

MEETING OVERVIEW

American Lobster Management Board

November 7, 2022

9:45 – 11:45 a.m.

Chair: Dr. Jason McNamee (RI) Assumed Chairmanship: 02/22	Technical Committee Chair: Kathleen Reardon (ME)	Law Enforcement Committee Representative: Rob Beal
Vice Chair: Pat Keliher (ME)	Advisory Panel Chair: Grant Moore (MA)	Previous Board Meeting: August 2, 2022
Voting Members: ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NMFS, NEFMC (12 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from August 2, 2022

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.

4. Update on North Atlantic Right Whale Court Cases (10:00-10:15 a.m.)

Background

- U.S. District Court Judge James E. Boasberg’s ruling in Center for Biological Diversity versus Secretary Raimondo and the Maine Lobstermen’s Association was released in the [July 8, 2022 opinion](#).
- The ruling concluded that aspects of the 2021 Biological Opinion and the 2021 final rule violated federal law: NOAA Fisheries violated the Endangered Species Act by failing to satisfy the Marine Mammal Protection Act’s (MMPA) “negligible impact” requirement before setting the authorized level of lethal take in its incidental take statement, and that NOAA Fisheries breached the time requirements mandated by the MMPA in the 2021 final rule.
- Additional briefing hearings to determine the action(s) the agency must take moving forward have been held in recent months.

Presentations

- Update on North Atlantic Right Whale Court Cases

5. Review Annual Data Update of American Lobster Indices (10:15-10:30 a.m.)

Background

- An annual Data Update process between American lobster stock assessments was recommended during the 2020 stock assessment to more closely monitor changes in stock abundance. The objective of this process is to present information—including any potentially concerning trends—that could support additional research or consideration of changes to management. Data sets updated during this process are generally those that indicate exploitable lobster stock abundance conditions expected in subsequent years and include: young-of-year settlement indicators, trawl survey indicators, and ventless trap survey sex-specific abundance indices.
- This is the second Data Update and provides an update of last year's review with the addition of 2021 data. Indicator status (negative, neutral, or positive) was determined relative to the percentiles of the stock assessment time series (i.e., data set start year through 2018) (**Briefing Materials**).

Presentations

- Annual Data Update of American Lobster Indices by K. Reardon

6. Consider Next Steps on Draft Addendum XXVII on Increasing Protection of Spawning Stock Biomass of the Gulf of Maine/Georges Bank Stock (10:30-11:00 a.m.) Possible Action

Background

- Draft Addendum XXVII was initially initiated in 2017 to proactively increase protection of the GOM/GBK stock but stalled due to the prioritization of Atlantic right whale issues. After accepting the 2020 Benchmark Stock Assessment for American lobster, the Board reinitiated work on the draft addendum in February 2021, with a focus on developing a trigger mechanism that would automatically implement management measures to improve protection of the GOM/GBK spawning stock if the trigger is reached.
- The Board approved Draft Addendum XXVII for public comment in January 2022. The Addendum considers modifications to the management program with the goal of increasing protection of the GOM/GBK spawning stock. Two issues are included in the addendum. Issue 1 addresses the standardization of a subset of management measures within LCMAs and across the GOM/GBK stock. Issue 2 considers applying either a trigger mechanism or a predetermined schedule for implementing biological management measures that are expected to provide increased protection to the spawning stock biomass and increase the resiliency of the stock (**Briefing Materials**).
- The Board paused development of the Draft Addendum to allow time to better understand other challenges facing the fishery. At its August 2022 meeting the Board discussed concerns regarding the potential implications of the management proposed measures in the Draft Addendum for international trade. The Board tasked the PDT to discuss this issue and suggest possible paths forward and potential impacts.
- The Law Enforcement Committee met on October 31, 2022 to provide recommendations related to the proposed changes in minimum gauge size (**Supplemental Materials**).

Presentations

- Next Steps on Draft Addendum XXVII for Public Comment by C. Starks

Board Actions for Consideration at the Meeting

- Determine next steps for development of Draft Addendum XXVII

7. Update from Work Group on Implementation of Addendum XXIX on Electronic Vessel Tracking for Federal Permit Holders (11:00-11:10 a.m.)

Background

- In March 2022, the Board approved Addendum XXIX to Amendment 3 to the Interstate Fishery Management Plan (FMP) for American Lobster and Addendum IV to the Jonah Crab FMP. The Addenda establish electronic tracking requirements for federally-permitted vessels in the American lobster and Jonah crab fisheries. The addenda address several challenges facing the fishery, including stock assessment limitations, protected species interactions, marine spatial planning efforts, and enforcement in federal waters.
- The Addenda require federally-permitted American lobster and Jonah crab vessels with commercial trap gear area permits for Lobster Conservation Management Areas (LCMAs) 1, 2, 3, 4, 5, and Outer Cape Cod to collect location data via an approved electronic tracking device.
- Since approval of the Addenda, Commission staff formed a Work Group comprised of state and federal partners to develop a request for quotes from vessel tracking device manufacturers. The request for quotes was released in the fall of 2020, and the Work Group is in the process of evaluating the quotes submitted.

