RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES
Three Fort Wetherill Road
Jamestown, Rhode Island 02835

Regulatory Analysis

Proposed Amendments to RIDEM Marine Fisheries Regulations "Part 5 – Lobsters, Crabs and other Crustaceans"

TABLE OF CONTENTS

INTRODUCTION

The Rhode Island Department of Environmental Management (Department) Division of Marine Fisheries (DMF) is proposing regulatory changes to 250-RICR-90-00-5 – Lobsters, Crabs and Other Crustaceans. Specifically, DMF is proposing the following regulatory amendments:

1. Lobster Trap Tag Transfer Application Period (state vessels) for consistency with the Fishery Management Plan (FMP) (5.5.1(L)(5)(b)(3)).

2. Clarify the biomedical horseshoe crab lunar closure on the new and full moons and close coastal salt ponds to commercial biomedical horseshoe crab harvest (5.7(D)(3)(d), 5.7(D)(3)(f)).

3. Allow for a detached Jonah Crab Claw bycatch provision consistent with the FMP (5.8(B)(5)).

This regulatory analysis has been prepared to estimate the impact of the proposed regulatory changes pursuant to the Administrative Procedures Act (APA), R.I. Gen. Law § 42-35-2.9.

For all proposed regulatory amendments, fishing behavior, market conditions, or market changes, cannot be traced in this analysis to these regulations. This is due to the fact that the costs and/or benefits generated from a commercial fishing business, or commercial harvester, are largely dependent on a wide variety of variables including, but not limited to: license type; license endorsement(s); effort (full or part-time); target species; market prices for target species; state quotas; possession limits; gear type; fishing mode (shore or vessel); vessel size; crew; upfront investments for vessel, gear, and administrative tasks; possession of a federal permit; seasonality of fisheries; weather; and catastrophic events. As a result, it is impossible to quantitatively estimate costs and/or benefits to stakeholders under the proposed policy alternatives and this regulatory analysis is strictly qualitative in nature.

The proposed regulatory amendments for Lobster and Jonah Crab are necessary for compliance with the Atlantic States Marine Fisheries Commission (ASMFC) Fishery Management Plans (FMP) and are therefore not included in this regulatory analysis (refer to DMF FMP compliance exemption).

BACKGROUND

The DMF received a petition for rulemaking from Save The Bay (STB) on September 9, 2024, requesting several regulatory amendments to Title 250 – Department of Environmental Management, Chapter 90 – Marine Fisheries, Subchapter 00, Part 5.7. A revised petition was submitted on October 11, 2024, and subsequent email correspondence was provided in December 2024 to clarify the regulatory amendments.

The proposed regulatory amendments in the revised petition went through the rulemaking process in early 2025 with a public hearing held on February 25, 2025, and a Rhode Island

Marine Fisheries Council (RIMFC) Meeting held on April 7, 2025. The RIMFC tasked the DMF with reevaluating the proposed coastal salt pond prohibition, specifically, the ponds to be included in the prohibition, and to address this matter in the next regulatory cycle. DMF received an email request from STB following a public workshop on July 16, 2025, that requested Little Narragansett Bay also be added to the biomedical horseshoe crab prohibition. DMF is now proposing this regulatory change as well as a clarification to the biomedical lunar closure currently in rule.

STATEMENT OF THE PROBLEM

The DMF was tasked with re-visiting a horseshoe crab biomedical harvest prohibition in the coastal salt ponds. DMF is also proposing clarifying language regarding the biomedical lunar closure. DMF held a public workshop on July 16, 2025, to solicit stakeholder feedback on these regulatory amendments. DMF received an email request from STB following the public workshop requesting Little Narragansett Bay also be added to the biomedical horseshoe crab prohibition. These amendments will be subject to a public hearing scheduled for September 15, 2025, and an RIMFC meeting scheduled for October 20, 2025. The policy alternatives presented in this regulatory analysis are being put forward to satisfy R.I. Gen. Laws § 42-35-2.9 Regulatory Analysis.

SCOPE OF THE REGULATORY ANALYSIS

The proposed regulatory amendments are for 2026 only. The proposed regulatory amendments are expected to be re-evaluated annually and subject to amendments each year. As a result, the scope of this analysis is discrete and limited to 2026.

The fiscal note associated with the proposed policy alternatives presents three years of fiscal impact even though these policies are expected to be re-visited annually.

BASELINE

The baseline for this analysis, or what we anticipate would happen with no regulatory change, is maintaining the current management programs for horseshoe crab in 2026.

STAKEHOLDERS AFFECTED

The stakeholders affected by the proposed regulatory amendments and policy alternatives would be all Rhode Island residents who currently harvest horseshoe crabs for commercial biomedical purposes, or who have an interest in future participation in this fishery. Additionally, stakeholders affected extend into the biomedical industry that uses horseshoe crab blood to test for contamination in medical products (ASMFC, 2024).

COSTS AND BENEFITS

For the proposed regulatory amendments and the alternatives considered, data were very limited. Commercial landings data for horseshoe crab are limited and data on where horseshoe crabs are harvested from does not exist. As a result, the costs and benefits in this analysis are largely qualitative.

