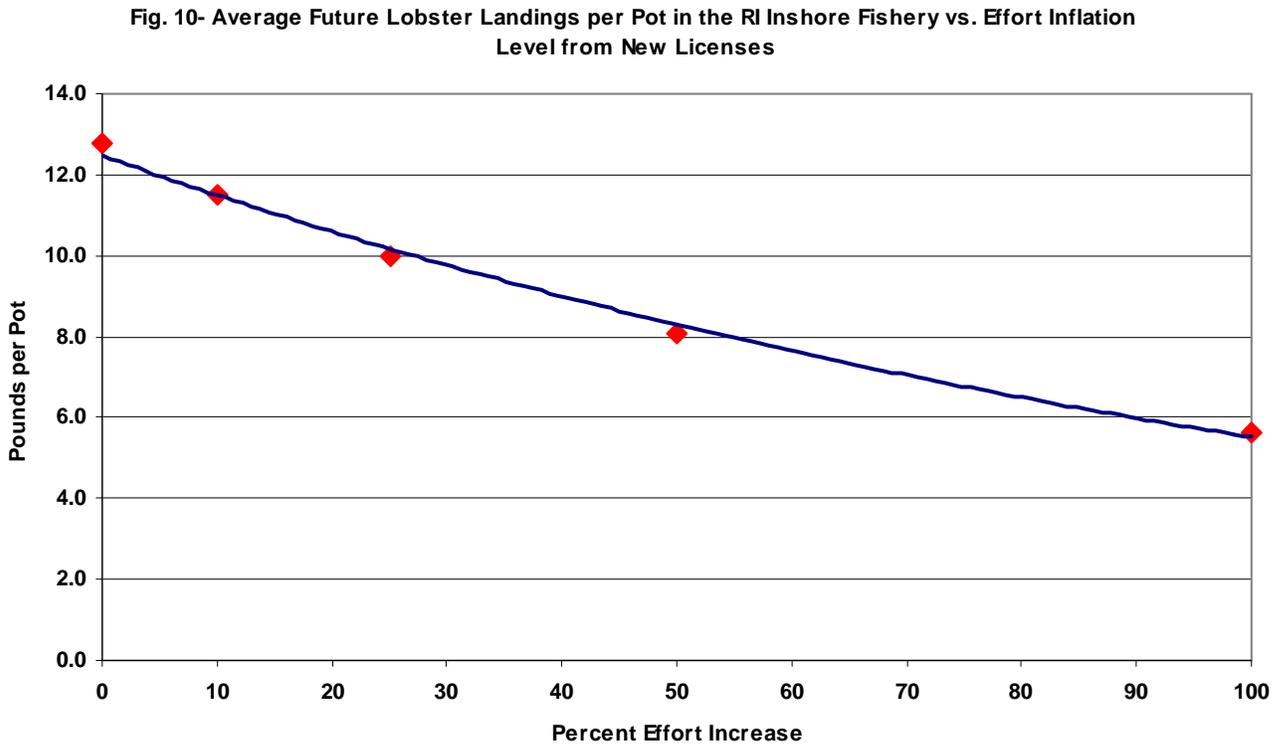
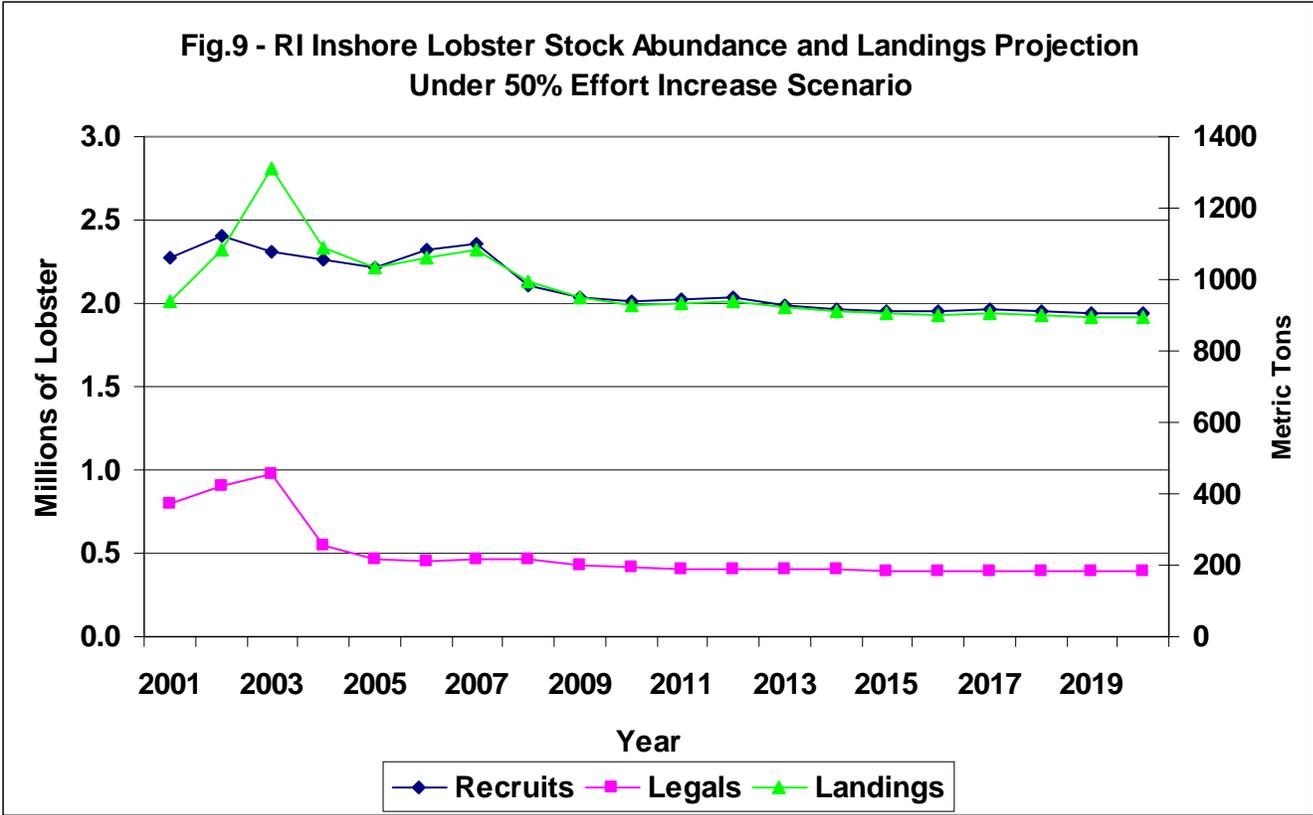


Fig.11 - RI Landings of Cancer Crabs and Abundance in the URIGSO Trawl Survey in Narragansett Bay

