

# **Addendum XII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster**



*ASMFC Vision Statement:*

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

**Approved February 2009**

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### Executive Summary

Amendment 3 to the Interstate Fishery Management Plan (FMP) for American Lobster established limited entry controls on fishing effort in all Lobster Conservation Management Areas (LCMAs), except LCMA 1. These effort control plans have qualified permit holders to fish in each LCMA based on LCMA-specific rules regarding each permit's fishing history fishing within the LCMAs. Moreover, three of the plans have established transferability programs in which permit holders can transfer trap allocations among themselves. This Addendum addresses issues that arise when fishing privileges are transferred, either when whole businesses are transferred, when dual state/federal permits are split, or when individual trap allocations are transferred as part of a trap allocation transferability program. These challenges were identified by the agencies (state and federal) that administer permits and trap tag authorizations. Issues included are a centralized database to monitor permit and trap allocation transfers and minimizing impacts of transferable trap allocations on lobstermen and permit holders authorized to fish in LCMA 1, the only LCMA without a history-based effort control plan. The measures in this document are intended to consistently apply principles and guidelines necessary to govern the transfers of permits and trap allocations across all applicable lobster LCMAs.

#### 1.0 Statement of the Problem

In December 1997, the Atlantic States Marine Fisheries Commission (Commission) approved 11 goals in Amendment 3. These goals sought not only to conserve the lobster stock at sustainable levels, but also to ensure flexibility, to promote economic efficiency, and to maintain existing social and cultural features of the industry where possible (ASMFC, 1997).

The Commission has sought to further the goals of the FMP by implementing history-based limited access programs in six of its seven LCMA's. All of these LCMA-specific limited access programs are similar in that they all attempt to cap expansion of fishing effort – first, by qualifying participants based upon the applicants ability to document past fishing in the LCMA and, second, by allocating some number of traps, also based upon the applicant's ability to document the level of past effort in the LCMA. Moreover, three of the LCMA's have introduced a third step, trap allocation transferability programs in which permit holders can transfer full or partial trap allocations among themselves, subject to a conservation tax resulting in an overall trap allocation reduction. These programs are desirable as a means to provide permit holders with opportunities to enhance efficiency, or respond to inadequate trap allocation by obtaining additional allocation from others scaling down or leaving the fishery.

Despite the overall similarity of the effort control plans, administration of six similar, but not identical, plans involving potential regulations by 12 states, from Maine to North Carolina and NOAA Fisheries, is obviously complex and challenging. Not only must all jurisdictions implement each addenda, but they must implement each addenda in a substantially identical fashion lest the overall integrity of the plan be compromised and the effectiveness of the measures be lost. Due to the complexity of this program, the development and ongoing operation of a transferable trap allocation tracking systems is identified as a fundamental requirement to the effective administration of this program.

To ensure the goals of these effort control plans are achieved and not compromised by transfers of permits or trap allocations, it is imperative the principles and guidelines established through this addendum govern the transfers of permits and trap allocations. These guidelines regulate those LCMA's that have transferability programs already established through previous addenda. These guidelines would also be used in an LCMA when establishing a transfer program in the future.

In order to ensure that the various LCMA-specific effort control plans remain cohesive and viable, and that one jurisdiction's interpretation of a plan does not undermine the implementation of another jurisdiction, this addendum does three things: First, it clarifies certain foundational principles present in the Commission's overall history-based trap allocation effort control plan. Second, it redefines the most restrictive rule. Third, it establishes management measures to ensure that history-based trap allocation effort control plans in the various LCMA's are implemented without undermining resource conservation efforts of neighboring jurisdictions or LCMA's.

