*Atlantic States Marine Fisheries Commission*

# ADDENDUM XI TO AMENDMENT 3 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

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

**May 2007**

## 1.0 Introduction

American lobster management authority lies with the coastal states and is coordinated through the Atlantic States Marine Fisheries Commission (Commission). Responsibility for compatible management action in the exclusive economic zone (EEZ) from 3-200 miles from shore lies with the Secretary of Commerce through Atlantic Coastal Fisheries Cooperative Management Act in the absence of a federal fishery management plan (FMP). American lobster has been managed by the states under the Commission's FMP, amendments, and addenda since December 1997. American lobster is currently managed under Amendment 3 to the FMP, which was approved in December of 1997. The plan is designed to minimize the chance of population collapse due to recruitment failure. The goal of Amendment 3 is to have a healthy American lobster resource and a management regime that provides for sustained harvest, maintains appropriate opportunities for participation, and provides for cooperative development of conservation measures by all stakeholders.

This addendum establishes a rebuilding time frame for Southern New England (SNE) lobster stock. It sets management measures for Lobster Conservation Management Areas 2, 3, 4, 5, and 6 that should aid in the rebuilding of the SNE lobster stock. The addendum also creates a species-specific mechanism of ensuring that a state meets its obligations under the plan in a way that minimizes the probability that a state's delay in complying does not adversely affect other states' fisheries or conservation of the resource.

## 2.0 Management Program

### 2.1 SNE Rebuilding

#### 2.1.1 Statement of the Problem

The 2006 American lobster stock assessment presents a mixed picture with stable abundance for the Georges Bank (GBK) stock and much of the Gulf of Maine (GOM) stock, yet decreased abundance and recruitment with continued high fishing mortality for the SNE stock. Due to the poor condition of the SNE stock, a rebuilding management program is necessary to improve the stock health.

#### 2.1.2 Background

The GOM and GBK stocks are not depleted nor is overfishing occurring based on the reference points (Table 1). In the GOM, the stock is below the threshold fishing mortality rate (F=0.76) for the three most recent years (F=0.69) and above the target abundance level (69.62 million lobster) for the three most recent years (123.12 million lobster). In the GBK, the stock is below the target fishing mortality rate (F=0.34) for the three most recent years (F= 0.29) and above the target abundance level (8.61 million lobster) for the three most recent years (9.05 million lobster).

The SNE stock is in poor condition based on current biological reference points (Table 1). The stock is below the abundance threshold and above the fishing mortality threshold, therefore, the stock is considered depleted and overfishing is occurring. Overfishing is occurring because the average fishing mortality rate for the three most recent years (F=0.84) is higher than the median threshold (F= 0.82). The stock is depleted because average abundance for the three most recent years (14.01 million lobster) fell below the median threshold level (22.31 million lobster). A goal of the management program in SNE is to reach the target fishing mortality (F= 0.74) and the target abundance (23.90 million lobster). Because the SNE stock is overfished,

Amendment/Addendum X requires that immediate steps be taken to reduce fishing mortality below the F threshold.

The 2006 Terms of Reference & Advisory Report to the American Lobster Stock Assessment Peer Review found that further management restrictions are warranted. The Peer Review Panel believes the declining trend in population abundance is well established and warrants a reduction in fishing mortality (ASMFC, 2006). However, because the cause of the decline and recent values of natural mortality are unknown, how great a reduction in fishing mortality is needed for stock recovery cannot be estimated.

In response to the poor stock condition, the Lobster Management Board (Board) convened the Lobster Conservation Management Teams (LCMTs), through a memo dated August 28, 2006 (LCMTs) from Areas 2, 3, 4, 5, and 6 to advise the Board on management strategies that would achieve the biological reference points (Table 1) for SNE and the goals and objectives of the FMP. States had the option to address SNE rebuilding in either a two-step (two addenda) or one-step (one addendum) process. The two-step process would first require development of a management program to achieve the fishing mortality target, and second, a management program to achieve the abundance target. The one-step process would require development of a single management program that achieves both the fishing mortality and abundance biological reference point target.

For those states wanting to follow the two-step process, the LCMTs convened in the fall of 2006 to advise the Board with a management strategy that would achieve the F target reference point (a 10% reduction in F). The LCMTs strategies to reduce fishing mortality were reviewed by the Lobster Technical Committee (TC) and included in the draft addendum document for public comment. For the second step, a 71% increase in abundance is necessary to reach the abundance target. The LCMTs will again advise the Board on management strategies that would achieve the abundance target for SNE and the goals and objectives of the FMP. Those strategies will be reviewed by the TC and included in a future addendum document.

For those states wanting to follow the one-step process the LCMTs convened in the fall of 2006 to advise the Board on management strategies that would achieve both target biological reference points for SNE and the goals and objectives of the FMP. Those strategies were also reviewed by the TC and included in the draft addendum document for public comment.

