

# Atlantic States Marine Fisheries Commission

## American Lobster Management Board

May 20, 2013  
1:15.-3:15 p.m.  
Alexandria, Virginia

### Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*D. Grout*) 1:15 p.m.
2. Board Consent 1:20 p.m.
  - Approval of Agenda
  - Approval of Proceedings from February 2013
3. Public Comment 1:25 p.m.
4. Consider Draft Addendum XX for Final Approval (*T. Kerns*) **Final Action** 1:35 p.m.
5. Consider Draft Addendum XXI for public comment (*T. Kerns*) **Action** 1:45 p.m.
  - Review working group definition of ownership
  - Overview of Draft Addendum XXI options
  - Consider approval of Addendum XXI for public comment
6. Review of NOAA Fisheries American Lobster Proposed Rule (*B. Ross*) 2:45 p.m.
7. Overview of Mid-Atlantic Fishery Management Council Action on special management zones impacts to the commercial lobster fishery (*T.Kerns*) 3:05 p.m.
8. Other Business/Adjourn 3:15 p.m.

The meeting will be held at the Crowne Plaza Hotel, 901 North Fairfax Street, Alexandria, Virginia; 703-683-6000

*Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015*

# MEETING OVERVIEW

**American Lobster Management Board Meeting**  
**Monday, May 20, 2013**  
**1:15-3:15 p.m.**  
**Alexandria, Virginia**

Chair: Doug Grout (NH) Assumed Chairmanship: 01/12	Technical Committee Chair: Josh Carloni (NH)	Law Enforcement Committee Representative: Joe Fessenden (ME)
Vice Chair: Dan McKiernan	Advisory Panel Chair: Vacant	Previous Board Meeting: February 19, 2013
Voting Members: ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, NMFS (12 votes)		

## 2. Board Consent

- Approval of Agenda
- Approval of Proceedings from February 19, 2013

**3. Public Comment** – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

<b>4. Consider Draft Addendum XX for Final Approval (1:35-1:45 p.m.) Final Action</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>• The Board sent a letter to the NEFMC expressing concern regarding the potential opening of Closed Area II and possible impacts on lobster. The Board requested the opportunity to comment on the opening of Closed Area II before the Council took action due to concerns for mobile gear impacts to lobster, including impacts to berried females and gear conflicts.</li> <li>• The NEFMC is considering action on opening Closed Area II as well as other areas</li> <li>• The Offshore lobster industry entered into an agreement with the mobile gear sector for seasonal closures within Closed Area II. The Board initiated Draft Addendum XX to consider the terms of the fleet’s agreement as part of the FMP.</li> <li>• In February the Board approved the document for public comment, no comments were received</li> </ul>
<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>• Review of Draft Addendum XX options by T. Kerns (<b>Supplemental Materials</b>)</li> </ul>
<p><b>Action for consideration</b></p> <ul style="list-style-type: none"> <li>• Approval of management options</li> <li>• Final approve Draft Addendum XX</li> </ul>

<b>5. Consider Draft Addendum XXI for public comment (1:45-2:45 p.m.) Action</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>• The Board delayed moving forward with the proposed measures regarding changes in the LCMA 2 and 3 transferability measures to allow for further clarity.</li> <li>• A subcommittee of industry and board members met in September to work on the Board task</li> <li>• The PDT had drafted a revised draft addendum for public comment at the February meeting</li> <li>• The Board tasked a working group of commissioners and industry members to define ownership in the context of the draft Addendum</li> </ul>
<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>• Review working group recommendations by T. Kerns (<b>Supplemental Materials</b>)</li> <li>• Overview of Draft Addendum XXI options by T. Kerns</li> </ul>
<p><b>Action for consideration</b></p> <ul style="list-style-type: none"> <li>• Approve Draft Addendum XXI for public comment</li> </ul>

<b>6. Review of NOAA Fisheries American Lobster Proposed Rule (2:45-3:05 p.m.)</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>• NOAA Fisheries will release the proposed rule that addresses the Commission's effort to restrict lobster trap fishing to only historic participants in Area 2 and the Outer Cape Area, and, once those Federal participants are aligned with the states' qualification and trap allocations, NOAA will propose to implement the Transferable Trap program in Areas 2, 3, and the Outer Cape Area</li> <li>• The publishing of the rule will be followed by a 45 day comment period. After comments are received, NOAA will complete the final environmental assessment and publish a Final Rule to implement measures</li> </ul>
<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>• Overview of the proposed rule by B. Ross</li> </ul>
<p><b>Action for consideration</b></p> <ul style="list-style-type: none"> <li>• Consider comments to NOAA from the Commission</li> </ul>

<b>7. Overview of MAFMC action on special management zones impacts to the commercial lobster fishery (3:05-3:15 p.m.)</b>
<p><b>Background</b></p> <ul style="list-style-type: none"> <li>• The Board ask staff to present possible impacts to the commercial lobster fishery through action taken by the MAFMC regarding special management zones</li> </ul>
<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>• Overview of possible impacts to lobster commercial fishery T. Kerns (<b>Briefing CD</b>)</li> </ul>
<p><b>Action for consideration</b></p> <ul style="list-style-type: none"> <li>• None</li> </ul>

**6. Other Business/Adjourn**

*Atlantic States Marine Fisheries Commission*

**DRAFT ADDENDUM XX TO AMENDMENT 3 TO THE  
AMERICAN LOBSTER FISHERY MANAGEMENT PLAN  
FOR PUBLIC COMMENT**

*LCMA 3 Closed Area II Season*



*ASMFC Vision Statement:*

*Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.*

**February 2013**

## Public Comment Process and Proposed Timeline

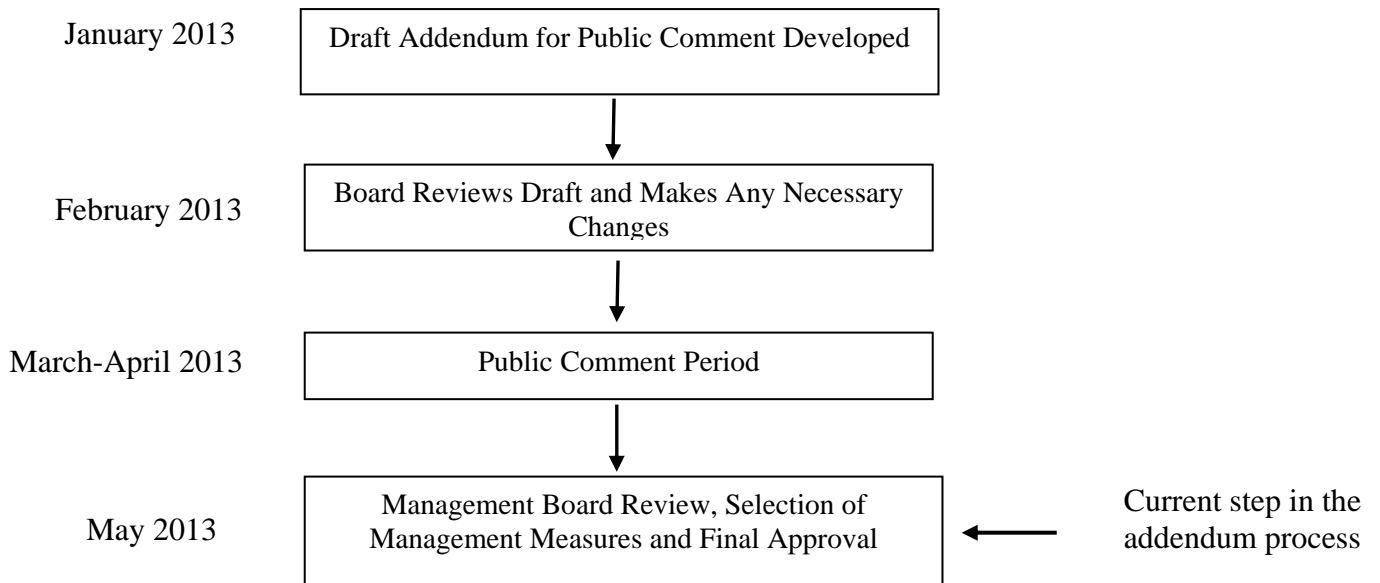
This draft addendum presents background on the Atlantic States Marine Fisheries Commission's (ASMFC) management of lobster, the addendum process and timeline, a statement of the problem, and options for management measures in the SNE lobster stock (lobster conservation management areas 3 for public consideration and comment.

The public is encouraged to submit comments regarding this document at any time during the addendum process. Public comments will be accepted until **5:00 PM (EST) April 1, 2013**. Regardless of when they were sent, comments received after that time will not be included in the official record. Comments may be submitted by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

Mail: Toni Kerns

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1050 N. Highland St. Suite 200A-N  
Arlington, VA 22201  
Fax: (703) 842-0741

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(Subject line: Lobster Draft  
Addendum XX)  
Phone: (703) 842-0740



## **1.0 Introduction**

The Atlantic States Marine Fisheries Commission (ASMFC) has coordinated interstate management of American lobster (*Homarus americanus*) from 0-3 miles offshore since 1997. American lobster is currently managed under Amendment 3 and Addenda I-XVII to the Fishery Management Plan (FMP). Management authority in the exclusive economic zone (EEZ) from 3-200 miles from shore lies with NOAA Fisheries. The management unit includes all coastal migratory stocks between Maine and North Carolina. Within the management unit there are three lobster stocks and seven management areas. Lobster Conservation Management Area (LCMA) 3 (subject of this Draft Addendum) includes all three biological stocks of American Lobster. Management Authority for LCMA lies with NOAA Fisheries.