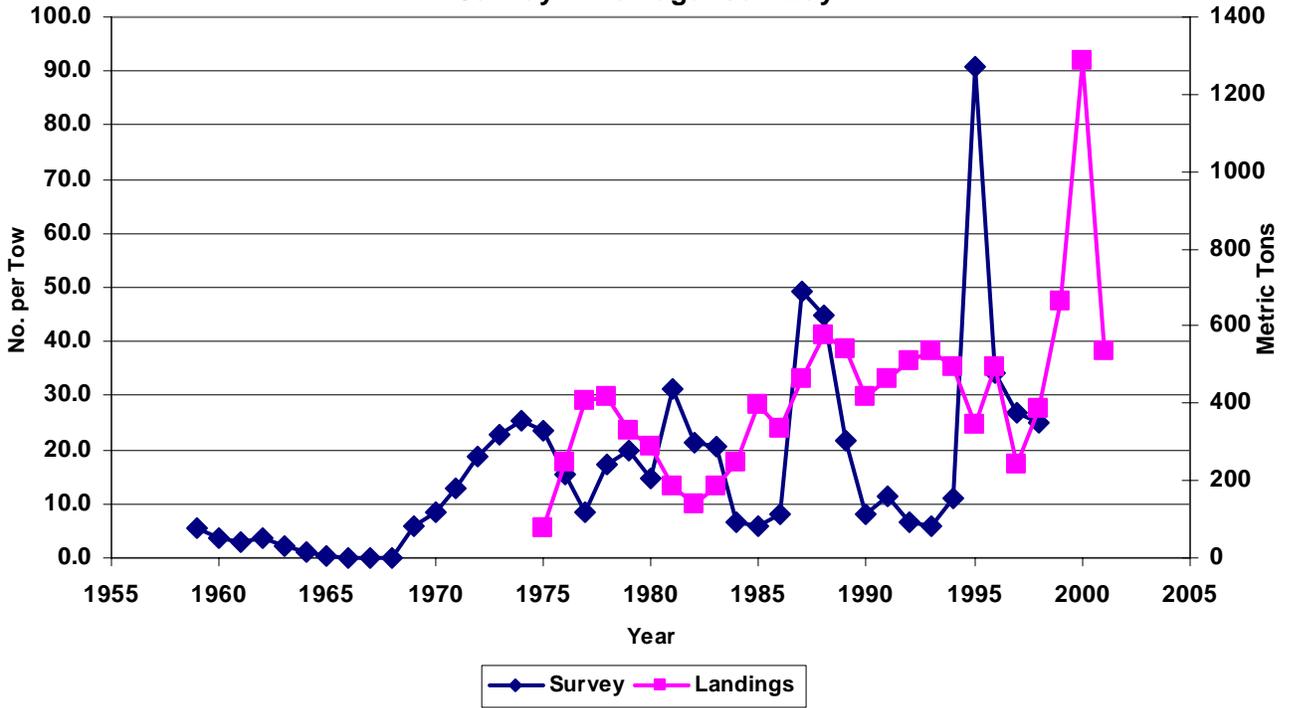
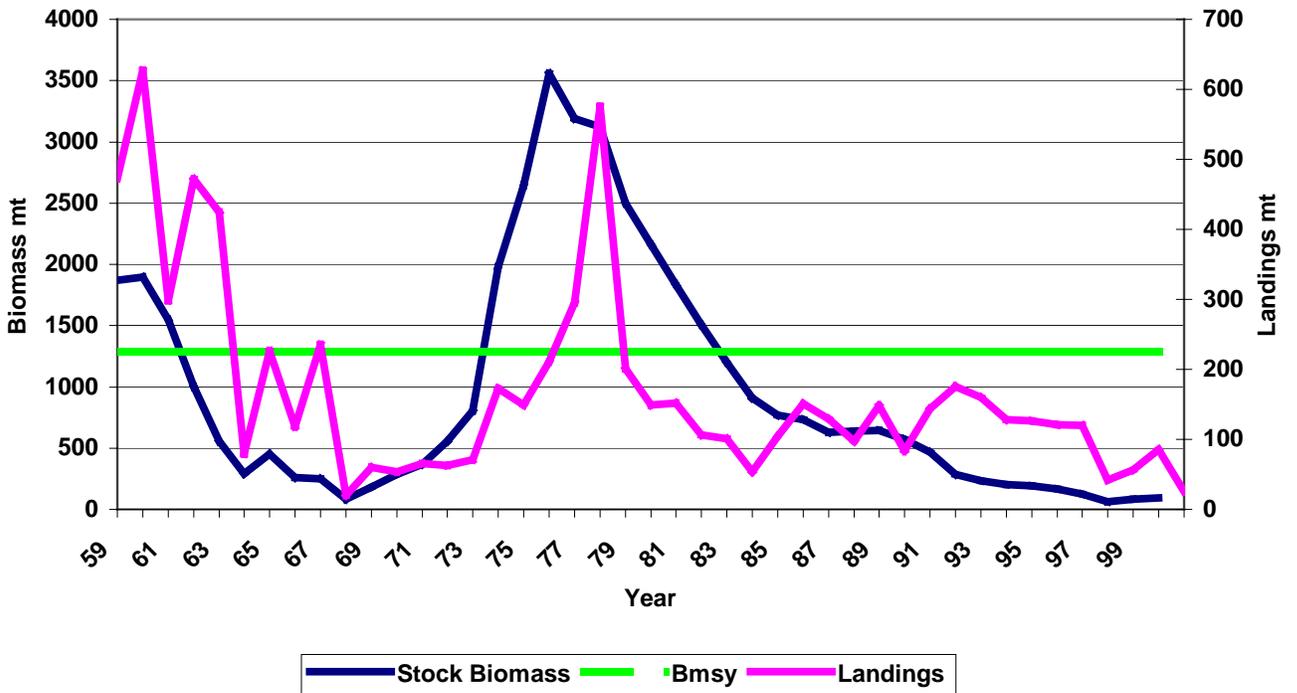


Fig.12- RI Horseshoe Crab Estimated Absolute Abundance and Landings



MANAGEMENT PLAN FOR QUOTA MANAGED FINFISH

This Management Plan evaluates the status of the resource for each species and recommends options for restoring that species to sustainable levels.

It does not include an analysis of the relative socio-economic impacts of recommended management options, which is proposed to be conducted by the University of Rhode Island.

**Commercial Fishing License Restructuring
Implementation, Finfish Sector**

DRAFT

Source Document for RI Marine Fisheries Council, Species Advisory Panels and Public Hearing Proceedings

**Rhode Island Department of Environmental Management
Division of Fish and Wildlife
Marine Fisheries
3 Ft. Wetherill Road
Jamestown, RI 02835
July, 2002**

Commercial Fishing License Restructuring Implementation, Finfish Sector

INTRODUCTION - Quota Finfish

One approach to marine fisheries management that has been successful in rebuilding fish stocks is the quota. Quotas are established to limit the amount of fish removed from a stock in order to meet the target levels of fishing mortality determined by stock assessment and also to allow spawning stock biomass to attain sustainable levels. Many of the species that are of commercial importance to Rhode Island are managed under quota systems. Quotas may be established on a coast wide basis where commercial landings from all states along the coast are tallied against the quota or on a state-by-state basis where landings in each state are counted against a state allocation. The federal government monitors coast wide quotas whereas individual states have the responsibility of monitoring state-by-state allocations

The State of Rhode Island currently manages commercial quotas for five species. The quotas for four of these species, scup, summer flounder, striped bass, and tautog, have been fully harvested each year since their implementation. Bluefish are also managed by quota but the commercial fishery has never approached its allocation. There are concerns under an open access system for these fisheries because of the restrictive limits imposed on catches. Increases in the number of participants results in declining shares per person given constant biomass. Further difficulties are created for management agencies when harvest rates increase and the ability to monitor and predict landings in a timely fashion declines.

During the 2002 legislative session the General Assembly adopted Bill 2771 Sub A, implementing a new system of commercial fishing licenses and ending the moratorium on the issuance of new commercial fishing licenses that has been in place since 1995. One purpose stated in the bill is to enable new entrants into commercial fisheries; however, provisions providing the authority to limit access were included. Fisheries identified for consideration of limited access are those “for which there is adequate or greater than adequate harvesting capacity currently in the fishery” and those that are managed under a state quota system. Several questions need to be addressed before determining whether effort can be expanded within quota-managed fisheries. First, have management goals been satisfied with the current conditions? The primary goal that the Division of Fish and Wildlife has attempted to achieve is to keep fisheries open as long as possible. At times this results in implementation of low possession limits that are not economically viable for the industry. Ideally, fisheries would remain open throughout the season with possession limits that are profitable for the industry and diminish regulatory discards. With current levels of effort there is a minimum quota amount needed to attain these goals, which raises a second question. Have any of the quotas in recent years been adequate to meet these goals and what will future quotas most likely be? And lastly, what would be the impact of increased effort?

Summarized in this paper are the stock status reports, management programs, and future management developments for species managed under a state quota system. In addition, the recent performance and estimations of future performance of these fisheries for various increases in effort are provided. These estimations are based on the reported landings and possession limits from 2001. A proportional relationship is assumed between landings and effort, i.e. a 10% increase in effort would lead to a 10% increase in landings given a constant biomass. This linear relationship is a simplistic assumption but does provide some insight as to the potential impact from increased effort. Based on this information, recommendations have been developed regarding management of these fisheries under the new licensing system adopted by the General Assembly.

SCUP

Stock Status - Scup was recently assessed and reviewed at the Northeast Regional Stock Assessment Workshop. The Stock Assessment Review Committee (SARC) concluded the scup stock is not overfished in a biomass sense and that fishing mortality rate with respect to overfishing cannot currently be evaluated (NEFSC, 2002). The 2001 estimate of spawning stock biomass (SSB) (2000-2002 average = 3.20 SSB kg/tow), based upon the 3-year moving average of the Northeast Fisheries Science Center (NEFSC) spring survey exceeds the established biomass index threshold (2.77 SSB kg/tow) (Figure 1). The change in stock status results from the extremely high survey index in

the spring NEFSC 2002 survey. Though the relative exploitation rates have declined in recent years, the absolute value of F cannot be determined. Survey data indicate strong recruitment and rebuilding of age structure. This is consistent with recent Rhode Island Division of Fish and Wildlife (RIDFW) trawl survey data.

The SARC management advice was to continue management efforts to further reduce fishing mortality rates and minimize fishery discards to rebuild the stock. Managers need to further constrain recreational catches as this sector continues to overshoot its target allocations. The stock can likely sustain modest increase in catches, however the SARC urged caution due to the high uncertainty in stock status determination.

