



Greater Atlantic Region Bulletin

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Date Issued: 6/15/2016

Federal Lobster Permit Holders American Lobster Trap Transfer Program Guide *Effective Date: August 1, 2016*

We compiled this guide to assist you in submitting a trap transfer application for the 2017 Federal fishing year. The Trap Transfer Program allows lobster permit holders the flexibility to permanently buy and sell lobster trap allocation for some lobster management areas. For the purposes of this bulletin, ‘traps’ refers to the exchange of trap allocation.

We will accept trap transfer applications for the 2017 fishing year beginning on August 1, 2016, and continuing to the application deadline of September 30, 2016. To be accepted, applications must be postmarked, provided to a delivery service, or received by our office by September 30, 2016. We will process all transfer requests after the trap transfer period has closed and will notify applicants of our decisions by December 31, 2016. Approved trap transfers will then become effective on May 1, 2017.

If you are a Federal lobster permit holder, submit your application to the National Marine Fisheries Service (NMFS) in accordance with these instructions. If you **only** hold a state lobster license, we advise you to contact your state agency for information on state transfer requirements. Additional guidance for dual (Federal and state) permit holders is included in this guide.

Please note: In response to the poor condition of Southern New England Stock, the Atlantic States Marine Fisheries Commission is considering new management measures that have the potential to significantly restrict lobster fishing in Areas 2, 3, 4 and 5; regardless of trap transfer purchases. Approval of the trap transfers now does not guarantee eventual use of the transferred allocation if these potential regulations are implemented. We advise applicants to stay informed of developments and to proceed at their own risk.

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For small entity compliance guides, this bulletin complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996. This notice is authorized by the Regional Administrator of the National Marine Fisheries Service, Greater Atlantic Region.

Frequently Asked Questions on Trap Transfers

1. Who is allowed to transfer traps?

- All Federal lobster permit holders with qualified Area 2, 3, and/or Outer Cape Area traps, including those with permits in confirmation of permit history (CPH), may sell traps up to their full permitted allocation to another Federal lobster permit holder.
- All Federal lobster permit holders, including those with permits in CPH, may buy traps up to the current cap limit for Areas 2, 3, and/or Outer Cape, even if their lobster permit does not qualify for trap fishing.
- If you have more than one Federal permit, you can be both the ‘buyer’ and ‘seller’ to transfer traps between your permits.
- Any dual (state and Federal) permit holder who wishes to transfer traps (either buy or sell) must have the same state and Federal trap allocation. If the state and Federal allocations do not match, the permit holder may only transfer traps if he/she agrees to align the state and Federal permit allocations at the lowest allocation for each Area.

2. Can I lease traps?

- No, leasing traps is not allowed. Traps are permanently bought or sold through this program.

3. What is the difference between a full and partial business transfer?

- A partial transfer is when you sell some or all of your traps through the Trap Transfer Program, but keep your Federal lobster permit. The buyer is taxed 10-percent of the traps upon transfer. If you sell all of your traps, you can still use your Federal lobster permit for non-trap fishing, and maintain the option to buy back in to the Area 2, 3, and/or Outer Cape trap fishery at a later date.
- A full business transfer is when you sell your permitted vessel to another owner (ownership change) or when you transfer your permit onto another vessel (vessel replacement). All traps stay with the permit, and permit splitting is not allowed. This type of transfer is exempt from the 10-percent conservation tax, and is not conducted through the Trap Transfer Program.
 - **Note:** Full business transfers may take up to 30 days to process. Please plan accordingly if you are considering a full business transfer prior to submitting a Trap Transfer Program application. Contact the Permit Office with further questions at 978-282-8438.

4. Which traps are available to buy and/or sell?

- Area 2, 3, and/or Outer Cape traps can be transferred (bought or sold) between Federal lobster permits.
- In a trap transfer, multiple areas may be part of a transfer transaction, but not all areas can be transferred to the buyer. **Only Area 2, 3, and/or Outer Cape traps are transferable to the buyer. Traps from Areas 1, 4, 5, and 6 are not transferable to the buyer and will be removed from the fishery permanently.**
 - For example: Your permit is qualified to trap fish in Areas 2 and 4, and you would like to sell 200 traps. Because you have multiple areas on your permit, both areas are reduced by 200 traps. In this example, the buyer can only receive Area 2 traps, but not Area 4 traps, because Area 4 is not transferable. You, as the seller, debit 200 traps from both Areas 2 and 4. The buyer receives 180 Area 2 traps only (10-percent conservation tax on buyer’s received transfer), and the 200 non-transferrable Area 4 traps are removed from the fishery.

