

## **6 NYCRR Part 44 – Lobsters and Crabs (Jonah Crab) Regulatory Impact Statement**

### **1. Statutory Authority:**

Environmental Conservation Law (ECL) § 13-0105 directs the Department of Environmental Conservation (DEC) to manage New York State's marine fishery resources to preserve their long-term abundance for future generations while maintaining consistency with interjurisdictional fishery management plans (FMPs). ECL § 13-0331 authorizes DEC to regulate crabs. More specifically, ECL § 13-0331(1-a) authorizes DEC to fix by regulation the limit of Jonah Crabs that may be taken for commercial purposes by commercial crab permit holders and by holders of New York commercial lobster licenses, provided that such regulations are consistent with the Atlantic States Marine Fisheries Commission's (ASMFC) FMPs.

### **2. Legislative Objectives**

It is the objective of the above-cited legislation that DEC manages marine fisheries to optimize resource use for commercial and recreational harvesters in a manner that is consistent with marine fisheries conservation and management policies and interjurisdictional FMPs.

### **3. Needs and benefits**

This rulemaking is necessary to ensure the sustainability of New York State's Jonah Crab fishery and to bring the State into compliance with the ASMFC Jonah Crab FMP. Failure to adopt this rulemaking could result in federal closure of the Jonah Crab fishery in New York.

In 2022, the New York State Legislature amended ECL section 13-0331 to authorize DEC to adopt regulations for the management of Jonah Crab. Prior to that, DEC did not have statutory authority to manage the Jonah Crab fishery. The ASMFC has noted New York's lack of compliance with the interstate Jonah Crab FMP and threatened to initiate non-compliance proceedings. DEC is proposing to amend 6 NYCRR Part 44, "Lobsters and Crabs," to define the Jonah Crab directed trap fishery, establish bycatch limits to protect Jonah Crab, and bring New York into compliance with the Jonah Crab FMP.

Specifically, this proposal would amend 6 NYCRR Part 44 to:

1. Limit participation in the directed trap fishery for Jonah Crab to:
  - a. Current commercial lobster permit holders with trap tag allocations;
  - or,
  - b. Current crab permit holders who can prove prior participation in the Jonah Crab fishery with landings on vessel trip reports before June 2, 2015.
2. Establish bycatch limits for Jonah Crab. The proposed bycatch limits would require that there be fewer pounds of Jonah Crab onboard the fishing vessel than pounds of the target species and set a 1,000-crab incidental bycatch limit for vessels fishing non-trap gear and non-lobster traps (including, but not limited to, fish pots, whelk pots, and crab pots).

#### **4. Costs**

There are no new costs to state and local governments from this action. DEC will incur limited costs associated with both the implementation and administration of these rules, including costs relating to notifying commercial fishers of the new rules.

DEC anticipates minimal costs to permit holders. Those who qualify under the proposed rules will be eligible to receive a 50-trap tag allocation and would be required to purchase lobster trap tags and attach them to all lobster traps being fished for Jonah Crab. Trap tag costs range from 0.18¢ - 0.20¢ resulting in a \$9 - \$10 cost to obtain 50-trap tags.

In addition, there are currently seven commercial fishermen who have harvested Jonah Crab since the control date of June 2, 2015, that will not meet the requirements to harvest Jonah Crab in the directed trap fishery under the proposed rule changes. These fishermen will not be eligible to harvest Jonah Crab because they do not currently hold a commercial lobster permit with trap tag allocations, and do not have Jonah Crab landings prior to June 2, 2015. Two of these individuals had significant Jonah Crab landings (e.g., tens of thousands of crabs) prior to 2017, but do not currently hold lobster or crab permits and cannot legally land crabs for commercial purposes in New York State. The remaining five individuals have a small number of Jonah Crab landings (e.g., fewer than 40 crabs in their fishing history). Although these individuals would not be eligible to participate in the directed trap fishery for Jonah Crab under the proposed rule, they could continue to take less than 1,000 crabs per trip as long as they hold a crab permit and are fishing non-trap gear and non-lobster traps. Based on the above, expected costs to fisherman are minimal.

## **5. Local government mandates**

The proposed rule does not impose any mandates on local government.

## **6. Paperwork**

The proposed rule would not impose any new reporting requirements.

## **7. Duplication**

The proposed rule does not duplicate any state or federal requirement.

## **8. Alternatives**

Status quo – If the proposed amendments are not adopted, the commercial Jonah Crab regulations in New York would continue to be inconsistent with the ASMFC Jonah Crab FMP. As a result, New York could be found out of compliance by ASMFC and its fishery for Jonah Crab could be closed by a federally imposed moratorium.

## **9. Federal standards**

The proposed rule does not exceed any minimum federal standards.

## **10. Compliance schedule**

Compliance with the proposed rule would be required upon the effective date of the rule. The public would be notified of the changes to the regulations through appropriate news releases, by DEC Delivers, and through DEC's website.