### 2.1.3 Management Program

#### 2.1.3.1 Rebuilding Time Frame for the SNE Stock

*This section replaces section 2.1 of Addendum II to Amendment 3 of the American lobster FMP.*
Addendum II to Amendment 3 indicates that the American lobster resource should be rebuilt before the end of 2008. This management program replaces the 2008 deadline.

<u>15-year adaptive rebuilding program ending overfishing immediately</u>
The fishery management plan seeks to decrease fishing mortality on the American lobster resource in the SNE stock to less than the fishing mortality reference point immediately. Should an overfishing determination be made at any point in the rebuilding time frame, the Commission will prepare and implement, within two years, a plan to immediately end overfishing.

Currently, the SNE stock is determined to be overfished (Table 1) and immediate steps are necessary to reduce fishing mortality below the fishing mortality threshold point.

The fishery management plan seeks to restore abundance in the American lobster resource in the SNE stock to greater than the abundance target reference point before the end of 2022. Rebuilding progress will be evaluated every two years. If no measurable progress has been made after 5 years, the rebuilding plan can be adjusted. The rebuilding plan can also be adjusted after 10 years if no measurable progress has been made to meet the biological reference points. If the rebuilding program were adjusted, management measures would be taken to reach the rebuilding goals.

**2.1.3.2 Comprehensive SNE Rebuilding Management Program**

Suites of management measures are applied throughout the SNE stock area to address the rebuilding requirements of the SNE stock. These measures are applicable to all SNE lobster fisheries (commercial trap, non-trap, as well as recreational harvesters) in LCMAs 2, 3, 4, 5, and 6 (except where noted). This comprehensive program is a common biological management strategy, which is consistent with advice given to the Board in December 2004 by the American Lobster Stock Assessment Subcommittee report, "Model Technical Review: Terms of Reference & Panel Report."

> *Spatial scales of the assessment*
>
> *The scale of the assessments and the scale of management actions are seriously mis-matched. A kaleidoscope of management regulations takes place on a different scale from the assessments. The assessments need to be done at the same spatial scale as the regulations, or a spatially explicit model needs to be used that can consider management regulations at the actual scale they are implemented. The Panel is quite concerned that reference points are being calculated from assessments that combine management areas with different size limits or V-notching regulations. This concern ties directly into the data limitations, where catches cannot be assigned to management areas. The spatial scale of data, regulations and models needs to be unified.*

**Comprehensive Southern New England Lobster Management Measures:**

**2.1.3.2.1 Minimum Gauge Size**

The minimum size is 3 3/8" except for Area 3 permit holders who would still be bound by the schedule of minimum size increasing terminating at 3 ½" in 2008.

**2.1.3.2.2 Maximum Gauge Size**

The maximum size for males and females is 5 ¼" for all vessels fishing in LCMAs 2, 4, 5, and 6.

Area 3 shall have a maximum size for males and females of 7" and shall be lowered 1/8 of an inch per year for two years, resulting in a maximum gauge of 6 3/4" on July 1, 2010.

**2.1.3.2.3 Vent Size**

The July 1, 2008 vent increase to 2 1/16" x 5 3/4" for rectangular vents and 2 11/16" for circular vents for LCMA 3 is delayed until July 1, 2010.

#### 2.1.3.2.4 V-notch Definition

The V-notch definition is changed to 1/8 inch. A v-notched lobster is defined as any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs. V-notched female lobster also means any female which is mutilated in a manner which could hide, obscure, or obliterate such a mark.

V-notching by fishermen of egg-bearing lobsters is a voluntary measure and notching of legal lobsters may be accomplished through paid-for mitigation programs.

#### 2.1.3.2.5 Trap Reductions

**LCMA 3:** Active trap reductions of 2 ½ percent per year in 2009 and 2010 are required for all LCMA 3 trap fishermen. These reductions immediately follow the 2007 and 2008 5% trap reductions.

**Other:** LCMA–specific trap reductions will be studied for future implementation with LCMT input. The Plan Review Team (PRT) and the Technical Committee (TC) will examine the status and relative effectiveness of various effort control plans, before future trap reductions are considered. Specifically, the PRT and TC will examine the degree of latent effort that remains in the fisheries as affected by current Effort Control Plans in Areas 2, 3, 4, 5, and 6. While effort control plans have been accomplished throughout Southern New England, the most recent plan in LCMA 2 may be the most restrictive because the eligibility period did not include the period of peak activity, but rather the years of low fishery performance to capture attrition.

## 2.2 Delayed Implementation

### 2.2.1 Statement of the Problem

Since about 2001, the Administrative Oversight Committee, the ISFMP Policy Board, and the Lobster Board have expressed concern over the timeliness of state implementation of required management measures. Specifically, these groups are concerned that the traditional non-compliance finding and sanctions under the Atlantic Coastal Fisheries Conservation and Management Act (ACFCMA) addressing quota overages cannot address short-term delays in implementation that range from a few days to a few months. The traditional process cannot deal with the inequities that result from states implementing current measures after the fisheries open.