## **2.0 Background**

### **2.1 History of Qualification and Allocation Plans**

Through various Addenda since 1999, history-based effort control programs have been established in LCMA's 2, 3, 4, 5, 6, and Outer Cape Cod (OCC), leaving only LCMA 1 where trap fishing is subject to a trap cap (800 traps with the exception of some New Hampshire LCMA fishermen with a conservation equivalent trap cap of up to 1200 traps in New Hampshire

state waters) not a permit-specific trap allocation based on past fishing performance. The following is a list of Addenda and their effects:

<b>Year</b>	<b>Addendum</b>	<b>Affected LCMA</b> s	<b>Result</b>
1999	I	LCMA 3, 4, 5 & 6	LCMA-specific history-based allocation of traps
2002	III	Outer Cape Cod	History-based allocation of traps and transferability of trap allocation among permit holders, including a “Trap Tax” for Outer Cape Cod allocation transfers
2003	IV	LCMA 3	Further reduced LCMA 3 trap allocations and established transferability of trap allocation among permit holders.
2004	V&VI	LCMA 3	Established a maximum transferable trap cap and a “Trap Tax” for LCMA 3 trap allocation transfers.
2005	VII	LCMA 2	Established a history-based allocation of traps and transferability of allocation among permit holders
2006	IX	LCMA 2	Established a “Trap Tax” for LCMA 2 trap allocation transfers

All of the aforementioned LCMA-specific effort control programs seek to control fishing mortality by constraining current and future fishing effort within each LCMA to levels near or below historic levels. However, because trap allocations for each LCMA were based on different standards and eligibility periods, many permit holders may have allocations for more than one LCMA – that, when examined in aggregate, exceed the maximum number of traps that the permit holder had ever fished historically.

The Commission’s effort control strategy has consistently followed the principle that a lobster fishing history cannot be stacked and double or triple counted. Enactment of the “most restrictive rule,” and the effort control plan in Addendum I, are early examples of the application of this principle. For example, immediately after implementation of Amendment 3, a person fishing in both LCMA 2 and the OCC LCMA could fish a maximum total of 800 traps – not 800 in one LCMA, plus another 800 traps in the other. Addendum VII further expanded upon this principle when it stated that fishing histories accumulated by a single fishing entity on both a state permit and federal permit (i.e., a “dual permit holder”) shall be treated as a single history for the purposes of trap allocation.

Although the Commission has continually followed and expanded upon the anti-stacking principle, it has not articulated the principle as a foundational element in any of its effort control addenda. Accordingly, the problem of the how to manage and track fishing history among entities that hold state and federal permits had not been addressed. “Dual permit holders” (permit holders authorized to fish in state waters by a state license and in federal waters with a vessel permitted to fish by NOAA Fisheries under one fishing operation) have a single indivisible

history under both state and federal permits. Addendum VII's statement about a single entity having a single history references this principle, but needs to go further to be of practical application (e.g., if it is a single history, where does the history go when a dual permit is split?). If not, the problem will become exacerbated if the dual permits are split and either permit/license is transferred with an expectation by the permit holder to retain its fishing history after the transfer.

## **2.2 History of Most Restrictive Rule**

Amendment 3 indicated that multiple area fishermen must comply with the most restrictive management measures of all areas fished "...including the smallest number of traps allocated to them for each of the LCMA fished." The intention of the most restrictive rule was to allow multi-area fishermen to continue to fish in the areas they historically have while maintaining the conservation benefits unique to each area. NOAA Fisheries adopted this concept in regulations published in 1999.

The Commission revised its "Most Restrictive Rule" policy as it applies to trap allocations in Addendum IV (2003). Addendum IV applied the most restrictive rule on an LCMA trap cap basis without regard to the individual's allocation. Fishermen who designate multiple LCMAs on their permits are bound by the most restrictive management measures of those LCMAs' trap caps. They are allowed to fish the number of traps they are allocated in the most restrictive LCMA. In 2003, the Commission recommended that NOAA Fisheries similarly reverse the earlier Amendment 3 interpretation of the "Most Restrictive Rule," to the more liberal interpretation set forth in Addendum IV. NOAA Fisheries had identified concerns that the number of traps fished could increase above current levels under the interpretation set forth in Addendum IV, and did not implement the more liberal version. The potential for an increase in effort appeared problematic since the latest stock assessment suggested that the Southern New England stock is overfished and that effort needs to decrease or be constrained in all lobster stock areas. Moreover, the administrative and enforcement burden would be increased because permit holders with multiple LCMAs will no longer have a uniform set of trap tags.

