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Response

American Lobster Fishery
Draft Environmental Impact Statement

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



ASMFC Vision Statement:

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

Appendix 1

1.0 INTRODUCTION AND BACKGROUND

In December 2003, the Atlantic States Marine Fisheries Commission Lobster Board (Board) passed Addendum IV to Amendment 3 of the Interstate Fishery Management Plan for American Lobster. Within Addendum IV there is an Effort Control Plan for Lobster Conservation Management Area 2 (LCMA 2). When this Addendum passed, the Management Board formed a committee with representatives from the jurisdictions with Area 2 fishermen including Massachusetts, Rhode Island, Connecticut, New York, and NOAA Fisheries. This subcommittee was charged with developing an implementation plan for the Area 2 effort control plan to ensuring consistent implementation throughout all of the jurisdictions. Following several meetings, this committee outlined concerns with various aspects of the Area 2 effort control plan to the Board, including the need for additional detail in order to ensure consistent implementation.

The Board has concerns with the Area 2 effort control plan including the inability of several jurisdictions to implement portions of the plan. Specifically concerns were identified with the initial trap allocation scheme that is based solely on reported lobster landings within a specified qualification period. Under the existing Area 2 effort control plan, landings of one additional pound of lobster would result in qualified applicants receiving an allocation that would increase from a 100-trap allocation to an 800-trap allocation. In addition, preliminary analysis of the impacts of the proposed trap allocation scheme indicates it is ineffective at controlling trap growth over current levels. The plan as currently proposed would substantially increase the number of traps allocated to qualified applicants compared to the current number of traps reported fished at this time. In order for overall effort to decrease, the existing plan relies on permit and trap transfers. However, the 50% conservation tax associated with the initial permit and trap transfer process will likely discourage a significant number of transfers in the early years of the program. While these transfers will eventually decrease effort, it will likely take an extended period of time to see these effects. Restrictive vessel upgrade restrictions associated with the proposed permit and trap transfers are also likely to discourage transfers.

The Management Board has directed the jurisdictions with Area 2 permit holders to work with the Area 2 LCMT to modify components of the effort control plan so that all jurisdictions are capable of implementing and a plan that will not allow effort to increase if and when the resource recovers in Area 2.

2.0 MANAGEMENT MEASURES:

2.1 Area 2 Effort Control

Replace the Addendum IV Area 2 Effort Control Measures:

This Addendum replaces section 5.3.1 of Addendum IV to Amendment 3 of the Interstate Fishery Management Plan for American Lobster except with the language below.

Area 2 Permits:

There shall be no new Area 2 permits after December 31, 2003.

Area 2 Eligibility Period for Future Effort Control Program:

Appendix 1

In order to qualify for an Area 2 permit endorsement, a permit holder must document landings between January 1, 1999 and December 31, 2003. This eligibility period will be included in the future effort control plan for this area.

Design a New Plan:

By the August 2005 Board Meeting, all jurisdictions with Area 2 permit holders and the Area 2 LCMT will develop a new effort control plan, which caps effort at or near current levels with the potential to adjust the levels based on the outcome of the upcoming stock assessment

3.0 RECOMMENDATIONS FOR ACTIONS IN FEDERAL WATERS

The Atlantic States Marine Fisheries Commission believes that the measures contained in Amendment #3 and subsequent addenda are necessary to limit the expansion of effort into the lobster fishery, to rebuild egg production to recommended levels and to address stock declines. ASMFC recommends that the federal government promulgate all necessary regulations to implement the measures contained in Sections 2 of this document.

4.0 COMPLIANCE

4.1 MANDATORY ELEMENTS OF A STATE PROGRAM

To be considered in compliance with Addendum VI, all state programs must include a regime of restrictions on American lobster fisheries consistent with the requirements of Section 2; except that a state may propose an alternative management program under Section 3.5 of Amendment 3, which, if approved by the Board, may be implemented as an alternative regulatory requirement for compliance.

4.2 REGULATORY REQUIREMENTS

Each state must submit its required American lobster regulatory program to the Commission through ASMFC staff for approval by the Board. A state may not adopt a less restrictive management program than contained in this Addendum, unless otherwise approved by the Board.

4.3 ADJUSTMENTS TO THE COMPLIANCE SCHEDULE

All states with Area 2 permit holders need to implement section 2 of this addendum in order to be in compliance with Amendment 3 to the American Lobster Fishery Management Plan.

This Addendum also withdraws the required compliance deadline of July 1, 2004 for the Addendum IV Area 2 effort control plan (Section 5.3.1 of Addendum IV).

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



ASMFC Vision Statement:

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

November 2005

Appendix 2

1.0 Statement of the Problem

In August of 2002, the Lobster Management Board asked the Technical Committee (TC) to advise the Board on the magnitude of problems in Area 2 as well as recommend an appropriate response. Board members expressed interest in TC review of trawl survey and sea sampling information to provide insight into the current situation of stock declines in Area 2 and to advise if the current Amendment and supporting addenda are sufficient to remedy the problem.

The October 2002 Technical Committee report indicated that landings had declined, the area survey indices had declined, and the incidence of shell disease was increasing. There was consensus among the TC that the current overfishing definition (F10%), in combination with the proposed management measures, were not sufficient to remedy the current stock declines observed in Area 2 and spawning stock biomass needed to be rebuilt. The Lobster TC recommended reducing fishing mortality in Area 2, reducing effort in Area 2, and continuing to work on a control rule that incorporates both f-based and biomass based reference points to offer better management advice to varying stock conditions.

2.0 Background

In February 2003, the Lobster Board took Emergency Action to increase the minimum gauge size for lobsters in Area 2 on an accelerated time scale and initiated action to rebuild the lobster stock in Area 2 in 2003 through Addendum IV.

Addendum IV included an interim benchmark goal based on survey information and a Total Allowable Landings to be used as a performance measure. This Addendum included an effort control program and gauge increases for Area 2. The Board had concerns with the Area 2 effort control plan including the inability of several jurisdictions to implement portions of the plan.

In February 2004, the Atlantic States Marine Fisheries Commission Lobster Board (Board) passed Addendum VI to Amendment 3 of the Interstate Fishery Management Plan for American Lobster. This addendum required all jurisdictions with Area 2 permit holders (MA, RI, CT, NY, & NJ) to work with the Area 2 LCMT to develop a new effort control plan. The plan would cap effort at or near current levels with the potential to adjust the levels based on the outcome of the upcoming stock assessment by the August 2005 Board Meeting. Addendum VI suspended implementation of a previously approved effort control plan for Area 2 found in Addendum IV.

The Board acted in response to concerns of the Area 2 Effort Control Plan Implementation Committee comprised of representatives from the jurisdictions with Area 2 fishermen including Massachusetts, Rhode Island, Connecticut, New York, and NOAA Fisheries. This committee found that several jurisdictions could not implement portions of the original plan. Moreover, preliminary analysis indicated the plan was ineffective at controlling trap growth over current levels. The specific problems identified in the previous plan were two-fold: the aggregate allocations were too liberal – far beyond the recent levels fished, and the allocation rules were considered arbitrary because fishermen were given either 100 or 800 traps if reported landings were more - or less - than 2,000 lbs. in a single year during a 5 year period: 1999-2003.