Management Program- Scup are managed within state waters by the Department of Environmental Management with advice from the Rhode Island Marine Fisheries Council and RIDFW. Regional management of the scup resource is the shared responsibility of the Mid-Atlantic Fisheries Management Council (MAFMC) and the Atlantic States Marine Fisheries Council (ASMFC). The Scup FMP sets annual quota specifications into three sub-periods. During the two winter sub-periods, the quota is available coast wide and is restricted through the implementation of trip limits. A state-by-state quota system is in place for the summer sub-period (May – October), whereby quotas are distributed to the states based upon their percentage share of commercial landings for the period May through October 1983-1992. RI further divides the state quota into a general category allocation (40%) and a fish trap allocation (60%).

Fishery Performance and Projections- Management of the state scup quota to keep the fishery open throughout the summer period has proven to be difficult due to the number of licensees who have open access to the fishery. Despite receiving the highest coastwide allocation (56%) and implementing low trip limits, closures of the fishery, and overages are frequent (Table 1). Increased catch rates are due to the growing scup population and increased availability. Under current levels of effort the summer fishery is frequently closed even with low trip limits. In 2001, the fishery was open 61 out of 184 days. With the exception of a 1,000-pound possession limit from May 1 to May 14 a 100-pound possession limit was in place when the fishery was open. Effort increases as small as 10% would leave the fishery closed for an estimated 70% of the summer period (Table 2). Replacing the 1,000-pound possession limit with a lower limit would lengthen the season, however, a lower possession limit would be financially burdensome for the trawling industry and would increase regulatory discards. The high possession limit allows trawlers to target scup using large mesh. Otherwise small mesh is used to harvest other species such as squid and butterfish to supplement their income.

Table 2. Total days open during Summer Sub-Period in 2001 and estimated number of days open for various increases in effort

Sub-Periods	2001	10% inc	15% inc	20% inc	30% inc	40% inc
May 1 – June 30	25	19	18	17	15	14
Jul 1 – Sep15	24	21	20	20	18	17
Sep 16 – Oct 31	12	11	11	10	10	9
# Days open	61	51	49	47	43	40

Based on 2001 catch rates and possession limits, the quota necessary to keep the fishery open throughout the summer period is estimated to be just over 1 million pounds for the general category. This represents a 47% increase over the 2002 quota. In August of 2002, the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fisheries Management Council (MAMFC) recommended a 53% increase over the 2002 quota. This increase would provide a commercial quota for the general category of approximately 1 million pounds, which should allow the fishery to remain open throughout the year based on the possession limits and catch rates in 2001 and under current levels of effort. Increased effort would lead to a resumption of premature closures.

SUMMER FLOUNDER

Stock Status - According to the 2002 SARC, summer flounder is overfished and overfishing is occurring relative to the current biological reference points. The fishing mortality (F) has declined from 1.32 in 1994 to 0.27 in 2001, which is marginally above the current overfishing definition reference point of 0.26. The SARC report indicates that the 2001 estimate of F may understate the actual fishing mortality as retrospective analysis show that the current assessment method tends to underestimate recent fishing mortality rates (e.g. by about 1/3 over the last three years).

Total stock biomass has increased substantially since 1989, and in 2001 was estimated to be 42,900MT, 19% below the current biomass threshold of 53,200 MT (Figure 2). Projections indicate that if the TAL in 2002 is not exceeded, total stock biomass will exceed the biomass threshold. At this level, the stock will no longer be overfished. Managers need to further constrain recreational catches as this sector continues to overshoot its target allocations.

Management Program: Summer Flounder are managed within state waters by the Department of Environmental Management (DEM) with advice from the Rhode Island Marine Fisheries Council and RIDFW. Regional management of the summer flounder resource is the shared responsibility of MAFMC and ASMFC. Existing DEM regulations provide a framework to manage the annual summer flounder quota allocated to RI through possession limits and seasons. The total commercial quota is allocated into four sub-periods based on the proportion of catches during the years 1980 through 1989.

In RI, management of the fishery for summer flounder has been difficult and the subject of frequent allocation disputes. The winter commercial fishery is prosecuted offshore, by larger trawl vessels. During the summer, smaller trawl vessels, floating traps, gillnet and rod and reel fishermen direct their efforts on this species inshore, along with a substantial recreational fishery. Frequent possession limit reductions and closures are enacted by the RIDFW during each sub-period to keep RI landings within the quota allocated by MAFMC and ASMFC (Table 1).

DEM implemented a Summer Flounder Exemption Program (SFEP) in 1995 to limit the number of vessels that could participate in the directed fishery, based upon their historical participation. At that time, a 200-pound limit was established for anyone who did not qualify for a SFEP. Due to the increase in stock biomass in the near shore waters and the number of license holders eligible to direct on the summer flounder fishery, the spring & summer sub-periods have been quickly exhausted, even with low trip limits of 100 pounds.

Fishery Performance and Projections: Under current levels of effort, the summer flounder fishery has been frequently closed. The season most affected has been the summer because of the small allocation available. The proportion of summer flounder taken by different gear types during the summer months has changed over the past few years. The percentage harvested by otter trawl has declined each year during the period 1996 to 2000 while the proportion taken by all other gear types has increased with the greatest increase occurring for the Rod & Reel sector (Figure 3). The increase in stock abundance over the same time period as evidenced by the RIDFW trawl surveys may explain this shift as fish have become more available to inshore fisherman. As a result, the performance of the fishery has also changed over the years. Low possession limits and long closures are characteristic of the current fishery during the summer. In 2001, the fishery was only open 55 out of the 92 days available for the June through August sub-period (Table 3). In 2002, new sub-periods were created and the May through July sub-period was open 53 out of the total 92 days available.

Modest effort increases would lead to fewer days open (Table 3). A 10% increase would have decreased the number of open days by an estimated 33 days. The first two sub-periods would experience the greatest impact. The June through August period would have been closed 50% to 63% of the time with a 10% and 40% increase in effort, respectively. The last two sub-periods would be least affected. The September through October sub-period would stay open throughout the period under all effort increases.

Table 3. Total days open in 2001 and estimated number of days open for various increases in effort

Sub-Periods	2001	10% inc	15% inc	20% inc	30% inc	40% inc
Jan – May	151	130	127	124	119	112
June – Aug	55	46	43	41	37	34
Sep – Oct	61	61	61	61	61	61
Nov - Dec	45	42	41	40	39	37
# Days open	312	279	272	266	256	244

Theoretically, the current quotas are sufficient to keep the fishery open throughout the year with very low possession limits; however, this would not be economically feasible for the

trawling industry and would increase regulatory discards. Large mesh is used to target scup and summer flounder if the possession limits are high enough to be profitable otherwise small mesh is used to target other species while keeping scup and fluke limits as bycatch. Possession limits during summer months has been a contentious issue between the trawler and rod & reel sectors. The high possession limits necessary for trawlers to cover expenses lead to early closures while low possession limits and a long season are desired by the rod & reel sector. A compromise between the two sectors would be a sizable limit for several weeks in May (i.e. 300 pounds) and then a 100-pound possession limit for the remainder of the period, however, recent quotas have not been substantial enough to achieve these limits.

Based on average landings and possession limits in 2001 the quota would need to be approximately 200,000 pounds greater than received. However, this estimation is based on the possession limits that were in effect, which were very low throughout much of the year. For comparison, the quota allocated for 2002 was about 500,000 pounds greater than the 2001 quota. The fishery remained open throughout the first sub-period with fairly high limits, however, the second sub-period (May – July) closed after 53 days with a 100-pound possession limit. A much higher quota would be needed to achieve the possession limits that would satisfy all industry sectors. An estimated 3 million pounds would be needed to keep the fishery open all year with the possession limits indicated below.

Jan 1 – Feb 9:	700 pounds
Feb 10 – Apr 30:	1,500 pounds
May 1 – May 31:	300 pounds
Jun 1 – Jul 31:	100 pounds
Aug 1 – Aug 31:	100 pounds
Sep1 – Oct 31:	300 pounds
Nov 1 – Dec 31:	500 pounds

This estimate is based on landings reported in 2002 for the January - April and June periods. Landings were estimated for the remaining months based on landings data reported in 1998 – 2000.

While the biomass of summer flounder has been increasing over recent years, ASMFC and MAFMC recommended this August to reduce the 2003 summer flounder quota by about 4% because biomass is still below the threshold and estimates of fishing mortality and recruitment for recent years in the assessment were biased. Increased effort at this time would lead to lower possession limits and longer closed periods.