The states of Maine through Connecticut operate under a Memorandum of Understanding (MOU) with NOAA Fisheries, which allow these states to authorize the issuance of trap tags to state and federal permit holders. NOAA Fisheries administers the trap tag authorization program for all other federal permit holders authorized to fish with traps in the federal waters. All federal permit holders must follow federal regulations regardless if they are fishing in state or federal waters.

## **2.3 History of Transferability**

Effort control plans for LCMAs 3, 2, and OCC each include transferability provisions, although each has differing levels of detail. All of the transferability provisions are similar, but none are uniform and none are currently integrated. That is, all were crafted specific to the involved LCMA and without detailed consideration of how transferability would impact fishing privileges in other LCMAs. Further, none of the plans identify an administrative mechanism for the many jurisdictions to track an individual's trap allocation as trap allocations are bought and sold amongst fisherman.

The Lobster Transferability Subcommittee conducted numerous meetings from March 2007 to September 2008 to advance implementation of the Area 2 History-based Limited Entry and Individual Transferable Trap Allocation Program as specified in Addendum VII. The committee continued to discuss challenges of the multiple jurisdictional issues of allocating traps to permit holders with state and federal permits and to refine solutions for the implementation of an Individual Transferable Trap Allocation Program as specified in Addenda VII and IX. In discussing the issues related to assignment of fishing history and trap transferability, it was determined that they could affect not only the LCMA 2 transfer program, but also any lobster transfer program for LCMAs with transferable trap programs (e.g. Area 3 and Outer Cape Cod). The discussions of these meetings provide the basis for the issues and management measures contained in this Addendum.

### **3.0 Foundational Principles**

*These principles are proposed to ensure uniform treatment of fishing history and the transfer of permits and trap allocations in and across LCMAs with History-based Allocations Programs (Currently LCMAs 2, 3, 4, 5, 6 and OCC)<sup>1</sup>.*

#### **3.1 Principles Governing Permits**

- 3.1.1** A lobster permit and its history can not be separated. When a permit holder transfers a permit the fishing history is also transferred.
- 3.1.2** A single fishing entity is considered to have established a single lobster fishing history even if that person is a dual permit holder fishing under a state and federal fishing permit. Fishing histories accumulated under dual state and federal permits can not be treated as separate histories and stacked for the purposes of qualification and allocation.
- 3.1.3** Lobster history accumulated under dual state/federal permits can not be divided and apportioned between the permits. Because records are imprecise (and in most cases, don't exist) to determine which part of a dual permit holder's catch was caught in state waters and which part was caught in the EEZ, a dual permit holder's fishing history is considered indivisible. If a dual permit holder splits his state and federal permits, the history is considered to have gone entirely with one permit or the other permit, but not have portions with both.

#### **3.2 Principles Governing Transfers of Fishing History**

Trap allocations are a reflection of fishing history. Just as a permit holder in the past could not double his traps fished to 1,600 simply because he seasonally fished 800 traps in LCMA 2 and 800 traps in the OCC, neither should that person now be able to gain the equivalent of double counting this history by treating transferable trap allocations in separate LCMAs as independent and cumulative. When any individual transfers (sells) trap allocations from any LCMA, his trap allocation in all other LCMAs is reduced by that same number.

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<sup>1</sup> If LCMA 1 establishes a history-based allocation program, the principles adopted through this addendum would apply unless modified through a subsequent addendum.

#### **4.0 Management Measures**

*For the measures in Section 4”dual permit holder” is a permit holder authorized to fish in state waters with a state license and in federal waters with a vessel permitted to fish by NOAA Fisheries*

#### **4.1 Initial Qualification and Trap Allocations in LCMAs with History-based Allocation Programs (currently LCMA 2, 3, 4, 5, 6 and OCC)<sup>1</sup>:**