The Lobster Board initiated Draft Addendum XX at the November 2012 meeting with the following motion: Move to initiate the development of an addendum that would include measures outlined in the agreement between the offshore lobster fishery and sector trawl fishermen for bottom-sharing in Closed Area 2 in order to protect large concentrations of egg-bearing females and prevent gear conflicts. Limited changes to the agreement by the industry could be made through board action

## **2.0 Background**

### ***2.1 statement of the Problem***

Closed Area II was established in the 1969 through the International Convention of North Atlantic Fisheries. Its stated purpose was also to protect spawning. In 1977 it was added to the Atlantic Demersal Finfish Plan and stated purpose was to protect haddock spawning. In 1994 The New England Fishery Management Council (NEFMC) updated the purpose to reduce general groundfish mortality through Amendment 4. The original design of the closure was to link to or overlap with the habitat closures. While some parts of Closed Area II are complete closed to mobile gear, there are Special Access Programs that allow fishing in Closed Area II, primarily using selective gear such as separator and Ruhle trawls, which fishermen use to selectively target haddock. Closed Area II has been open to lobster trap fishermen and is fished by LCMA 3 lobstermen year-round.

In 2012 NEFMC considered Framework 48, which considers the opening of several areas that are closed to groundfish fishery including Closed Area II. The Council is considering opening of the closed areas to mitigate negative economic impacts to the groundfish fleet from low allocations of species such a Gulf of Maine cod. The framework allows sector to request exemptions from year round closure systems to allow greater access to groundfish species that are not impacted by low allocations such as Georges Bank haddock, Pollock and redfish. The Council is conducting additional analysis to determine the effectiveness of the closed area to their stated purpose. A preliminary look at economic data provided by NOAA Fisheries show that allowing access to Closed Area II will likely provide for increased revenue from haddock. The magnitude of this benefit is uncertain, and depends on the size and duration of the increase in catch per unit effort for this species, which cannot be quantified to any level of confidence. The second manner in which fishing revenues might be increased by sector exemptions is through access to areas where species assemblages are more valuable. For example, given two hauls equal in every metric other than one is inside and one outside the closed area, the non-target species such as lobster, skates, monkfish, and scallops could provide higher revenue in the closed area if these species are more valuable/more abundant there.

At the September 2012 Council meeting, NEFMC supported a measure that allows groundfish sectors, a type of harvesting cooperative established in 2010, to request exemptions from the longstanding prohibition on fishing in the year-round groundfish closed areas on a limited basis. These restrictions provide that: (1) Access would only be granted for the parts of areas that are not defined as habitat closed areas, or that have not been identified as potential habitat management areas currently under consideration in a habitat action that is currently in development. (2) Access to Closed Area I and Closed Area II (on Georges Bank) would only be granted for the period May 1 through February 15 to protect spawning fish.

As a second phase of the Councils work, alternatives will be developed to complement and augment the habitat management areas for consideration in the NEFMC's Essential Fish Habitat Omnibus Amendment. The latter phase includes consideration of rolling closures, spawning closures, as well as year-round closed areas. Should the closures be retained or eliminated. It is projected that the Council will take action these issues in April of 2014.

The offshore lobstermen that fish within Closed Area II have reported large congregations of ovigerous females within the area. Industry and members of the Board are concerned that opening Closed Area II to mobile gear will have a negative impact on the local lobster population. The Commission's Lobster Technical Committee reviewed several studies that document the effects that bottom tending mobile gear have on lobster in their respective areas. The results suggest that opening Closed Area II to these types of gear will result in additional incidental damage to lobster. It's important to note that studies reviewed were done in areas where lobster are generally smaller than those found on Georges Bank, and thus incidental damage could be quite different in this area due to gear selectivity and size of lobster. The TC recommended additional surveys and studies should be completed to accurately assess the effects of mobile gear on lobster near Georges Bank (Appendix A).

In response to the action taken by the NEFMC, the American lobster offshore pot fleet fishing in Closed Area II developed an agreement with the groundfish sector to prevent gear conflicts. The two industries drafted an agreement that would give equal access to the area (Appendix B). This agreement is the basis for Draft Addendum XX.

### **3.0 Proposed Changes in Management Tools**

#### **Option 1: Status Quo- No Closed Area II Season Closure**

Vessels fishing with or using lobster tagged pot gear designed to take lobsters provided no regulated species are kept and no other gear capable of catching NE multispecies is on board may fish in closed are II year round as defined in NOAA Fisheries regulations.

**Option 2: Closed Area II Season Closure (Industry Agreement)**

**For purposes of this proposed measure closed area II is defined by straight lines connecting the following points in the order stated:**

Point	N. Lat	W. Long
1	41°50'	67°20'
2	41°50'	66°50'
3	41°30'	67°20'
4	41°30'	66°35'

It will be prohibitive to set or store lobster traps in Closed Area II from November 1 to June 15 annually. All Lobster trap gear must be removed from the water by midnight October 31st from closed area II area, except the HAPC area and no lobster gear will be set in the area until 12:01 a.m. on June 16th. Any gear set or stored in this area from November 1st through June 15th will be considered derelict gear. In the case where an act of God may prevent the removal of fixed gear by October 31, the situation will be communicated immediately to qualifying sectors and gear removal will commence immediately upon the situation being resolved.

**Initial period:** The sector operations plans are not in effect until May 1st, 2013. To start this agreement there will be the period May 1 to June 15, 2013 when Mobile gear Sector vessels will first enter the area for their six week spring season above 41° 30'. Should the opening of CAII not become effective until 2014, this agreement will remain in effect for initiation at that time (2014).

**4.0 Compliance**

If the existing lobster management program is revised by approval of this draft addendum, the American Lobster Management Board will designate dates by which states will be required to implement the addendum. The compliance schedule will take the following format:

XXXXX: All states must implement Addendum XIX through their approved management programs. States may begin implementing management programs prior to this deadline if approved by the Management Board.

**5.0 Recommendation for Federal Waters**

The Atlantic States Marine Fisheries Commission believes that the measures contained in Amendment 3 and Addenda I-XX are necessary to limit the expansion of effort into the lobster fishery and to rebuild lobster stocks to recommended levels. ASMFC recommends that the Federal government promulgate all necessary regulations to implement the measures contained in Section 3 of this document.



## Appendix A

### **Assessment of Trawl-Induced Damage to American Lobster Report to the American Lobster Management Board By the American Lobster Technical Committee August 2012**

At the May 2012 Lobster Board meeting the TC was tasked with looking at the effects of bottom tending mobile gear on lobster in response to management actions that could lift a prohibition on this type of gear in Closed Area II on Georges Bank. Lobstermen that fish in this area have reported large congregations of ovigerous females within Closed Area II and they're concerned that opening it to mobile gear will have a negative impact on the local lobster population. The studies cited below document the effects that bottom tending mobile gear have on lobster in their respective areas. These results suggest that opening Closed Area II to these types of gear will result in additional incidental damage to lobster. It's important to note that studies cited below were done in areas where lobster are generally smaller than those found on Georges Bank (ASMFC 2009), and thus incidental damage could be quite different in this area due to gear selectivity and size of lobster. Additional surveys and studies are needed to more accurately assess the effects of mobile gear on lobster near Georges Bank.

When a surge in trawl effort directed toward lobster caused substantial conflicts between the bottom trawl and lobster trap fishery in Long Island Sound in the early 1980s, the Connecticut legislature commissioned the Department of Environmental Protection to examine the impacts of mobile trawl gear on lobster. Agency biologists compared direct and delayed mortality from trawl nets versus trap gear (Smith and Howell 1987). Biologists made monthly trips aboard commercial stern trawlers (n=63 trips, 12-26m vessel size, tow duration 1-3 hrs) and lobster trap vessels (n=12 trips, 12-14m vessel size) from July 1983-January 1985 to examine lobster catches for immediate damage and mortality, and collected animals for transport to laboratory open circulating seawater tanks for extended examination over 14 days. Similar observations were also recorded from cruises made by a research stern trawler (13m vessel size, tow duration 0.5-2 hrs).

#### Summary of Results

- Monthly incidence of major damage and immediate mortality varied seasonally from 0-14% in the trawl fishery (n=6,174 lobster) and 0-4% in the trap fishery (n=4,762 lobster). There was no difference in damage/mortality rate by vessel size.
- Delayed mortality occurred only in trawl-caught animals and almost exclusively in animals that sustained major damage (broken or crushed body or claws) or were newly molted (new-shell).
- Trawl-induced damage occurred at similar rates in cold-water versus warm-water intermolt periods (2% January-June versus 3% August-September) and between cooling and warming postmolt periods (12% October-December versus 13% July).
- The above results suggest that damage due to trawling is more a function of shell condition than water temperature. The importance of shell condition points to the effects of compression in the trawl net on recently molted animals.
- Sub-legal size new-shell lobster incurred significantly greater damage rates than legal-size lobster caught by trawl. Hard-shell animals, and those captured in traps, showed no size differences in damage rate.

## Appendix A.

- Trawl-caught egg bearing females (n=909) incurred no greater damage/mortality rates than non-egg bearing females or males. Egg loss attributable to either harvest technique was not examined.