Additionally, the costs and/or benefits generated from the proposed regulatory amendments and alternatives may be largely dependent on fishing behavior. Changes in fishing behavior may be impacted by: effort (full or part-time); market prices; possession limits; gear type; fishing mode (shore or vessel); vessel size; crew; upfront investments for vessel, gear, and administrative tasks; seasonality of fisheries; weather; and catastrophic events. As a result, it is impossible to quantitatively estimate costs and/or benefits to stakeholders under the proposed policy alternatives and this regulatory analysis is largely qualitative in nature.

The proposed regulatory amendments include:

1) Clarify the biomedical horseshoe crab lunar closure on the new and full moons.

2) Close coastal salt ponds and Little Narragansett Bay to commercial biomedical horseshoe crab harvest.

Should the proposed regulatory amendment 1) be adopted, there could be a cost to all commercial harvesters who currently commercially harvest horseshoe crab for biomedical purposes. Currently, the lunar closure stipulates that commercial biomedical harvest shall be prohibited during the period forty-eight (48) hours preceding and forty-eight (48) hours following the new and full moons during the month of May. Harvesters have been interpreting this rule as it is not prohibited on the new and full moons, and only the 48 hours before and after. Therefore, any biomedical harvester currently interpreting the rule in this manner and harvesting for biomedical purposes on the new and full moons would be impacted.

The regulatory alternatives considered:

a) Implement the closure on the new and full moons but change the 48 hours preceding and following the new and full moons to 24 hours.
b) Implement the closure on the new and full moons but remove the closure 48 hours preceding and following the new and full moons.

Should proposed regulatory alternative a) or b) be adopted, there would be a reduced cost or no cost to commercial horseshoe crab harvesters. The cost of prohibiting biomedical harvest on the new and full moons would be offset by either reducing the 48 hours preceding and following the new and full moons to 24 hours, or by removing the closure 48 hours preceding and following the new and full moons entirely.

Under both proposed regulatory alternatives a) and b), there would be a lesser biological benefit to the horseshoe crab population compared to the proposed regulatory amendments by not prohibiting biomedical harvest on the new and full moons. It is well documented that horseshoe crabs spawn with high tides associated with the new and full moons (Penn and Brockmann, 1994). Therefore, prohibiting harvest for 48 hours preceding through 48 hours following the new and full moons offers the most protection to spawning horseshoe crabs as they aggregate along beaches.

Should the proposed regulatory amendment 2) be adopted, there would be a cost to all commercial harvesters who currently harvest horseshoe crab for biomedical purposes from coastal salt ponds, Little Narragansett Bay, or those who have a future interest in participating in this fishery. The total impact of the coastal salt pond and Little Narragansett Bay closure could not be analyzed however, as we have no data on where horseshoe crabs are harvested from. If harvesters are currently taking horseshoe crabs for biomedical purposes from the coastal salt ponds and Little Narragansett Bay, these closures could be a cost to them. There is reason to believe this is not happening, or is very limited, due to a 'gentlemen's agreement' among industry members to not remove horseshoe crabs for biomedical purposes from any coastal salt ponds. The closure of the coastal salt ponds and Little Narragansett Bay could be a biological benefit for the horseshoe crab population. The closure would ensure that horseshoe crabs are not removed from an isolated coastal salt pond population, and after bleeding for biomedical purposes, returned to another location.

The regulatory alternatives considered:

a) Do not close coastal salt ponds and Little Narragansett Bay to biomedical harvest but implement a daily possession limit of two-hundred fifty (250) horseshoe crabs in all coastal salt ponds.
b) Do not close coastal salt ponds and Little Narragansett Bay to biomedical harvest but implement a daily possession limit of five-hundred (500) horseshoe crabs in all coastal salt ponds.

Should proposed regulatory alternative a) be adopted, there would be a benefit to all harvesters who currently harvest biomedical horseshoe crabs from the coastal salt ponds and Little Narragansett Bay by still allowing harvest. There would be a lesser biological benefit to the horseshoe crab population compared to the proposed regulatory amendments by not closing the coastal salt ponds and Little Narragansett Bay, and having a possession limit of two-hundred fifty (250) horseshoe crabs. Crabs would be removed from an isolated population with no guarantee they would be returned to the same population.

Should proposed regulatory alternative b) be adopted, there would be a benefit to all harvesters who currently harvest biomedical horseshoe crabs from the coastal salt ponds and Little Narragansett Bay by still allowing harvest. There would be a lesser biological benefit to the horseshoe crab population compared to the proposed regulatory amendments and alternative a) by not closing the coastal salt ponds and Little Narragansett Bay, and having a possession limit of five-hundred (500) horseshoe crabs. Crabs would be removed from an isolated population with no guarantee they would be returned to the same population.

REFERENCES

ASMFC (Atlantic States Marine Fisheries Commission). (2024). Horseshoe Crab. https://asmfc.org/species/horseshoe-crab

Penn D., Brockmann H.J. Nest-Site Selection in the Horseshoe Crab, Limulus polyphemus. Biol Bull. 1994 Dec;187(3):373-384. doi: 10.2307/1542294. PMID: 29281397.