Appendix 2

The Board, in two separate actions,¹ directed jurisdictions with Area 2 permit holders to work with the Area 2 LCMT to modify components of the effort control plan so that all jurisdictions will be capable of implementing the plan specifics and to ensure that it will not allow effort to increase if and when the resource recovers in Area 2. Board members from RI & MA have been clear in their intent to craft a plan that would capture the attrition seen in the fishery in the past five years. Rhode Island fishery statistics show a 45% decrease in traps fished and a 34% decrease in the number of fishermen fishing traps since 1999. Analogous data from Massachusetts show a 37% decrease in traps fished and the same decrease (34%) in the number of fishermen fishing traps since 1999. NY and CT data are not readily available but similar trends are expected (Figures 1 and 2).

It should be noted that LCMT members and industry representatives throughout the development of Addendum IV (2002 - 2003) had urged the Board not to adopt a proposed cap on landings, a 1.14 million lbs. quota. They urged the Board to consider the conservation benefits of reduced fishing effort attributable to fishermen leaving the industry or the LMA, and the down-sizing of many fishing operations due to declining catches and profits. Most permit holders do not fish their current allowed maximum trap limit of 800 traps. Table 1 demonstrates the degree of latent effort in the fishery.

3.0 Introduction

The purpose of this management plan is to establish a multi-state effort control program for Lobster Conservation Management Area 2 that governs traps fished in state and federal waters to cap effort (traps fished) at recent levels and allows adjustments in traps based on future stock conditions. This plan attempts to capture the attrition from the fishery, caused by stock decline, thereby preventing a return of overall fishing levels to historic highs of the late 1990's.

This plan limits participation to permit holders who have been active in the fishery in recent years, creates permit-holder specific trap limits that are unique and based on reported traps fished and landings, and establishes a transfer program that allows the transfer of trap allocations with a conservation "tax". Limiting access and allocating a set number of traps will also allow managers to more precisely quantify the universe of known effort in Area 2 and thus facilitate overall management of the resource.

A significant concern in any effort control involves the issue of activating latent effort – i.e., the so-called "pregnant boat syndrome" wherein a single lobster operation with a single fishing history but dual state and federal permits, might split those permits between two entities therein doubling effort. This plan address this issue by ensuring that a single fishing history will result

¹ *From the August 2004 Board meeting:*

Motion to draft Addendum VI to modify the effort control plan 5.3.1 of addendum IV for Area 2. The states shall work with the Area 2 LCMT and consider an effort control plan that creates a mechanism for trap reduction in the short term to reduce fishing effort. This plan addendum shall be presented at the November annual meeting to the Board.

Motion made by Mr. McKiernan; seconded by Mr. Gibson. Motion carries.

From the November 2004 Board meeting:

Move to add under section 2.0 of Addendum 6 which states, "by the August 2005 Board Meeting, all jurisdictions with Area 2 permit holders and the area 2 LCMT will develop a new effort control plan, which caps effort at or near current levels with the potential to adjust the levels based on the outcome of the upcoming stock assessment.

Motion by Mr. Lapointe; seconded by Mr. Gibson. Motion carries.

Appendix 2

in no more than one trap allocation regardless of whether that single history was created by a dual permit holder.

4.0 Management Measures

4.1 Area 2 Effort Control

This addendum replaces the Addendum VI Area 2 Effort Control measures in section 2.1 of Addendum VI to Amendment 3 of the Interstate Fishery Management Plan for American Lobster.

4.1.1 Mandatory Elements

4.1.1.1. Qualification for Area 2 Permits. *(This replaces section 5.3.1 Qualification for Area 2 Permit Holders of Addendum VI to Amendment 3 of the Interstate Fishery Management Plan for American Lobster.)*

- a) Moratorium on new permits for commercial fishing of lobster traps in Area 2. No person shall land lobster taken by pots from Area 2 in any state unless that person has been issued an Area 2 pot allocation by their home state.
- b) Standards for qualification:
 - i. Moratorium on permit splitting accomplished through the establishment of a new joint state/federal licensing scheme that identifies each fishing operation as a combination of the individual permit holder at the state level and the federally permitted vessel.
 - ii. No vessel or permit holder shall hold more than one allocation that corresponds to a single fishing history- The purpose of this section is to prevent trap proliferation that might occur through permit splitting or stacking. That is, a dual state and federal permit holder acting as a single operation might qualify and receive an allocation on both permits under the same fishing history. If those dual permits were subsequently split and allowed to fish the full allocation under each permit, or if the permit allocations were allowed to be combined, then there exists the potential to double fishing effort.
 - iii. Nothing shall prevent the owner of two or more vessels that have trap allocations assigned to them based on separate fishing histories from owning or transferring or acquiring a vessel with its assigned fishing history or transferring trap allocation to another vessel or permit holder eligible to fish in Area 2.
 - iv. Nothing shall prevent a holder of a federal permit without a pot allocation from acquiring pots from an allocation holder once a transferability program is accepted and implemented.
- c) There will be a coordinating committee to review appeals and proposed resolutions developed by the management agency of a permit holder's home state. The purpose of this committee is to facilitate communication and coordination, which is expected to result in more consistent decisions amongst the decision making entities. The coordination committee may provide comment to alert a home state of any concerns with the proposed solution for consistency with similar decisions in the other states. The federal government shall have the opportunity to sit on this committee so that it may provide its perspective on these issues. The decision of the home state or federal agency shall be the final determination on allocations.

Appendix 2

4.1.1.2. Trap Allocation Authority-*Assign primary authority to states to oversee trap allocations to its permit holders.*

- a) States shall process and determine trap allocations for eligible permit holders. For dual permit holders, to better ensure consistency across jurisdictions, states shall forward all proposed allocations to NMFS for its consideration, along with its rationale in setting the allocation at the proposed level.
- b) States 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 agency proposed allocations for Area 2, the dual permit holder is restricted to fishing the lesser of the two allocations. This scenario of a fisherman with different Area 2 permit allocations is distinct from and does not implicate the scenario of a multi-area fisherman having different allocations in those different areas. The Commission has already addressed the principle of allocating pots to fishermen with multiple elected areas in section 3.2 of Addendum IV and nothing in this section of proposed Addendum VII is inconsistent with that previously decided section in Addendum IV.

4.1.1.3 Establish Area 2 fishery-wide overall Trap Allocation Cap.

This cap shall be subject to Board approval and constitutes the maximum number of traps allocated among all permit holders fishing in Area 2 from states of RI, MA, CT, NY, and NJ, and any other state with verifiable landings based on the documentation criteria established. The Trap Allocation Cap includes traps granted through any appeal process established by the Addendum.

4.1.1.4. 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.