Two other studies also documented similar damage rates and an increase in damage immediately following molting periods with lower rates during intermolt periods. In Rhode Island waters, Ganz (1980) reported an overall 9% major damage rate estimated from biweekly experimental trawl tows (n=105 tows, tow duration 1 hr, 5228 lobster). However, injury rates increased to 16-21% during the molt in June-July and October-November while averaging 0-5% in all other months. Spurr (1978) also found trawl-induced injury to be greater in July than in September based on experimental tows taken in New Hampshire waters.

These damage rates must be expanded by the relevant bottom trawl fishing effort in order to assess the total effect of trawl gear on the affected population. For example, damage to 14% of lobster contacted by bottom trawls (as indicated by the Connecticut study) during the 3-6 month season when lobster are molting and most vulnerable would be of little consequence to the health of the population if trawl effort during the same time period is relatively low. Similarly, damage due to trawling may be minor relative to damage by lobster traps (4% during the period of greatest vulnerability) if effort in the lobster fishery is high. Other factors to consider include: The seasonal distribution of mobile gear fishing effort, trawl/dredge design, mortality of lobster contacted by mobile gear but not landed, and the size selectivity of bottom trawl gear. All of these factors would substantially change the total damage to lobster by these types of mobile gear.

The proposed regulation changes will also include lifting the prohibition on scallop dredges. Jamieson and Campbell (1980) looked at the impacts of scallop dredges on lobster in the Gulf of Saint Lawrence in areas with and without commercial scallop fishing. They found that 1.3% of lobster in the fished areas were either injured or retained and 11.7% of lobster in the non-fished areas were retained/injured by experimental scallop dredge. SCUBA divers followed behind the dredge and observed lobster in the drag path during and after the tow. Injured lobster were not found in the drag path though some were observed to retreat into burrows in front of a moving dredge and the damage/mortality associated with those animals is unknown.

The authors concluded that damage to American lobster in the research area was minimal from the observed drags of sea scallop dredge. They noted that seabed substrate was generally smooth and most lobster were able to avoid the gear. Though this study provides useful information, one needs to exert caution when trying to draw parallels between this study and interactions of scallop dredges and lobster on Georges Bank. The selectivity of the gear is very dependent on the physical terrain and speed of the tows. Additionally, the mean size of the lobster in this study was 72mm which is less than the 25<sup>th</sup> percentile for the lobster population around Georges Bank (average 80-115mm, ASMFC 2009). Lobster size will affect damage rates as well as retention rates in the gear.

Applying the results of these studies to assess potential effects of opening a closed area of Georges Bank to bottom tending mobile gear would require 3-5 years of the following information:

## Appendix A.

- Monthly or seasonal proportion of newly-molted versus hard-shelled lobster for sub-legal and legal size classes from experimental trawls and lobster traps that capture all size classes and sexes present on Georges Bank
- Monthly or seasonal estimates of major damage rates (i.e. broken or crushed body or claws exclusive of culls and old damage) from commercial or experimental trawling and lobster traps on Georges Bank or the Gulf of Maine where shell development is comparable
- Data characterizing tow duration, net size, and deck handling practices for the proposed mobile gear fishery(s) for comparison to data describing fishing effort in the lobster trap fishery.
- Characterization of the amount of spatial overlap between the area exposed to bottom trawling and known lobster habitat.

### Literature Cited

- Atlantic States Marine Fisheries Commission (ASMFC), 2009. American lobster stock assessment report for peer review. Stock assessment report 09-01.
- Gantz, 1980. Otter trawl induced lobster damage evaluation. Final Report to Department of Commerce, NOAA, NMFS, Commercial Fisheries Restoration and Development Activities, RI Project 3-279-R.
- Jamieson, G. and A. Campbell, 1980. Sea scallop fishing impact on American lobster in the Gulf of St Lawrence. Fisheries Bulletin US, 83:575-586.
- Smith, E. and P. Howell, 1987. The effects of bottom trawling on American lobster, *Homarus Americanus*, in Long Island Sound. Fisheries Bulletin US, 85:737-744.
- Spurr, E., 1978. A assessment of short term effects of otter trawling on large epibenthic invertebrates. Final Report to Department of Commerce, NOAA, NMFS, Commercial Fisheries Restoration and Development Activities, NH Project 3

## FINAL TERMS AND AGREEMENT

### BETWEEN THE OFFSHORE LOBSTER INDUSTRY AND THE SECTOR TRAWL FISHERMEN

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The Agreement Period will commence upon execution by all parties with the expectation that the Sector Operations Plans will be in effect as of May 1, 2013. See "Initial Period" on page two.

This document is intended to describe the basic terms of a formal agreement to be drafted and executed between the Offshore Lobster Fixed Gear Fishermen and Sector Trawl Fishermen in the groundfish sectors.

The agreement is limited to the area now and formerly known as Closed Area 2 (CAII). (See illustration attached)

The Parties to the Agreement will be:

1. All Sector Trawl Vessels requesting access to CAII in fishing year 2013 (or 2014, should the opening of CAII not become effective until 2014), through ops plans
2. All Offshore Lobster vessels fishing with Traps in CAII

**From June 16 to October 31** – sector vessels must vacate the area by midnight on June 15

41 30 north to the Southern boundary of the Triangle will be no trawling by Sector Vessels.

41 30 South, **status quo** / shared by mobile gear and fixed gear

Triangle, **status quo** / shared by \*Selective mobile gear\* and fixed gear fishermen

**From November 1 to June 15**- lobster vessels must vacate the area by midnight on October 31 and may not return until 12:01 a.m. June 16

41 30 North to the Southern boundary of the Triangle will be no Lobster gear set or stored in the area.

41 30 South, **status quo** / shared by mobile gear and fixed gear

Triangle, **status quo** / shared by \*Selective mobile gear\* and fixed gear fishermen

The Sectors will incorporate specific reference to this agreement in their Sector Operations Plans as part of the exemption request to access the area. In doing so, sector vessels will carry onboard a Letter of Authorization that identifies the Sector affiliation of the vessel and a copy of their Sector Operation Plan which will reference the Agreement between the Lobster Fishery and the Sector.

Offshore Lobster Fishermen will be responsible for communicating, to the best of their ability, with all Area 3 fixed gear lobster fishermen, including those entering CAII, throughout the entire year to ensure that all vessels

## Appendix B

abide by the agreement. All Area 3 fixed gear lobster permit holders will be notified by certified mail and copies of said notification will be provided to the qualifying sectors.

All Offshore fixed gear lobster fishermen setting gear within CAII will be signatories to this agreement. Offshore Lobster Fishermen agree to remove all gear from the area by midnight October 31<sup>st</sup> from the CAII area North of 41 30 to the Southern Boundary of the Triangle (except the HAPC area) and no lobster gear will be set in the area until June 15<sup>th</sup>. Any gear set or stored in this area from November 1<sup>st</sup> through June 15<sup>th</sup> would be considered derelict gear. In the case where an act of God may prevent the removal of fixed gear by October 31, the situation will be communicated immediately to qualifying sectors and gear removal will commence immediately upon the situation being resolved.

All parties will work out the details of communication and education regarding the terms and consequences of the agreement or breach of the agreement.

Initial period: The sector operations plans are not in effect until May 1<sup>st</sup>, 2013. To start this agreement there will be the period May 1 to June 15, 2013, when Mobile gear, Sector vessels will first enter the area for their six week spring season above 41 30; sector vessels agree to remove groundfish gear from the area by midnight June 15. Should the opening of CAII not become effective until 2014, this agreement will remain in effect for initiation at that time.