- **The Trap Transfer Program regulations require that Area 1 permit holders who choose to sell Area 2, 3, and/or Outer Cape traps will permanently give up their Area 1 trap fishing rights.**
 - For example: Your permit is qualified to trap fish in Areas 1 and 3, and you would like to sell 300 traps. As in the above example, only the Area 3 traps are transferred to the buyer, but your permit is also no longer qualified to trap fish in Area 1. You, as the seller, debit 300 traps from Area 3 and lose Area 1 qualification. The buyer receives 270 Area 3 traps only (10-percent conservation tax on buyer's received transfer; Area 1 is non-transferable).
 - **Note:** Area 1 permit holders may choose to *buy* traps through the program without giving up their Area 1 trap qualification.
- A Federal-only permit holder cannot buy or sell traps from or to a state-only permit holder. You must possess a Federal lobster permit to retain Federal traps, and a state permit to retain state traps.

5. *If I am a dual permit holder, can I split my state and Federal permits so that I can transfer state or Federal traps separately?*

- No. Federal regulations require dual permit holders fishing under one operation to have a single fishing history associated with their state and Federal lobster permits. If you choose to split your permits onto two separate boats, your Federal permit would maintain your qualified allocation and your state allocation would be zero. This is because historical qualification and allocation remain with the Federal permit. If a dual permit holder wants the qualified allocation to remain with his/her state permit, his/her Federal permit can be relinquished. Consult your state agency for more information on this topic.

6. *What is the trap transfer program's conservation tax?*

- **Every buyer is taxed 10-percent on his/her purchase** and is only able to receive 90-percent of the transferable traps to his/her permit; e.g., 100 traps are bought, 90 traps are transferred to the buyer's permit, and 10 traps are retired from the fishery. This is the **conservation tax**.

7. *How many traps can I transfer?*

- **You must base any purchase/sale on your fishing year 2017 allocation after scheduled reductions.** Area 2, 3, and Outer Cape allocations for the 2017 fishing year are posted under the "Trap Transfer Program" tab on our website at: <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/lobster/>. For more information on Area 2 and 3 trap reductions, see Table 8 (pg. 9) and/or visit: <http://www.greateratlantic.fisheries.noaa.gov/nr/2015/January/15loba17a18phl.pdf>.
- **You may sell traps in whole increments of 10 (e.g., 10, 20, 30, etc.).** If multi-area traps are sold in which the lower area allocation will be entirely removed but is not in a multiple of 10, you may still sell the all of the traps. The conservation tax of 10-percent applies to each area allocation in a multi-area transfer. In these cases of irregular numbers, fractions of a trap after tax are always rounded in favor of the buyer (i.e. taxed/removed traps are rounded down, or received traps are rounded up). The buyer may **NOT** receive any quantity of traps that would exceed his/her permit's trap cap per area. If multi-area traps are purchased which satisfy one area's trap cap but exceed another, the additional traps will be removed from the fishery permanently.
- **Example:** If you have a permit with 400 Area 2 traps and you bought 600 traps from a permit with Area 2 and 3 eligibility, you would be buying 600 Area 2 and Area 3 traps. Because you already have 400 Area 2 traps and your permit can only receive traps up to the Area 2 trap cap

of 800 traps, you would receive 540 Area 3 traps (after conservation tax) and only 400 Area 2 traps (up to the cap of 800). The remaining non-transferrable 140 Area 2 traps after the 10-percent conservation tax are also removed from the fishery.

Trap Caps by Transferable Area

Area 2 = 800 traps
Area 3 = 1,945 traps
Outer Cape Area = 800 traps

8. How do I figure out my allocation after I have bought/sold traps?

- After all transfers have been approved or disapproved, the buyer and seller will each receive a receipt confirming approved trap transfers along with their final 2017 allocations. You may request a copy of your permit's allocation by contacting the permit office at 978-282-8483.
- If we approve the transfer, the seller's traps are reduced in each qualified area by the number of traps sold.

9. When can I transfer traps?

- We will accept Trap Transfer applications from August 1, 2016, until September 30, 2016.
- If we approve the transfer request, you will be notified by December 31, 2016, and the transferred traps will become effective on May 1, 2017, at the start of the 2017 fishing year. The seller's reduced allocation will also go into effect at this same time.