- 4.1.1** Affected states and NOAA Fisheries will work together to classify all permit holders assigned trap allocations in LCMAs 2, 3, 4, 5, 6 and OCC into one of three categories:
- a) State-only;
  - b) Federal-only
  - c) Dual (both state and federal)
- 4.1.2** If a dual permit holder “splits” his/her permits by transferring either the federal or state permit to another entity, then the entire fishing history is to remain with the federal permit for the purposes of the initial qualification and allocation decision. Alternatively, a dual permit holder who permanently relinquishes or surrenders his/her federal lobster permit can allow his/her fishing history to be transferred to his state permit.
- 4.1.3** To prevent migration of trap allocations between state and federal waters, recipients who qualified for initial trap allocations based solely upon a) ownership of “only” a state license without owning a corresponding federal lobster vessel permit, or b) ownership of “only” a federal vessel permit without owning a state coastal lobster license, retain solely that historic access (i.e., shall be authorized to use trap allocation in state or federal waters, but not both). For example, a permit holder who received an initial trap allocation authorized for use in LCMA 2 based on fishing history conducted solely in federal waters under the authorization of a federal permit (i.e., they did not possess a state lobster permit) is authorized to fish his/her trap allocation exclusively in federal waters of LCMA 2.

To prevent migration of trap allocations from one state’s waters to another, recipients who qualified for initial trap allocations based upon a) ownership of a state license or b) a state coastal lobster license, retain historic access solely in the state the license was originally issued (i.e., shall be authorized to use the trap allocation in only one state). For example, a permit holder who received an initial trap allocation authorized for use in Rhode Island waters of LCMA 2 based on fishing history conducted in Rhode Island waters under the authorization of a state permit, is only authorized to fish his/her state trap allocation in Rhode Island waters of LCMA 2, the allocation can not be fished in Massachusetts waters. This applies to both state-only and dual permit holders.

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<sup>1</sup> If LCMA 1 establishes a history-based allocation program, the principles adopted through this addendum would apply unless modified through a subsequent addendum.

## 4.2 Most Restrictive

*This section replaces section 3.2 of Addendum IV to Amendment 3 of the American Lobster FMP.*

The most restrictive rule is necessary to maintain the conservation benefits for each area management plan. Fishermen are allowed to place traps in multiple areas, but must comply with the most restrictive management measures of all areas fished, including the smallest number of traps for the areas selected. This is the current rule in federal waters: *NOAA Fisheries follows this under its regulations 697.19(c). Anyone with a federal permit must follow this rule regardless of where they fish.*

Example 1:

A lobster fisherman is permitted in both LCMA 2 and 3. This individual's LCMA 2 allocation is 800 traps and based on historical participation their LCMA 3 allocation is 300 traps. The overall trap cap in LCMA 2 is 800 traps and the overall trap cap in LCMA 3 is 2600 traps.

*Most Restrictive Rule – Amendment 3 Interpretation:* The most restrictive rule compares the trap cap and/or allocation in each LCMA (800 in LCMA 2 vs. 300 in LCMA 3) and the fisherman is limited to the most restrictive trap cap/allocation. Due to the most restrictive rule, they are limited to a total of 300 traps throughout LCMA 2 and 3, if both LCMA 2 and 3 are elected on their permit.

Example 2:

A lobster fisherman is permitted in both LCMA 2 and 3. Their LCMA 2 allocation is 800 traps and based on historical participation his LCMA 3 allocation is 1200 traps. The overall trap cap in LCMA 2 is 800 traps and the overall trap cap in LCMA 3 is 2600 traps.

*Most Restrictive Rule - Amendment 3 Interpretation:* The most restrictive rule compares the trap cap and/or allocation in each area (800 in LCMA 2 vs. 1200 in LCMA 3) and the fisherman is limited to the most restrictive trap cap and/or allocation, which is 800 traps. Due to the most restrictive rule, they are limited to a total of 800 traps throughout LCMA 2 and 3, if both LCMA 2 and 3 are elected on their permit.

Example 3:

A lobster fisherman is permitted in both LCMA 3 and 4. Based on historical participation, his LCMA 3 allocation is 1000 traps and based on historical participation his LCMA 4 allocation is 1200 traps. The overall trap cap in LCMA 3 is 2600 traps and the overall trap cap in LCMA 4 is 1440 traps.