4.1.1.5. Data Disputes

Permit holders can request corrections to qualifying data if errors are found attributable to data entry and mathematical errors in logs. However, state-issued recall-log catch reports and/or logbooks signed by the permit holder are considered the best available data.

Permit holders who had submitted catch reports for the performance period signed under the pains of perjury will not be allowed to furnish additional catch/effort data that is inconsistent with records already furnished to state and federal government.

Appeals would only be accepted for a finite period (to be determined by each jurisdiction) after the program has been approved and notification has been sent to permit holders.

4.2.1 Optional Elements

4.2.1.1 Trap Allocation- *Devises a trap allocation system that grants participants fishing authorization for a specific trap number that is commensurate with their recent fishery performance in traps and landings. Permit holders will be prequalified in 2006 for their 2007 allocation. Appeals pursuant to this plan shall occur in 2006. This period is necessary to address convoluted permit histories and develop rules to regulate transfer of trap allocations.*

Appendix 2

Each permit holder's unique fishing history determines his or her initial trap allocation. Acceptable documentation for verifying recent fishery performance (both pounds landed and traps fished) complement the federal requirements used recently for Areas 3, 4, and 5 (See Appendix A). Landings must have occurred at a port located in a state adjacent to Area 2 (i.e., Massachusetts, Rhode Island, Connecticut, and New York). *The purpose in restricting landings to an adjacent port is to ensure that only those fishers who actually fished in Area 2 – as opposed to the many who designated Area 2 on their permit but never fished there – will be eligible to qualify. Physical, geographical and landings data, and anecdotal information, dictates that Area 2 fishers historically landed in adjacent ports.*

Participants are required to submit further information as requested by the allocation authority should discrepancies arise among documentation for qualification and allocation. Any permit holder who submits fraudulent documentation may have the allocation permanently revoked.

Grant initial Trap Allocation based on highest value of Effective Traps Fished, during 2001-2003.

“Effective Traps Fished” is the lower value of 1) the maximum number of traps calculated or reported fished for a year; and 2) the predicted number of traps that is required to catch the reported poundage of lobsters for a year. This allocation program is expected to result in an initial aggregate trap allocation that would exceed 2003 aggregate traps fished by about 23%. To avoid the “single-year” effect on trap allocation, the maximum “effective” traps for the 3 years is used. In no case would an individual's initial trap allocation exceed their maximum number of traps fished during the performance period. An individual's Initial Trap Allocation is determined as follows:

1. “Predicted Traps Fished” are calculated for 2001, 2002, and 2003 from their total landings in each of those years using the established regression relationship for LMA Area 2 (Figure 3 & Table 2). The Board's preference would be to use only landings from Area 2, however, much of the landings data available does not universally contain sufficient resolution to determine where the landed lobster were caught. Consequently, a permit holder's total landings during the time period constitutes the best available information across all management jurisdictions and are the authorized basis for meeting the purposes of this plan.
2. Predicted Traps Fished and a State's most accurate Calculated or Reported Traps Fished is compared for each year and the lower value would be the “Effective Traps Fished”
3. Trap Allocation is the highest value of the three annual “Effective Traps Fished” values.

4.2.1.2. Trap Reductions

Issue One

If overall Initial Trap Allocations exceed the Board-approved Trap Allocation Cap, reduce trap allocation (in subsequent years) reducing each permit holder's trap allocation by a specific percentage to reach the Trap Allocation Cap.

Appendix 2

Issue Two

If, after a stock assessment is completed, further trap reductions are warranted each permit holder's trap allocation would be reduced by a percentage (fishery – wide) to meet trap allocation goals.

4.2.1.3. Transferability

Allow transferability of trap allocations among permit holders to increase or decrease the scale of their business.

States shall develop a transferability program after initial allocations have been finalized. In addition, states shall develop an interstate transfer program for permit holders seeking to transfer permits and traps between states. These interstate transfers are allowed once NMFS accomplished complementary rules.

4.2.1.4. Monopoly Clauses *-An anti-monopoly clause is intended to prevent entities from controlling excessive numbers of permits or traps.*

No single company or individual may own, or share ownership of, more than 2 qualified LCMA 2 federal permits. However, those individuals who have more than 2 permits in December 2003 may retain the number they had at that time but may not own or share ownership of any additional permits.

4.2.1.5. Appeal for Medical/Military Hardships

Permit holders who meet the qualifications in Appendix B may request their fishing performance for the years 1999-2000 be considered in qualifying for the initial trap allocation.

4.2.1.6. Minimum Size

The Minimum Size for Area 2 is 3-3/8" carapace length.

Future addenda or plan amendments may require adjustments to minimum gauge sizes pending stock assessment results.

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-VII are necessary to limit the expansion of effort into the lobster fishery, to rebuild egg production to recommended levels and to address stock declines. ASMFC recommends that the federal government promulgate all necessary regulations to implement the measures contained in Sections 4 of this document.

Appendix 2

Table 1. Frequency of maximum traps fished (per fishermen) among Area 2 lobstermen in MA (1999-2004) & RI (1999-2003).²

Range of Traps	Count of Permit Holders from Massachusetts			
	2001	2002	2003	2004
0 (DNF)	162	150	169	186
1 - 100	50	47	40	43
101 - 200	24	22	20	13
201 - 300	13	19	21	20
301 - 400	19	15	21	11
401 - 500	9	12	4	8
501 - 600	4	4	5	2
601 - 700	3	4	2	2
701 - 800	21	32	24	20
> 800	1	1	0	1
Total	306	306	306	306

Range of Traps	Count of Permit Holders from Rhode Island		
	2001	2002	2003
0 (DNF)	1124	1156	1212
1 - 100	144	131	115
101 - 200	41	35	29
201 - 300	24	23	13
301 - 400	15	19	12
401 - 500	15	12	15
501 - 600	13	5	9
601 - 700	6	8	8
701 - 800	100	100	76
> 800	11	4	4
Total	1493	1493	1493 ³

² Note that this is a retrospective summary of traps fished by current (2004) permit holders, thus total number of permit holders does not vary inter-annually in RI and MA, respectively.

³ The most recent (June 26, 2005) analysis by RI officials on the status of eligible permit holders, recalculated the number of permit holders eligible to remain in the fishery (reported lobster landings with traps during 2001-2003), lowering the count from 622 to 404. Permit holders who failed to renew their permit will likely not be eligible to remain in the fishery.

Appendix 2

Table 2. Regression output tables for 5-year ('99-'03) and 3-year ('01-'03) periods showing predicted traps fished for given levels of annual landings.