### 2.2.2 Background

At the ASMFC Annual Meeting in 2002, the ISFMP Policy Board approved a series of changes to the ISFMP Charter. One of the changes requires each of the species management boards to determine if delays in implementation have impacted, or may negatively impact, the achievement of the goals and objectives of the management program. In May of 2006, the Lobster Board concluded that delays in implementation have impacted the achievement of the goals and objectives of the management program. Like lobster, the management of summer flounder, scup, and black sea bass had been repeatedly affected by delays in implementation of required regulations and the responsible Board was the first to develop an addendum to address the impacts of delayed implementation. The Policy Board has directed other species management boards to use the summer flounder, scup, and black sea bass program as a guide in setting delayed implementation programs.

The Addendum provides a mechanism of ensuring that a state meets its obligations under the lobster plan in a way that minimizes the probability that any delay in the state's compliance does not adversely affect other states' fisheries or conservation of the resource. These measures are deemed critical for the long-term conservation of lobster. This Addendum does not propose to modify the existing compliance review and sanction process that is described in ASMFC guidance documents and ACFCMA, nor does it propose to modify the existing conservation equivalency procedures for lobster. States have the ability to adopt measures that are more conservative than those approved by the Board.

**2.2.3. Delayed Implementation Management Program**

Delays in implementation of the measures listed in A-F below have impacted, or may negatively impact, the achievement of the goals and objectives of the management program and are therefore listed as measures to be included in the delayed implementation program.

A) Failure to adopt adjustments to a minimum gauge size
B) Failure to adopt adjustments to a maximum gauge size
C) Failure to adopt adjustments to a v-notch possession rule
D) Failure to adopt adjustments to minimum vent size
E) Failure to adopt adjustments to a trap allocation program
F) Failure to adopt adjustments in quotas or trip limits (These measures are not currently part of any lobster management program, but could be used in the future)

**State-Wide Season Closure**

For each day that a state does not implement any of the lobster management measures identified in Section 2.2.3 of Addendum XI of the Lobster Plan, that state's resident lobstermen are prohibited from fishing for or landing lobsters for an equal number of days during the same or equivalent time period in the following year, regardless of the area in which they are authorized to fish or the state in which they are authorized to land.

Delayed implementation measures are effective in LCMA 1, 2, 4, 5, 6, and OCC.

**2.2.4 Required Notification Period for States to Notify the Commission of Regulatory Changes**

States must notify ASMFC within seven calendar days of any management changes. States must continue to submit annual reports on March 1.

**3.0 Compliance Schedule**

State management programs must have regulations to implement Addendum XI by the dates indicated in order to be in compliance with the Fishery Management Plan for Lobster.

November 1, 2007: States submit plan to meet reference point targets

ASMFC 2008 Winter Meeting: Management Board reviews plans

July 1, 2008: State implemented regulations become effective

March 1, Annually: Plan Review Team reviews state compliance reports

## 4.0 Recommendations for Actions in Federal Waters

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

## 5.0 Tables

Table 1. Biological reference points and current (2001-2003) stock status for each American lobster stock unit.

*Stock status is determined by comparing the average F and average abundance during the three most recent years to stock-specific median values. Median abundance and median fishing mortality, over the fixed time period of 1982-2003 for GOM and GBK and 1984-2003 for SNE, are the threshold reference points for each American lobster stock.* Note that values listed for SNE stock reflect model results assuming natural mortality (M)=0.15 from 1984-1997 and M=0.65 from 1998-2003. See details in the 2005 Stock Assessment document for full analyses.

| Variable | GOM | GBK | SNE |
|---|---|---|---|
| ***Fishing mortality*** | | | |
| Fishing mortality threshold | 0.76 | 0.34 | 0.82 |
| Fishing mortality target | 0.67 | 0.31 | 0.74 |
| Recent fishing mortality 2001-2003 | 0.69 | 0.29 | 0.84 |
| Fishing mortality below threshold? | Yes | Yes | No |
| Fishing mortality near or below target? | Yes | Yes | No |
| ***Abundance (millions of lobster)*** | | | |
| Abundance threshold | 65.58 | 7.95 | 22.31 |
| Abundance target | 69.62 | 8.61 | 23.90 |
| Recent abundance 2001-2003 | 123.12 | 9.05 | 14.01 |
| Abundance above threshold? | Yes | Yes | No |
| Abundance near or above target? | Yes | Yes | No |

## 6.0 Reference

ASMFC, 2006. Terms of Reference & Advisory Report to the American Lobster Stock Assessment Peer Review. Stock Assessment Report number 06-03.