10. What if I am a dual permit holder and my state and Federal allocations are different?

- By applying for a transfer, you are declaring into the Trap Transfer Program and consenting to have your state and Federal allocations aligned at the lower allocation per Lobster Management Area. State and Federal trap allocations for each specific Lobster Management Area must be aligned at the beginning and end of each trap transfer period for each year. **This means that you will permanently forfeit the higher allocation. This situation only applies to certain dual permit holders whose initial Federal allocation does not match their initial state allocation.**
- If you have any questions about this or would like to find out if this situation applies to you, please contact the permit office at 978-282-8438. You may also need to contact your state agency. Refer to page 7 for this trap transfer scenario.

11. How do I apply?

- Complete and submit the trap transfer application with signatures from the authorized buyer and seller of traps. Once you apply for a trap transfer, you have declared entry into the Trap Transfer Program.
- If your permit's allocation is involved in more than one transfer, make sure all transfer applications are submitted and you indicate the order you would like them processed on the form's "Transaction" box.
- Transfer application forms can be found on the website at: <http://www.greateratlantic.fisheries.noaa.gov/aps/forms.html>. Submit your application by mail to:

Trap Transfer Program
Greater Atlantic Regional Permit Office
55 Great Republic Drive
Gloucester, MA 01930

- You can also submit your application via fax to 978-281-9161; or via email to nmfs.gar.permits@noaa.gov.
- Do not submit your payment agreements between the buyer and seller with your transfer application. It is the responsibility of the buyer and seller to establish a timeline for payment, if any should occur, on their own terms. We caution that transfers are not final until approved by NMFS.
- If your application is incorrect or incomplete, we will send it back to you for revisions.
- If you have any questions about the Trap Transfer Program, or how to obtain a copy of your permit's allocation, please contact the permit office at 978-282-8438.

12. *What happens after I submit my application?*

- Once the trap transfer period is closed on September 30, 2016, we will coordinate with state agencies to review all applications and either approve or disapprove each trap transfer request. We will base this decision on whether the seller has the traps to sell, and whether the buyer has the capability to accept that number of traps to his/her lobster permit based on the area-specific trap caps.
- If there are any changes to your state and/or Federal permit(s) involved in a trap transfer, please contact the agencies that issued those permits. If a change occurs after an application is submitted, you may need to resubmit a corrected application.
- If a trap transfer form is filled out incorrectly, we will notify the buyer and seller that they must submit a revised and corrected trap transfer form.
- We will make all decisions on all trap transfer requests by December 31, 2016. If we approve a transfer, we will send a receipt and final allocation letter to each party involved in the transfer. If your transfer is not approved, we will notify you and explain the reason in writing.
- **We must approve a trap transfer application before the transfer is considered final.** Buyers and sellers are cautioned not to finalize transfer deals unless we approve the transfer.

13. *Are there any regulations or legislation that could affect this program or these area allocations in the future?*

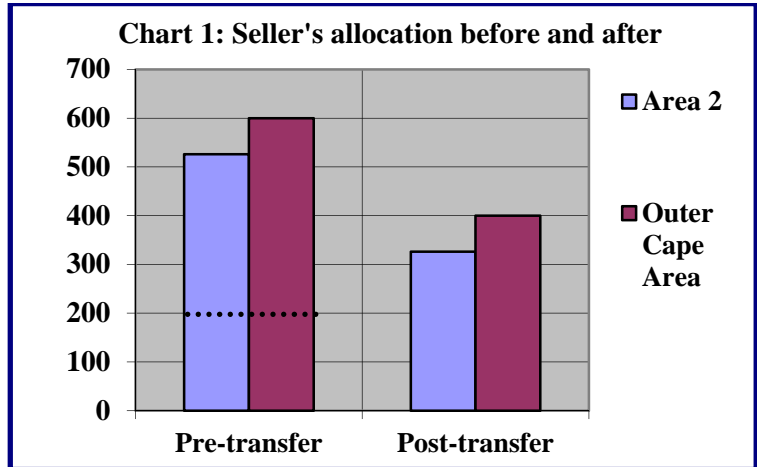
- **The Atlantic States Marine Fisheries Commission is considering new management measures in response to the poor condition of Southern New England Stock, which could affect the trap transfer program in the future.** We suggest—as with all business decisions—that you participate by your own choice, and at your own risk.
- We recommend staying current with Commission decisions and updates to be aware of what is changing in the management of the lobster fishery. Management updates, meeting summaries, and stock assessment reports can all be found on the Commission website at: <http://www.asmfmc.org/species/american-lobster>.