### **Initial Period from May 1, 2013 to June 15, 2013**

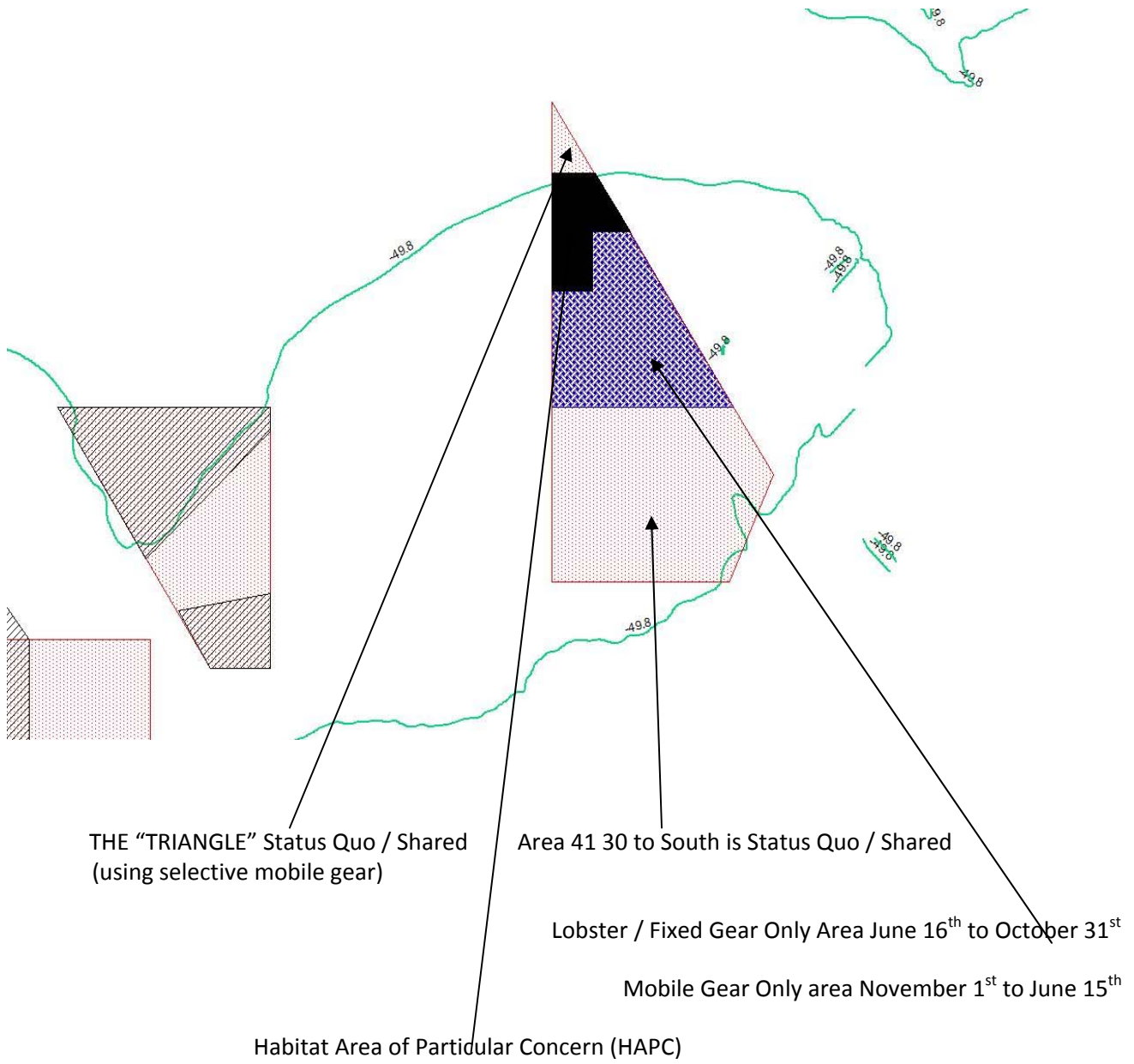
41 30 North to the Southern boundary of the Triangle will be no Lobster gear set or stored in the area.

41 30 South, **status quo** / shared by mobile gear and fixed gear

All groundfish gear will be removed from the selective-gear area by midnight June 15


Triangle, **status quo** / shared by \*Selective mobile gear\* and fixed gear fishermen

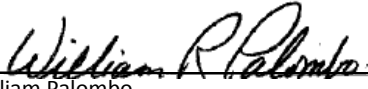
\*Selective Mobile Gear is described as: "that which is currently required within an SAP. (Should a SAP be modified, Selective Gear description will remain as currently described in 2012.)"

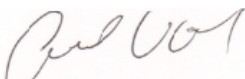


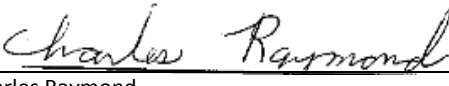
**FINAL**  
**AGREEMENT BETWEEN THE OFFSHORE LOBSTER INDUSTRY and**  
**SECTOR TRAWL FISHERMEN**

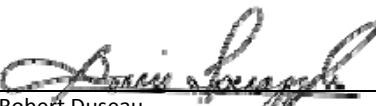
The following signatures refer to the attached agreement, specifying spatial and temporal bottom-sharing of Groundfish Closed Area II between the above stated gear sectors.

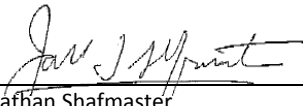
X   
Peter Brown  
F/V Rachel Leah - pmt # 330678


X   
William Palombo  
F/V Endeavor - pmt # 330555

X   
Arthur "Bro" Cote  
F/V William Bowe – pmt # 320683

X   
Charles Raymond  
F/V Michael and Kristen - pmt # 330507

X   
for Robert Duseau  
F/V McKinley - pmt # 410594

X   
Jonathan Shafmaster  
See below\*

X   
for Grant Moore  
F/V Direction - pmt # 320652

X   
Jonathan Williams  
See below \*\*

\* F/V Amy Michelle – pmt # 330590, F/V Amy Philbrick – pmt # 321047, F/V Carol Coles – pmt # 321031,  
F/V Eulah McGrath – pmt # 321036, F/V Jacqueline Robin – pmt # 310481, F/V Jennifer Anne – pmt # 320740,  
F/V Laura Beth – pmt # 310970, F/V Michelle Jeanne - pmt # 320703


\*\*F/V Diamond Girl – pmt # 410317, F/V Hannah Boden– pmt # 410325

**FINAL**  
**AGREEMENT BETWEEN THE OFFSHORE LOBSTER INDUSTRY and**  
**SECTOR TRAWL FISHERMEN**


The following signatures refer to the attached agreement, specifying spatial and temporal bottom-sharing of Groundfish Closed Area II between the above stated gear sectors. The signatories are authorized representatives of NE Groundfish Sectors who have submitted this agreement to be incorporated into their 2013 Sector Operations Plans.


The undersigned sector representatives have entered this agreement for the sole purpose of alternating access to eliminate gear conflicts between trawl and lobster / fixed gear fishermen in the specified area. This agreement was negotiated and agreed with the starting point being an attempt to allow the Lobster fishery to prosecute their fishery during the period most important to that fishery.

Trawl fishermen have not entered this agreement for the purpose of protecting egg bearing lobsters and wanted to make it clear that the discussions leading to this agreement did not represent in any way, a determination that such protection was warranted or even considered by the negotiating parties. This is stated for the specific purpose of clarifying the record following the motion made by the ASFMC Lobster Board in which reference to "concentrations of egg bearing females..." was made. Should such reference be incorporated into the 2013 Lobster Addendum it would be a unilateral statement that cannot be conclude by virtue of the existence of this agreement.

p.p.   
Elizabeth M.P. Etrie  
Joseph Orlando, President  
II, Northeast Fishery Sector Inc.

p.p.   
Elizabeth M.P. Etrie  
Michael Walsh, President  
VI, Northeast Fishery Sector Inc.

  
Christopher Brown, President  
V, Northeast Fishery Sector Inc.

  
William P. McCann, President  
VII, Northeast Fishery Sector Inc.



Appendix B



Felicio R. Lourenco, President  
VIII, Northeast Fishery Sector Inc.



Carlos Rafael, President  
IX, Northeast Fishery Sector Inc.



p.p.

Elizabeth M.P. Etrie  
Thomas Williams Sr., President  
XIII, Northeast Fishery Sector Inc.

*Atlantic States Marine Fisheries Commission*

**DRAFT ADDENDUM XXI TO AMENDMENT 3 TO THE  
AMERICAN LOBSTER FISHERY MANAGEMENT PLAN  
FOR PUBLIC COMMENT**

***SOUTHERN NEW ENGLAND REDUCTIONS IN FISHING CAPACITY FOR  
LOBSTER CONSERVATION MANAGEMENT AREA 2 AND 3  
TRANSFERABILITY MEASURES***



**This draft document was developed for Management Board review and discussion. This document is not intended to solicit public comment as part of the Commission/State formal public input process. Comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting. If approved, a public comment period will be established to solicit input on the issues contained in the document.**

***ASMFC Vision Statement:***

***Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.***

**May 2013**

## Public Comment Process and Proposed Timeline

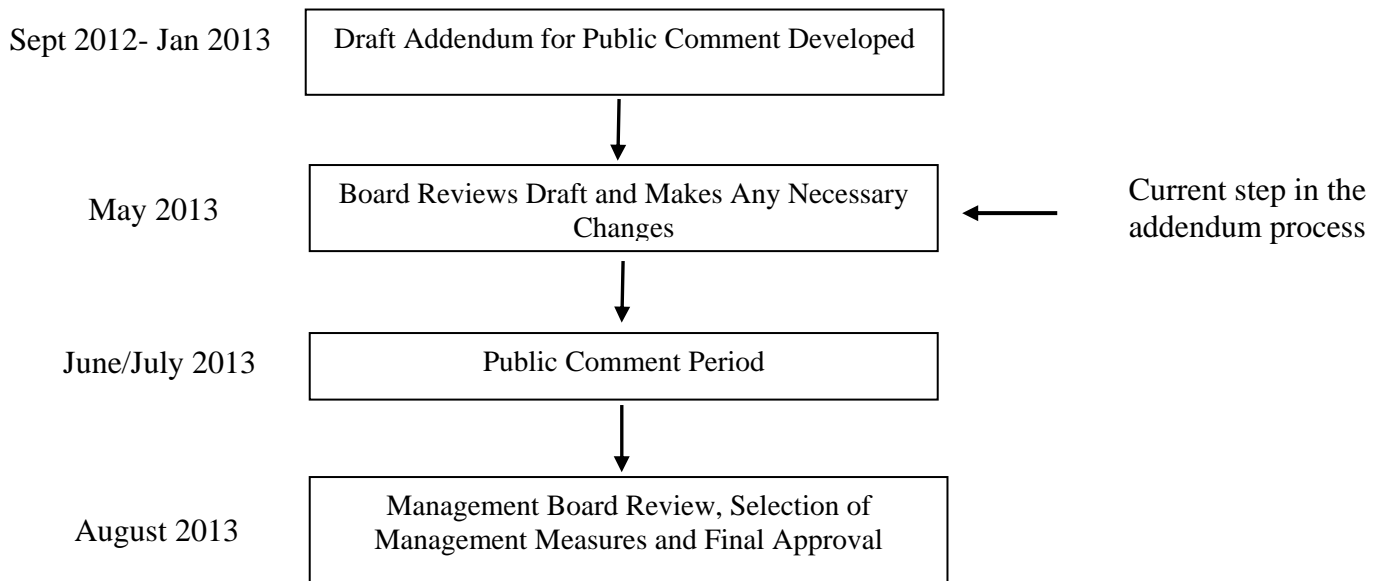
In December 2011, the American Lobster Management Board approved a motion to initiate the development of an addendum to the Interstate Fishery Management Plan (FMP) for American Lobster to respond to the poor stock condition in the SNE lobster stock area. The Board directed the Plan Development Team to scale the size of the SNE fishery to the size of the resource in the SNE stock. The PDT drafted an addendum that addressed this issue with trap reductions and changes to the transferability programs. The Board split the addendum, approved the trap reductions in 2012 and initiated this addendum to address changes in the transferability program for both Area 2 and 3. This draft addendum presents background on the Atlantic States Marine Fisheries Commission's (ASMFC) management of lobster, the addendum process and timeline, a statement of the problem, and options for management measures in the SNE lobster stock (lobster conservation management areas 2 and 3) for public consideration and comment.