Pounds Landed	Predicted Traps		Pounds Landed	Predicted Traps		Pounds Landed	Predicted Traps
0	0		3,000	398		6,000	623
100	44		3,100	407		6,100	630
200	69		3,200	415		6,200	637
300	90		3,300	423		6,300	643
400	108		3,400	432		6,400	650
500	125		3,500	440		6,500	657
600	140		3,600	448		6,600	663
700	155		3,700	456		6,700	670
800	169		3,800	464		6,800	676
900	183		3,900	472		6,900	683
1,000	196		4,000	480		7,000	689
1,100	208		4,100	487		7,100	695
1,200	220		4,200	495		7,200	702
1,300	232		4,300	503		7,300	708
1,400	243		4,400	510		7,400	714
1,500	254		4,500	518		7,500	720
1,600	265		4,600	525		7,600	727
1,700	276		4,700	532		7,700	733
1,800	286		4,800	540		7,800	739
1,900	296		4,900	547		7,900	745
2,000	306		5,000	554		8,000	751
2,100	316		5,100	561		8,100	757
2,200	326		5,200	568		8,200	763
2,300	335		5,300	575		8,300	769
2,400	345		5,400	582		8,400	775
2,500	354		5,500	589		8,500	781
2,600	363		5,600	596		8,600	787
2,700	372		5,700	603		8,700	793
2,800	381		5,800	610		8,800	799
2,900	389		5,900	617		8,900	800

Appendix 2

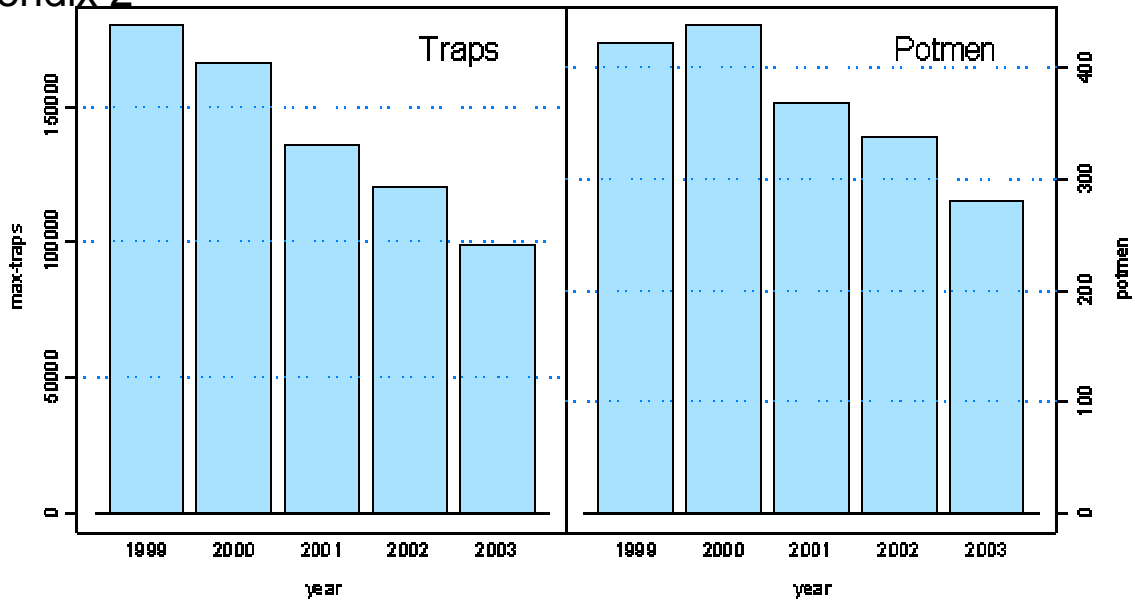


Figure 1. Attrition in RI Lobster Trap Fishery: 1999-2003.

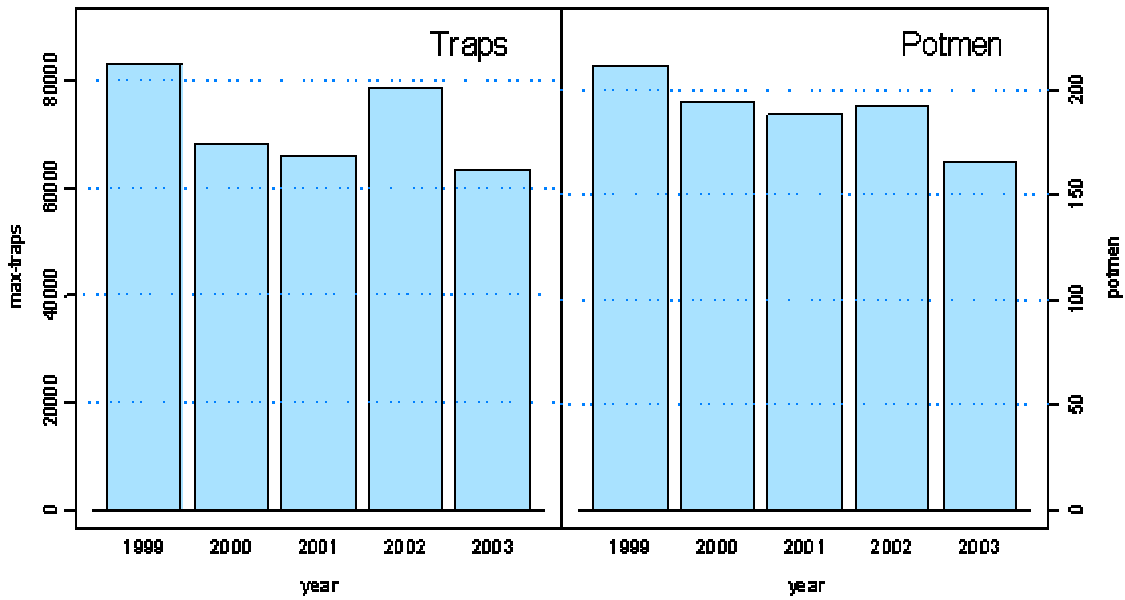


Figure 2. Attrition in MA Southern waters lobster trap fishery: 1999-2003.⁴ See footnote below regarding data accuracy.

⁴ Note that MA historical counts of traps fished and number of fishermen depicted here is an estimate from MA catch reports and may include some fishing beyond LMA 2, including Areas 3 and Outer Cape Cod. Data were selected for fishermen who fish in MA statistical reporting areas that closely coincide with Area 2 but not exclusively in Area 2. Since 2004, MA lobster trap fishermen are required to select a single LMA so more recent counts of traps (44,361) and fishermen (137) are considered more accurate.

