# Atlantic States Marine Fisheries Commission

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# MEMORANDUM

February 1, 2012

To: American Lobster Management Board
From: American Lobster Technical Committee
RE: Review of 10% Reduction Plans for SNE

The American Lobster Board convened Lobster Conservation Management Teams (LCMT) in Areas 2-6 to recommend methods of exploitation reduction consistent with the options in Draft Addendum XVII.

The Technical Committee (TC) reviewed the proposals submitted for each Lobster Conservation Management Area (LMCA) to ensure they met the criteria established by the American Lobster Management Board within draft Addendum XVII. They were not evaluated as to their efficacy of stock rebuilding for the SNE area.

As previously stated to the Board, the TC notes that closed season regulations are expected to cause shifts in effort and landings from closed to open seasons. Examples of lobster management in other areas have shown that a shortened fishing season results in fishing mortality rates comparable to a completely open season because the fishery is able to recoup all of their catch during the months open to harvest.

**LCMA 6: Closed Season**
Based on the landings data provided for LCMA 6, the proposal to close the fishery will achieve a nominal 10% reduction in landings on paper.

The TC recommends that closed seasons be accompanied with gear removal (to prevent untended traps) to increase the effectiveness of the closure and unintended mortality of target and non-targeted species. The TC recommends that the area has specific time periods to remove traps from the water and put the gear back in the water. By allowing traps to go into the water two weeks prior to the open season date, traps can inflict non-harvest mortality during the closed season. A concomitant validation program is necessary so that compliance is documented on July 1, 2014**.** The TC recommends that effort and landings patterns be assessed to document shifts resulting from the closed season.

The TC acknowledges the benefits to other species in the removal of traps from the water including short lobster, tautog, black sea bass, whelk, and scup.

**LCMA 3: Change in the minimum gauge size**
Based on the landings data provided for LCMA 3, the proposal to increase the gauge achieves a nominal 4.4% reduction in landings. The additional credit of a 5.6% reduction in landings from the previous vent increase does not meet the guidelines established by the Board. The Board stated that proposals must involve new measures only and that LCMAs could not get credit for measures that had been previously implemented.

The LCMA will need an additional 5.6% reduction to meet the addendum requirements established by the Board.

**LCMA 2: Mandatory V-notching**
The proposal from LCMA 2 does not meet the guidelines established by the Board under draft Addendum XVII.

If LCMA 2 is considering this proposal as a conservation equivalency proposal then the TC offers the following review: The proposed v-notch plan by LCMA 2 could potentially reduce exploitation by 10% if sufficient participation in the program occurs based on the data provided in the proposal. The TC concurs that to achieve a 10% reduction in exploitation, a v-notching compliance rate of 50% of every legal egg-bearing lobster is necessary. A concomitant validation program**,** such as a detailed description of the proposed sea sampling program, is necessary so that compliance is documented on July 1, 2014**.** Spatial and temporal coverage of the fishery which documents a representative fraction of the landings is recommended.

In order to achieve observer coverage for a representative fraction of the fishery, Massachusetts and Rhode Island would need to continue its current sea sampling program to validate the proposed v-notching program. Additionally, provisions for meeting the criteria established by the Board (or other equivalent) should be included in the proposal if equivalency measures are not met.

The TC warns of implementing measures intended to rebuild the SNE stock that effectively increases the fishing pressure on male lobsters. For example, there are areas where females are in higher proportion than males. In these areas, a mandatory v-notching program will significantly reduce the future harvest in these areas as an increasing number of lobsters will be protected after they release their eggs. A plausible result of this action is that fishermen will shift their effort to areas with fewer females, thus increasing the pressure on male lobsters.

**LCMA 4:**
**Proposal 1 for LCMA 4: Mandatory V-notching and season closure**
The v-notching portion of the proposal from LCMA 4 does not meet the guidelines established by the Board under draft Addendum XVII.

If LCMA4 is considering this proposal as a conservation equivalency proposal then the TC offers the following review: The proposed v-notch plan by LCMA 4 could potentially reduce exploitation by 6.4% if sufficient participation in the program occurs based on the data provided in the proposal. The TC concurs that to achieve a 10% reduction in exploitation, a v-notching compliance rate of 100% of every legal egg-bearing lobster is necessary. A concomitant

validation program, such as a detailed description of the proposed sea sampling program, is necessary so that compliance is documented on July 1, 2014. Spatial and temporal coverage of the fishery which documents a representative fraction of the landings is recommended.

In order to achieve observer coverage for a representative fraction of the fishery, New York would need to increase its sea-sampling program and New Jersey would need to continue its current sea sampling program to validate the proposed v-notching program. Currently New York has conducted 1 sea-sampling trip annually in LCMA 4. New York should increase this effort to 6 trips annually at a minimum. Additionally, provisions for meeting the criteria established by the Board (or other equivalent) should be included in the proposal if equivalency measures are not met.

In order for LCMA 4 to achieve the recommended 10% reduction in harvest, a closed season is needed to accompany the v-notch program and should account for the absence of v-notching during this close period.

Based on the landings data provided for LCMA 4 the proposal to close the fishery will achieve an additional nominal 3.6% reduction in landings on paper. A concomitant validation program is necessary so that compliance is documented on July 1, 2014**.** The TC recommends that effort and landings patterns be assessed to document shifts resulting from the closed season.

The TC warns of implementing measures intended to rebuild the SNE stock that effectively increases the fishing pressure on male lobsters. For example, there are areas where females are in higher proportion than males. In these areas, a mandatory v-notching program will significantly reduce the future harvest in these areas as an increasing number of lobsters will be protected after they release their eggs. A plausible result of this action is that fishermen will shift their effort to areas with fewer females, thus increasing the pressure on male lobsters.

**Proposal 2 for LCMA 4: Season Closure**

Based on the landings data provided for LCMA 4 the proposal to close the fishery will achieve a nominal 10% reduction in landings on paper. A concomitant validation program is necessary so that compliance is documented on July 1, 2014**.** The TC recommends that effort and landings patterns be assessed to document shifts resulting from the closed season.

For both LCMA 4 proposals: The TC recommends that closed seasons be accompanied with lobster gear removal (to prevent untended traps) to increase the effectiveness of the closure and unintended mortality of target and non-targeted species. The TC recommends that the area has specific time periods to remove traps from the water and put the gear back in the water.

The TC acknowledges the benefits to other species in the removal of traps from the water including short lobster, tautog, black sea bass, whelk, and scup.

**Unresolved Issues for the Board:**

1. Which period of landings or measure of exploitation does the Board want to use to measure the effectiveness of the measures adopted in the addendum? The TC notes that

landings in most areas have continued to decline in the last five year prior to any actions having been taken.