*Most Restrictive Rule - Amendment 3 Interpretation:* The most restrictive rule compares the trap cap and/or allocation in each area (1000 in LCMA 3 vs. 1200 in LCMA 4) and the fisherman is limited to the most restrictive trap cap and/or allocation, which is 1000 in LCMA 4. Due to the most restrictive rule, they are limited to a total of 1000 traps throughout LCMA 3 and 4, if both LCMA 3 and 4 are elected on their permit.

Example 4:

A lobster fisherman is permitted in both LCMA 3 and 4. Based on historical participation, his LCMA 3 allocation is 1600 traps and based on historical participation his LCMA 4 allocation is 1000 traps. The overall trap cap in LCMA 3 is 2600 traps and the overall trap cap in LCMA 4 is 1440 traps.

*Most Restrictive Rule - Amendment 3 Interpretation:* The most restrictive rule compares the trap cap and /or in each area (1600 in LCMA 3 vs. 1000 in LCMA 4) and the fisherman is limited to the most restrictive trap cap and/or allocation, which is 1440 in LCMA 4. Due to the most restrictive rule, they are limited to a total of 1000 traps throughout LCMA 3 and 4, if both LCMA 3 and 4 are elected on their permit.

Example	Hypothetical Allocation			Number of Traps Available to Fish Under Most Restrictive Rule
	LCMA 2	LCMA 3	LCMA 4	
One	800	300		300 in either LCMA 2 or 3
Two	800	1200		800 in either LCMA 2 or 3
Three		1000	1200	1000 in either LCMA 3 or 4
Four		1600	1000	1000 in either LCMA 3 or 4

### **4.3 The Effect of Permit & Trap Allocation Transferability on LCMAs with History-based Allocations (currently LCMAs 2, 3, 4, 5, 6 and OCC)2**

*NOTE: For purposes of Addendum XII, a “complete lobster fishing business” refers to the lobster permit(s) and all associated lobster trap allocations. Any other transfers (including the sale of “all” LCMA-specific transferable trap allocations but the retention of the lobster permit by the seller) would be defined as a “partial trap allocation.” A transfer is defined as a change of ownership of a partial or full trap allocation. For example, the transfer of a “partial trap allocation” includes a lobsterman with a 1000 trap allocation in LCMA 3 that transfers all 1000 LCMA 3 traps, but retains the lobster permit. The transfer of the lobster permit(s) and the 1000 LCMA 3 traps would be a “complete lobster fishing business” sale.*

#### **4.3.1 Permit and Allocation Tracking (interjurisdictional database)**

##### **4.3.1.1 State-Level Tracking**

Subject to the standards developed by the Lobster Transfer Committee each state shall maintain records to track all lobster trap allocations and allocation transfers.

##### **4.3.1.2 Interjurisdictional Tracking**

Upon agreement of all participating states and NOAA Fisheries, a central database will be established to track all states’ lobster permit holders, their allocations and transfers. If this tracking program were not funded, then transfers across jurisdictions or a transfer involving a dual permit holder, may not be possible, resulting in an ineffective transfer program and a diminished potential for trap reduction through a conservation tax.

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2 If LCMA 1 establishes a history-based allocation program, the principles adopted through this addendum would apply unless modified through a subsequent addendum.

## **4.3.2 Conservation Tax on Transfers**

### **4.3.2.1 Partial Trap Allocation Transfer Conservation Tax**

For each transfer of a partial trap allocation, a conservation tax is applied and is based on the applicable LCMA-specific conservation tax. Conservation tax for LCMAs with transfer programs would be at least 10%. Taxes will be applied once all agencies have allocated traps and, in the case of dual permit holders those allocations are agreed to by the adjoining agencies. States may tax their state only license holders.