Appendix 2

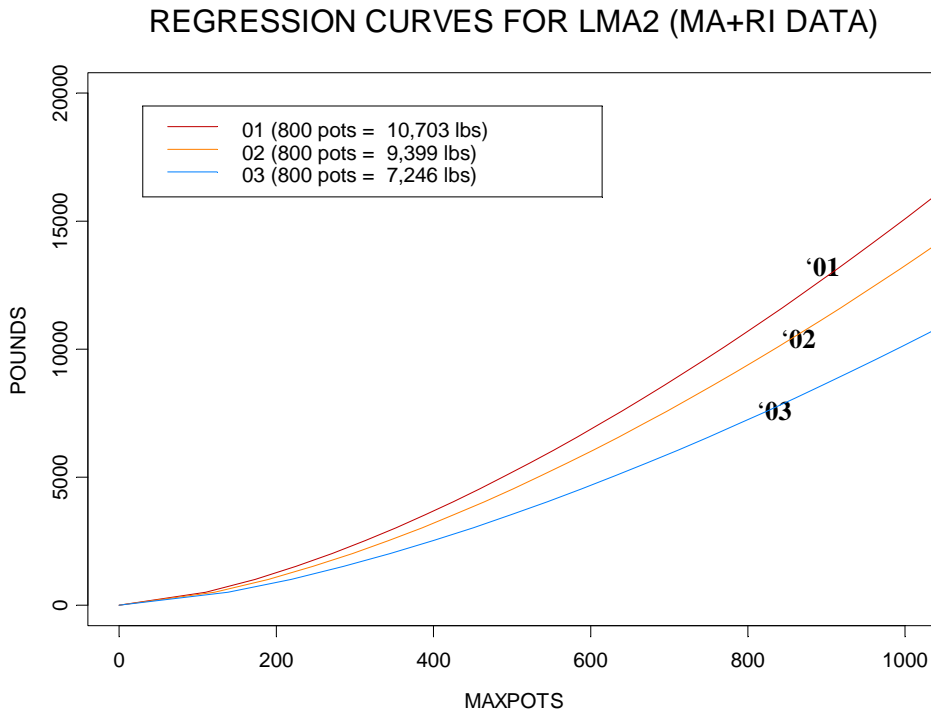


Figure 3. Regression curves depicting the relationship between traps fished and pounds landed in each year between 1999 – 2003 depicting an annual decrease in catch rates.

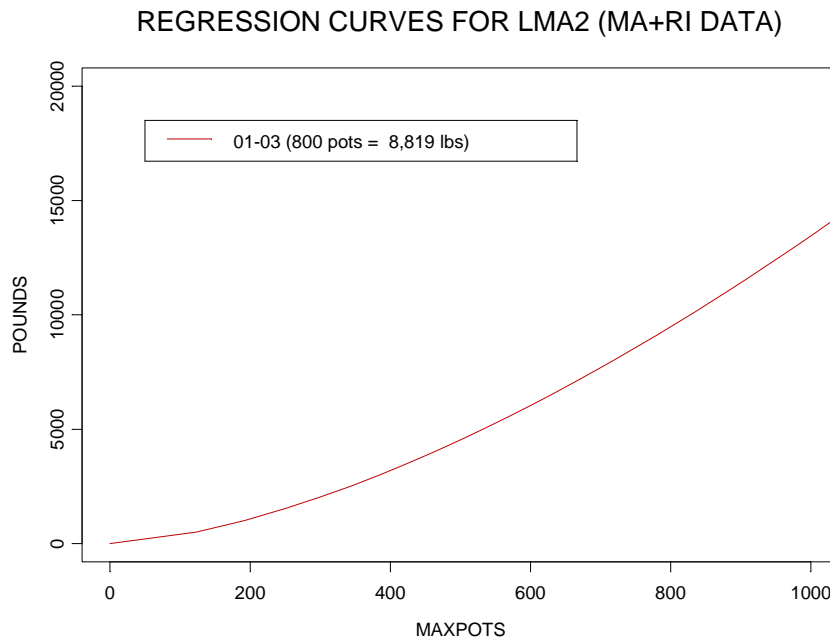


Figure 4. Regression curves depicting the relationship between traps fished and pounds landed. Data are combined into a 5-year data set (1999-2003) and then selected for only the three most recent years (2001-2003). Data are combined for RI and MA.

Proposed Hierarchy of Documentation for Allocating Traps:

For pounds landed

One or more of the following:

1. Official state reporting documentation showing pounds of lobster landed, including but not limited to
 - i. state report cards;
 - ii. state vessel interview forms;
 - iii. state sea sampling observer reports; &
 - iv. catch reports; or
2. Federal fishing trip report (NOAA Form 88-30); or
3. Federal Port Agent Vessel Interview forms (NOAA Form 88-30); or
4. Federal Sea sampling Observer Reports; or
5. Personal vessel logbooks; or
6. Sales receipts or landing slips.

For traps fished

One or more of the following:

1. Official state reporting documentation showing number of traps fished, including but not limited to
 - i. state report cards;
 - ii. state vessel interview forms;
 - iii. license application forms;
 - iv. state sea sampling observer reports;
 - v. catch reports; or
2. Federal fishing trip report (NOAA Form 88-30); or
3. Federal Port Agent Vessel Interview forms (NOAA Form 88-30); or
4. Federal Sea sampling Observer Reports;
5. Federal Fishing Vessel and Gear; or Damage Compensation Fund Reports (NOAA Form 88-176); or
6. Personal vessel logbooks; or
7. Tax returns and sales receipts.

Appendix B

PROPOSED APPROACH FOR ALTERNATIVE ACCESS TO THE AREA 2 LOBSTER FISHERY BASED ON LENGTHY INCAPACITATION DURING THE PROPOSED 2001-2003 QUALIFYING PERIOD

- 1) The qualifying period used to determine the allocation of traps is based on:
 - A. A license holder must have landed lobsters with traps during any year from 1999-2003. This demonstrates recent participation in the fishery;
 - B. A license holder must possess, and present to the state marine fisheries management agency, written documentation of a material incapacitation during the period 2001-2003, such documentation circa the date of the incapacitation and notarized at the time that the appeal is presented.
 - C. Individuals who qualify under these requirements can use landings from any year or years (highest or the average) during the years 1999 and 2000 as the basis for their allocation, provided that the individual must also have landed lobsters with traps during 2004, and must have possessed a state or federal commercial fishing vessel registration and/or a state or federal commercial fishing license to land lobster continuously during the period 1999-2004.
 - D. The regression equation used to determine individual trap allocations will be based on data for the year or years used by the applicant for his landings. (This means that higher landings are needed for the same number of traps if the year chosen is a more productive year.) The accuracy of the individual landings used to allocate traps will be verified by a State agency prior to that agency certifying an allocation of trap tags.

Definitions:

Material - the closest definition to a legal situation is "of importance to a case; relevant."

Incapacitation - to make legally ineligible; disqualify.

Note on usage in the context of this proposal: "material incapacitation" is intended to account for an event beyond the control of the license holder such as military service or a medical condition. It is not intended to account for a choice of the license holder to pursue other interests or to an irrelevant medical condition (e. g. a broken bone or short-term illness would not have incapacitated a person for three years).

Circa - approximately at the time of the event.