2. The TC is concerned that dual permitted vessels will shift effort from one LCMA to another during closed fishing seasons. The Board should consider the most restrictive rule for dual permit holders under closed seasons that vary between adjacent LCMAs to prevent effort shifts.

# *Atlantic States Marine Fisheries Commission*

# DRAFT ADDENDUM XVIII TO AMENDMENT 3 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN FOR PUBLIC COMMENT

***SOUTHERN NEW ENGLAND STOCK REBUILDING: Effort Consolidation for Lobster Conservation Management Areas 2 and 3***

**This draft document was developed for Management Board review and discussion during the February ASMFC meeting week. This document is not intended to solicit public comment as part of the Commission/State formal public input process. However, comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting. Also, if approved, a public comment period will be established to solicit input on the issues contained in the document.**

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

**January 2012**

**Public Comment Process and Proposed Timeline**

In December 2011, the American Lobster Management Board approved a motion to initiate the development of an addendum to the Interstate Fishery Management Plan (FMP) for American Lobster to respond to the poor stock condition in the SNE lobster stock area. The Board directed the Plan Development Team to scale the size of the SNE fishery to the size of the resource in the SNE stock. This draft addendum presents background on the Atlantic States Marine Fisheries Commission's (ASMFC) management of lobster, the addendum process and timeline, a statement of the problem, and options for management measures in the SNE lobster stock for public consideration and comment.

The public is encouraged to submit comments regarding this document at any time during the addendum process. Public comments will be accepted until **5:00 PM (EST) on xxxx,** Comments may be submitted by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

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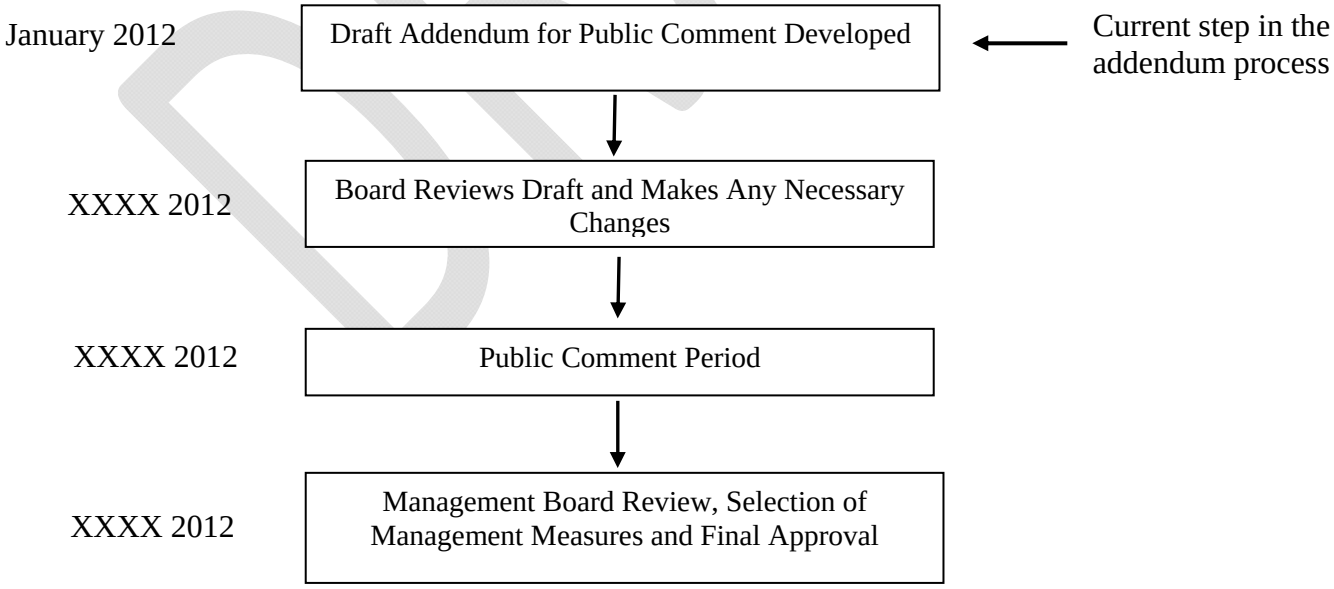

## 1.0 Introduction

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-XVI 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 Draft Addendum) includes all or part of six of the seven lobster management areas (LCMAs) (Appendix 1). 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.

While this Addendum is designed to address the single discrete SNE stock unit, past American Lobster Management Board (Board) actions were based on the management foundation established in Amendment 3 (1997), which established the current seven lobster management areas that are not aligned with the three lobster stock boundaries. LCMA-specific input controls (limited entry, trap limits, and biological measures) have been the primary management tools used by the Board to manage lobster fisheries under the FMP. Managers working to recover the SNE stock face significant challenges since they must confront the complexity of administering and integrating six different management regimes crafted primarily (and largely independently) by the lobster conservation management Teams (LCMT's). To be effective, management actions must not only address the biological goals identified by the Board, but also acknowledge and attempt to mitigate the socio-economic impacts that may vary by LCMA, while ensuring that multiple regulatory jurisdictions have the capability to effectively implement the various management tools available in this fishery.

The American Lobster Board initiated this draft Addendum to scale the SNE fishery to the size of the resource.

### 1.1 Statement of the Problem-*This section will need further development after addition board guidance.*

***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 draft addendum to scale the SNE fishery to the size of the SNE resource, including an option that would result in a minimum reduction in traps fished by 25%. This addendum proposes a consolidation program for LCMAs to address latent effort and reductions in traps fished. The limited entry programs 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 the fishery will be undermined.

## 2.0 Background

The ASMFC Lobster Management Board has approved past addenda governing LMCA 2, 3 and OCC trap fishing that allocated traps to each permit holder based on past performance. These trap allocation programs contained provisions which allowed transfers of trap allocation among eligible permit holders to mitigate some the negative effects of trap allocation schemes. These programs are called ITT's: Individual Transferable Trap programs. However, despite the desire for trap allocation transfers, they have yet to be fully enacted, primarily because NMFS and RI DEM have met administrative challenges trying to implement these programs.

A recent effort reduction proposal put forth by LCMT 2 and 3 is designed 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 proposals establishes long-term effort reductions (allocated traps) in certain LCMA's that feature excessive permits and trap allocations, especially in Southern New England 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 escalate on their trap allocation after a transfer occurs.

