

Addendum XIII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster



**May 2008
Updated March 2018 (See Section 4.1.6)**

1.0 Statement of the Problem

Addendum III to Amendment 3 of the Interstate Fishery Management Plan for American Lobster was approved in February 2002 and mandated a 20% reduction in traps fished in Outer Cape Cod Lobster Conservation Management Area from 1998 levels of traps fished to help meet lobster egg production goals and objectives. Subsequently, the Commonwealth of Massachusetts submitted an alternative effort control plan for this LCMA and the Lobster Management Board formally approved that replacement plan in December of 2003. Because the essential details of the replacement plan were not codified in a formal Addendum this Addendum is proposed. Moreover, the original plan called for a 20% reduction in traps fished from the 1998 levels by 2008. While substantial progress has been made toward that goal, this Addendum drops the 2008 deadline to meet the 20% reduction due to improved stock conditions and the change to the biological reference points, specifically the overfishing definition.

2.0 Introduction

Addendum III to Amendment 3 of the Interstate Fishery Management Plan for American Lobster mandated a 20% reduction from 1998 levels of traps fished in the OCC LCMA to help meet lobster egg production goals and objectives. The 1998 baseline was calculated at 33,234 traps by tallying traps reported fished by commercial lobster permit holders on annual Massachusetts Division of Marine Fisheries (MA DMF) catch reports (see Appendix A).

The basis of the original plan crafted by the Outer Cape Lobster Conservation Management Team in 2001 was to meet region-specific Outer Cape conservation goals. The original effort control plan's basic principles were to identify coastal and offshore lobster permit holders who fished traps in the area (in 1999 or 2000), cap current levels of effort by granting each eligible permit holder a transferable trap allocation based on their history of landings as documented on catch reports, and preclude new effort from entering the area.

Massachusetts Division of Marine Fisheries submitted a conservation equivalency of the plan that replaced the plan in many aspects while attempting to accomplish the same objectives. Specifically this Addendum XII replaces sections 2.1.7.2 and 2.1.7.3 of Addendum III.

3.0 Background

The original effort control plan sought to identify coastal and offshore lobster permit holders who fished traps in the area (in 1999 or 2000), cap current levels of effort by granting each eligible permit holder a transferable trap allocation based on their history of landings as documented on catch reports, and preclude new effort from entering the area.

See Addendum III excerpt:

2.1.7.2 Trap Reduction Schedule for Lobster Management Area Outer Cape (OCLMA)

.Beginning in 2002 and extending through 2008, a 20% reduction in the total number of traps allowed to be fished will occur in the Outer Cape lobster management area. An additional 5% reduction in the total number of traps allowed to be fished per year may be employed in 2006 and

2007, if necessary, to meet lobster egg production goals and objectives. In order to control the expansion of fishing effort, an overall total number of traps allowed to be fished in OC Lobster Management Area (OCLMA) has been established from the sum of individual maximum traps reported by each OCLMA lobster fisher on Massachusetts (MA) catch reports in the year 1998. A reduction of this total number of traps by 20% will be implemented and resulting individual trap allotments will be defined accordingly during the stock rebuilding period. The starting trap allotments for each lobster fisher in the year 2002 will be based on MA 2000 catch report statistics. Allotments will be debited thereafter as needed by MA Division of Marine Fisheries (DMF). Participants in the 2001 OC lobster tap fishery, who received a license through the MA DMF or waiting list provisions during 2001, and as a result, have no prior lobster fishing history (i.e. filed catch reports) in the OCLMA, will receive a trap allotment based on proof of documentation of the number of traps they fished during 2001. These allotments will be apportioned from a percentage of the overall trap cap, not to exceed 2% of the total. Those who received a transferred license with an OCLMA fishing history will receive a starting trap allotment based on that history.

2.1.7.3 Annual Trap Transfer Period and Passive Reductions

The annual trap transfer period will be January 1 – March 31. Trap tags may be transferred among OC lobster fishers to allow an individual business to build up or down within the maximum allowable 800 trap limit, however, a passive reduction in traps will occur with each trap transfer event at the rate of 10%. For example, if 100 trap tags are transferred to a fisher, the net transaction received by that lobster fisher will be 90 and the overall OC trap cap will be reduced accordingly. The trap cap may be adjusted downward over time through active and/or passive reduction measures until such time that the fishing mortality rate is reduced to a level below F10%.