### **4.3.2.2 Complete Lobster Fishing Business Conservation Tax**

Conservation tax is based on the conservation tax applicable for the LCMA(s) with a trap allocation transfer program (LCMA 2, 3, and OCC). For LCMA(s) without an approved trap allocation transfer program (LCMA 4, 5, 6), the conservation tax does not apply. In a situation where a permit with multiple LCMAs includes both transferable and non-transferable trap allocations, the tax applies only to trap allocations in LCMAs with a transfer tax program (LCMA 2, 3, and OCC). For information on how the tax would impact trap caps in LCMA 1, see Section 4.4. Taxes will be applied once all agencies have allocated traps and, in the case of dual permit holders those allocations are agreed to by the adjoining agencies. States may tax their state only license holders.

## **4.3.3 Measures Applicable to both Transfers of Complete Lobster Fishing Businesses and Partial Trap Allocations**

*NOTE: See Appendix for a matrix of allowable transfers as well as proposed transfers that would be allowed once NOAA Fisheries enacts complementary rules and regulations.*

### **4.3.3.1 Controls on Transfers of Allocation and permits**

To prevent migration of trap allocations between state and federal waters, recipients who qualified for initial trap allocations based solely upon a) ownership of “only” a state license without owning a corresponding federal lobster vessel permit, or b) ownership of “only” a federal vessel permit without owning a state coastal lobster license, can transfer solely that historic access (i.e., shall be authorized to transfer trap allocations in state or federal waters, but not both). For example, a permit holder who received an initial trap allocation authorized for use in LCMA 2 based on fishing history conducted solely in federal waters under the authorization of a federal permit (i.e., they did not possess a state lobster permit) is authorized to transfer his/her trap allocation exclusively to a federal permit holder of LCMA 2 (*See Appendix for a matrix of allowable transfers*).

To prevent migration of trap allocations between state waters, recipients who qualified for initial trap allocation from ownership of a state license or state coastal lobster license can transfer that historic access solely in the issuing state (i.e. shall be authorize to transfer the trap allocation in one state only; the allocation can not be transferred to be used in a different state’s waters). For example, a permit holder who received an initial trap allocation authorized for use in LCMA 2 based on fishing history conducted in Rhode Island waters under the

authorization of a state permit is only authorized to transfer his/her trap allocation for use in Rhode Island state waters of LCMA 2, the allocation can not be transferred to a LCMA 2 permit holder in Massachusetts waters. This applies to both state-only and dual permit holders. (*See Appendix for a matrix of allowable transfers*)

- 4.3.3.2** Trap allocations that are restricted with access to state or federal waters only (see 4.1.4) can not be transferred or in any way converted to allow migration between jurisdictions, including the sale of complete lobster fishing businesses.
- 4.3.3.3** 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 LCMA's will be forfeited.
- 4.3.3.4** Any permit holder who transfers a partial or full trap allocation from any LCMA will have all other LCMA-specific trap allocations reduced/debited by the same amount of trap allocation transferred.

**For example**, a permit holder with a 400-trap allocation authorized in LCMA 2 and 1,200-trap allocation authorized in LCMA 3 who transfers 200 traps will be left with a 200 trap allocation authorized in LCMA 2 and a 1,000 trap allocation authorized in LCMA 3.

Allocation Holder's Current Allocation	Transfers	Allocation Holder's Final Trap Allocation	10 % Transfer Tax	Recipient's Trap Allocation
400 LCMA 2		200 LCMA 2		
1200 LCMA 3	200 LCMA 3	1000 LCMA 3	20	180 LCMA 3

- 4.3.3.5** Once a tracking system is developed and implemented, transfers of complete lobster fishing businesses or partial trap allocations involving multiple jurisdictions are approved by every involved jurisdiction (state(s) and/or NOAA Fisheries) before the transfer is finalized.

Consensus by all impacted jurisdictions is necessary for approval of a transfer. All jurisdictions have 30 days to affirm or disapprove a transfer. The centralized database facilitates this process.

- 4.3.4 Measures applicable solely to Transfer of Partial Trap Allocations**  
A transfer application is accepted throughout the year. All documentation must be submitted by October 30 in order to be considered for the following fishing year. Applications will not be reviewed and acted upon until December 1 and are effective at the beginning of the following fishing year. These dates are subject to change by Board action to accommodate review schedules and allocation of trap tags.