Presentations

- Update on Implementation of Addendum XXIX by C. Starks

8. Discuss the Trap Transfer Tax for the American Lobster Fishery (11:10-11:25 a.m.)

Background

- In the early 2000s several Addenda were implemented to establish a 10% conservation tax for trap transfers in the LCMAs within the Southern New England (SNE) as part of a broader effort to reduce exploitation of the SNE lobster stock.
- After significant effort reductions in the SNE fishery, the conservation tax on the trap transfer program only removes a small amount of traps from the system as transactions are very limited.
- Some Board members are concerned that the conservation tax is now resulting in unintended consequences by altering reporting behavior due to a reluctance to transfer trap allocations, and therefore lose traps because of conservation tax.

Presentations

- Review of Trap Transfer Tax in the Lobster Fishery by D. McKiernan

9. Progress Update on Jonah Crab Benchmark Stock Assessment (11:25-11:30 p.m.)

Background

- Work on the first Jonah crab benchmark stock assessment was initiated in early 2022.
- A Data Workshop was held virtually June 13-15, 2022, and a Methods Workshop was held virtually October 3-5, 2022.
- The assessment is scheduled for completion in the fall of 2023.

Presentations

- Progress Update on Jonah Crab Benchmark Stock Assessment by J. Kipp.

10. Consider Fishery Management Plan Reviews and State Compliance for American Lobster and Jonah Crab for 2021 Fishing Year (11:30-11:45 a.m.)

Background

- State compliance reports for American lobster and Jonah crab were due August 1, 2022.
- The Plan Review Teams reviewed state compliance reports and compiled the annual FMP Reviews for lobster and Jonah crab for the 2021 Fishing Year (Briefing Materials; Supplemental Materials) (**Briefing Materials**).
- Delaware, Maryland, and Virginia have requested and meet the requirements for *de minimis* in the lobster and Jonah crab fisheries.

Presentations

- FMP Reviews for American Lobster and Jonah Crab for the for the 2021 Fishing Year by C. Starks

Board Actions for Consideration at the Meeting

- Approve FMP Reviews, state compliance reports, and *de minimis* requests

11. Other Business/Adjourn



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MEMORANDUM

TO: American Lobster Management Board
FROM: Law Enforcement Committee
DATE: October 31, 2022
SUBJECT: Law Enforcement Committee Comments on Draft Addendum XXVII

Attendance: Jeff Mercer (RI), Scott Simmons (MD), Tom Gadomski (NY), Delayne Brown (NH), Sean Reilly (NY), Matt Corbin, Michael Henry (NOAA), Lennie Day (USCG), Keith Williams (NY), Jason Snellbaker (NJ), Scott Pearce (NJ), Caitlin Starks (ASMFC), Toni Kerns (ASMFC)

Background

The Law Enforcement Committee (LEC) met on October 31, 2022 to discuss Draft Addendum XXVII to the Fishery Management Plan (FMP) for American lobster. The Draft Addendum proposes increases to the minimum gauge size for Lobster Conservation and Management Area (LCMA) 1 that would be triggered by changes in an index of abundance for the Gulf of Maine/Georges Bank (GOM/GBK) stock to increase protection of spawning stock biomass. The Draft Addendum also proposes some management changes to standardize measures within and across LCMAs.

Under the Magnuson-Stevens Act, it is unlawful for any person to ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live lobster of the species *Homarus americanus*, that is smaller than the minimum possession size in effect at the time under the Commission's American Lobster FMP. Therefore, if the minimum gauge size for LCMA 1 were to increase to 3-5/16" from the current minimum size of 3-1/4" as proposed in the Draft Addendum, imports of American lobster under 3-5/16" would no longer be allowed. Some Commissioners have expressed concerns that this could negatively impact dealers in Maine that rely on Canadian lobster imports under 3-5/16" during the spring when the US fishery supply cannot meet demand.

Staff sought input from the LEC regarding how allowing imports below the smallest US minimum gauge size would affect law enforcement.

LEC Recommendations

There was consensus among the LEC that allowing imports of American lobster under the minimum gauge size in effect in the US would create additional challenges for enforcement. The LEC agreed that from a law enforcement perspective it is preferable to prohibit imports smaller than the US minimum legal size.

LEC members advised that allowing imports to be smaller than lobsters legally harvested in the US could create market opportunities for illegal US lobster catch below the minimum gauge size. At the border, enforcing a different minimum size for imports would be possible. However, once lobsters get to a dealer from different sources, they are usually comingled and it would be difficult to maintain separation of imported versus domestic lobster. This would make it relatively easy for US lobster under the minimum gauge size to be illegally sold as imports from Canada.

If such a difference in minimum size were allowed in the future, extra enforcement measures would need to be taken. For example, in Rhode Island, for a dealer to buy and sell lobster under the LCMA 2 minimum

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size, they must have a special exemption permit, notify Law Enforcement of all shipments, keep these lobsters separate from other sizes, and maintain records of all transactions. They also can only sell lobster under the LCMA 2 minimum size out of state.

Regarding the other proposed options under Issue 1 in Draft Addendum XXVII to standardize measures within and across LCMAs, the LEC supports the standardization of measures wherever possible.