Each time a lobster license is transferred to another lobster fisher within the OC the trap tag allowance associated with that license will be reduced by 10%. No new participants will be permitted to partake in the OC lobster fishery without receiving trap tags through a transfer from those fishing within the established total trap cap.

A trap haul-out period will occur from January 1 through March 31 each year to assist in the enforcement of the trap cap. There will be no lobster traps in the waters of the OC during this time period.

The Commonwealth of Massachusetts' alternative plan approved by the Board was similar in design and function to the original LCMT-developed plan except that the amended plan added an extra year (2001) to the eligibility period, and trap allocations would be based on each permit holder's unique fishing history using pounds landed as an input parameter in addition to traps reported fished during the years 2000 – 2002. The number of traps reported fished is not one of the agency's audit elements and therefore catch statistics of pounds harvested were considered more dependable than traps reported fished.

This addendum codifies those rule changes and further eliminates the 2008 deadlines to meet the 20% reduction in traps allowed to be fished.

A significant concern in any effort control involves the issue of doubling of effort when a single lobster operation that holds state and federal fishing permits might split those permits between two vessels – one continuing to fish in state waters and the other in federal waters – and therefore doubling fishing effort. This plan address this issue by ensuring that a single fishing history will result in no more than one trap allocation.

4.0 Management Measures

4.1 LCMA OCC Proposed Effort Control Plan

This addendum replaces the Addendum III OCC LCA Effort Control measures in section 2.1.7.2 & 2.1.7.3 of Addendum III to Amendment 3 of the Interstate Fishery Management Plan for American Lobster.

4.1.1. Qualification for Outer Cape Permits to fish lobster traps

- a) Moratorium on new commercial permits to harvest lobster by use of pots and SCUBA in OCC LCMA. No person shall land lobster taken by pots from OCC LCMA in any state unless that person has been issued an OCC LCMA pot allocation under the provisions of these rules.
- b) Eligibility shall be based on verifiable landings of lobster caught by traps or by hand using SCUBA gear from the OCC LCMA in any one year from 1999 – 2001 (Exception: those who received permits off a state managed “waiting list” in 2001 may appeal for an OCC LCMA Trap Allocation based on their 2002 fishing performance).

4.1.2. Trap Allocation Authority

- a) State shall process and determine trap allocations for eligible permit holders. For dual permit holders, to better ensure consistency across jurisdictions, states (MA) shall forward all proposed allocations to NMFS for its consideration, along with its rationale in setting the allocation at the proposed level.
- b) States (MA) and NMFS shall ensure vessels or permit holders do not receive duplicate allocations for the same catch history from different jurisdictions.
- c) In the event of a discrepancy between agencies proposed allocations for OCC LCMA, the dual permit holder is restricted to fishing the lesser of the two allocations.

4.1.3. Trap Allocations

- a) Trap allocations for use in the OCC LCMA shall be assigned based on the highest annual level of Effective Traps Fished during 2000, 2001 and 2002.
- b) Effective Traps Fished shall be the lower value of the maximum number of traps reported fished for a given year compared to the predicted number of traps that is required to catch the reported poundage of lobsters for a given year during 2000, 20001 and 2002.
- c) For coastal lobster permit holders who fished for lobster primarily by hand using SCUBA gear, Effective Traps Fished shall be the annual predicted number of traps that is associated with the permit holder’s reported poundage of lobsters during the performance years 2000 – 2002.
- d) The value for predicted number of traps shall be based on a MA DMF published analysis of traps fished and pounds landed for the OCC LCMA and that relationship is depicted in Figure 1.

