

## **Jonah Crab Rulemaking Scoping Document**

### **October 20, 2016**

NOAA's National Marine Fisheries Service (NMFS) is conducting a public scoping webinar to inform the public that we are beginning the Federal rulemaking process for a formal Jonah crab fishery management plan following action by the Atlantic States Marine Fisheries Commission. We will also provide an opportunity for public comments on this action with a proposed rule once published in the *Federal Register*. During the webinar, we will be seeking additional input to help determine the scope of issues to be addressed by potential Federal regulations in support of the Commission's Jonah Crab Plan. Following this hearing, additional comments on the rulemaking and scope of the issues will be accepted through November 14, 2016 at: <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0127>. In accordance with the National Environmental Policy Act, we may prepare an Environmental Impact Statement (EIS) that will analyze the impacts of the Jonah Crab Plan on the affected biological, physical, and human environment.

### **Background**

Jonah crab (*Cancer borealis*) landings have increased from nearly 3 million pounds in 1994 to over 17 million pounds in 2014. Available landings data suggest that Cancer crabs<sup>1</sup> are an incidental catch from traps targeting American lobster. Between 1990 and 2004, anywhere from 90.9 percent to 99.7 percent of Cancer crabs landings have been from pot and trap gear. With small, legal modification to lobster gear and small shifts in the area where traps are fished, American lobster harvesters can target either Jonah crab or lobster, depending on availability and market. Due to this apparent linkage between the lobster and the Jonah crab fisheries, the Atlantic States Marine Fisheries Commission's American Lobster Board began development of an Interstate Fishery Management Plan for Jonah Crab to address the recent increase in landings.

### **Atlantic States Marine Fisheries Commission Authority and Process**

The Commission was formed in 1942 by the 15 Atlantic coastal states to improve interstate coordination in the protection and management of marine fisheries resources. In 1993, Congress passed the Atlantic Coastal Fisheries Cooperative Management Act<sup>2</sup> facilitating a state-oriented fishery management structure for several species which strengthened the role of the Commission in the development of management measures. Member states are Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida. The Federal government is not a member of the Commission, but attends Commission meetings and sits as a voting member on many Commission species management boards, including the American Lobster Board that oversees management of Jonah crab. The Commission provides a public forum for representatives from the states and the Federal government to coordinate fisheries management.

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<sup>1</sup> Jonah crab and rock crab (*Cancer irroratus*)

<sup>2</sup> 16 U.S.C. 5101-5109; Title VIII of Pub. L. 103-206, as amended, (ACFCMA 1993).

From Maine through Virginia, Jonah crabs are harvested in both state and Federal waters. Individual states are required to manage the resource within their state waters (0 to 3 nautical miles from the shoreline). The Federal government has primary jurisdiction over the resource in waters 3 to 200 nautical miles from the shoreline. Management measures deemed necessary for the protection of the resource are advanced by the Commission process through the development of the Interstate Fishery Management Plan for Jonah Crab, and any future amendments and addenda. The Commission prepares these actions on an ongoing, as-needed basis, and then makes recommendations to the states and Federal government to implement measures consistent with its plan. The states then process and implement these recommendations in state waters pursuant to their state statutory authorities. Similarly, NMFS processes and potentially implements the Commission's recommendations in compliance with the Atlantic Coastal Act and other laws and statutes.

### **Commission-Recommended Measures**

The American Lobster Board approved the Interstate Fishery Management Plan for Jonah Crab in August 2015. State partners were required to implement regulations consistent with the Jonah Crab Plan by June 2016. The Commission formally recommended that NMFS adopt complementary regulations in September 2015. Since that time, the American Lobster Board has revised its incidental catch limit in Addendum I. The Board is currently considering revisions to the landing disposition in Addendum II. Table 1 below provides a summary of all Commission-recommended measures to date. We intend to consider all recommended measures, including Addenda I and II and any subsequent addenda, as appropriate, in our upcoming rulemaking.

### **Request for Comment**

We are requesting comment to help us determine the scope of issues to be addressed by potential Federal regulations in support of the Jonah Crab Plan, as well as to identify significant issues for inclusion in the Environmental Impact Statement. We are particularly interested in comment on the Commission's recommended measures outlined in Table 1, including potential criteria for a possible limited access directed fishery. We are also interested in comment on the nature and extent of a possible claw-only fishery which may be revised by the Commission in the near future.

Table 1. Commission Recommended Jonah Crab Management Measures

<b>Commercial Management Measure</b>	<b>Description</b>
Permits	Limits participation in the directed trap fishery to only those vessels and permit holders that already hold a lobster permit, or can prove prior participation in the crab fishery before the June 2, 2015, control date
Minimum Size	4 ¾ inches (12.065 cm)
Landing Disposition	Whole crab fishery, with an exception for New Jersey, Maryland, Delaware, and Virginia harvesters who can demonstrate history in the claw-only fishery
Broodstock Protection	Prohibition on the retention of egg-bearing females
Incidental Catch Limit	1,000 crabs/trip for non-lobster trap and non-trap gear
<b>Recreational Management Measures</b>	<b>Description</b>
Possession Limit	50 whole crabs/person per day
Broodstock Protection	Prohibition on the retention of egg-bearing females
<b>Reporting Requirements</b>	<b>Description</b>
Dealer Reporting	100-percent dealer reporting
Harvester Reporting	100-percent harvester reporting, but allows jurisdictions that currently require less than 100 percent of lobster harvesters to report are required to maintain its current reporting programs and extend them to Jonah crab