Through Addendum 12, it was understood by the Board and NMFS that before transfers would be allowed or resumed, NMFS must adopt complementary rules to allocate traps for federal permit holders in LCMA 2 and OCC and a joint state/federal database must be created to track trap allocations and transfers among the permit holders for these three areas. NMFS is currently in rulemaking and held public hearings in spring of 2010 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 by 2012. When the program commences, industry members anticipate a rash of transfers that could in fact raise the effort level (traps fished) in the fisheries – despite the 10% conservation tax to be placed on transfers. If the net result is increased effort, then conservation goals would be compromised, at least temporarily. The joint state/federal database is scheduled to be completed on April 1, 2012.

The long-term goals of the newly proposed effort control plans are to reduce trap allocations for all permit holders on a set schedule. If enacted, these cuts in trap allocation are designed to eliminate latent (un-fished) trap allocations and reduce the number of traps actually fished.

Industry members who fish in the southern New England stock area 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, the proposals are essentially an industry (self-funded) buy-out. Consolidation will occur as permit holders respond to the annual cuts by obtaining trap allocation from those permit holders who downsize their operations or leave the fishery.

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 of the allocation schemes were adopted. The effort control plan for Area 2 was adopted in the middle of the decade long decline in the fishery. Because the fishery was already seeing substantial attrition, the initial allocations in LCMA 2 and 3 created a pool of latent (unfished) 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 growing. For example in LCMA 2 the trap allocations issued in 2007 ??? were about ???% higher than the traps fished in 2006 ???. Currently the number of traps actually fished has declined by ???% in just five years to only ???? in 2010 (Table 1).

The effort control plans in LCMA 2 and 3 resulted in some amount of effort reduction at the permit holder level and at the aggregate fleet level. Many permit holders in LMCA 2 received an allocation of traps that was less than the level of traps they fished prior to the allocation scheme. Recall that the LCMA 2 plan relied on a combination of traps fished and poundage to allocate traps. Some permit holders with relatively low landings received a trap allocation that was lower than their reported traps fished. Until the Allocation transfer program is created these permit holders are frozen at their 5-year old trap allocation level without any means to increase their allocation. Meanwhile many LCMA 3 permit holders have seen their trap allocation reduced by a series of addenda (Addendum 1, Addendum 4). These addenda 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 %.

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. 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.

Table 1.

| LCMA | Traps Allocated | Max Traps Fished |
|---|---|---|
| LCMA 2 | | |
| LCMA 3 | | |

Table 2. Initial Trap Allocation Approval for each LCMA

| LMA | ASMFC Approval | State Approval | NMFS Approval |
|---|---|---|---|
| Area 2 | 2006 | MA - 2006 RI - 2007 CT- 2006 | Pending |
| Outer Cape Cod | 2003 | MA - 2003 | Pending |
| Area 3 | 1999 | N/A | 2003 |
| Area 4 | 1999 | N/A | 2003 |
| Area 5 | 1999 | N/A | 2003 |

**Management tools being considered**

***Trap Allocations***

Trap allocations are the only aspect of the current regulations that provide a means and mechanism to allow the consolidation of the industry. The industry will need to right size itself to the available resource in SNE, which is about 50 % of its historic level according to the last assessment. The assessment in 2014 may change our understanding on this issue so this is considered a provisional value at this time, and subject to changes due to improvements in the next stock assessment. Industry feels it critical to maintain the economic viability of a downsized fleet, so therefore necessary to gradually consolidate fishing rights on fewer vessels.

In order to facilitate the downsizing process each allocation of qualified traps will need to be reduced. This would be effective when trap transferability is fully implemented by all management agencies, thus allowing some members of the industry to sell their allocations of qualified traps and exit the fishery, while others purchase traps and maintain full allocations.

***Trap Banking***

Trap Banking is proposed to allow maximum flexibility for industry members to plan and scale their business to the future fishery, both individuals and corporations. This provision will enhance the ability of a lobster business to plan for their future, with the added benefit that banked traps do not enter the fishery, except on a predictable schedule. Entities will also be able to purchase large number of traps in a single transaction vs. making numerous small transactions each year, which will reduce the administrative burden for the management agencies and industry.

***Controlled Growth***
LCMT's have expressed a desire to have flexibility to scale there business in a predicable manner in order for some individuals to survive the exploitation reductions that are needed to rebuild the stock. This includes both the process of purchasing traps (increasing traps) and decreasing traps. The industry has also voiced the concern that they do not want the industry to change too rapidly. In order to balance these two conflicting concerns the addendum includes a provision that would limit the rate of trap increases that may result from the implementation of trap transferability, controlled growth. Controlled growth is intended to allow an entity to annually move traps from their trap bank account, and add them to their allocation of active traps per year, but at a predictable rate. The controlled growth limitation is specific for each LCMA.

**3.0 Proposed Management Tools**
The goal of this addendum is to right size the industry for the reduced status of the available resource, with an initial goal of reducing qualified trap allocation or traps fished by at least 25 % over a five/ten year period of time. The goal may be different in each LCMA depending on the condition of the fishery and amount of unused traps in each area.

Overall Goal of the Program: Clarification needed from the Board: Is this a cut from allocated traps or active traps? Is the Goal by area or overall for SNE?

Option 1. 15% reduction
Option 2. 25% reduction (LCMT preferred option)
Option 3. 35% reduction
Option 4. 50% reduction

**3.1 LCMA 2**
**3.1.1 Active trap reduction**
**A. Initial Trap reduction-**The % is going to depend on the overall goal
Traps would be reduce in year one by the percent chosen by the Board. Trap reductions would be from the original allocation that was given to the fishermen in 2007. The annual trap cut will be assessed on both active and banked trap allocations, be LMA specific, with the annual trap reduction being permanently retired for conservation purposes.

Option 1. 15% reduction
Option 2. 25% reduction (LCMT preferred option)
Option 3. 35% reduction

**B. Annual Trap reduction:** The % is going to depend on the overall goal
Traps would be reduced each year by a specified amount, options below, for 5 years. The annual trap cut will be assessed on both active and banked trap allocations, be LMA specific, with the annual trap reduction being permanently retired for conservation purposes.