Trap Transfer Examples

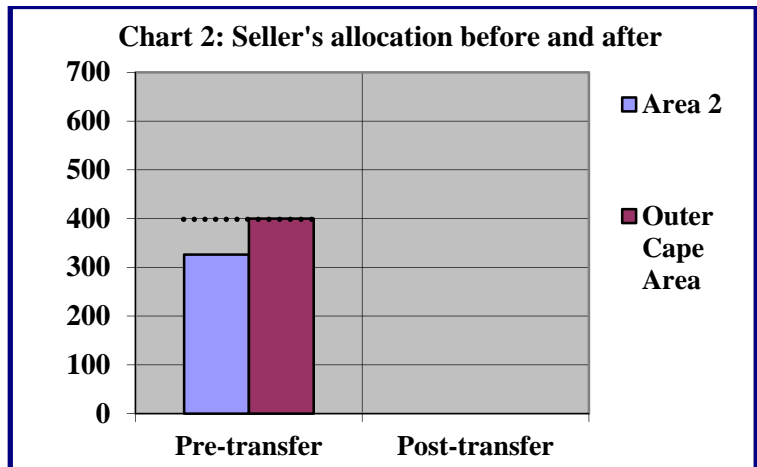
If your lobster permit is qualified for trap fishing in more than one area when you sell traps, the multi-area allocations will be reduced first. This is referred to as 'bottom-up' transferring. All Area allocations will be reduced by the number of traps sold, and all transferable allocations will be taxed 10-percent, regardless of equal or varying trap allocations per area(s). If multi-area traps are sold in which the lower area allocation is entirely removed but is an irregular number, fractions of a trap after tax are always rounded in favor of the buyer (i.e. taxed/removed traps are rounded down, or received traps are rounded up). The buyer retains fishing rights to all areas for which the purchased transferable traps qualify. **REMINDER:** If your permit is qualified for Area 1 and you sell traps,

you will lose your ability to trap fish in Area 1. However, any Federal lobster permit, including those qualified for Area 1, may buy Area 2, 3, or Outer Cape traps without losing the Area 1 qualification. A buyer with a Federal lobster permit may buy traps from area(s) where his/her permit did not previously qualify. The buyer's permit will then acquire the historical qualification specific to the transferable traps purchased.

Example 1: If you have 526 Area 2 traps and 600 Outer Cape Area traps, and you want to sell 200 traps, the transaction will occur from the bottom up, as shown in Chart 1 (dotted line shows removal of 0-200). After the conservation tax is applied, the buyer receives 180 Area 2 traps and 180 Outer Cape Area traps to his permit, and the seller is left with 326 Area 2 and 400 Outer Cape traps.



Example 2: The same seller from Chart 1 wants to sell an additional 400 traps to a different buyer. He has 326 Area 2 and 400 Outer Cape Area traps left to sell. These traps are once again sold from the bottom up as seen in Chart 2 (dotted line 0-400). After the conservation tax and rounding are applied, the buyer receives 294 Area 2 traps and 360 Outer Cape Area traps to his permit. The seller retains a Federal lobster permit and may use it to fish with non-trap gear.



Most Restrictive Rule

A permit holder who elects more than one qualified area on his/her permit for a given fishing year is bound by the lowest allocated trap limit across all the areas selected on his/her permit, even though the permit may qualify for a higher allocation in another area. Thus, when multiple areas appear on the permit, the vessel must comply with the most restrictive regulation present on the permit. State allocation restrictions may also apply for dual permit holders. Table 1 has some examples.

Table 1

Examples	(Designated) Permit Area Qualification and Allocation	Most Restrictive Rule means...
Example A	Area 2 = 600 traps Area 3 = 1,200 traps	You may fish up to 600 total traps in Areas 2 and 3 or fish 1,200 traps in Area 3 only
Example B	Area 3 = 1,000 traps Area 4 = 1,200 traps	You may fish up to 1,000 total traps in Areas 3 and 4 or fish 1,200 traps in Area 4 only

Trap Transfer Scenarios

1. I am a dual permit holder. What if my Federal and state allocations are not the same for each Lobster Management Area? Can I still participate in the Trap Transfer Program?

Yes, you can participate in the program, but only after your state and Federal allocations are the same for each dually-allocated area. Dually-allocated areas are areas that have both state and Federal allocation. To make your state and Federal allocations equal, you have to permanently give up the higher of either the Federal or state allocation. **By signing the trap transfer application, you are agreeing to synchronize dually-allocated areas on your permit at the beginning and end of each trap transfer period.** You may continue to operate with different Federal and state allocations, but you cannot have different allocations to participate in the Trap Transfer Program. Table 2 shows an example of aligning permits with dually-allocated areas for Area 2 and the Outer Cape. Table 3 shows an example of aligning permits with dually-allocated Area 2 and Federally-allocated Area 3. Note that unaligned allocations would always be synchronized at the lower value.