The public is encouraged to submit comments regarding this document at any time during the addendum process. Public comments will be accepted until **5:00 PM (EST) on XXXX, 2013**. Regardless of when they were sent, comments received after that time will not be included in the official record. Comments may be submitted by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

Mail: Toni Kerns

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(Subject line: Lobster Draft  
Addendum XXI)  
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## 1.0 Introduction

The Atlantic States Marine Fisheries Commission (ASMFC) has coordinated interstate management of American lobster (*Homarus americanus*) from 0-3 miles offshore since 1997. American lobster is currently managed under Amendment 3 and Addenda I-XVII to the Fishery Management Plan (FMP). Management authority in the exclusive economic zone (EEZ) from 3-200 miles from shore lies with NOAA Fisheries. The management unit includes all coastal migratory stocks between Maine and North Carolina. Within the management unit there are three lobster stocks and seven management areas. The Southern New England (SNE) stock (subject of this Draft Addendum) includes all or part of six of the seven lobster management areas (LCMAs) (Appendix 1). There are nine states (Massachusetts to North Carolina) that regulate American lobster in state waters of the SNE stock, as well as regulate the landings of lobster in state ports.

While this Addendum is designed to address the single discrete SNE stock unit, past American Lobster Management Board (Board) actions were based on the management foundation established in Amendment 3 (1997), which established the current seven lobster management areas that are not aligned with the three lobster stock boundaries. LCMA-specific input controls (limited entry, trap limits, and biological measures) have been the primary management tools used by the Board to manage lobster fisheries under the FMP. Managers working to recover the SNE stock face significant challenges since they must confront the complexity of administering and integrating six different management regimes crafted primarily (and largely independently) by the Lobster Conservation Management Teams (LCMT's). To be effective, management actions must not only address the biological goals identified by the Board, but also acknowledge and attempt to mitigate the socio-economic impacts that may vary by LCMA, while ensuring that multiple regulatory jurisdictions have the capability to effectively implement the various management tools available in this fishery.

The Board initiated this draft Addendum to scale the SNE fishery to the size of the resource with an initial goal of reducing qualified trap allocation by at least 25 % over a five to ten year period of time. The Board motions read: *Move to ... As a second phase initiate Draft Addendum XIX to scale the SNE fishery to the size of the SNE resource. Options in the document will include recommendations from the LCMTs, TC and PDT. These options would include, but are not limited to, a minimum reduction in traps fished by 25% and move to proceed with Draft Addendum XVIII on LCMA 2 and 3 effort control programs to meet the terms of the second phase in the previously approved motion.*

The Board directed the Plan Development Team (PDT) to scale the size of the SNE fishery to the size of the resource in the SNE stock. The PDT drafted an addendum that addressed this issue with trap reductions and changes to the transferability programs. The Board split the addendum, approved the trap reductions in 2012 through Addendum XVIII and this addendum address changes in the transferability program for both Area 2 and 3. The most recent transferability rules were established in addenda XII and XIV. This addendum proposed to modify some of those rules as well as establish additional guidelines. Proposed changes to current regulations are noted in section 3 of this document.

## **2.0 Background**

### **2.1 Statement of the Problem**

#### ***Resource Issues***

The SNE lobster stock is at a low level of abundance and is experiencing persistent recruitment failure caused by a combination of environmental drivers and continued fishing mortality (ASMFC, 2009). It is this recruitment failure that is preventing the SNE stock from rebuilding. This finding is supported by the 2009 Stock Assessment Peer Review Panel and the 2010 Center for Independent Experts review of Technical Committee (TC) findings and conclusions articulated in the April 2010 report to the Board: “Recruitment Failure in Southern New England Lobster Stock.

Current abundance indices are at or near time series (1984 to 2009) lows (ASMFC 2009) and this condition has persisted since the early 2000s. In May 2009, the Board set interim threshold and target values well below those recommended by the TC in recognition that stock productivity has declined in the past decade. The Stock is overfished but overfishing is not occurring. Members of the Board and TC believe that environmental and ecosystem changes have reduced the resource’s ability to rebuild to historical levels.

#### ***Management Issues***

The Board initiated this draft addendum to scale the SNE fishery to the diminished size of the SNE resource. This addendum proposes changes to the transferability program for LCMA 2 and 3. These changes are designed to allow for flexibility in the movement of traps as the consolidation program for LCMA 2 and 3 to address latent effort (unfished allocation) are implemented.

The limited entry programs for each LCMA had unique qualifying criteria and eligibility periods resulting in widely disparate levels of latent effort among the areas. Consequently, measures to remove latent effort from the fishery will need to be developed for each LCMA based on the current amount of latency and the unique qualifying criteria and eligibility periods used by each management jurisdiction. For trap limits to be effective in reducing harvest and rebuilding the stock, latent effort must first be addressed to prevent this effort from coming back into the fishery as the stock grows and catch rates increase. Without action being taken to remove latent effort from the fishery any effort to consolidate LCMA 2 and 3 will be undermined. It is anticipated that long-term reductions in traps fished will occur as a result of this addendum.

## **2.0 Background**

The ASMFC Lobster Management Board has approved past addenda governing the LMCA 2 and 3 trap fishery that allocated traps to each permit holder based on past performance (LCMA 2 allocated traps in 2007 for state permit holders and LMCA 3 in 1999, Table 1). Once NOAA Fisheries allocates traps to LCMA 2, both LCMA 2 and 3 will have a finite number of traps that can be fished based on the total allocation of individuals qualified to fish in the areas. While difficult to calculate and confirm for all areas and jurisdictions, it is estimated that the effort control plans allocated more traps than were being fished at the time the allocation schemes were adopted. The effort control plan for Area 2 was adopted in the middle of the decade long decline in the fishery. Because the fishery was already seeing substantial attrition, the initial allocations in LCMA 2 and 3 created a pool of latent trap allocation that could be fished in the future. The number of

fishermen and traps fished was substantially higher in the late 1990's and continues to decline through the present day. Nevertheless, the proportion of trap allocation that is unfished is significant and continues to grow (Table 2).

Table 1. Initial Trap Allocation approval for each LCMA

LCMA	ASMFC Approval	State Approval	NOAA Fisheries Approval
Area 2	2006	MA - 2006 RI - 2007 CT- 2006	Pending
Outer Cape Cod	2003	MA - 2003	Pending
Area 3	1999	N/A	2003
Area 4	1999	N/A	2003
Area 5	1999	N/A	2003

Table 2. Traps allocated and max traps fished for 2008-2010 for LCMA 2 and 3.

LCMA	2008 Traps Allocated	2008 Max Traps Fished	2009 Traps Allocated	2009 Max Traps Fished	2010 Traps Allocated	2010 Max Traps Fished
LCMA 2	178,376	107,003	175,117	107,886	177,120	104,603
LCMA 3	109,477	87,188	111,109	80,561	111,386	75,808

Data for LCMA 2 is limited to MA, RI, and CT fishermen; max traps fished is from state harvester reports. Data for LCMA 3 includes MA, RI, CT, NY, NJ, DE, MD, and VA. Max traps fished for MA and RI is from harvester reports for all other states data is from the total trap tags purchased.

The trap allocation programs for LCMA 2 and 3 also contained provisions which allowed transfers of trap allocation among eligible permit holders to mitigate some the negative effects of trap allocation schemes. These programs are called ITT's: Individual Transferable Trap programs. However, despite the desire for trap allocation transfers, they have yet to be fully enacted, primarily because NOAA Fisheries and Rhode Island DEM have met administrative challenges trying to implement these programs.