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



ASMFC Vision Statement:

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

Approved February 2009

Appendix 3

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Executive Summary

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

1.0 Statement of the Problem

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

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

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

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

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

2.0 Background

2.1 History of Qualification and Allocation Plans

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

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

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

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

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

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

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

2.2 History of Most Restrictive Rule

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

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

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

2.3 History of Transferability

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

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

3.0 Foundational Principles

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

3.1 Principles Governing Permits

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

3.2 Principles Governing Transfers of Fishing History

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

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

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4.0 Management Measures

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

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

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

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

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

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4.2 Most Restrictive

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

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

Example 1:

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

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

Example 2:

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

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

Example 3:

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

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

Example 4:

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

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

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

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

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

4.3.1 Permit and Allocation Tracking (interjurisdictional database)

4.3.1.1 State-Level Tracking

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

4.3.1.2 Interjurisdictional Tracking

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

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

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4.3.2 Conservation Tax on Transfers

4.3.2.1 Partial Trap Allocation Transfer Conservation Tax

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

4.3.2.2 Complete Lobster Fishing Business Conservation Tax

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

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

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

4.3.3.1 Controls on Transfers of Allocation and permits

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

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

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

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

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

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

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

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

4.3.4 Measures applicable solely to Transfer of Partial Trap Allocations

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

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

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

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

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

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

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

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

4.5 Compliance

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

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

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

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

5.0 Recommendations for Actions in Federal Waters

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

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6.0 Appendix

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

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

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

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

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

This applies to both state only and dual permit holders.

[^]Ability to fish traps in state waters (any state) is lost

7.0 References

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

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



ASMFC Vision Statement:

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

May 2008

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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

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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 trap 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.

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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.

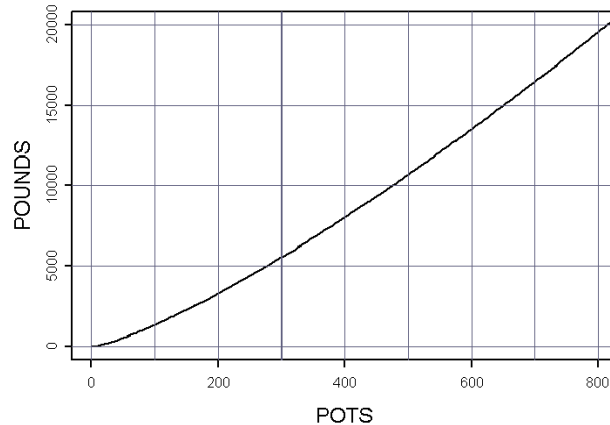


Figure 1. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from Massachusetts catch reports from fishermen fishing primarily in the OCC LCMA during years (1997-2001).

- 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

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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.

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.

**Addendum XIV to Amendment 3 to the
Interstate Fishery Management Plan for
American Lobster
LCMA 3 Trap Transfer Program**



ASMFC Vision Statement:

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

Approved May 5, 2009

Appendix 5

1.0 Introduction

The Lobster Conservation Management Team (LCMT) for Lobster Conservation Management Area 3 (LCMA 3) recommended to the American Lobster Board (Board) that it consider changes to its transferable trap program. It recommended lowering the transfer trap cap and adjusting the conservation tax on transfers. In August 2008, the Board approved a motion to initiate the development of a draft addendum to Amendment 3 to the Interstate Fishery Management Plan (FMP) to alter the LCMA 3 transfer program including changes to conservation tax and trap cap. The Board approved the changes to the transfer program at the Spring 2009 Board meeting.

2.0 Statement of the Problem

Given the competitive nature of the fishery in LCMA 3, it is expected that once transferability is implemented, all fishing entities will elect to fish the highest number of traps in order to remain competitive. This could lead many who have never fished a larger allocation to buy up to the trap cap of 2,200 traps (under the previous regulation). There were concerns for increased costs and overhead and consolidation in a fishery where only a certain number of traps are allocated. The LCMT recommended that the Board lower the trap cap to address these concerns. The trend of the management process has been to fish fewer traps and the LCMT considered this a positive move toward the future. This Addendum lowers the trap transfer cap from 2,200 to 2,000 traps.

Previously the LCMA 3 conservation tax was based on the number of traps being transferred. The two-tiered tax system had caused confusion. There had been concern that a high conservation tax would deter transfers from occurring, thus reducing the conservation benefit of having a transfer tax. This Addendum modifies the program to a single conservation tax for partial allocation transfers within LCMA 3 and includes a conservation tax on the sale of a complete fishing operation.

3.0 Background

American Lobster Addendum IV to Amendment 3 outlines a transferable trap program for LCMA 3. This program allows LCMA 3 lobster fishermen to transfer trap tags to other lobster fishermen. Addendum V reconsidered and established a new overall trap cap and conservation taxes for transferring traps in LCMA 3. Draft Addendum XIII proposed to modify the overall trap cap and conservation tax on transfers but the Board did not take action on the LCMA 3 program in Addendum XIII and reconsidered the transfer program changes in draft Addendum XIV.

With LCMA 3 trap reductions, the overall traps have declined for each permit holder who holds permit-specific trap allocations. The maximum trap allocation for any LCMA 3 permit holder will be 1,945 traps (once all scheduled trap reductions are complete), lower than the previous transfer program cap of 2,200 traps.

It is expected that LCMA 3 trap allocations will be transferable once all agencies fully implement Addendum XII. There is a concern that once transferability has begun, permit holders may seek to maximize their trap allocations through transfers and the end result (after many years of transfers) will be fewer fishermen involved in the fishery and most fishing up to the limit of 2,200 traps. Given a fixed number of traps available in the fishery, any lowering of the trap cap (as proposed here) could result in more participants (if the expected trend toward

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consolidation occurs). It may also allow for economic profitability through flexibility, and support creative options for future business planning.

The basis for the 2000 trap cap limit is to cap trap fishing levels (on a per vessel basis) to a level similar to those seen in the offshore waters in the 1990's when the FMP was established. Variable costs to run a lobster business are increasing (fuel, rope, bait), capping the maximum trap levels can promote economic efficiency. Consequently, this addendum attempts to meet two of the FMP's objectives:

- 1) *Maintain existing social and cultural features of the industry wherever possible*
- 2) *Promote economic efficiency in harvesting and use of the resource*

4.0 Management Measures

These measures replace Section 2.0 of Addendum V to Amendment 3.

All measures in this plan occur solely in federal waters.

4.1.1 LCMA 3 Transfer Tax

A conservation tax (passive reduction) of 20% is assessed for each partial transfer of traps in LCMA 3 (example: if 100 trap tags are transferred to a fisher, the net number of tags received by that fisher will be 80).

A conservation tax (passive reduction) of 10% is assessed for the sale of a complete fishing operation in LCMA 3.

4.1.2 LCMA 3 Trap Cap under Transfers

No individual/business with an allocation less than 2,000 traps can build their total trap allocation above 2,000 traps under a trap transfer program, regardless of historical participation.

4.2 Compliance

States shall be required to enact regulations instituting measures contained in section 4.0 of this document upon NOAA Fisheries completing rule making on Addendum XIV recommendations, not prior.

Agencies shall incorporate trap levels into the Annual Lobster Compliance report due to ASMFC's Plan Review Team on March 1 after regulations have been adopted.

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-XIV are necessary to limit the expansion of effort into the lobster fishery and to rebuild lobster stocks to recommended levels. The Commission recommends that NOAA Fisheries promulgate all necessary regulations to implement the measures contained in Section 4 of this document.