TAUTOG

Stock Status: The ASMFC technical committee completed the most recent assessment of tautog in 2001. Results indicate that coastwide fishing mortality rates have declined since 1993, however, since the 2000 rate ($F_{2000} = 0.41$) exceeds the target ($F_{TARGET\ 2000} = 0.24$) the stock is considered overfished. Abundance indices through 2000 show a slight increase in biomass and recruitment for recent years (Figure 4). The current index of stock size is slightly above the time series average, while the spawning stock biomass is below the time series average, indicating that a considerable proportion of the recent growth in the stock is from fish younger than spawning age (Figure 4). The recent increase in fishing mortality rates appear to be due to an increase in recreational landings, which comprise approximately 90% of total landings over the past six years. Commercial landings have not risen appreciably since plan implementation. Indices of abundance based on the RIDFW trawl survey indicate a recent increase in abundance locally; however, the 2001 estimate is below the time series average. Abundance indices for young-of-the-year tautog also point to an increase in abundance over the past several years, consistent with the results of the coastwide assessment.

Management Program: Tautog are managed within state waters by the DEM with advice from the Rhode Island Marine Fisheries Council and RIDFW. Regional management of the tautog resource is conducted by ASMFC through Addendum III to the Tautog FMP, which was recently adopted in February of 2002. The FMP in part requires a reduction in fishing mortality (F) because the most recent estimates of F exceed the target of 0.24. States are required to implement regulations that meet the required reductions by April 1, 2003. The final phase of the plan will require further reductions in fishing mortality to achieve a target of $F = 0.15$. Consequently, the state quota is not likely to increase over the next few years. The commercial fishery in Rhode Island is managed through a combination of seasons, quotas, and possession limits. Although it is not required, Rhode Island established a commercial quota, which in part achieves the fishing mortality targets required by the FMP. The quota is divided equally into three seasons with a daily possession limit of 20 fish.

For the year 2000, the commercial quota was double the amount available in 1999, increasing the number of open days by 128. In 2001, the quota remained the same as 2000 but the fishery was open a fewer number of days. For two sub-periods, the allocations were harvested prior to the end of the sub-period, resulting in early closures. During the first sub-period, the fishery was open 33 of the 47 days and landings exceeded the allocation by 13,000 pounds. Had the fishery closed when the quota was reached the fishery would have been open for 27 days. The excessive overage was due to unusually high landings in one of the reporting weeks. This overage was deducted from the quota allocated to the first sub-period in 2002, leaving a small amount available. Catch rates in 2002 were also very high with 14,689 pounds landed in a single week.

Further increases in effort would lead to earlier closures and greater difficulties in monitoring landings. A 10% increase in effort would reduce the number of open days by a week while a 40% increase would shorten the season by four weeks. Recent stock surveys show that local populations are increasing in biomass. Landing rates are expected to increase as the stock grows and fish become more readily available. A combination of static commercial quotas, growing population biomass, and effort increases would lead to a drastic reduction in season length for a fishery that currently is unable to remain open throughout the season.

Table 4. Total days open in 2001 and estimated number of days open for various increases in effort

Sub-Periods	2001	10% inc	15% inc	20% inc	30% inc	40% inc
Apr 14-May 31*	33	32	31	30	29	28
Aug 1 – Sep 15	46	44	42	40	37	34
Oct 15 – Dec 31	32	28	26	25	23	22
# Days open	111	104	99	95	89	84

* Estimated days open based on data including the 13,000 pound overage

Based on average landings within sub-periods, the quota necessary to keep the fishery open throughout the first two periods and the last period until mid December is 101,521 pounds. This would be a 100% increase over current quota levels. While local stocks are increasing the region wide assessment indicates that fishing mortality has increased lately and future management actions will aim to reduce F. Expansion of the commercial quota is unlikely in the next few years.

STRIPED BASS

Stock Status: According to the stock assessment for 2001 overall abundance of the stock is very high and the fishing mortality remains below the target fishing mortality ($F_{2001} = 0.31$). Abundance increased steadily between 1982 and 1997 but has remained stable since (Figure 5). The population abundance as of January 1, 2001 was estimated to be 45.6 million fish. Model results indicate fishing mortality increased steadily until 1999 but decreased slightly in 2000. Indices of abundance calculated from the RIDFW trawl survey are quite variable for the time series; however, a trend of increasing abundance is evident.

Management Program: Striped bass are managed by ASMFC through Addendum V to Amendment 5 to the interstate FMP, which requires minimum sizes for the commercial and recreational fisheries, possession limits for the recreational fishery, and state quotas for the commercial fishery. Based on the 1999 assessment, it was determined that the 1998 F estimate on fully recruited fish exceeded the target and equaled the overfishing

definition. The management program for 2000 was aimed at reducing F, resulting in a smaller commercial quota than 1999. Based on the 2000 assessment the Management Board determined that no additional reductions in F were necessary. Amendment 6 is currently in draft form and might be adopted later this year. This amendment provides a number of options for several issues that the Management Board will adopt. Issues include overfishing definitions, stock rebuilding targets, minimum size regimes, and distribution of allocations among user groups. The options that are selected will determine future commercial quotas for Rhode Island. Because of the variety of options available the 2003 quota amount relative to 2002 is uncertain. However, with the latest assessments showing a leveling of the stock biomass substantial increases in the commercial quota are unlikely in the near future.

Regulations for the commercial striped bass fishery in Rhode Island include minimum sizes, possession limits, gear restrictions, seasons and quotas. The commercial quota is divided between two sectors, floating traps (37%) and a general category (63%). The quota for the general category, primarily rod & reel, and the floating trap fishery were made available in 2001 and 2002 during two seasons.

Fishery Performance and Projections: There were fewer open days for the general category in 2001 compared with 2000 and 1999, however, early closures occurred within all three years (Table 1). In 2001, the fishery was open for 42 days compared to 1999 when the fishery was open 64 days. The shorter season in 2001 is most likely due to a higher possession limit.

Estimates of open days under different levels of effort for the striped bass fishery are based on 2002 data, since the quota has already been harvested. The fishery was open for 28 days. The plan was to leave 10% of the quota for October 1, however the entire quota was harvested during the first season. The number of open days has decreased each year since 1999. An increase in effort would shorten the season further while the consensus among industry representatives is to have a longer season.

Table 5. Total days open in 2002 and estimated number of days open for various increases in effort

	2002	10% inc	15% inc	20% inc	30% inc	40% inc
# Days open	28	26	25	24	23	22

In past years the catch rates are higher in June compared to September and October. Landings data for 2000 and 2001 indicate that catch rates in June are higher than in September and October. Assuming that the catch rates in September, and October are half that of June the quota needed to keep the fishery open during those three months is about 288,000 pounds. Commercial quotas of this magnitude are unlikely in the next few years because the most recent stock assessments indicate that the population of striped bass has not increased in biomass since 1997 and the recreational catch has increased dramatically over recent years.

BLUEFISH

Stock Status: The Atlantic Coast bluefish stock was last assessed this year, 2002. Fishing mortality (F) in 2001 was estimated to be $F = 0.25$. Accepting $F_{msy} = 0.40$, estimated in the 1997 assessment and adopted by Amendment 1, as an overfishing definition, the bluefish stock was not overfished in 2000 and 2001. However, biomass remains below levels needed to deliver MSY. Stock abundance declined between the late 1970s and the mid 1990's and has increased since (Figure 6).

Management Program: Bluefish are managed cooperatively by ASMFC and MAFMC through Amendment 1 to the Bluefish Fishery Management Plan. The Bluefish Monitoring Committee meets annually to review the most recent data and to make recommendations regarding the commercial quota, the recreational harvest limit, and other management measures. Commercial quotas have been implemented since 1994 and have never been fully harvested. Coastwide quotas have ranged between 9.583 and 11.38 million pounds with a quota of 10.5 million pounds approved for 2002. Projection results from the latest assessment indicate that the bluefish stock will increase in biomass over the next couple of years. The Bluefish Monitoring Committee recommended a commercial quota of 10.5 million pounds for 2003, the same as 2002. Rhode Island share of this quota, 6.8%, equals 714,851 million pounds. There are no possession limits, size limits, or closed seasons for the commercial fishery. Half of the commercial quota is allocated to the period January through June and half to July through December.

Fishery Performance and Projections: Since 1994 when states were first allocated a commercial quota for bluefish, Rhode Island has not fully harvested its allocation and fishery has never been closed while the quota system has been in place. In 2001, 30% of the quota was not harvested.

Fishery Management and Licensing Recommendations-

A precautionary approach should be taken when considering new entrants into quota-managed fisheries and on stocks currently under re-building programs. Management of quota-based fisheries is complex, and characterized by pulse fishing. A modest increase in the 2003 quotas for scup is expected (scup). Beginning in 2003, black sea bass will also operate under a state-by-state quota system with RI receiving approximately 11% of the coastwide quota. For many of the Northeast non-quota managed species, (16 groundfish stocks) severe effort restrictions are currently in place and additional restrictive measures are under development to rebuild overfished stocks. A re-direction of effort into the Southern New England area, particularly state water open access fisheries, is inevitable.