Option 1. 2.5 % reduction per year
Option 2. 3.5 % reduction per year
Option 3. 5% reduction per year (LCMT preferred option)
Option 4. 10 % per year
Option 5. 25% per year

### 3.1.2 Transfer Tax

The Commission, States, and NMFS are in the final stages of implementing a policy which allows qualified traps in Area 2 and 3 to transfer among license holders. In order to further downsize the fleet to the reduced status of the lobster stock in SNE, each transfer of traps will be assessed a conservation tax of 10 per cent. The tax will be assessed on all transfers including transfer between vessels in the same corporation. Individuals transferring traps will receive 90 % of the amount purchased or transferred, with 10 % being permanently retired for conservation purposes. Current Transfer Tax in LMCA 3 is 10%

Option 1. Status Quo: 10% conservation tax (LCMT Preferred option)
Option 2. 5% Conservation tax
Option 3. 15% Conservation tax
Option 4. 20% Conservation tax
Option 5. 25% Conservation tax

### 3.1.3 Trap Transfers

In regards to the transfer of traps, current ASMFC rules allow entities to transfer of full or partial allocations of qualified traps from one owner to another in accordance with specific criteria in each State and /or in accordance with federal law. It is important to note that NMFS currently does not allow for the transfer of partial allocations, they are in rule making to consider this regulation. The ASMFC guidance is different depending on if the transfer is of a full or partial allocation.

**A. Partial Transfers of a Multi-LCMA Trap Allocation**: If an option other than status quo were adopted this would replace section 4.3.3.3 of Addendum XII

Option 1: Status Quo: The recipient of a partial trap allocation from a permit that 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 LCMAs will be forfeited.

Option 2: The recipient of a partial trap allocation from a permit that that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows. The recipient would be bound by the most restrictive rule when fishing multi-LMCAs.

**B. Full Business Transfers:**

Option 1: Status Quo: The recipient of a partial trap allocation from a permit that that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows. The recipient would be bound by the most restrictive rule when fishing multi-LMCAs.

Option 2: The recipient of a partial trap allocation from a permit that 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 LCMAs will be forfeited.

### 3.1.4 Trap Cap

Each entity with an Area 2 allocation will be allowed to fish their active qualified trap allocation up to the following maximum number of traps per year.

Option 1. Status quo 800 traps (LCMT preferred)
Option 2. 600 traps
Option 3. 1000 traps

### 3.1.5 Trap Banking

Banked trap are traps that are owned but may not be fished. They are held in a trap banking account. An entity/individual who owns less than the total ownership cap in an area may purchase traps from another fishermen and deposit the allocation in his/ her trap bank account.

Each entity with state or federal permit for a LMCA is entitled to establish a single trap banking account, for each vessel. Each banking account will be partitioned by LCMA. An individual who owns less than the total ownership cap in an LMCA may purchase traps from another fishermen and deposit the allocation in his/ her trap bank account. An entities total of active and banked traps may not exceed the total ownership cap for a LCMA. Traps in the account may not be fished until activated in accordance with the control grow provisions of the proposal. Release of banked traps would be subject to the provisions established by the Addendum.

Option 1. Status quo trap banking is not permitted
Option 2. Up to 400 traps can be banked by an individual or corporation at a given time
Option 3. Up to 800 traps can be banked by an individual or corporation at a given time (LCMT preferred options)

### 3.1.6 Ownership Cap

In order to inhibit the excessive consolidation of the industry, a cap on ownership is proposed. An ownership cap is the maximum number of traps that an entity may own in an area, which is any combination of active and banked traps. Entities who own traps above the cap in each area would be allowed to keep their allocations of qualified traps but all transfer of qualified traps after the date of implementation would be subject to the cap.

Option 1. Status Quo: No ownership cap
Option 2. 1200 (800 active and 400 banked traps)
Option 3. 1600 traps (800 active and 800 banked traps) (LCMT Preferred)

### 3.1.7 Controlled Growth

Controlled growth is intended to allow an entity to annually move traps from their trap bank account, and add them to their allocation of active traps per year, but at a predictable rate. Controlled growth applies each individual's allocation by LCMA and not a individuals total allocation.

The controlled growth provision will be effective in the same years that NMFS implements transferability, and once annually thereafter. A full transfer of all qualified and banked traps will be exempt from the controlled growth provision

Option 1. Status quo no restriction on growth
Option 2. Maximum of 100 traps per year
Option 3. Maximum of 200 traps per year
Option 4. Maximum of 300 traps per year
Option 5. Maximum of 400 traps per year (LCMT preferred option)

**3.2 LCMA 3**
**3.2.1 Active trap reduction**
**A. Initial Trap Reduction** The % is going to depend on the overall goal
Traps would be reduce in year one by the percent chosen by the Board. Trap reductions would be from the original allocation that was given to the fishermen in 2007. The annual trap cut will be assessed on both active and banked trap allocations, be LMA specific, with the annual trap reduction being permanently retired for conservation purposes.

Option 1. Stat quo, no initial trap reduction (LCMT preferred)
Since the allocation of LCMA 3 traps by NMFS in 2003, the area has reduced allocated traps by 30%. In 2003 total allocated traps were X, in 2011 total allocated traps are X.
Option 2. 5% reduction
Option 3. 10% reduction
Option 4. 15% reduction

**B. Annual Trap reduction**:
Traps would be reduced each year by a specified amount, options below, for 10 years. The annual trap cut will be assessed on both active and banked trap allocations, be LMA specific, with the annual trap reduction being permanently retired for conservation purposes.

Option 1. 2.5 % reduction per year (LCMT preferred option)
Option 2. 3.5 % reduction per year
Option 3. 5% reduction per year

**3.2.2 Transfer Tax**
The Commission, States, and NMFS are in the final stages of implementing a policy which allows qualified traps in Area 2 and 3 to transfer among license holders. In order to further downsize the fleet to the reduced status of the lobster stock in SNE, each transfer of traps will be assessed a conservation tax of 10 per cent. The tax will be assessed on all transfers including transfer between vessels in the same corporation. Individuals transferring traps will receive 90 % of the amount purchased or transferred, with 10 % being permanently retired for conservation purposes. Current Transfer Tax in LMCA 3 is 10%

Option 1. Status Quo: 10% conservation tax (LCMT preferred option)
Option 2. 5% Conservation tax
Option 3. 15% Conservation tax
Option 4. 20% Conservation tax
Option 5. 25% Conservation tax

### 3.2.3 Trap Transfers

In regards to the transfer of traps, current ASMFC rules allow entities to transfer of full or partial allocations of qualified traps from one owner to another in accordance with specific criteria in each State and /or in accordance with federal law. It is important to note that NMFS currently does not allow for the transfer of partial allocations, they are in rule making to consider this regulation. The ASMFC guidance is different depending on if the transfer is of a full or partial allocation.

**A. Partial Transfers of a Multi-LCMA Trap Allocation**: If an option other than status quo were adopted this would replace section 4.3.3.3 of Addendum XII

Option 1. Status Quo: The recipient of a partial trap allocation from a permit that 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 LCMAs will be forfeited.

Option 2. The recipient of a partial trap allocation from a permit that that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows. The recipient would be bound by the most restrictive rule when fishing multi-LMCAs.

