

Atlantic States Marine Fisheries Commission

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

***SOUTHERN NEW ENGLAND REDUCTIONS IN FISHING CAPACITY FOR
LOBSTER CONSERVATION MANAGEMENT AREA 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 October 2013

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-XXII 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 Addendum) includes all or part of six of the seven lobster conservation management areas (LCMAs). 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.

The Board initiated this 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, with the trap reductions addressed through Addendum XVIII (approved 2012) and addressed some of the changes in the transferability program for Areas 2 and 3 in Addendum XXI (approved August 2013). The current transferability rules were originally established in addenda XII and XIV. Addendum XXI and this addendum modify some of the rules and establish additional guidelines.

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 addendum to scale the SNE fishery to the diminished size of the SNE resource. This addendum changes the single and aggregate ownership limits in Area 3. These changes are designed to allow for flexibility in the movement of traps as the consolidation program for LCMA 3 to address latent effort (unfished allocation) is 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 3 will be undermined. It is anticipated that long-term reductions in traps fished will occur as a result of this addendum.

Previous Management Measures

Refer to Addendum XXI for a more detailed summary.

The Board has approved past addenda governing the LMCA 3 trap fishery that allocated traps to each permit holder based on past performance. Once NOAA Fisheries allocates traps, the LCMA’s 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. Because the fishery was already seeing substantial attrition, the initial trap allocations 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 1).

Table 1. 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 |

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 LCMA 3 permit holders have seen their trap allocation reduced by a series of addenda (Addenda I, 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%. Under Addendum XVIII, LCMA 3 will reduce its traps by 25% 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 LCMAs 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.

3.0 LCMA 3 Management Measures

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, XIV, and XXII.

3.1 Single Ownership Cap or Individual Permit Cap

This measure replaces section 4.2.1.4 of Addendum VII

The Single Ownership Cap allows for the purchase and accumulation of traps over and above the *Active Trap Cap* limit. This 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 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. 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 1,800 traps. The Single Ownership Cap allows for the accumulation of an additional 252 traps, which would remain unfished, over the active trap cap of 1,548 to help insulate the industry from any possible future trap reductions.

The single ownership cap allows the purchase and accumulation of traps over and above the Active Trap Cap Limit as specified in Section 3.2.3 of Addendum XXI. The single ownership cap would be implemented as detailed in the table below. This schedule assumes that NOAA Fisheries will implement a 2,000 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.

Table 2. Area 3 Individual Permit Cap Table

| Year | Number of Traps |
|-------------|------------------------|
| Year 0 | 2,333 |
| Year 1 | 2,216 |
| Year 2 | 2,105 |
| Year 3 | 2,000 |
| Year 4 | 1,900 |
| Year 5 | 1,800 |

3.2. Aggregate Ownership Cap or Ownership Accumulation Limits (Full Exemption)

This measure replaces Section 4.2.3 of Addendum IV

The ASMFC adopted Addendum IV in December 2003 which limited the number of federal permits any single entity/company can own up to 5 with an exception for a group of permit holders who held more than five prior to December 2003.

Under this addendum, 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 the NMFS publishing a present-day control date. However, should an individual owner qualify to be in excess of the Aggregate Ownership Cap before the control date is published, that owner will retain their existing trap ownership and that owner may only increase trap ownership up to the Single Ownership / Individual Permit Cap (as specified under Section 3.1 of this addendum) for the permits presently owned, in accordance with the NMFS present-day control date (i.e. if an entity falls under the grandfather provision, that entity would be allowed to acquire additional trap allocations up to the Single Ownership / Individual Permit Cap for each of its grandfathered permits.) Otherwise, 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, as detailed in the table below. 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.

Example 1: An individual owns four LCMA 3 permits with a combined trap allocation of 6,400 traps (1,600 traps per vessel). This individual is allowed to purchase additional traps, as feasible based on the number of permits, but may not exceed the Aggregate Ownership Cap.

Example 2: An individual owns seven LCMA 3 permits, which were acquired prior to the present day control date as specified by NMFS, with a combined trap allocation of 11,200 (1,600 traps per vessel) which is lower than the Aggregate Ownership Cap when the trap reductions go on line. This individual will retain their current allocation of traps and also has the right to purchase up to the Single Ownership Cap for each permit. This individual at Year 5 of the trap reductions is allowed to own up to 12,600 traps (above the Aggregate Ownership Cap).

Table 3. Area 3 Aggregate Ownership Cap or Ownership Accumulation Limits Table

| Year | Number of Traps |
|-------------|------------------------|
| Year 0 | 11,665 |
| Year 1 | 11,080 |
| Year 2 | 10,525 |
| Year 3 | 10,000 |
| Year 4 | 9,500 |
| Year 5 | 9,000 |

Table 4. Comparison of Active Trap Cap (as specified under Addendum XXII) and the proposed Individual and Aggregate Permit Caps.

| Year | Active Trap Cap | Individual Permit Cap | Aggregate Permit Cap (5x Individual Permit Cap) |
|-------------|------------------------|------------------------------|--|
| Year 0 | 2,000 | 2,333 | 11,665 |
| Year 1 | 1,900 | 2,216 | 11,080 |
| Year 2 | 1,805 | 2,105 | 10,525 |
| Year 3 | 1,715 | 2,000 | 10,000 |
| Year 4 | 1,629 | 1,900 | 9,500 |
| Year 5 | 1,548 | 1,800 | 9,000 |

4.0 Annual Review and Adjustment Process

As part of the annual plan review process the 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 ASMFC the required items for review as specified under Addendum XXI.

4.1 Compliance

The implementation of Addendum XXII will occur at the onset of trap transferability and the completion of the lobster trap transferability database to administer and track all transfers. All states must implement Addendum XXII 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. ASMFC believes that the measures contained in Amendment 3 and Addenda I-XXII 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 Sections 3 of this document. ASMFC also requests NMFS enact a control date of October 28, 2013 or alternatively at the earliest date possible after this date to establish a time certain after which a single person, company, or entity may no longer be able to purchase additional permits or trap allocations in excess of the limits established in this Addendum under Section 3.2.

6.0 References

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

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