Current RI finfishers in state waters holding multipurpose or finfish licenses (1771 in 2001) are eligible for the new multipurpose or principal effort endorsement licenses. These license holders would be entitled to fish consistent with existing regulations that are compliant with the corresponding FMP. They will continue to harvest quota species. New entrants, eligible under the new basic harvest license, can be limited through the number of licenses issued and the harvest level authorized. New basic harvest licenses should not be eligible for quota-managed finfish except bluefish until such time as stock biomass and state allocations have grown to a point where continuous fisheries are possible.

Current Regulations Pertaining to Effort Limitations

7.7 Fluke (Summer Flounder) -- No person commercially licensed under RIGL 20-2-27 or RIMFC Part II shall possess or harvest any fluke which is less than fourteen (14) inches total length. A total annual statewide quota for fluke will be established. It shall be the most recent allocation established for the State by the Atlantic States Marine Fisheries Commission and/or the Secretary of the U.S. Dept. of Commerce and published in the Federal Register. The quota may be harvested by licensed gear fishermen in accordance with the provisions of Title 20 of the General Laws and in accordance with all rules and regulations promulgated by the R.I. Marine Fisheries Council. In order to provide for the orderly harvest of the quota the R.I. Marine Fisheries Council has established the following sub-period allocations:

7.7.1 Summer flounder Sub-periods

7.7.1-1 Winter Sub-Period: January 1 - April 30 annually.

Target allocation - 54% of the annual quota established in Section 7.7. The possession limit per vessel will be 700 pounds per calendar day.

The DFW will increase the possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.

7.7.1-2 Summer I Sub-Period: May 1 - July 31 annually.

Target allocation - 12% of the annual quota established in Section 7.7. The possession limit per vessel will be 100 pounds per calendar day.

7.7.1-3 Summer II Sub-Period: August 1 - October 31 annually.

Target allocation - 23% of the annual quota established in section 7.7. The possession limit per vessel will be 150 pounds per calendar day.

7.7.1-4 Fall Sub-Period: November 1 - December 31 annually.

Target allocation - 11% of the annual quota established in Section 7.7. The possession limit per vessel will be 450 pounds per calendar day.

Any unused portion of the quota from a 'sub-period' will be equally distributed to the allocations of the remaining sub-periods. The over-harvest of a sub-period allocation will be deducted from the allocations of the remaining sub-periods. Annually, the target allocations specified in sections 7.7.1-1 through 7.7.1- 4 shall be adjusted by the DFW to charge over-harvest of a sub-period allocation during a given year to the same sub-period of the next following year.

7.7.2 Summer flounder Trip Limits (possession limit)

7.7.2-1 Repealed 5/11/01

7.7.2-2 The possession limit may vary from the amount specified in sections 7.7.1-1 through 7.7.1- 4. Fish and Wildlife, after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time remaining in the sub-period, Fish and Wildlife will decide whether the possession limit should be decreased or increased. Fish and Wildlife will file a notice with the Secretary of State's Office if the rate is changed, and publish a news release announcing the change in a newspaper of daily circulation throughout the State. [Effective 12:01 AM, April 28, 2002, the possession limit for the commercial summer flounder fishery will be 100 lbs. per vessel, per calendar day.]

7.7.3 Summer flounder Mesh Regulations – Otter trawlers that land or possess 100 pounds (45.4 kg) or more of summer flounder from May 1 through October 31; or 200 pounds (90.8 kg) or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and codend portion of the net

7.7.6 Moratorium on the Landing of Summer Flounder -- No person shall possess, land, sell, or offer for sale in excess of two hundred (200) pounds of summer flounder *Paralichthys dentatus*, in any calendar day, in the State of Rhode Island or the jurisdictional waters of the state without a summer flounder exemption certificate issued by Fish and Wildlife and a valid Rhode Island commercial fishing license. Application for a summer flounder exemption permit must be received by Fish and Wildlife prior to January 1, 1997.

7.7.7 Exemption Certificates -- Fish and Wildlife will issue an exemption certificate for a vessel if the owner of the vessel or his/her representative applies to Fish and Wildlife prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:

7.7.7-1 the operator of the vessel possesses a valid Rhode Island commercial fishing license to land summer flounder up to the amount permitted by the Rhode Island Marine Fisheries Council regulations; and

7.7.7-2 the subject vessel meets any of the following criteria:

a. the vessel was operated by a person who possessed a valid Rhode Island commercial fishing license and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992; or

b. the vessel fished exclusively in the Exclusive Economic Zone (EEZ) and landed and sold in excess of one pound of summer flounder to a licensed Rhode Island licensed dealer sometime during the period January 1, 1987, through December 31, 1992. The Department may require additional supporting documents including but not limited to the ship's logs, ice and fuel slips; or

c. the vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss; or

d. the vessel replaces a vessel which fished exclusively in the EEZ and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer, during the period January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.

e. If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.

7.7.8 Application for Certificate of Exemption -- A vessel is eligible to receive a Rhode Island Summer Flounder Exemption Certificate if it meets the following conditions. The applicant applying for an exemption certificate shall:

7.7.8-1 provide Fish and Wildlife with a copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal Fluke Permit if the summer flounder is to be taken in the Exclusive Economic Zone (EEZ); and

7.7.8-2 submit a completed notarized application for said certificate; and

7.7.8-3 submit proof that the vessel meets the requirements set out in 7.7.7 and

7.7.8-4 provide a completed notarized waiver authorizing the Department to access records verifying that this vessel and operator meet the criteria set forth in 7.7.7; and

7.7.8-5 provide Fish and wildlife with a copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel. If replacing a vessel, proof of ownership for both boats is required, and

7.7.8-6 provide to the satisfaction of the Division of Fish and Wildlife proof that the applicant vessel is replacing a vessel which has been removed from the Summer Flounder Exemption Program (as described in 7.7.6)

(a) A vessel may be sold with all permits and history (state and federal) transferred together or without the vessel history and permits. A vessel owner may sever the permits and history in entirety from the vessel for the purposes of replacing the vessel. The vessel owner must supply credible written evidence verifying that the transferror/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. If a vessel owner elects to sever permits and history from a vessel, the permits and history may be transferred only to another vessel owned by said vessel owner.

(b) Vessel permits, Certificates of Exemption, and fishing history cannot be split.

(c) Vessel permits or Certificates of Exemption may not be combined to create larger replacements vessels.

(d) The replacement vessel may not exceed a 10% increase in length overall (LOA), a 10% increase in gross registered tonnage (GRT) or net tonnage, or a 20% increase in horsepower of the vessel being replaced.

(e) Only one vessel upgrade based upon the original issuance of certificate is allowed for the Certificate of Exemption or permit.

7.7.9 Submission of Application -- Application for an exemption certificate shall be mailed or submitted prior to January 1, 1997 to the office of Fish and Wildlife at: Oliver Stedman Government Center, 4808 Tower Hill Rd., Wakefield, RI 02879, Attention: Fluke Exemption.

7.9 Tautog (Blackfish) -- No person shall take, possess, sell, possess for sale, or offer for sale any tautog measuring less than sixteen (16) inches total length whether caught within the jurisdiction of this State or otherwise.

7.9.2 Commercial --The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the Atlantic States Marine Fisheries Commission. The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the RIMFC and the RIGL Title 20. In order to provide for the orderly harvest of the quota the RIMFC has established the following three sub-period allocations:

April 15 - May 31	1/3 annual allocated quota
August 1 - Sept 15	1/3 annual allocated quota
October 15 - end of quota or 12/31	1/3 annual allocated quota

Within each period the allocation may be harvested until it is exhausted. Any unused quota not harvested during a sub-period will be carried forward into the next period and any over-harvest will be deducted from that period allocated in the next calendar year. No licensed commercial fisherman may possess more than twenty (20) tautog in any calendar day. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the twenty (20) fish limit per day. During a closure of the R.I. tautog fishery a federally permitted vessel fishing in the Exclusive Economic Zone (EEZ), may traverse Rhode Island waters for the purpose of landing tautog in another state, provided their nets are stowed in accordance with Section 10.10 of these regulations.

7.10.1 Bluefish - Commercial Quota -- A total allowable harvest of bluefish will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the Atlantic States Marine Fisheries Commission. The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the Rhode Island Marine Fisheries Council. To provide for the orderly harvest of the quota, the Rhode Island Marine Fisheries Council has established the following sub-period allocations.

7.10.2 Bluefish Commercial Quota - Sub-Periods

7.10.2-1 Spring sub-period - January 1 through June 30 annually. Quota - 50% of the annual allocation.

7.10.2-2 Summer-Fall Sub Period - July 1 through December 31 annually. Quota - 50% of the annual allocation.

When 50% of any seasonal sub-period quota is reached, Fish and Wildlife will determine if a possession limit of between 200 - 10,000 pounds should be established depending upon the time remaining in the quota period and the current catch rate. Fish and Wildlife will file a notice with the Secretary of State's office if a possession limit is established, and will publish a news release announcing the change. The possession limit may be modified by Fish and Wildlife providing such notification is made.