**B. Full Business Transfers:**

Option 1. Status Quo: The recipient of a partial trap allocation from a permit that that has a multi-LCMA trap allocation would retain the multi-LMCA history. The recipient could fish in any of the LCMAs that the trap history allows. The recipient would be bound by the most restrictive rule when fishing multi-LMCAs.

Option 2. The recipient of a partial trap allocation from a permit that 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 LCMAs will be forfeited.

### 3.2.4 Trap Cap

Each entity with an Area 3 allocation will be allowed to fish their active qualified trap allocation up to the following maximum number of traps per year. There would be a two trap caps for LCMA 3, one for the SNE portion of LCMA 3 and the Gulf of Maine and Georges Bank portion of LCMA 3 combined.

Option 1. Status quo

Option 2. Annual reduction in the trap cap as listed in the below table from 2012 to 2023. This trap cap schedule assumes that NMFS will implement a 2000 trap cap with the next set of federal rules. If NMFS adopts a lower trap cap for LCMA 3 the schedule will be adjusted accordingly.

| Date | GBK/GOM | SNE |
|---|---|---|
| 2012 | 2000 | 2000 |
| 2013 | 1950 | 1950 |
| 2014 | 1901 | 1901 |
| 2015 | 1853 | 1853 |
| 2016 | 1807 | 1807 |
| 2017 | 1762 | 1800 |
| 2018 | 1718 | 1800 |
| 2019 | 1675 | 1800 |
| 2020 | 1633 | 1800 |
| 2021 | 1592 | 1800 |
| 2022 | 1552 | 1800 |
| 2023 | 1513 | 1800 |

**3.2.5 Trap Banking**

Banked trap are traps that are owned but may not be fished. They are held in a trap banking account. An entity/individual who owns less than the total ownership cap in an area may purchase traps from another fishermen and deposit the allocation in his/ her trap bank account.

Each entity with state or federal permit for a LMCA is entitled to establish a single trap banking account, for each vessel. Each banking account will be partitioned by LCMA. An individual who owns less than the total ownership cap in an LMCA may purchase traps from another fishermen and deposit the allocation in his/ her trap bank account. An entities total of active and banked traps may not exceed the total ownership cap for a LCMA. Traps in the account may not be fished until activated in accordance with the control grow provisions of the proposal. Release of banked traps would be subject to the provisions established by the Addendum.

Option 1. Status quo trap banking is not permitted
Option 2. Up to 396 traps can be banked by an individual or corporation at a given time
Option 3. Up to 900 traps can be banked by an individual or corporation at a given time
Option 4. Up to 2396 traps can be banked by an individual or corporation at a given time, this is equal to maximum ownership cap (LCMT preferred options)

**3.2.6 Ownership Cap**

In order to inhibit the excessive consolidation of the industry, a cap on ownership is proposed. An ownership cap is the maximum number of traps that an entity may own in an area, which is any combination of active and banked traps. Entities who own traps above the cap in each area would be allowed to keep their allocations of qualified traps but all transfer of qualified traps after the date of implementation would be subject to the cap.

Option 1. Status Quo: No ownership cap
Option 2. An Annual restriction for controlled growth is listed in the below table from 2012 to 2023. This schedule assumes that NMFS will implement a 2000 trap cap with the next set of federal rules. If NMFS adopts a lower trap cap for LCMA 3 the schedule will be adjusted accordingly.

Area 3

| Trap cuts | Date | Ownership Trap Cap | Maximum* Banked | Maximum |
|---|---|---|---|---|
| Start | 2012 | 2000 | 396 | 2396 |
| 1 | 2013 | 1950 | 386 | 2336 |
| 2 | 2014 | 1901 | 376 | 2277 |
| 3 | 2015 | 1853 | 367 | 2220 |
| 4 | 2016 | 1807 | 358 | 2165 |
| 5 | 2017 | 1762 | 349 | 2111 |
| 6 | 2018 | 1718 | 340 | 2058 |
| 7 | 2019 | 1675 | 332 | 2007 |
| 8 | 2020 | 1633 | 323 | 1956 |
| 9 | 2021 | 1592 | 315 | 1907 |
| 10 | 2022 | 1552 | 307 | 1859 |
| End | 2023 | 1513 | 287 | 1800 |

*Maximum equals total of banked and active

**3.2.7 Controlled Growth**
Controlled growth is intended to allow an entity to annually move traps from their trap bank account, and add them to their allocation of active traps per year, but at a predictable rate. Controlled growth applies each individual's allocation by LCMA and not a individuals total allocation.

The controlled growth provision will be effective in the same years that NMFS implements transferability, and once annually thereafter. A full transfer of all qualified and banked traps will be exempt from the controlled growth provision

Option 1. Status quo no restriction on growth
Option 2. Maximum of 100 traps per year (LCMT preferred option)
Option 3. Maximum of 200 traps per year
Option 4. Maximum of 300 traps per year
Option 5. Maximum of 400 traps per year
Option 6. Maximum of 900 traps per year

**3.2.8 LCMA 3 Designation**
Option 1. Status quo: no LMCA 3 area designation. The current boundaries
Option 2. LCMA 3 Permit Designation

LCMA 3 will be split in the 3 permit designations: SNE, GBK, and GOM. As part of the permit renewal process, NMFS will require fishermen with Area 3 permits to designate if they will fish in Georges Bank, Gulf of Maine, or the Southern New England portion of the Area 3 LCMA. The area selected will be noted on the permit. Fishermen will be bound by the most restrictive rules and trap allocations for the area that they sign into, and the designation will remain in effect for the entire fishing year. Fishermen will be allowed to change the area designation once per year as part of the annual permit renewal process, effective in the following year.
SNE: Lat/long
GBK: Lat/long
GOM: Lat/Long

**4.0 Annual Review and Adjustment Process**
As part of the annual plan review process the ASMFC Lobster 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 ASMF the following information for the most recent fishing year on February 1:
Number of allocated traps for LMCA 2 and 3
Number of traps transferred for LCMA 2 and 3
The rate of transfer for LCMA 2 and 3
Maximum number of traps fished for LMCA 2 and 3
The degree of consolidation for LCMA 2 and 3

After considering these factors, the Board will decide to either maintain the current regulations for another year, or modify the transfer tax rate in order to achieve the goals of the program. The transfer tax rate may be adjusted annually between the values of 5-20 %, and will become effective in the following year as part of the next tag issuance cycle.