Lobster History-Based Allocation and Transfer Issues **Report to the ASMFC Lobster Management Board** *October 2007*

The following White Paper outlines critical issues associated with history-based effort control plans that are based on fishing performance, such as the Area 2 Limited Entry Program that is prominent now and the subject of this White Paper. The issues identified in this document are issues that have yet to be resolved consistently across all impacted management agencies, with emphasis on LCMAs that have implemented transferable trap programs. These issues include: assignment of fishing history, especially for individuals whom hold both a state license and Federal permit (dual permit holder); the potential for fishing effort to increase with trap transfers of multi-Area trap allocations; and review of the Most Restrictive Rule for multi-LCMA trap allocations.

Objective: Identify issues associate with history based allocation and transfer programs and proposes approaches to create ITT programs that provide flexibility to the fishery and that meets the conservation objectives of the plan.

Definitions:

Individual Transferable Trap Program (ITT): a trap transfer program for that allows permit holders to transfer their trap allocations (i.e. buy or sell traps, but not lease traps).

Permit Holder: a holder of a Commercial Fishing Permit or License from a Federal or state management authority (Note: the States license the individual; NOAA Fisheries permits the vessel)

Dual Permit Holder: a person with two fishing permits: one from the state that allows fishing in state water; and a second from NMFS, that allows fishing in federal waters. (Note: the States license the individual; NOAA Fisheries permits the vessel).

Federally Permitted: a vessel that is permitted to fish in Federal waters. This vessel might also need a state landing license to land in a particular state.

Allocation Transferee: the holder of a commercial lobster permit who receives an ITT allocation.

Permit Transferee: the person or vessel who receives/acquires a commercial lobster permit.

Transfer Trap Tax: the Area-specific percentage of each transferred ITT allocation required to be surrendered for conservation purposes

Long-term policy questions that have been identified:

What should be the eventual outcome of these Area-specific allocation schemes? Should these results be further delineation and isolation of permit holders to specific LCMA's? Should permit holders eventually be limited to fewer (or even just one) LCMA? Or should the program work to accommodate flexibility for permit holders by allowing free movement of trap allocations across the fleet. Under this approach, permit holders who currently fish in one (or just two) LCMA's can freely obtain allocation through transfers from additional LCMA's thereby resulting in a blurring of the LCMA and LCMT principles of distinct fleets and fisheries.

Moreover, the jurisdictional aspect of the trap allocations within an LCMA must be addressed. Does it matter if traps migrate from state waters to federal waters (or vice versa) within an

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LCMA? Does it matter if traps migrate from the waters of one state into the waters of another state, or from the federal waters off one state to the federal waters off of another state? Committee members have identified scenarios where dual permit holders obtain trap allocation from a state-only permit holder within an LCMA and this could result in a migration of traps from the state- to the federal-waters portion of the fishery or vice versa.

Finally, the ASMFC approved a change to the “Most Restrictive Rule” in Addendum IV regarding trap limits that was not yet adopted by NMFS (currently under rulemaking). Should the “Most Restrictive Rule” be reevaluated given the advent of Area-specific ITT programs that have the potential to increase fishing effort, as discussed in greater detail below?

Potential options for addressing these questions and issues are outlined. It is important to resolve the issues identified in this paper for success of LCMA allocation and ITT programs. Once an ITT program is implemented and permits and traps are transferred, the ability to reverse and correct direction becomes almost impossible.

SECTION I – Background

Through various addenda to the interstate fishery management plan for American lobster, history-based effort control plans based on fishery performance have been enacted by NMFS (Areas 3, 4, and 5) and states (MA in Outer Cape Cod; NY and CT for Area 6; and MA, RI, CT, & NY for Area 2). The only Lobster Management Area without a history-based effort control plan is Area 1. These effort control plans allocate fishing privileges to fish traps within a LCMA based on the permit’s documented fishing history. Some Areas have established programs to allow transfers of a portion of permit holder’s allocation. In such a program, the transferable allocations are commonly referred to as Individual Transferable Traps (ITTs)

A critical flaw lies in the stand-alone nature of these history based ITT allocation schemes, and the potential impacts that result once these multi-Area ITTs are allowed to be transferred and/or split for dual permit holders (with a single fishing history). The historical time period to qualify for these plans was distinct for each area plan. For Areas 3, 4, and 5 the period to demonstrate fishing performance was 1991-1999; for Outer Cape Cod, the period was 1999-2001; for Area 2 the period was 2001-2003; and for Area 6 the period was 1995-1998. Many vessels or permit holders (depending if it is a federal vessel or a state license) qualified for multiple area-specific trap allocations for the following reasons:

- The discrete qualifying time periods encompasses 12 years and some vessels fishing locations and fishing patterns have evolved and shifted to more than one area over the time period;
- Allocation criteria used to assign effort and landings to a specific LCMA were liberal because statistical areas and LCMA’s do not coincide or the area resolution of qualifying data was insufficient;
- Some vessels legitimately fish in more than one LCMA;
- Overlap zones (e.g. LCMA 2&3) are so expansive that landings coming from this area can be attributed to either LCMA

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Criteria must be established to allow for consistent assignment of fishing histories for dual permit holders and, most importantly, for ITT transfers to take place once the history-based trap allocations are finalized. Criteria must also be established to address the potential impact of ITT transfers for multi-LCMA trap allocations.

State and Federal lobster fishery managers have identified the problems of “permit splitting”, where effort proliferates when a single fishing operation, dually permitted by a state and NMFS, could create a doubling of effort by shifting the state permit to a second vessel while the federal permit remains intact on the original vessel. Consider that a single vessel fishing in multiple areas over the span of 15 years or within the same year may have qualified for more traps in aggregate than it has ever fished. Aggregate trap allocations in excess of its historical maximum constitute latent effort.

SECTION II - Problem Statements

A. Dual Permit Splitting

Example: A dual permit holder accumulates fishing history on a single vessel and later splits the permits. This vessel is sold with the Federal permit/allocation but the individual retains his state license/allocation.

Result: This single lobstering enterprise with a single fishing history has now spawned twice the effort: i.e., both the Federally permitted vessel under new ownership and the original individual retaining the state permit may expect to receive trap allocations based on the same history, thus traps allocated would increase.

Solution: Policies should be developed requiring that all history follows the Federal permit for dual permit holders participating in LCMA's that are part of a history based allocation program.

Dual state/federal permit holders often have a fishing history that is so intertwined that it is, for all intents and purposes, both indistinguishable and indivisible. Records are not precise enough (and in most cases don't even exist) to determine what percentage of the catch was caught in state waters under the state permit, and what percentage was caught in the EEZ under the federal permit. Addendum VII acknowledges this situation by stating that one fishing entity equals one fishing history, even if the single fishing entity fished under both a state license and federal permit. Yet the states and federal government still have exclusive and separate authority over their respective permits even though the permits' history is identical. So, although the States and NMFS will be looking at the same history when making qualification and allocation decisions, those qualification and allocation decisions will be nevertheless separate and independent. Accordingly, there is tremendous need for the States and NMFS to interpret and treat that co-mingled history the same way.