Table 2

Area Qualification	Initial Trap Allocation	Synchronized Trap Allocation for Trap Transfer
Area 2	State allocation = 600 Federal allocation = 800	State allocation = 600 Federal allocation = 600
Outer Cape Area	State allocation = 600 Federal allocation = 600	State allocation = 600 Federal allocation = 600

Table 3

Area Qualification	Initial Trap Allocation	Synchronized Trap Allocation for Trap Transfer
Area 2	State allocation = 800 Federal allocation = 500	State allocation = 500 Federal allocation = 500
Area 3	State allocation = No allocation since Area 3 is entirely Federal waters Federal allocation = 1102	State allocation = No allocation since Area 3 is entirely Federal waters Federal = 1102

2. Can a Federal-only permit holder transfer traps with a dual permit holder?

Yes. A dual permit holder may buy traps from a Federal-only permit holder, but then the dual permit holder must buy an equal number of state-only traps to balance the state and Federal trap allocation. **If an equal state allocation is not obtained by the end of the trap transfer period, the purchased Federal allocation will be forfeited.** If you are a Federal-only permit holder, you may buy traps from a dual permit holder but you will not receive the state traps since you do not have a state permit. An example of a Federal-only permit holder buying 200 Area 2 traps from a dual permit holder is shown in Table 4. The 10-percent conservation tax is reflected in the final allocation.

Table 4

Area Qualification	Initial Trap Allocation	Final Trap Allocation
Federal permit holder (buyer)	State allocation = N/A Federal allocation = 400	State allocation = N/A Federal allocation = 580
Dual permit holder (seller)	State allocation = 600 Federal = 600	State allocation = 400 Federal = 400

3. *Can a dual permit holder transfer traps with another dual permit holder?*

Yes. If you are both permitted by the same state, then all transferable traps purchased can be fished by the buyer according to state permit regulations and Federal trap caps. See Table 5 for an example of two dual permit holders from Massachusetts (MA) transferring 200 traps. The seller debits 200 traps from both Federal and state, and the buyer receives 180 of each after conservation tax.

Table 5

Area Qualification	Initial Trap Allocation	Final Trap Allocation
MA dual permit holder (buyer)	State allocation = 600 Federal allocation = 600	State allocation = 780 Federal allocation = 780
MA dual permit holder (seller)	State allocation = 600 Federal = 600	State allocation = 400 Federal = 400

You can also transfer traps with a dual permit holder from a different state; HOWEVER, the buyer may NOT fish the purchased state traps in his/her permitted state waters. These purchased state traps would be forfeited (i.e. the state traps to not transfer). The buyer may fish the purchased Federal traps IF he/she is able to purchase an equal number of state-only traps from a permit holder permitted by the same state, by the end of the trap transfer period. **If an equal same-state allocation is not obtained by the end of the trap transfer period, then all purchased allocation will be forfeited.** See Table 6 for an example of a Massachusetts dual permit holder buying 200 traps from a Rhode Island dual permit holder. See Table 7 for an example of a second transfer of 200 traps where the dual permit holder buys from a state-only permit holder to align the state and Federal allocation.

Table 6

Area Qualification	Initial Trap Allocation	Final Trap Allocation
MA dual permit holder (buyer)	State allocation = 600 Federal allocation = 600	State allocation = 600 Federal allocation = 780
RI dual permit holder (seller)	State allocation = 600 Federal = 600	State allocation = 400 Federal = 400

Table 7

Area Qualification	Initial Trap Allocation	Final Trap Allocation
MA dual permit holder (buyer)	State allocation = 600 Federal allocation = 780	State allocation = 780 Federal allocation = 780
MA state permit holder (seller)	State allocation = 600 Federal = N/A	State allocation = 400 Federal = N/A

For more trap transfer examples and scenarios, see the **Lobster Trap Transfer Program Presentation and Scenario Worksheet** available under the “Trap Transfer Program” tab on our website at: <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/lobster/>

Table 8. Planned Annual ASMFC Trap Reductions

Effective Year (Date of Trap Reduction)	Area 2 Reductions	Area 3 Reductions
Fishing Year 2017 (April 30, 2017)	5%	5%
Fishing Year 2018 (April 30, 2018)	5%	5%
Fishing Year 2019 (April 30, 2019)	5%	5%
Fishing Year 2020 (April 30, 2020)	5%	5%
Fishing Year 2021 (April 30, 2021)	5%	None

Figure 1. Lobster Management Areas