All LCMAs with transferability programs have the same timeframe since transfer of an allocation in one LCMA may affect the allocation that remains in the other LCMAs.

Trap allocations are only transferable. A transfer is defined as a change of ownership of a partial or full trap allocation. Trap allocations cannot be leased.

**4.4 The Effect of Permit & Trap Allocation Transferability on LCMAs without History-based Allocations (currently LCMA 1)**

LCMA 1 is the only LCMA that has not established a history-based allocation program. While states (ME, NH & MA) have varying degrees of limited entry, permit holders are subject to trap caps. Moreover, under Federal regulations, all federal permit holders are eligible to elect LCMA 1 and fish traps in that area.

As fishermen fail to qualify and are squeezed out of the other limited access areas, the potential for migration of effort into LCMA 1 exists. Further, by establishing a transfer program in these other areas, it is possible that additional effort (traps) may shift into the LCMA 1. For example, a permit holder transfers all of his LCMA 3 transferable trap allocation but retains the lobster permit, he/she may elect to fish in LCMA 1, or for permit holders who do not historically qualify for access into any history-based limited access LCMA, he/she may elect and begin to fish in LCMA 1.

A permit holder will no longer be authorized to elect to fish traps in LCMA 1, after any LCMA partial transferable trap allocation transfer has been made.

Seller Current Trap cap or Allocation	Transfers	Seller Final Trap Allocation	10 % Transfer Tax*	Buyer Trap Allocation
800 LCMA 1 Trap cap – not an allocation)		Ineligible to fish in LCMA 1		
400 LCMA 2		200 LCMA 2		
1200 LCMA 3 Allocation	200 LCMA 3	1000 LCMA 3	20	180 LCMA 3

**4.5 Compliance**

Agencies must send a notification to permit holders with their classification (state only, federal only, or dual) prior to the next round of trap tag orders as part of the addendum implementation plan.

States must incorporate in the annual compliance report a summary of permit holders, allocations, trap tags ordered, traps fished, within each LCMA and fishery performance into the annual lobster compliance report due to ASMFC’s Plan Review Team on March 1. States will work cooperatively with NOAA Fisheries to summarize information for dual and federal only

permit holders. States will report to NOAA Fisheries and ASMFC's Plan Review Team a summary of trap allocations and transfers until the database is complete.

States will enact rules making it unlawful for any permit holder to order, possess or fish with trap tags designated for an LCMA not specifically authorized by a state in compliance with Plan amendments or addenda.

#### **5.0 Recommendations for Actions in Federal Waters**

The Atlantic States Marine Fisheries Commission believes that the measures contained in Amendment 3 and Addenda I-XII are necessary to limit the expansion of effort into the lobster fishery and to rebuild lobster stocks. The Commission recommends that NOAA Fisheries promulgate all necessary regulations to implement the measures contained in Section 4 of this document.

## 6.0 Appendix

Matrix of transfers allowed under current rules and those that would be allowed once NOAA Fisheries enacts complementary rules and regulations:

<i>Current Rules</i>	<b>Recipient</b>		
	<u>State-only*</u>	<u>Dual</u>	<u>Federal-only</u>
<u>State-only*</u>	Yes*	no	no
<u>Dual</u>	no	no	no
<u>Federal-only</u>	no	no	no

*Transfers that would be allowed after NMFS enacts complimentary rules & allocations*

<b>Holder</b>	<b>Recipient</b>		
	<u>State-only</u>	<u>Dual</u>	<u>Federal-only</u>
<u>State-only</u>	yes*	no	no
<u>Dual</u>	yes*	yes*	Yes <sup>^</sup>
<u>Federal-only</u>	no	no	yes

**\* transfers apply to in-state permit transfers only; i.e., transfers between permit holders who hold allocations from separate state jurisdictions are not and may not be allowed.**

**This applies to both state only and dual permit holders.**

**<sup>^</sup>Ability to fish traps in state waters (any state) is lost**

## 7.0 References

ASMFC. 1997. Amendment 3 to the Interstate Fishery Management Plan for American Lobster. FMR No. 29. 1997