

*Atlantic States Marine Fisheries Commission*

**ADDENDUM XVIII TO AMENDMENT 3 TO THE AMERICAN  
LOBSTER FISHERY MANAGEMENT PLAN**

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



*ASMFC Vision Statement:*

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

**Approved August 2012**

## **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 goal may be different in each LCMA depending on the condition of the fishery and amount of unused traps in each area. 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 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.

## **1.1 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, including an option that would result in a minimum reduction in traps allocated by 25%. This addendum proposes a consolidation program for LCMAs 2 and 3 to address latent effort (unfished allocation) and reductions in traps fished.

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 LCMAs 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 2013 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 2012.

The effort control plans in LCMA 2 and 3 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), 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%.

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**

### ***Trap Allocations***

Trap allocations are the only aspect of the current regulations that provide a means and mechanism to allow the consolidation of the industry. The industry will need to be reduced commensurate with the available resource in SNE, which is estimated at 50 % of its historic level according to the last assessment. The Board will update this value when the next assessment is complete in 2014. Industry members feel it is critical to maintain the economic viability of a downsized fleet, therefore, it is necessary to gradually consolidate fishing rights on fewer vessels.

In order to facilitate the downsizing process, each allocation of qualified traps will need to be reduced. This would be effective when trap transferability is fully implemented by all management agencies, allowing some members of the industry to sell their allocations of qualified traps and exit the fishery, and allowing others to purchase traps and maintain full allocations. The current maximum trap cap is 800 traps in LCMA 2 and 2000 traps in LCMA 3.

### ***Trap Banking***

Trap allocation banking will allow a permit holder to obtain trap allocation from other permit holder in excess of the individual trap limit 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, 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.

### ***Controlled Growth***

While LCMT's have expressed a desire to have flexibility to scale businesses in a predictable manner in order to survive the exploitation reductions that are needed to rebuild the stock, the industry has also voiced the concern that they do not want the industry to change too rapidly. This includes both the process of purchasing traps (increasing and decreasing traps). In order to balance these two conflicting concerns the addendum includes a provision that would limit the rate of trap increases that may result from the implementation of trap transferability, this which is termed "controlled growth". Controlled growth is intended to allow an entity to annually move traps from their trap allocation bank account, and add them to their allocation of active traps at a predictable rate. The controlled growth limitation is specific for each LCMA.

## **3.0 Management Program**

### **3.1 LCMA 2**

The following measures are for LCMA 2 only

#### **3.1.1 Active trap reduction**

##### **A. Initial Trap reduction**

Trap allocation will be reduced in year one by 25%. Trap allocation reductions are from the original allocation that was given to the fishermen in 2007 for state-only permit holders and for federal permit holders the cut is to the allocation accepted by the permit holder after NOAA Fisheries completes its allocations (it is expected to be complete before the 2013 fishing year). In addition, any other allocation that was obtained by the permit holder subsequent to the initial allocation is also cut.

Example: If an individual's allocation was 800 traps after a 25% reduction their allocation would be 600 traps, 200 traps will be retired for conservation purposes

**B. Annual Trap reduction:**

Trap allocations will be reduced each year by 5% each year over a period of 5 years. The annual trap allocation reduction is assessed on both active and banked trap allocations with the annual trap reduction being permanently retired for conservation purposes. Since an initial trap reduction of 25% will be completed in year one (section 3.1.1), the annual trap reductions will start in year 2 and continue through year 6 (total of 5 years of annual cuts)

**Example:** The following example shows the reductions that would occur if an individual started with an 800 trap allocation

<b>Year</b>	<b>Starting Allocation</b>	<b>% reduction</b>	<b>New Allocation</b>	<b># traps retired for conservation</b>
<b>Year 1</b>	800	25%	600	200
<b>Year 2</b>	600	5%	570	30
<b>Year 3</b>	570	5%	541	29
<b>Year 4</b>	541	5%	514	27
<b>Year 5</b>	514	5%	488	26
<b>Year 6</b>	488	5%	464	24

**3.2 LCMA 3 Management**

The following measures are for LCMA 3 only.

**3.2.1 Annual Trap reduction:**

Trap allocation will be reduced each year by 5%. Trap allocation will be reduced from the current (2012) permit trap allocation. The annual trap allocation cut will be assessed on both active and banked trap allocations, be LCMA specific, with the annual trap reduction being permanently retired for conservation purposes.

**Example** of a 5% reduction of trap allocation for 5 years for an individual with a starting allocation of 2000 traps

<b>Year</b>	<b>Starting Allocation</b>	<b>% reduction</b>	<b>New Allocation</b>	<b># traps retired for conservation</b>
<b>Year 1</b>	2000	5%	1900	100
<b>Year 2</b>	1900	5%	1805	95
<b>Year 3</b>	1805	5%	1715	90
<b>Year 4</b>	1715	5%	1629	86
<b>Year 5</b>	1629	5%	1548	81

**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**

The compliance schedule will take the following format:

All states must implement Addendum XVIII through their approved management programs in the same fishing year that NOAA Fisheries implements transferability and trap reduction rules. The Commission will notify states of specific dates for compliance when an official timeframe has been release from NOAA Fisheries on the rule-making process.

#### **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.