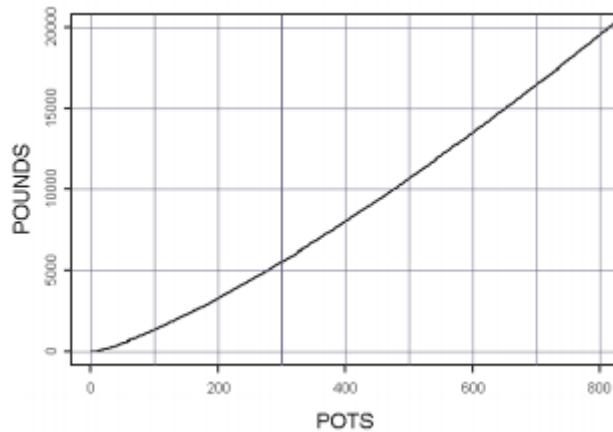


Figure 1. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from Massachusetts catch reports from fishermen fishing primarily in the OCC LCMA during years (1997-2001).

- e) It shall be unlawful to fish more than 800 traps aboard any vessel involved in the commercial lobster fishery in OCC LCMA, regardless of the number of fishermen holding coastal or offshore commercial lobster permits on board said vessel.
- f) Appeals to eligibility or trap allocations shall only be considered based on technical data errors and/or miscalculations such as on catch reports.

4.1.4. Trap Reductions

The 2008 deadline to meet the goal of reducing by 20% the number of traps allowed to be fished is repealed by this Addendum. Moreover the additional 5% reduction in traps identified in section 2.1.7.2 of Addendum III if necessary given stock conditions are determined not to be necessary as of the date of this addendum. No further active trap reductions shall be enacted under this Addendum. Passive trap reductions shall continue when permit and trap allocations are transferred, until altered by a future addendum.

4.1.5. Transfer Programs - Enable permits and/or trap allocations to be transferred.

- a) Fishermen with OCC LCMA trap allocations may transfer some or all of their allocation to other lobstermen in 50 trap increments.
- b) Fishermen with a trap allocation less than 50 may transfer all of their allocation.
- c) Any fisherman whose trap allocations declines below 50 traps after transfer shall have the remaining trap allocation and the permit retired.
- d) All transfers are subject to a 10% trap tax.
- e) A fisherman with authorized to fish in LCMA 1 or holding a permit and trap allocation for LCMA 2 issued in accordance with Addendum VII may receive an OCCLMA trap allocation via a transfer but shall no longer be allowed to fish in LCMAs 1 or 2 and may only fish the OCCLMA trap allocation in the OCC LCMA.

- f) Trap allocations may not be transferred out of the OCC LCMA.
- g) Applications for trap allocation transfers must be received by a permit holder's home state November 30 of the previous fishing year.
- h) Trap allocations based in part or whole upon SCUBA history shall be prohibited from transferring any part of their trap allocation except when transferring their commercial lobster permit.
- i) Trap allocations based in part or whole upon SCUBA history shall be prohibited from transferring their trap allocation along with their commercial lobster permit until the permit has been actively fished for four of the last five years as evidenced by valid catch reports.. Catch history prior to the issuance of a trap allocation shall not apply towards fulfilling meeting actively fished requirements.

4.1.6. Trap Haul-out Period

Fishermen shall be required to remove all lobster traps from waters of the OCC LCMA during January 15th through March 15th. It shall be unlawful for any fisherman to fish, set, or abandon any lobster traps in the OCC LCMA during this seasonal closure.

**In 2015, the Commonwealth of Massachusetts changed this state regulation, instituting a more conservative OCC haul-out period from February 1 through April 30. This change resulted from an amendment to the Large Whale Take Reduction Plan which proposed a January 1 through April 30 closure in the Massachusetts Restricted Area. In response, the Commonwealth of Massachusetts requested NMFS consider shifting and extending the haul-out period to February 1 through April 30, and that it cover all of OCC. This was reviewed and accepted by the ALWTRT, and implemented in 2015. Given states can always choose to be more conservative than the regulations in the fishery management plan, an addendum was not required. In addition, states can return to the provisions originally outlined without an addendum.*

4.2. Compliance

States shall incorporate trap levels and fishery performance into the Annual Lobster Compliance report due to ASMFC's Plan Review Team on March 1. State management programs with eligible permit holders for OCCLMA must have regulations to be in compliance with Amendment 3 to the American Lobster Fishery Management Plan.

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-XIII 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 4 of this document.