Through Addendum XII, it was understood by the Board and NOAA Fisheries that before transfers would be allowed or resumed two things must occur: 1) NOAA Fisheries must adopt complementary rules to allocate traps for federal permit holders in LCMA 2 and Outer Cape Cod (OCC) and 2) a joint state/federal database must be created to track trap allocations and transfers among the permit holders for these three areas. NOAA Fisheries is currently in rulemaking to consider federal rules that would allow trap allocation transfers among LCMA 2, 3, and OCC permit holders, as well as establish complementary LCMA 2 and OCC trap allocations for federal permit holders in these areas. It is expected that the trap allocation transfers could happen for the 2014 fishing season. When the program commences, industry members anticipate a rash

of transfers that could in fact raise the effort level (traps fished) in the fisheries – despite the 10% conservation tax to be placed on transfers in LCMA 2, 3, and OCC. If the net result is increased effort, then conservation goals would be compromised, at least temporarily. The joint state/federal database is scheduled to be completed in 2013.

Addendum XVIII effort control plans in LCMA 2 and 3 is designed to remove latent effort from both areas. Prior to Addendum XVIII control plans in the areas resulted in some amount of effort reduction at the permit holder level and at the aggregate fleet level. Many permit holders in LMCA 2 received an allocation of traps that was less than the level of traps they fished prior to allocation. The LCMA 2 plan relied on a combination of traps fished and poundage to allocate traps. Some permit holders with relatively low landings received a trap allocation that was lower than their reported traps fished. Until the allocation transfer program is created these permit holders are frozen at their allocation level without any means to increase their allocation. Meanwhile many LCMA 3 permit holders have seen their trap allocation reduced by a series of addenda (Addendum I and IV, XVIII), that imposed differential trap cuts on Area 3 fishermen based on the size of the original allocation. Fishermen with lower allocations were cut 10 %, while others with very high allocations were being cut up to 40%. As a general rule, most Area 3 fishermen had their historic allocations cut by approximately 30%. In the most recent Addendum (XVIII) LCMA 2 will reduce it traps by 50% and LCMA 3 by 25% both over a five year period.

Despite the scaling down achieved through the effort control plans, many in the industry fear the soon-to-be-approved transferability program could result in a flurry of transfers that will spike fishing effort. Therefore, an effort reduction proposal was put forth to the Board by LCMT 2 and 3 to mitigate some of the anticipated unintended consequences of trap allocation transferability programs that are expected to come “on-line” in the months ahead. The proposal establishes long-term effort reductions (allocated traps) in the LCMA’s that feature excessive permits and trap allocations, especially in SNE where the stock is declining. The proposal creates a framework that allows for LCMA-specific long-term reductions in trap allocations with constraints on how quickly a permit holder can build up their trap allocation after a transfer occurs. If enacted, these cuts in trap allocation are designed to eliminate latent trap allocations and reduce the number of traps actually fished. Industry members who envision improvements in the economics of the fishery are willing to undertake these trap reductions as long as the relief valve of trap allocation transfer is available to maintain a profitable fishery for the remaining participants.

SNE fishermen recognize that the decline in lobster abundance and the potential for future offshore industrial development could constrain the fishable areas and reduce future landings to unforeseen low levels. In the absence of government funds to remove permits or trap allocation from the available pool, industry developed a proposal that is essentially a self-funded buy-out. Consolidation is likely to occur as permit holders respond to the annual trap allocation cuts by obtaining trap allocation from those permit holders who downsize their operations or leave the fishery.

## **Management tools being considered**

### ***Single Ownership Trap Cap, previously called Trap Banking***

Establishing a single ownership trap cap will allow a permit holder to obtain trap allocation from other permit holder in excess of the individual trap cap limit (the number of traps that can be actively fished) on an area specific basis. This additional allocation may not be fished until activated by the permit holder's governing agency. This provision will enhance the ability of a lobster business owner to plan for their future. For example, non-active or banked traps could be activated, up to the maximum individual trap allocation, if a permit holder's trap allocation was reduced in the future, instead of trying to buy additional allocation the year the reductions occurred. Entities will also be able to obtain trap allocation in a single transaction vs. making numerous small transactions each year, which will reduce the administrative burden for the management agencies and industry.

## **3.0 Proposed Changes in Management Tools**

NOAA Fisheries is currently in rulemaking to consider federal rules that would allow trap allocation transfers among LCMA 2, 3, and OCC permit holders, as well as establish complementary LCMA 2 and OCC trap allocations for federal permit holders in these areas. It is expected that the trap allocation transfers could happen for the 2014 fishing season, under the current transfer program established in addenda (IV, V, VII, IX, XII, and XIV). If changes to the Commission transfer program are made through this addendum it is likely NOAA Fisheries will conduct addition rule-making to consider any measures adopted by the Commission.

### **3.1 LCMA 2 Proposed Management Options**

The following measures are being proposed for LCMA 2 only

#### **3.1.1 Trap Allocation Transfers** *If an option other than status quo were adopted this would replace section 4.3.3.3 of Addendum XII*

In regards to the transfer of trap allocation, current ASMFC rules (Addenda VII and XII) allow entities to transfer full or partial allocations of qualified traps from one owner to another in accordance with specific criteria in each State and /or in accordance with federal law. NOAA Fisheries currently does not allow for the transfer of partial allocations, but is in rule making to consider this regulation. NOAA Fisheries does allow for a full business sale.

The ASMFC rule is different depending on if the transfer is of a full business or partial trap allocation. The below options allow for the Board to consider multi-LCMA trap allocation separately as they are considered currently in the FMP (section A and B) or together (section C) as one regulation. If the board addresses the transfers the same then they would only need to choose an option under C. If the Board addresses the transfers differently (full business or partial trap allocation.) then they would need to choose an option on both A and B.

### **A. Partial Transfers of a Multi-LCMA Trap Allocation**

#### **Option 1: Status Quo:**

The recipient of a partial trap allocation from a permit that has a multi-LCMA trap allocation must choose only a single LCMA that the transferred trap allocation will be authorized to fish in;



trap fishing privileges for the other LCMAs will be forfeited but the history of the trap will be retained in the trap database.

**Option 2: 2 Areas can be fished:**

The recipient of a partial trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows with a maximum of two areas fished for a given year, the fishermen would declare the area fished (one time) when apply for a trap tag. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

**Option 3: 2 Areas can be fished (areas fished chosen annually):**

The recipient of a partial trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows with a maximum of two areas fished for a given year, the fishermen would declare the area fished annually when renewing their permit and purchasing trap tags. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

**Option 4: All Areas can be fished:**

The recipient of a partial trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows for a given year, the fishermen would declare the area fished when apply for a trap tag. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

**B. Full Business Transfers:**

**Option 1: Status Quo:** The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap allocation allows. The recipient would be bound by the most restrictive rule when fishing multi-LMCAs.

**Option 2: 1 Area can be fished**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation must choose only a single LCMA that the transferred trap allocation will be authorized to fish in; trap fishing privileges for the other LCMAs will be forfeited.

**C. Transfers of a Multi-LCMA Trap Allocation (Partial or Full business)**

**Option 1: 2 Areas can be fished:**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows with a maximum of two areas fished for a given year, the fishermen would declare the area fished (one time) when apply for a trap tag. The recipient would be bound by the most

restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

**Option 2: 2 Areas can be fished (areas fished chosen annually):**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows with a maximum of two areas fished for a given year, the fishermen would declare the area fished annually when renewing their permit and purchasing trap tags. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

**Option 3: All Areas can be fished:**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows for a given year, the fishermen would declare the area fished when apply for a trap tag. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

**3.1.2 Single Ownership Trap Cap or Individual Permit Cap (previously called trap banking)**

The Single Ownership Cap or *Individual Permit Cap*, allows the purchase and accumulation of traps over and above the *Active Trap Cap Limit or trap cap*, currently 800 traps in LCMA 2, which are not fishable until activated. Newly purchased traps, along with traps already owned by a permit holder may combine to equal the number of traps necessary to go through active reductions, in order to end up at the final trap level of 800 traps.

**Option 1. Status quo**

No action (trap banking would not be permitted)

**Option 2. Single Ownership Cap or Individual Permit Cap**

The single ownership cap allows the purchase and accumulation of traps over and above the *active trap cap (currently 800 traps for LCMA 2)*. The single ownership cap is 1600 traps for an individual or corporation at a given time. Traps in excess of the active trap cap may not be fished until activated by the permitting state or agency. A transfer tax will not be assessed on traps activated from the permit holder's individual permit cap to an active trap.

**Example:** A state permitted LCMA 2 fisherman has the maximum trap allocation of 800 traps. He buys 100 traps from a state permitted LCMA 2 fisherman. 10 of those traps will be retired for conservation purposes. The Buyer now owns 890 traps. He may only fish 800 of the 890 traps. The other 90 traps are retained and can be activated as his active traps are reduced. If the permit holders traps are reduced by 10% his total individual permit cap is 801. He has 800 active traps (traps that can acutely be fished) and 1 trap that cannot be actively fished.

### **3.1.3 Sunset Provision for the Single Ownership Cap**

As proposed in this addendum the single ownership cap allows the purchase and accumulation of traps over and above the active trap cap (currently 800 traps for LCMA 2). This is to allow for business that are cut in the upcoming annual trap reductions efficiently rebuild their business. The Area 2 LCMT has indicated it is their intention that at the end of the trap reductions the Area 2 fleet would go back to the historical 800 active trap cap allocation.

Option 1: No sunset provision. The single ownership cap would continue as approved section 3.1.2 of this plan

Option 2: Sunset 1 year after the last trap reduction as specified in Addendum XVIII. The single ownership cap as approved section 3.1.2 of this plan would expire 1 year after the last trap reduction as specified in Addendum XVIII.