7.11 Scup Regulations - Minimum Size - 9" total length (TL) -- It is unlawful for any person commercially licensed under RIGL 20-2-27 or RIMFC Part II, to land or possess any scup, or parts thereof, that do not meet this size limit. [see Part 10.12 for gear roller regs] (RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-3-3) (RIGL 20-6-29)]

7.11.1 - Scup - Commercial Quota -- A total allowable harvest of scup will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the Atlantic States Marine Fisheries Commission. The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the Rhode Island Marine Fisheries Council. To provide for the orderly harvest of the quota, the Rhode Island Marine Fisheries Council has established the following sub-period allocations.

7.11.2 Scup Commercial Quota - Sub-Periods

7.11.2-1 Winter Period I (January-April) –

possession and landing limit is 10,000 pounds decreasing to 1,000 pounds once 75% of the period quota is landed.

Winter Period II (November-December) -- possession and landing limit is 2,000 pounds, decreasing to 500 pounds once 70% of the period quota is landed.

7.11.2-2 Summer-Fall Period (May - October) A state quota for scup will be established annually for the Summer-Fall period and shall be the most recent amount allocated to the State of Rhode Island by the Atlantic States Marine Fisheries Commission and/or the Secretary of the U.S. Department of Commerce and published in the Federal Register. The total quota for will be divided as follows:

FLOATING TRAPS licensed by the state of Rhode Island – Sixty percent (60%) of the Summer-Fall period quota will be allocated to the floating trap harvesting sector. With the exception of 50,000 pounds, which will be set aside until September 1, the quota allocated to the floating trap sector will be available during the following sub-periods:

MAY 1 – MAY 31: Ninety percent (90%) of the floating trap quota, not including the 50,000 pounds set aside, will be available from May 1 through May 31. The possession limit will be 25,000 pounds per fish trap licensee* per calendar day. Once 60 percent of the sub-period allocation is projected to be harvested, the possession limit will be 10,000 pounds per fish trap licensee per calendar day.

JUNE 1 – AUGUST 31: Ten percent (10%) of the floating trap quota, not including the 50,000 pounds set aside, will be available from June 1 through August 31. The possession limit will be 1,000 pounds per fish trap licensee per calendar day.

* “Fish trap licensee” – for purposes of this section, fish trap licensee shall refer to a resident person or resident corporation currently issued a license pursuant to RI General Laws §20-5-2. The maximum possession limit per fish trap licensee shall be the amount set forth above regardless of the number of authorized trap locations, the number of vessels or the number of licensed fishermen who may be working for or may enter into contract with the fish trap licensee. While engaged in the operation of a fish trap, any licensed fisherman that may be working for or may enter into contract with the fish trap licensee waives any individual right to possess scup pursuant to a possession limit set out in RIMF Regulations Part 7.11.2-2.

Dealers are required to report scup landings daily to the DFW. Annually on September 1, the unharvested portion of the floating trap fishery quota will be allocated to gear types other than floating traps, except for 50,000 pounds, which will remain available to the floating trap fishery at a possession limit of 1,000 pounds per calendar day.

Annually on October 15, the unharvested portion of the 50,000 pound remainder will be allocated to gear types other than floating traps at the current established trip limit. Once their entire allocation has been harvested, the floating trap fishery for scup will close for the season.

GEAR TYPES OTHER THAN FLOATING FISH TRAPS – Forty percent (40%) of the Summer-Fall period quota will be allocated to all gear types except floating fish traps. The quota allocated to the other gear type sector will be available during the following sub-periods.

MAY - JUNE: One-third (1/3) of the other gear type quota will be available from May 1 through June 30. The possession limit per vessel on May 1 will be 1,000 pounds per calendar day. The possession limit will be reduced at the discretion of the Division. The fishery will close once the entire period allocation is projected to be harvested.

JULY - SEPT. 15: One-third (1/3) of the other gear type quota will be available from July 1 through September 15. The possession limit per vessel will be 100 pounds per calendar day until the end of the

sub-period or until the entire sub-period allocation is projected to be harvested, at which time the fishery will close.

SEPT. 16 – OCTOBER 31: One-third (1/3) of the other gear type quota will be available from September 16 through October 31. The possession limit per vessel will be 100 pounds per calendar day until the end of the sub-period or until the entire sub-period allocation is projected to be harvested, at which time the fishery will close. Annually, on October 15, or thereafter, the Division may increase the possession limit if they project the entire quota will not be harvested by the end of the sub-period. Any unused portion of a sub-period allocation will be divided between the two remaining period(s). The DFW will have the discretion of adjusting trip limits upwards or downwards as necessary.

7.11.2-3 Possession Limit Adjustments -- Except for scup harvested from floating fish traps licensed by the State of Rhode Island, the possession limit may vary from 0 - 10,000 pounds. Fish and Wildlife, after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time remaining in the sub-period, Fish and Wildlife will decide whether the possession limit should be decreased or increased. Fish and Wildlife will file a notice with the Secretary of State's Office if the rate is changed and publish a news release announcing the change. The rate may be modified by Fish and Wildlife upon providing such notification with the possession limit altered between a range of 0 - 10,000 pounds in possession.

12.1 Size/Possession Limits/Season -- Except as provided in Parts 12.3 and 12.5, no person shall possess in Rhode Island any striped bass which measures less than twenty-eight inches (28") in total length, whether caught within the jurisdiction of this State, or otherwise. Except as provided in Parts 12.3 and 12.5 no person shall possess, per calendar day, more than two (2) striped bass, whether caught within the jurisdiction of Rhode Island or otherwise. There is no closed season for striped bass. Compliance with the possession limit aboard vessels will be determined by dividing the number of fish onboard a vessel by the number of recreational fishermen onboard said vessel. (RIMFC REGULATION) [Penalty Part 12.2; (RIGL 20-4-11)]

12.3 Striped Bass Size/Possession Limits in the Commercial Striped Bass Fisheries -- Except as provided in Part 12.5, any person meeting the requirements of RIGL §§ 20-2-26, or 20-2-27, or 20-2-28.1, shall be allowed to take or possess, whether caught within the jurisdiction of this state or otherwise, striped bass which measure thirty four (34) inches or greater in total length. Except as provided for in Part 12.5 or 12.6, no person shall in any manner take and/or possess in Rhode Island more than the allowable limit established by the Rhode Island Marine Fisheries Council. When Fish and Wildlife has determined that the annual quota established by the Atlantic States Marine Fisheries Commission (ASMFC) has been filled, the commercial sale of striped bass will terminate and the season will be closed. A notice terminating the fishery will be provided to the local press, and a notice of the closure will be submitted to the Secretary of State to be effective upon filing. [Effective 12:01 AM on June 29, 2002, the commercial striped bass fishery will be closed.]

The following seasons and possession limits are established for commercial striped bass fishermen:

January 1 – May 31	The commercial fishery will be CLOSED from January 1 through May 31, annually.
June 1 – September 30	Ninety percent (90%) of the commercial quota will be available from June 1 – September 30. The possession limit will be four (4) fish per license holder per calendar day. The fishery will close one ninety percent (90%) of the commercial quota is projected to be harvested if prior to September 30.
October 1 – December 31	Ten percent (10%) of the commercial quota will be available from October 1 through December 31. The possession limit will be three (3) fish per license holder per calendar day. The fishery will close when the entire commercial quota is projected to be harvested.

In addition, if Fish and Wildlife determines that the quota will be exceeded or will not be met before the end of the fall season, Fish and Wildlife may adjust that catch rate accordingly on or after September 15, annually. If on October 15, 10,000 pounds or more of any gear-specific allocation remains, that poundage will be committed to a

general category available to the entire commercial fishery. (RIMFC REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]

12.6 Gill Net Prohibition for Striped Bass -- No person shall take or possess any striped bass while gill netting, or while hauling a gill net (RIMFC REGS) [Penalty - Part 3.3; (RIGL 20-3-3)]

12.7 Striped Bass 50-yard Closure Zone for Gill Nets -- It shall be illegal to set, haul, or maintain a gill net within 50 yards of the Rhode Island coastline (mean high tide line) in the following areas and during the following seasons:

12.7.1 Areas From Monahan's Dock breakwater (State Pier #5) to the southernmost tip of Matunuck Pt. (Carpenter's Bar); in Narragansett Bay, Mt. Hope Bay, and Sakonnet River (as described in Part 13.4-1), and from the southern tip of Sachuest Point to the juncture of Second Beach and Sachuest Point, and from the southwest corner on Price's Neck to Castle Hill Light House.