**4.1 Compliance**
If the existing lobster management program is revised by approval of this draft addendum, the American Lobster Management Board will designate dates by which states will be required to implement the addendum. The compliance schedule will take the following format:

XXXXX: States must submit programs to implement Addendum XVII for approval by the American Lobster Management Board

XXXXX: The American Lobster Board Approves State Proposals

XXXXX: All states must implement Addendum XVIII 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. The Atlantic States Marine Fisheries Commission believes that additional fishery restrictions are necessary to prevent further depletion of the resource.

The Atlantic States Marine Fisheries Commission believes that the measures contained in Amendment 3 and Addenda I-XVIII 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 3 and 4 of this document.

## 6.0 References

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

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

New Hampshire
Fish and Game Department

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January 26, 2012

American Lobster Board
Atlantic States Marine Fisheries Commission
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To Lobster Board members:

I was recently made aware of an issue regarding Closed Area II on the northeast corner of Georges Bank that both the New England Fishery Management Council and the Atlantic States Marine Fisheries Commission Lobster Board should be made aware of and consider during future management actions. A local offshore lobster company brought me Vessel Trip Reports (VTR's) and videos that suggest large numbers of egg bearing female lobsters are being caught and discarded during some months of the year in Closed Area II. Sometimes the number of eggers being caught and discarded was exceeding the harvest. They brought this information forward because of concerns about potential management actions the Council is considering that could move the habitat closure area and/or eliminate the groundfish mortality closure that currently exists in Closed Area II. They are concerned that opening this closed area to bottom tending mobile gear such as trawls and dredges could have a negative impact on the lobster resource if the large concentration of egg-bearing female lobsters is subject to the active capture technique associated with bottom tending mobile gear.

Enclosed are graphs showing the amount of reported lobster discards and harvest on a monthly basis from VTR's for all vessels fishing lobster traps in areas 561 and 562 from January 2010 through August 2011. In addition, bubble plots are provided of their location in relationship to Closed Area II based on the fishing coordinates on the VTR's. The largest amounts of lobster discards occur from July through September inside of and immediately adjacent to Closed Area II.

Also, I have enclosed a summary of data provided and collected by the Atlantic Offshore Lobstermen's Association that indicates 90% of the catch from July through October in statistical area 561 is female and 63% of the females have eggs. These data were collected from 2009-2011 where members measured carapace length and recorded sex and egg status from a pseudo-random sample of lobsters in their catch.

I bring this information to the attention of the Council as I believe it is important to consider during future management actions in the Groundfish and Habitat Fishery Management Plans since those actions maybe considering lifting the prohibition on bottom

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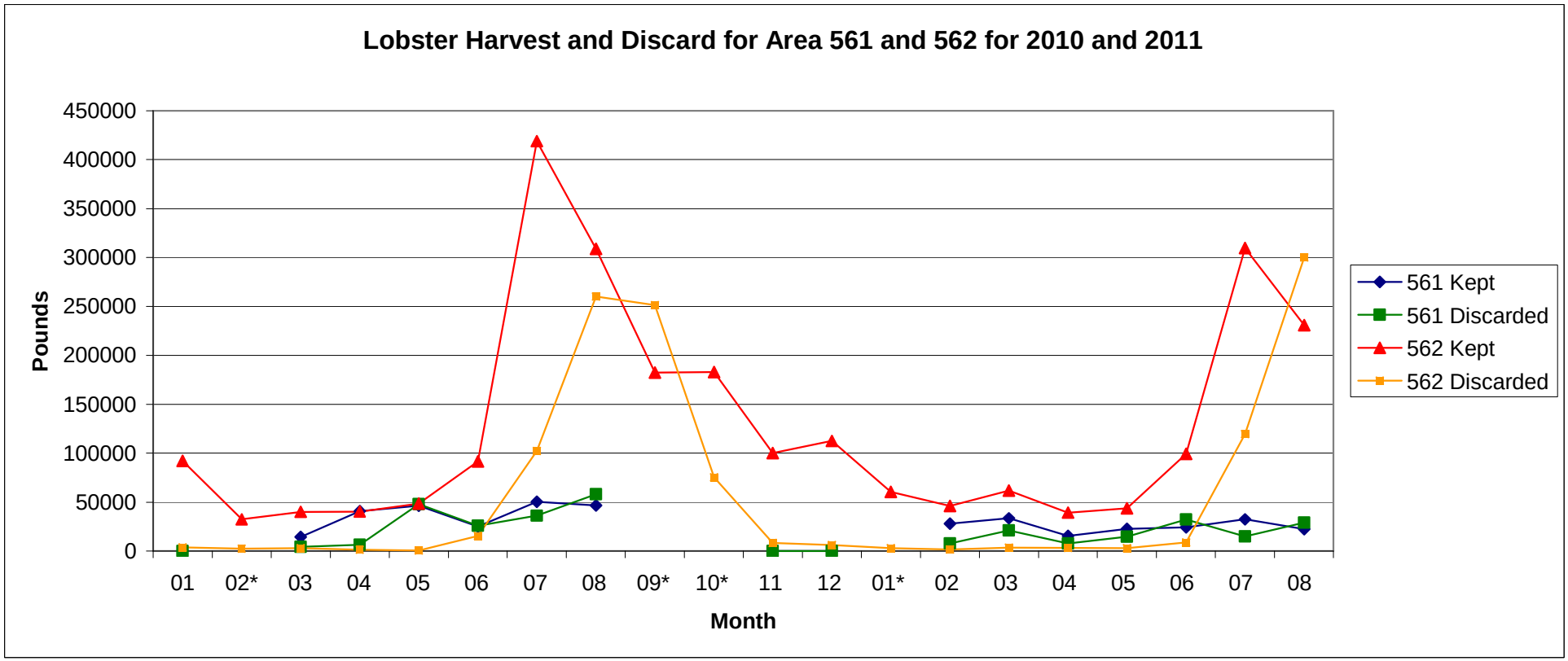
tending mobile gear in Closed Area II. The Commission's Lobster Board should also consider future management action to protect the egg-bearing female lobster resource in this area if the Council does decide that a groundfish or habitat closed area is no longer needed in Closed Area II.

I look forward to working with my fellow Council and Commission members on this important issue.

Sincerely,

Douglas Grout
Chief of Marine Fisheries

Cc: Paul Howard, Executive Director NEFMC
Rip Cunningham, Chairman NEFMC
Vince O'Shea, Executive Director ASMFC
Paul Diodati, Chairman ASMFC
Dan Morris, Acting Northeast Region Administrator, NMFS
Jon Shafmaster, Little Bay Lobster Co.
Toni Kerrns, ASMFC




*Removed to protect confidentiality.