Option 3: Sunset 2 years after the last trap reduction as specified in Addendum XVIII. The single ownership cap as approved section 3.1.2 of this plan would expire 2 years after the last trap reduction as specified in Addendum XVIII.

### **3.1.4 Aggregate Ownership Cap or Ownership Accumulation Limits**

The ASMFC adopted Addendum VII which limited the number of permits any single entity/company can own to 2 with an exception for a group of permit holders. Ownership is defined as having any interest in a lobster permit/business. All stock holders must be disclosed when renewing landing permits or trap tag allocations. Two options are being considered in this addendum to further limit consolidation within the Area 3 industry to allow for as much cultural and geographic distribution within the fishery as possible. The concept is built on the same principle as a permit bank, which insulates a fishery from changes in geographic and cultural aspects of the fishery. The goal is to reduce the possibility of one entity exerting significant control over the markets and keep as many individuals in the fishery as possible. *If measures are adopted it would replace section 4.2.1.4 of Addendum VII*

**Option 1.** Status Quo: No single company or individual may own, or share ownership of, more than 2 qualified LCMA 2 federal permits. However, those individuals who have more than 2 permits in December 2003 may retain the number they had at that time but may not own or share ownership of any additional permits.

*This option limits the number of permits that can be owned rather than traps*

**Option 2.** An entity could not own more than 1600 traps (800 active and 800 banked traps) (LCMT Preferred)

### **3.2 LCMA 3 Proposed Management Options**

The following measures are being proposed for LCMA 3 only. If any of the below measures are approved then ASMFC will recommend to NOAA Fisheries to implement those regulations since LCMA 3 is entirely within Federal waters.

### 3.2.1 Trap Transfers

In regards to the transfer of trap allocation, current ASMFC rules (Addenda VII and XII) allow entities to transfer full or partial allocations of qualified traps from one owner to another in accordance with specific criteria in each State and /or in accordance with federal law. NOAA Fisheries currently does not allow for the transfer of partial allocations, but is in rule making to consider this regulation. NOAA Fisheries does allow for a full business sale.

The ASMFC rule is different depending on if the transfer is of a full business or partial trap allocation. The below options allow for the Board to consider multi-LCMA trap allocation separately as they are considered currently in the FMP (section A and B) or together (section C) as one regulation. If the board addresses the transfers the same then they would only need to choose an option under C. If the Board addresses the transfers differently (full business or partial trap allocation.) then they would need to choose an option on both A and B.

**A. Partial Transfers of a Multi-LCMA Trap Allocation:** *If an option other than status quo were adopted this would replace section 4.3.3.3 of Addendum XII*

**Option 1. Status Quo:** The recipient of a partial trap allocation from a permit that that has a multi-LCMA trap allocation must choose only a single LCMA that the transferred trap allocation will be authorized to fish in; trap fishing privileges for the other LCMAs will be forfeited.

**Example:** A person buys 100 traps that have historical allocation to fish in LCMA 2, 3, and 4. 10 traps are retired for conservation and 90 traps are available to be fished or banked. The buyer must choose only 1 of the 3 LCMAs (area 2, 3, or 4) to fish the traps, the other 2 areas will lose fishing privileges for those traps.

**Option 2: 2 Areas can be fished:**

The recipient of a partial trap allocation from a permit that that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows with a maximum of two areas fished for a given year, the fishermen would declare the area fished when apply for a trap tag. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

**Option 3: 2 Areas can be fished (areas fished chosen annually):**

The recipient of a partial trap allocation from a permit that that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows with a maximum of two areas fished for a given year, the fishermen would declare the area fished annually when renewing their permit and purchasing trap tags. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

**Option 4. All areas can be fished:**

The recipient of a partial trap allocation from a permit that that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap

history allows. The recipient would be bound by the most restrictive rule when fishing multi-LMCAs.

## **B. Full Business Transfers:**

### **Option 1. Status Quo:**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows. The recipient would be bound by the most restrictive rule when fishing multi-LMCAs.

### **Option 2. 1 Area can be fished:**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation must choose only a single LCMA that the transferred trap allocation will be authorized to fish in; trap fishing privileges for the other LCMAs will be forfeited.

## **C. Transfers of a Multi-LCMA Trap Allocation (Partial or Full business)**

### **Option 1: 2 Areas can be fished:**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows with a maximum of two areas fished for a given year, the fishermen would declare the area fished (one time) when apply for a trap tag. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

### **Option 2: 2 Areas can be fished (areas fished chosen annually):**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows with a maximum of two areas fished for a given year, the fishermen would declare the area fished annually when renewing their permit and purchasing trap tags. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

### **Option 3: All Areas can be fished:**

The recipient of a trap allocation from a permit that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows for a given year, the fishermen would declare the area fished when apply for a trap tag. The recipient would be bound by the most restrictive rule for all areas that the allocation qualifies for when fishing multi-LMCAs. The history of the trap will be retained in the trap database.

## **3.2.2 LCMA 3 Endorsement**

Lobstermen fishing in the SNE portion of LCMA 3 have historically fished a larger numbers of traps. It is believed that the continuation of historical fishing methods (large number of traps) will deter the transfer of effort into the Gulf of Maine or George's Bank stock area, therefore an LCMA 3 endorsement is being proposed. The proposed endorsement Area is located along already recognized boundaries within the lobster resource and regulatory/management process;

the 70°/stock area boundary line. The LCMA 3 SNE endorsement would allow fishermen to be profitable in the offshore lobster fishery SNE stock area. It should be noted that initially, the SNE lobster fleet endured the largest reductions in traps; since reductions were introduced as a sliding scale model, those with the largest trap allocations reduced the greatest number of traps.

**Option 1. Status quo:**

No change to the current LMCA 3 area designation.

**Option 2. LCMA 3 Permit Designation**

As part of the annual permit renewal process, NOAA fisheries will require fishermen with LCMA 3 permits to designate whether they plan to fish in Area 3 (as commonly designated) or specifically in the Area 3, Southern New England stock area (A3-SNE). The boundary between Area 3 and Area 3-SNE would be split by the 70° longitude. Those fishing west of 70° longitude would designate **LCMA 3-SNE**, those fishing east would designate **LCMA 3**. The area selected will be noted on the permit and remain in effect for the entire fishing year. Fishermen will be allowed to change the area designation once per year as part of the annual permit renewal process, effective in the following year.

Endorsement of LCMA 3- SNE will not restrict fishing in all of LCMA 3, however, the most restrictive rule will apply (i.e. as with “most restrictive” among LCMAs, designation of LCMA 3 with the LCMA 3 SNE endorsement would allow fishing throughout the area, however in that case, the lower active trap cap would apply throughout the entirety of LCMA 3 (section 3.2.3).

**Trap and Permit Caps on ownership**

Several types of restraints on ownership are being proposed for LCMA 3 in order to inhibit the excessive consolidation of industry. These include a cap on the number of individual active traps a single permit may fish, a cap on the number of traps a single permit may fish and own, and a cap on the aggregate number of federal permit and traps a entity/ company may own.

**3.2.3 Active Trap Cap (Maximum number of traps allowed to be fished)**

The Active Trap Cap refers to the maximum number of traps that any LCMA 3 lobster permit hold may actively fish. No single vessel with an LCMA 3 permit may fish more than the maximum number of active traps.

**Option 1: Status quo:**

No action would be taken the trap cap for all of LCMA 3 would remain at 2000 traps.

**Option 2: Active Trap Cap**

The active trap cap at the commencement of transferability will be 2000 traps. The active trap cap will be reduced by 5% per year for five years for LCMA 3 as in the table below (but not the LCMA 3-SNE designation active trap cap), in conjunction with the trap reductions approved in Addendum XVIII. If NOAA Fisheries adopts a lower trap cap for LCMA 3 or different trap cut, the schedule will be adjusted accordingly. Individuals opting to designate the LCMA 3 SNE endorsement area will continue to reduce traps below the “endorsement area’s” 1800 active trap cap, to complete the required trap reductions of 5% per year for five years. The permit owner

would then have to buy his way back up to the 1800 active trap cap, in order to fish the larger, cap.

Active Trap Cap for Area 3 and Area 3-SNE designation

	Area 3	Area 3-SNE
Year 0	2000	2000
Year 1	1900	1900
Year 2	1805	1805
Year 3	1715	1800
Year 4	1629	1800
Year 5	1548	1800

### 3.2.4 Single Ownership Cap or Individual Permit Cap

The Single Ownership Cap or *Individual Permit Cap*, allows the purchase and accumulation of traps over and above the *Active Trap Cap* limit. Newly purchased traps, along with traps already owned by a permit holder may combine to equal the number of traps necessary to go through active reductions, in order to end up at the final trap level of 1800 traps.

