

Atlantic States Marine Fisheries Commission

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

Foreign Import Minimum Size Recommendation



August 2024



Sustainable and Cooperative Management of Atlantic Coastal Fisheries

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1.0 Introduction

The Atlantic States Marine Fisheries Commission (ASMFC) has coordinated the interstate management of American lobster (*Homarus americanus*) from 0-3 miles offshore since 1996. American lobster is currently managed under Amendment 3 and Addenda I-XXVI 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 Virginia. Within the management unit there are seven lobster conservation management areas (LCMAs): Inshore and offshore GOM (Area 1), Inshore SNE (Area 2), Offshore Waters (Area 3), Inshore and offshore Northern Mid-Atlantic (Area 4), Inshore and offshore Southern Mid-Atlantic (Area 5), Long Island Sound (Area 6) and Outer Cape Cod (Figure 1). The Commission implements management measures (gauge sizes, vent size, trap limits, seasons, etc.) specific to each LCMA (Table 1). The FMP prohibits the minimum gauge size of any LCMA to be lower than 3 ¼ inches carapace length.

The Magnuson-Stevens Act (MSA) prohibits imports of whole live lobster smaller than the minimum possession size in effect at the time under the Commission's American lobster management program. This provision, referred to as the Mitchell Provision, was passed to prevent imports of lobster smaller than those harvested by United States (US) fishermen. The current minimum gauge size for LCMA 1 (inshore Gulf of Maine) is 3 ¼ inch, which is the smallest minimum size in effect for the US lobster fishery.

Under Addendum XXVII, changes to the current minimum size in LCMA 1 will begin in 2025, starting with an increase from 3 ¼" to 3 5/16"¹. When the LCMA 1 minimum gauge size increases, 3 5/16" will be the smallest minimum size in effect.

The purpose of this addendum is to provide detail to the public on the Commission's recommendation to NOAA fisheries regarding the smallest minimum size in effect and how it is interpreted under the Mitchell Provision as the minimum gauge size increases occur in LCMA 1 in 2025 and 2027.

2.0 Background

2.1 Mitchell Provision

The Mitchell Provision prohibits imports of whole live lobster smaller than the minimum possession size in effect at the time under the Commission's American lobster management program in order to prevent imports of lobster smaller than those that can be legally harvested by the US industry. Signed into law in 1989, it states, "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 American Lobster Fishery Management Plan, as implemented by regulations published in part 649 of title 50, Code of Federal Regulations, or any successor to that plan implemented under this title, or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA)."

¹ The implementation deadlines for the changes in minimum size are based on the dates in American Lobster Addendum XXVII. In August 2024, the American Lobster Board initiated a draft addendum to postpone the implementation of Addendum XXVII measures. Any changes to the implementation date would impact the dates listed here.

In a final rule published December 6, 1999, NOAA Fisheries withdrew the approval for the federal American Lobster FMP because the majority of the lobster fishery takes place in state waters. The final rule transferred regulations for management of the lobster fishery under the MSA (50 CFR part 649) to the ACFCMA (50 CFR part 697). Therefore, the Mitchell Provision language means it is unlawful for any person to ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live lobster smaller than the minimum possession size in effect under the Commission's FMP for American lobster.

The current LCMA 1 minimum gauge size of 3 ¼" is the smallest minimum gauge size in effect at this time (August 2024). Therefore, when the LCMA 1 minimum gauge size increases to 3 5/16" under Addendum XXVII in 2025, the smallest minimum gauge size in effect will be 3 5/16"¹. In 2027 the LCMA 1 minimum size will increase to 3 3/8", consistent with all other LCMAs except LCMA 3; therefore, the smallest minimum size in effect will be 3 3/8".

2.1.1 Enforcement Concerns

The Law Enforcement Committee (LEC) has commented that if imports were allowed to be smaller than the minimum gauge size in effect in the US, it would create additional challenges for enforcement. In particular, it would open up opportunities for the illegal sale of US caught lobster that are below the legal minimum size in the US. The LEC noted that enforcing the size differences when lobsters enter the United States from Canada at the Border is not as much of a challenge; however, once the lobster arrive to a dealer in the US, they are usually comingled for sale, and it would be difficult to maintain separation of US and non-US origin lobster.

3.0 Recommendation to NOAA Fisheries

The Commission recommends to NOAA Fisheries that as changes to the minimum gauge size in LCMA 1 are required by Addendum XXVII, the smallest minimum size for foreign imports will match the smallest minimum size in effect for the US industry. Therefore, the scheduled 2025 and 2027 changes in the minimum gauge size for LCMA 1 would impact size restrictions for imported lobster. Imports of whole live lobster smaller than 3 5/16" would be prohibited after January 1, 2025, and lobster smaller than 3 3/8" would be prohibited after January 1, 2027¹. This is consistent with the Mitchell Provision of the MSA. This recommendation would be forwarded to NOAA Fisheries after approval of the draft addendum.

4.0 References

Atlantic States Marine Fisheries Commission (ASMFC). 1997. [Amendment 3 to the Interstate Fishery Management Plan for American Lobster](#).

ASMFC. 2020. [American Lobster Benchmark Stock Assessment and Peer Review Report](#).