**Figure 1. Kept and Discarded Lobster from Federal Vessel Trip Reports for Statistical Areas 561 and 562 from January 2010 through August 2011.**

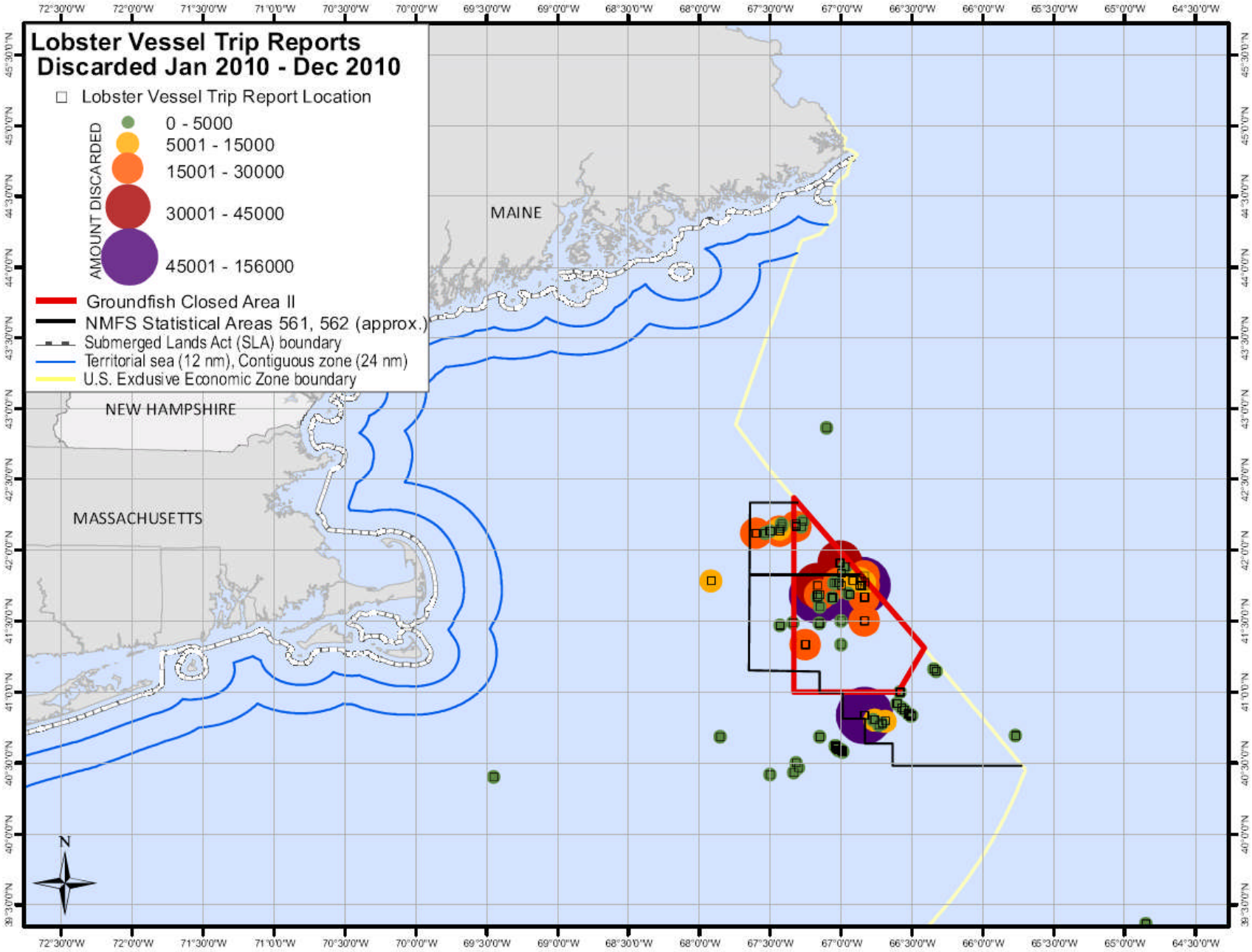



**Figure 2. Discarded Lobster from Vessel Trip Reports for trips in Statistical Areas 561 and 562 from January through December in 2010.**