In order to inhibit the excessive consolidation of the industry, a cap on ownership is proposed. The ability to accumulate traps allows a permit holder to purchase, at one time, the amount of traps necessary to remain competitive, at the same time relieve the administrative burden of multiple purchases. It addresses, and minimizes the economic burden of controlled growth and having to wait to purchase the traps necessary to reach the Individual Permit Cap. This is necessary since it is anticipated that once traps become scarce, their cost will increase. This will be especially advantageous to the smaller operator, as it provides the ability for a smaller operator to purchase traps immediately, rather than waiting until the end of the process, thus enabling them to purchase a greater number of traps early on, while their cost is still relatively low. *If an option other than status quo were adopted this would replace section 4.2.1.4 of Addendum VII*

**Option 1. Status Quo:** No action, no ownership cap

#### Option 2. Single Ownership Cap or Individual Permit Cap

The single ownership cap allows the purchase and accumulation of traps over and above the *Active Trap Cap Limit* (section 3.2.3). The single ownership cap would be specified as in the table below. This schedule assumes that NOAA Fisheries will implement a 2000 trap cap with the next set of federal rules and phase in a 25 % trap cut during the next five years. If NOAA Fisheries adopts a lower trap cap or cut for LCMA 3, the schedule will be adjusted accordingly.

Since the endorsement of SNE in LCMA 3 can be requested on an annual basis, all LCMA 3 permits will (in the end) have the ability to maintain an 1800 trap limit. (Outside of the SNE endorsement area, the “*Active Trap Cap*” (see table 1) prevails, and the most restrictive rule will apply).

Area 3 Individual Permit Cap Table

	Number of Traps
Year 1	2,333
Year 2	2,216
Year 3	2,105
Year 4	2,000
Year 5	1,900

### **3.2.5 Aggregate Ownership Cap or Ownership Accumulation Limits**

The ASMFC adopted Addendum IV in December 2003 which limited the number of federal permits any single entity/company can own to 5 with an exception for a group of permit holders. Two options are being considered in this addendum to further limit consolidation within the Area 3 industry to allow for as much cultural and geographic distribution within the fishery as possible (currently GOM to Cape May, out to the Hague Line). The concept is built on the same principle as a permit bank, which insulates a fishery from changes in geographic and cultural aspects of the fishery. The goal is to reduce the possibility of one entity exerting significant control over the markets and keep as many individuals in the fishery as possible. Ownership is defined as having any interest in a lobster permit/business. All stock holders must be disclosed when renewing landing permits or trap tag allocations.

*If an option other than status quo is adopted it will replace Section 4.2.3 of Addendum IV.*

#### **Option 1: Status Quo: Anti-monopoly Clause**

No single company or individual may own, or share ownership of, more than 5 qualified LCMA 3 federal permits. However, those individuals who have more than 5 permits in December 2003 may retain the number they had at that time but may not own or share ownership of any additional permits.

#### **Option 2: Aggregate Ownership Cap or Ownership Accumulation Limits**

No single company or individual may own traps greater than five times the Single Ownership Cap if they have not already accumulated them prior to NMFS publishing a present-day control date; therefore, should an individual owner be in excess of the Aggregate Ownership Cap before the control date is published, that owner will retain his existing trap ownership and that owner may not increase trap ownership once NMFS control date has been published. Any ownership with an accumulation of fewer traps than the Aggregate Cap at the time the control date is published may not exceed the Aggregate Ownership Cap.

If this option were adopted, the Board would recommend that NOAA Fisheries establish a control date for the number of traps a single company or individual may own, or share ownership of for LMCA 3.



Area 3 Aggregate Ownership Cap or Ownership Accumulation Limits Table

	Number of Traps
Year 1	11,665
Year 2	11,080
Year 3	10,525
Year 4	10,000
Year 5	9,500

**4.0 Annual Review and Adjustment Process**

As part of the annual plan review process the ASMFC Lobster Board will review the performance of this program to ensure that it is meeting the goals of the program. The review will consider the number of traps transferred, the rate of transfer, degree of consolidation taking place, etc in each area.

States will be required to submit to ASMF the following information for the most recent fishing year on July 1

- Number of allocated traps for LMCA 2 and 3
- Number of traps transferred for LCMA 2 and 3
- The rate of transfer for LCMA 2 and 3
- Maximum number of traps fished for LMCA 2 and 3
- The degree of consolidation for LCMA 2 and 3

**4.1 Compliance**

If the existing lobster management program is revised by approval of this draft addendum, the American Lobster Management Board will designate dates by which states will be required to implement the addendum. The compliance schedule will take the following format:

XXXXX: States must submit programs to implement Addendum XVII for approval by the American Lobster Management Board

XXXXX: The American Lobster Board Approves State Proposals

XXXXX: All states must implement Addendum XVIII through their approved management programs. States may begin implementing management programs prior to this deadline if approved by the Management Board.

**5.0 Recommendation for Federal Waters**

The SNE lobster resource has been reduced to very low levels. The Atlantic States Marine Fisheries Commission believes that additional fishery restrictions are necessary to prevent further depletion of the resource.

The Atlantic States Marine Fisheries Commission believes that the measures contained in Amendment 3 and Addenda I-XVIII are necessary to limit the expansion of effort into the lobster fishery and to rebuild lobster stocks to recommended levels. ASMFC recommends that the

Federal government promulgate all necessary regulations to implement the measures contained in Section 3 and 4 of this document.

## **6.0 References**

ASMFC, 2009. Stock Assessment Report No. 09-01.

ASMFC 2010, SNE Exploitation Reduction No. 10-120.



New England Fishery Management Council

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C.M. "Rip" Cunningham, Jr., *Chairman* | Thomas A. Nies, *Executive Director*

May 15, 2013

Mr. Robert Beal, Executive Director  
Atlantic States Marine Fisheries Commission  
1050 N. Highland St., Suite 200A-N  
Arlington, VA 22201

Dear Bob:

At its April 23-25, 2013 meeting, the New England Fishery Management Council (Council) discussed the inconsistency and related safety concerns of lobster gear marking regulations. The Council believes that some of the current gear marking requirements may be unobservable on the water's surface and, in some cases, not strictly followed.

The Council now requests that the Atlantic States Marine Fisheries Commission (Commission) work together with the Atlantic Large Whale Take Reduction Plan (ALWTRP) and arrange meetings with the State Directors of ME, MA and NH, fishermen and lobster associations to discuss differences in lobster gear marking requirements in territorial waters and the EEZ that may lead to unsafe conditions for fishing vessels and loss of lobster gear.

Inshore lobstermen are required to follow state laws which may differ from state to state and from EEZ requirements. Rules that should be reviewed include single buoys for three or less traps, a three-foot stick on only one end of traps-in-a-trawl (TIAT) in Massachusetts waters (see attached chart), the use of sinking groundlines that may pull surface markings underwater with local tides, and no middle surface markings for TIATs less than 6,000 feet long. Also, some inshore lobstermen, who previously followed their state water rules, but who now also fish in the EEZ, may not realize they now are subject to different rules in the EEZ. The Council recommends a minimum standard for fixed gear similar to the current EEZ regulations for TIATs with more than three traps. The regulations require a western-most radar reflector with pennant and an eastern-most radar reflector. Finally, any changes to gear-marking regulations should be given the widest dissemination.


Please contact me if you have any questions.

Sincerely,

Thomas A. Nies  
Executive Director

attachment

cc: Mr. David Gouveia, Atlantic Large Whale Take Reduction Plan  
Mr. Douglas Grout  
Mr. Terry Stockwell  
Mr. David Pierce

Gear in question	Federal Regs			Mass Regs			
	Gear marking	Surface gear	Additional Area-specific requirements	Gear marking	Surface gear	Additional Marking requirements	
<b>NMS/Monk (648.84)</b>	<b>Bottom tending Fixed Gear including/but not limited (i/bnl) gillnet and longline</b>	Owner/vessel name or Official Number visible on the surface permanently affixed	Western-most radar reflector with pennant Eastern-most radar reflector	GOM-GB 30 degree deviations must be marked with additional marker	Buoys permanently marked with owner's permit number	For gillnets the radar reflectors requirements are the same as federal with the exception that Mass does not specify the height of the flag	Buoy Line: green mark midway  Exception: regarding line color; when in conflict with code color, use a white mark
<b>Scup (628.123)</b>	<b>Pot and Trap</b>	Must be marked with Code ID: - may be assigned by Reg. Dir - or by State regs			<b>Single fish pots same as single lobster pots, for scup, sea bass, and conch. There is no red crab fishery in MA state waters.</b>  <b>99.9% of fish pots in MA are singles.</b>	<b>The Mass regulations listed below apply to lobster, fish, and conch pot trawls</b> (single pots tied together in a series and buoyed at both ends)  	
<b>Black Sea Bass (648.144)</b>	<b>Pot and Trap</b>	USCG Doc # or State Registration number					
<b>Red Crab (648.264)</b>	<b>Pot and Trap</b>	3" RC must be painted on top of each buoy 3" Vessel permit # on side of each buoy 3" Quantification number (#X of X amount of trawls)		As specified by the ALWTRP (229.32)			
<b>Lobster (697.21)</b>	<b>Pot and Trap</b>	Trap tag ID Code: - may be assigned by Reg. Dir - or by State regs	<b>3 or less traps in a trawl (TIAT):</b> Single buoy <b>More than 3 TIAT's:</b> Western-most radar reflector with pennant, Eastern-most radar reflector	As specified by the ALWTRP (229.32)	Buoys permanently marked with owner's permit number	<b>Single pot:</b> single 7"x7" or 5"x11" stick optional but, if used, no flag attached <b>Pot Trawl:</b> -West-end with single buoy (7"x7" or 5"x11"), 3' stick, and flag -East-end with double buoy combination (7"x7" or 5"x11")	Buoy Line: red mark midway