12.7.2 Season Closure All gill netting is prohibited within 50 yards of the Rhode Island coastline (mean high water line) during the period October 15 - December 31 annually. (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]

Suggested Regulatory Changes

- Change statutory language to reflect new licensing bill
- Specify species eligible for basic license harvest
- Specify basic harvest license season
- Harvest limits and season for principal effort and multipurpose license holders would be those currently in place
- Specify eligibility requirements for license upgrade
 - Commercial license holder must demonstrate a minimum of during previous two years

Section for non-quota species to be added.

Literature Cited

Northeast Fishery Science Center, 2002. The 35th Northeast Regional Stock Assessment Review Committee; Advisory Report on Stock Status. July, 2002.

Table 1a. Possession Limits (pounds), seasons, and quotas for Rhode Island commercial fisheries in 2001

YEAR	DATE	Summer Flounder	Scup general category	Tautog	Striped Bass general category	Black Sea Bass
2001	1-Jan	1,000	10,000	0	0	9,000
	30-Jan		1,000			
	7-Feb	500				4,500
	7-Mar		closed			closed
	15-Mar	750				
	1-Apr					1,500
	15-Apr			20 fish		
	1-May		1,000			
	10-May	100				
	14-May					150
	15-May		100			
	17-May	50				
	18-May				closed	
	26-May		closed			
	1-Jun	100				4 fish
	11-Jun	50				
	14-Jun					closed
	25-Jun					closed
	1-Jul		100			1,000
	12-Jul					150
	24-Jul					closed
	25-Jul	closed	closed			
	1-Aug				20 fish	3 fish
	5-Aug					closed
	1-Sep	100				
	15-Sep					4 fish
	16-Sep		100		closed*	
	27-Sep					closed
	28-Sep		closed			
	1-Oct					300
	13-Oct					4 fish
	15-Oct					closed
15-Oct				20 fish		
1-Nov	350	2,000				
10-Nov					closed	
16-Nov				closed		
23-Nov		closed				
29-Nov	1,000					
15-Dec	closed					
Days in Season		365	365	171	122	365
Total Days Open		310	148	111	42	201
Total Days Closed		55	217	60	80	164

*Indicates scheduled closure

Commercial Seasons

Jan 1-May 31	Jan 1 - Apr 30 ^F	Apr 15 - May 31	Jun 1 - Jun 30	Jan 1-Mar 31 ^F
Jun 1-Aug 1	May 1 - Jun 30	Aug 1 - Sep 15	Oct 1 - Dec 31	Apr 1-Jun 30 ^F
Sep 1-Oct 1	July 1 - Sep 15	Oct 15 - Dec 31		Jul 1-Sep 30 ^F
Nov 1-Dec 31	Sep 16 - Oct 31			Oct 1-Dec 31 ^F
	Nov 1 - Dec 31 ^F			

^F Federal coastwide quota

Quotas

State	1,743,117	377,818	51,348	107,730	-----
Federal	-----	2,384,090	-----	-----	2,735,412

Table 1b. Possession limits (pounds), seasons, and quotas for Rhode Island commercial fisheries in 2000

YEAR	DATE	Summer Flounder	Scup general category	Tautog	Striped Bass general category	Black Sea Bass
2000	1-Jan	1,000	10,000			9,000
	8-Feb		1,000			
	17-Feb		closed			
	1-Apr	500				3,000
	1-May	300	1,000	20 fish		
	16-May	100	100			
	17-May		closed			
	18-May	closed				
	1-Jun	100		closed*	3 fish	
	23-Jun	50				
	1-Jul	closed	100		closed*	3,000
	1-Aug			20 fish		
	9-Aug		closed			closed
	16-Aug		100			
	28-Aug		300			
	1-Sep	300				3 fish
	10-Sep		100			
	16-Sep				closed*	
	17-Sep	50				
	24-Sep	closed				
	1-Oct		closed			2,000
	8-Oct	50				
	15-Oct	closed		20 fish		
	23-Oct	50				
	26-Oct					1,000
	1-Nov	300	500			
	3-Nov		closed			closed
	7-Nov					closed
	18-Nov	600				
	22-Nov					3 fish
27-Nov					closed	
10-Dec	200					
Days in Season		365	365	155	152	365
Total Days Open		268	150	155	98	257
Total Days Closed		97	215	0	54	108

* Indicates scheduled closure

Commercial Seasons

Jan 1-May 31	Jan 1 - Apr 30	May 1 - May 31	June 1 - June 30	Jan 1-Mar 31 ^F
June 1-Aug 1	May 1 - June 30	Aug 1 - Sep 15	Sep 1 - Dec 31	Apr 1-Jun 30 ^F
Sep 1-Oct 1	July 1 - Sep 15	Oct 15 - Dec 31		Jul 1-Sep 30 ^F
Nov 1 -Dec 31	Sep 16 - Oct 31			Oct 1-Dec 31 ^F
	Nov 1 - Dec 31			

^F Federal coastwide quota

Quotas					
State	1,742,581	377,818	51,348	81,390	-----
Federal	-----	1,213,516	-----	-----	2,578,949

Table 1c. Possession limits (pounds), seasons, and quotas for Rhode Island commercial fisheries in 1999

YEAR	DATE	Summer Flounder	Scup general category	Tautog	Striped Bass general category	Black Sea Bass
1999	1-Jan	1,000	20,000			11,000
	26-Mar	400				
	1-Apr					7,000
	1-May		2,500			
	15-May			20fish		
	13-May	300				
	26-May	closed				
	1-Jun	100			2fish	
	11-Jun			closed		
	1-Jul				closed*	3,000
	16-Jul	50				
	5-Aug	closed				
	1-Sep	300			2fish	
	10-Sep		closed			
	16-Sep	100				
	30-Sep	closed				
	1-Oct					4,000
	5-Oct				closed	
	1-Nov	300	8,000			
	4-Dec		closed			
11-Dec	400					
20-Dec					closed	
29-Dec	1,000					
Days in Season		365	365	231	152	365
Total Days Open		300	285	27	64	353
Total Days Closed		65	80	204	88	12

* Indicates scheduled closure

Commercial Seasons

Jan 1-May 31	Jan 1 - Apr 30	May 15-Dec31	June 1 - June 30	Jan 1-Mar 31 ^F
June 1-Aug 1	May 1-Oct 31		Sep 1 - Dec 31	Apr 1-Jun 30 ^F
Sep 1-Oct 1	Nov 1 - Dec 31			Jul 1-Sep 30 ^F
Nov 1 -Dec 31				Oct 1-Dec 31 ^F

^F Federal coastwide quota

Quotas					
State	1,742,581	239,128	25,582	95,138	-----
Federal	-----	1,547,007	-----	-----	3,025,001