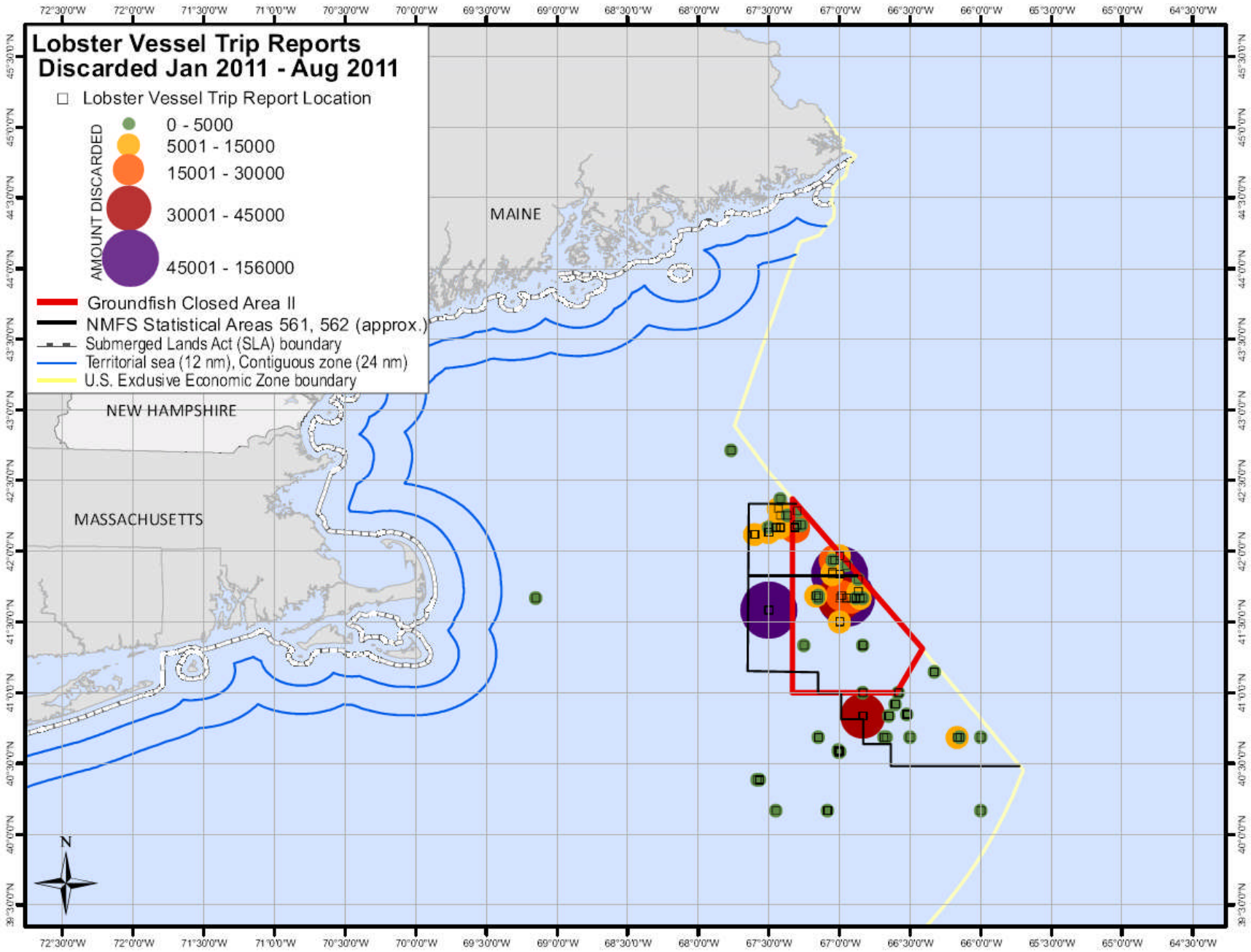



**Figure 3. Discarded Lobster from Vessel Trip Reports for trips in Statistical Areas 561 and 562 from January through August in 2011.**

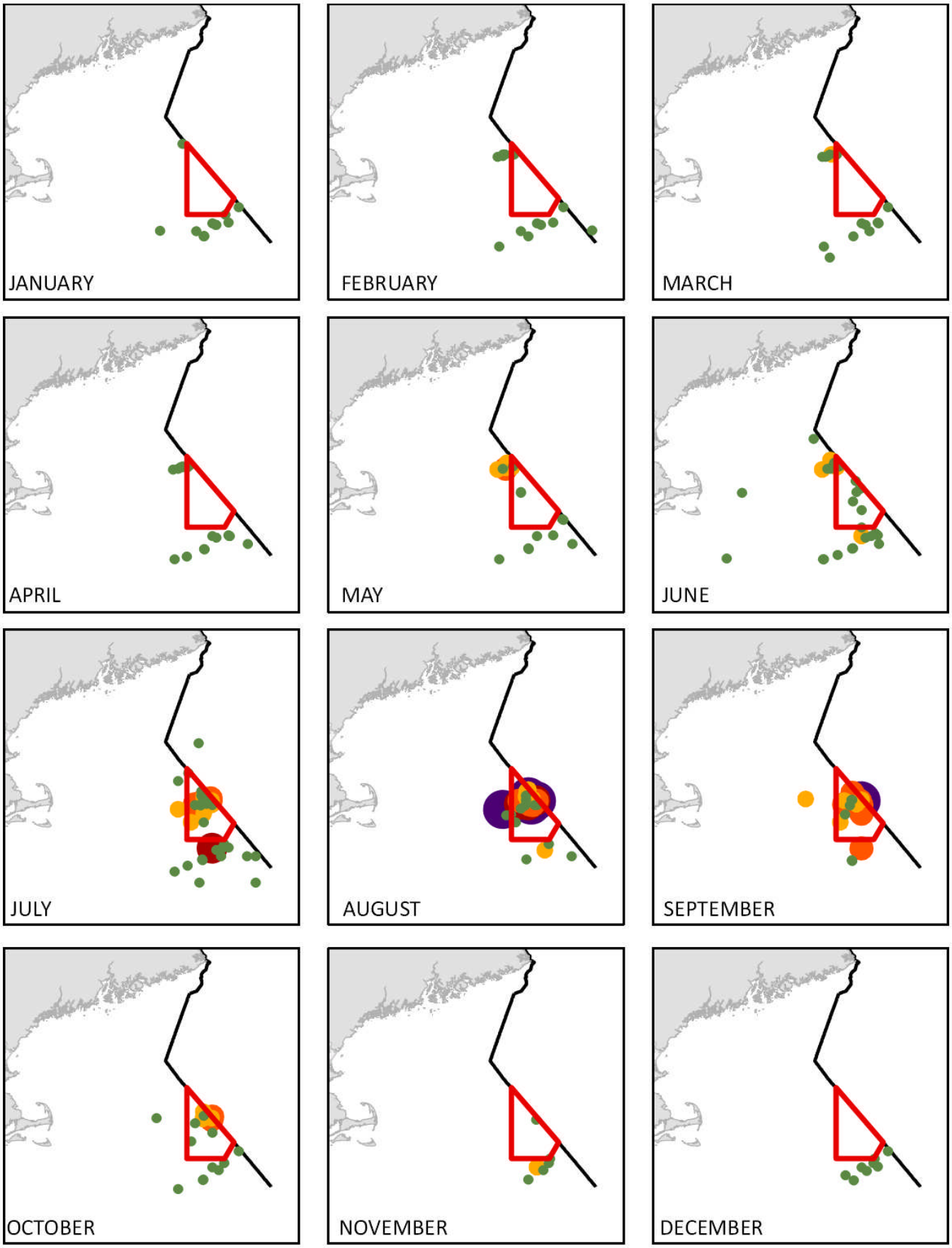



**Figure 4. Discarded Lobster from Vessel Trip Reports for trips in Statistical Areas 561 and 562, by month, from January 2010 through August 2011**

# Data provided by Atlantic Offshore Lobstermen's Association

| Stat Area 562 - In Closed Area II | | | | | |
|---|---|---|---|---|---|
| | All Qrts | Qrt 1 | Qrt 2 | Qrt 3 | Qrt 4 |
| #sites-hauls | 25 | 0 | 0 | 22 | 3 |
| # lobsters | 1030 | 0 | 0 | 429 | 601 |
| # female | 931 | 0 | 0 | 384 | 547 |
| % females | 90% | 0% | 0% | 90% | 91% |
| # eggers | 574 | 0 | 0 | 203 | 448 |
| % eggers* | 62% | 0% | 0% | 53% | 82% |

* Proportion of females which are egg bearing

Description of how data were collected

Since 1998, AOLA has been collecting biological data about the offshore resource, initially as part of a project with Dr. Win Watson at UNH, then later independently. In 2009, we updated our sampling protocol, based on discussions with Bob Glenn. The protocol we now use (2009-2012) is to sample 200 lobsters during one fishing trip per calendar quarter. Each lobster is measured and sexed, and egg bearing and shell disease status is noted. The date, fishing location, average trawl depth, and statistical area is also recorded. Fishermen are given the option to fish the first 200 lobsters they encounter (or first 100 of 2 days) or to fish a random selection of trawls as determined by a random number generator.

Data are from sites only within CA II. The data come from two vessels, owned by two different fishing companies.