ASMFC. 2023. [Addendum XXVII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster](#).

5.0 Tables and Figures

Table 1. Existing LCMA specific management measures.

Mgmt. Measure	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	OCC
Min Gauge Size	3 1/4"	3 3/8"	3 17/32"	3 3/8"	3 3/8"	3 3/8"	3 3/8"
Vent Rect.	1 15/16 x 5 3/4"	2 x 5 3/4"	2 1/16 x 5 3/4"	2 x 5 3/4"	2 x 5 3/4"	2 x 5 3/4"	2 x 5 3/4"
Vent Cir.	2 7/16"	2 5/8"	2 11/16"	2 5/8"	2 5/8"	2 5/8"	2 5/8"
V-notch requirement	Mandatory for all eggers	Mandatory for all legal size eggers	Mandatory for all eggers above 42°30'	Mandatory for all eggers in federal waters. No V-notching in state waters.	Mandatory for all eggers	None	None
V-notch Definition ¹ (possession)	Zero Tolerance	1/8" with or w/out setal hairs ¹	1/8" with or w/out setal hairs ¹	1/8" with or w/out setal hairs ¹	1/8" with or w/out setal hairs ¹	1/8" with or w/out setal hairs ¹	State Permitted fisherman in state waters 1/4" without setal hairs Federal Permit holders 1/8" with or w/out setal hairs ¹
Max. Gauge (male & female)	5"	5 1/4"	6 3/4"	5 1/4"	5 1/4"	5 1/4"	State Waters none Federal Waters 6 3/4"
Season Closure				April 30-May 31 ²	February 1-March 31 ³	Sept 8-Nov 28	February 1-April 30

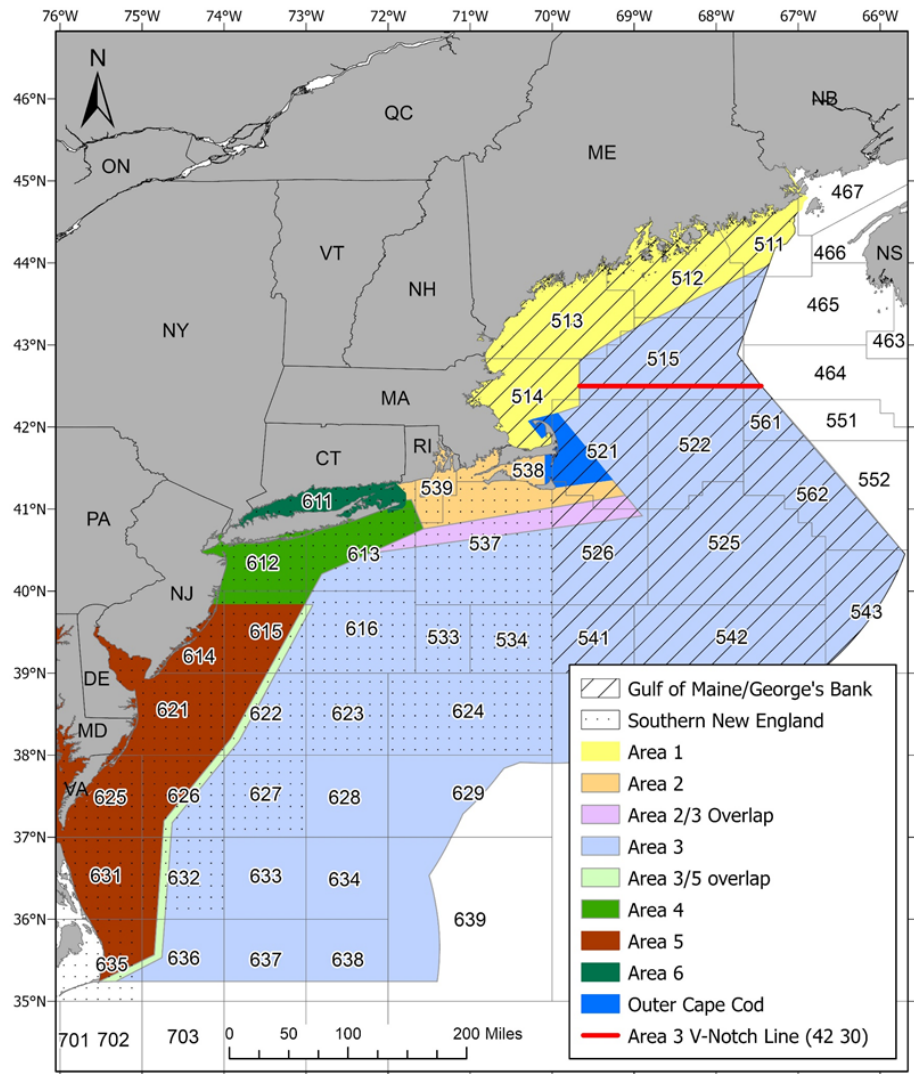


Figure 1. Lobster conservation management areas (LCMAs) in the American lobster fishery. LCMAs 1, 3, and OCC make up the majority of the GOM/GBK stock. The Area 3 V-Notch line is shown in red where v-notching is required north of the 42°30' line.