Figure 1. NEFSC spring SSB survey index for scup

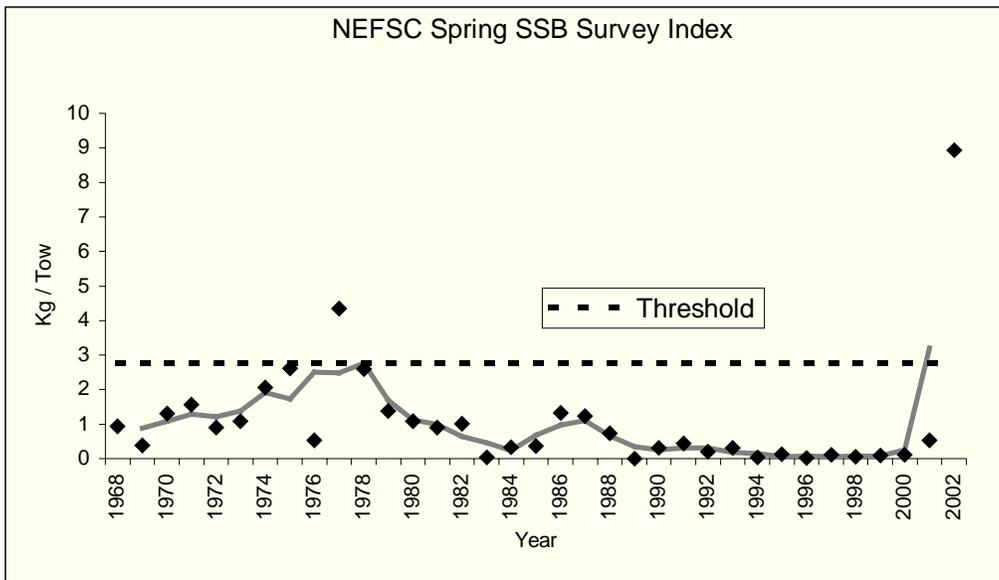


Figure 2. Total stock biomass ('000mt) for summer flounder

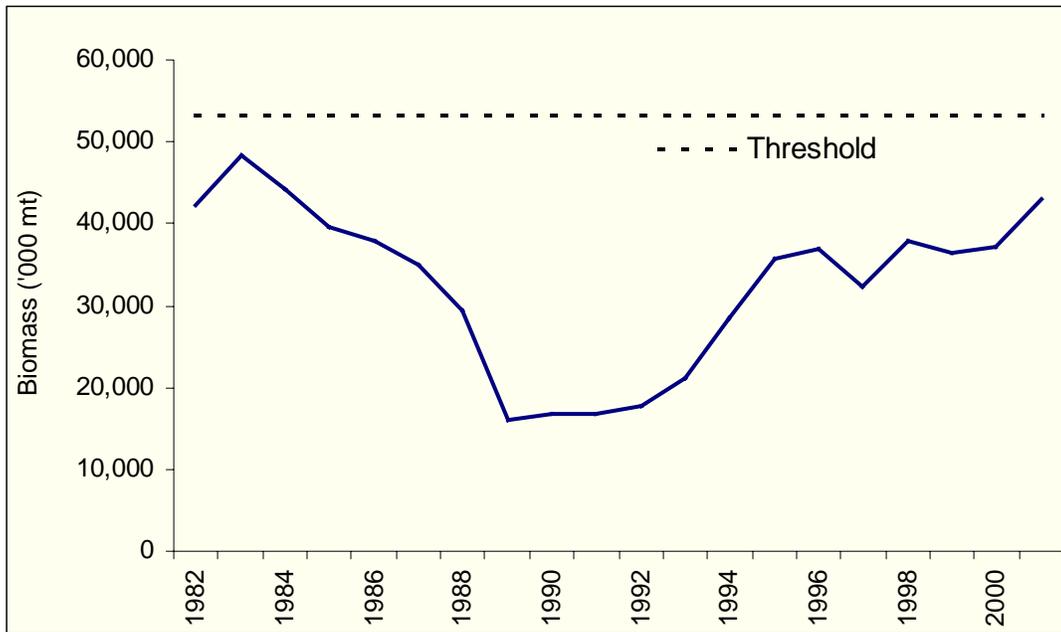


Figure 3. Percentage of summer flounder landed commercially in Rhode Island by gear type

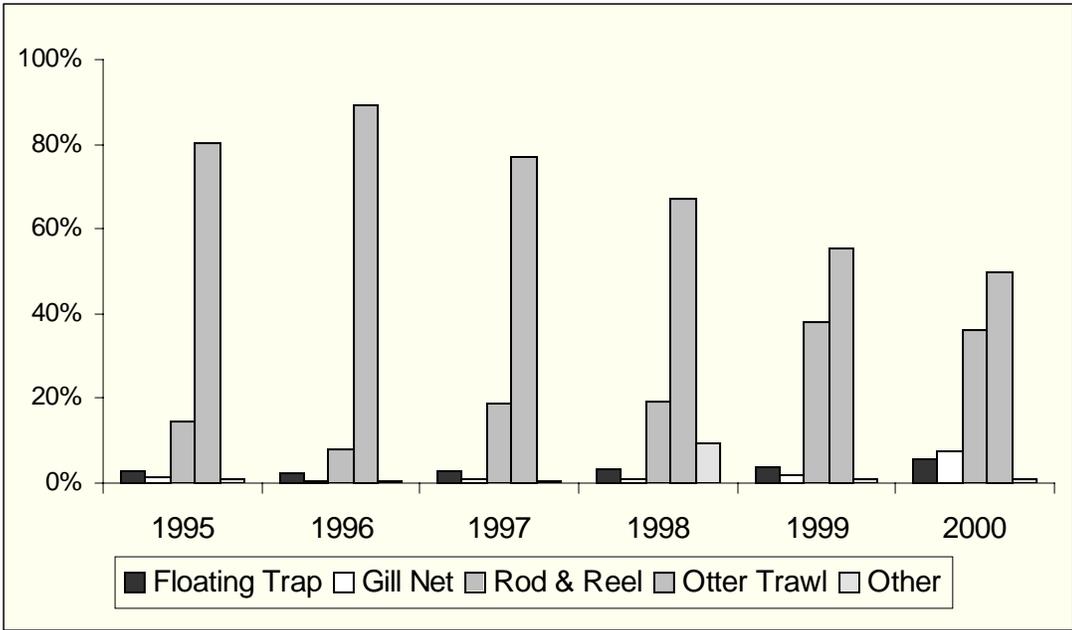


Figure 4. Year class strength, SSB, and stock size for tautog on Atlantic Coast

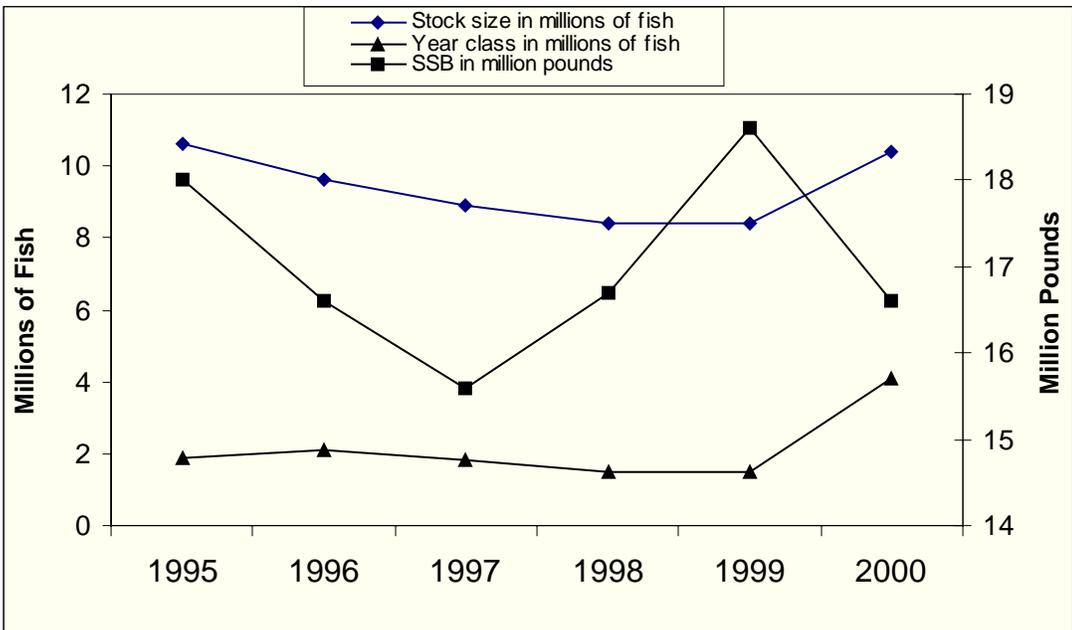


Figure 5. Striped bass population abundance (age 1 and older)

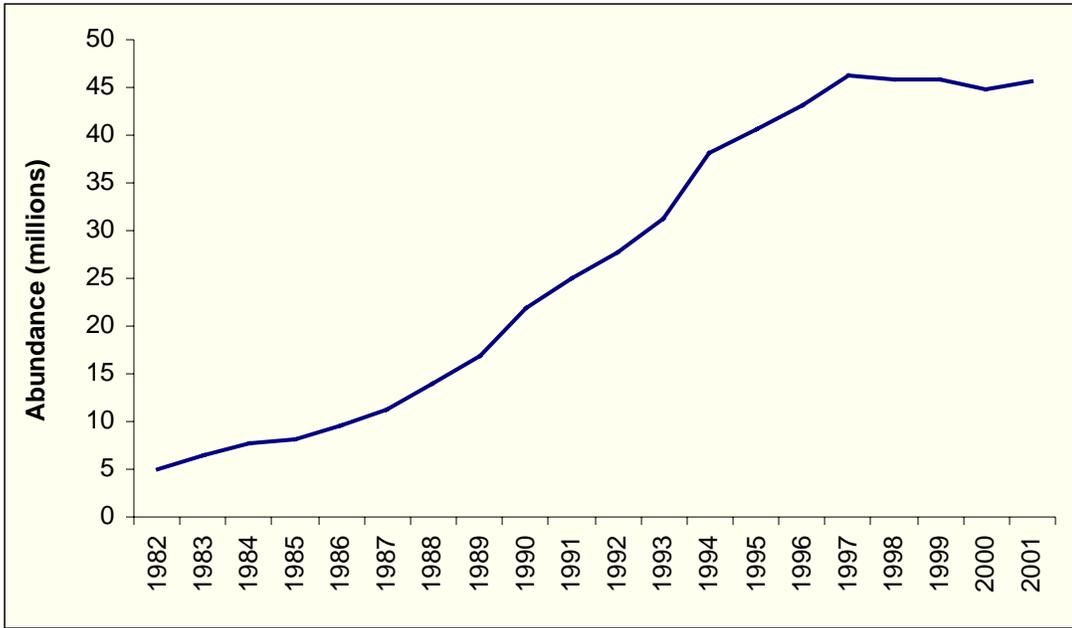


Figure 6. Average biomass of bluefish relative to Bmsy