Importantly, the states and NMFS have differing standards on how that history can be treated when transferred. For example, federal fishing history is permanently attached to the federal permit and cannot be split off of that federal permit. So, when a federal permit is transferred to another vessel, that permit's fishing history is automatically transferred to the new vessel with the permit. Certain states, however, allow their state permit's history to be split from the state permit and retained or transferred separately. So, when a dual permit holder (multi-area allocations that arose from a single fishing history) splits his state and federal permits, one full history stays with the federal permit and a duplicate history potentially stays either with the state

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permit or if split off that state permit, then possibly stays with the person. In either event, there is the potential to double count the single history and thus proliferate traps, increase effort, and greatly confuse overall management of the fishery.

One potential solution would be for the State to carefully examine the permit history when it is involved in making qualification and allocation decisions. If the State finds that the state license was split from an enterprise that originally fished under dual state/federal permits (with a single fishing history), then the history accumulated during those dual permit years shall be considered to have left the state permit and to have followed the Federal at the time of the split. In other words, when the dual permits holder sells his Federal permit, all of the fishing history is transferred with that Federal permit. Note, this does not resolve the problem of the States and NMFS interpreting a common history differently, but it would help minimize the situations where the states and NMFS might double count a single history that has been split to different lobstering enterprises.

B - Regulatory Consistency

Issue: Qualification and allocation criteria differ by state

Result: Interstate and State/Federal allocations is inconsistent

Solution: Only allow intrastate transfers for state-only permit holders (no dual permits holders) until all agencies that license fishing in trap transfer programs have allocated traps and a method for resolving conflicting allocations for a given area is adopted

Different regulatory strategies to allocations may undermine overall management based on trap allocations. This is less of a problem for state-only permit holders, but the problem is acute for dual permit holders with a single fishing history, especially where allocations and trap transferability is involved. Specifically, NMFS has one set of lobster regulations that apply equally to permit holders regardless of state citizenship. Accordingly, it is exceedingly difficult for NMFS to create one set of uniform federal regulations that match all of the state's regulations when inconsistencies in the states' regulations exist. The end result will be that the federal regulations will differ from at least some of the states' regulations, which will result in some dual permit holders receiving different allocations based upon the same fishing history. These differing allocations will create confusion and be difficult (and presently impossible) to track as they are transferred. It is also unclear whether differing jurisdictions will honor decisions made by another jurisdiction that differs from their own.

At present, there is no ASMFC approved Area 2 trap transferability plan (under development with this white paper), although the Commonwealth of Massachusetts has commenced transfers among its LCMA 2 and Outer Cape Cod permit holders. Addendum VII (November 2005) states that one be developed in the future. Addendum IX (October 2006) further acknowledges that the Area 2 transferability plan still has yet to be developed, although once one is, the addendum mandates that it contain a transfer tax component.

Near term restriction of trap transfers would help mitigate the potential for chaos and prevent further expansion of the problems created by state/state and state/federal disconnects. First, allow no dual State/Federal permits holders to transfer their traps until all agencies that license fishermen/vessels authorized to participate in such ITT programs have assigned initial historic

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trap allocations, and resolved any differential allocations. Second, allow no multi-jurisdictional transfers (either from one state permit holder to a permit holder of another state, or permit holders with dual state/federal permits or a state-only to a dual permit holder with a single fishing history) until agencies within the effected LCMA adopt and implement the ITT program. In the meantime, trap transfers within a state (among the same state, state-only permit holders) or sales of full fishing business could be authorized (within existing agencies regulations).

It should be noted that many industry members who supported the effort control plan for LCMA 2 established by Addendum VII, as well as some state officials, envisioned a scenario where traps could be more freely transferred among permit holders and across jurisdictions especially between state-only permit holders and dual permit holders. This may not be possible without a formal position taken by the Board with consensus from NMFS

C - ITT Administration

Issue: No multi-agency procedure to track ITT programs; annual application period for transfers varies by agency; no communication system between agencies for ITT transfers

Result: Inaccurate trap allocations and administrative burdens increase

Solution: Establish and fund a multi-agency tracking system

Tracking fishing history will create tremendous logistical issues as allocations are split amongst permits and transferred as part of an ITT program. There is presently no uniform mechanism to identify and track permit fishing history across all impacted state and Federal jurisdictions nor is there any uniform measure to identify and track traps as they become transferred within and among state jurisdictions. These logistical issues will become compounded and more problematic as transfers proliferate and are re-transferred in successive years.

There is a compelling need to establish and fund an expandable, web-based, tracking process for all multi-jurisdictional historic trap allocations and trap transfers. Initially this tracking process can address Area 2, but should be expandable to incorporate other Areas with ITT programs. This tracking system would be managed by one entity, but all agencies should supply supporting data. This tracking system will address the logistical issues, enable a measure of the success of ITT programs, and increase the understanding of how many traps have the potential to be fished in each LCMA area.

It also mitigates the potential for chaos and prevents further expansion of the problems created by potential individual and unique state/state and state/federal tracking systems. Creating and funding a single tracking system will reduce the administrative burden on all agencies working to coordinate ITT programs. It will create a single set of regulatory guidelines that is consistent across participating state and federal jurisdictions.

One solution: Do to administrative limitations, transfers among users would be allowed in the following sequential order as centralized tracking system evolves:

1. Transfer of allocation among state-only license holders (within the same state-only). This option will require funding for states with insufficient administrative support. A preliminary cost would be 30(K).

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2. Dual permit holders from state to Federal waters (within the same state-only) [*Comment - NMFS is unclear on this option, we feel that anything other than “within state transfers by state-only coastal permit holders” would need a tracking system. If a dual permit holder buys coastal/state-only traps, the buyer may be at risk of losing or not being able to fish the new state-only traps if NMFS does not acknowledge that transaction when they qualify/implement*]
3. Complete ITT transfers. Any permit holder with traps in an LCMA with an established trap transfer program may sell traps. For this option to occur, a full tracking system must be established and funded.

Cost for a Complete Tracking System

Preliminary estimates to fund a web-based tracking system:

1. Start up: 200(K) (design and implement tracking system)
2. Annual maintenance 80 (K) (salary and benefits for one individual to maintain database)

If this tracking program were not funded, then transfers across jurisdictions (e.g. state to state, or any transfer involving a dual permit holder) open access transfers would not be possible, resulting in a smaller pool of transfers. A smaller number of transfers result in less conservation value (fewer trap reductions through the conservation tax).

D - Multi-LCMA Trap Allocations

Issue: Current Area-specific plans fail to recognize that many permit holders have distinct area-specific history-based allocations in more than one LCMA, and some Area-specific plans allow sale of allocations without recognizing the effect on the permit’s overall allocation and/or authorization to fish traps.

Result: Area specific allocations can be split by LCMA and sold; trap numbers increase if allocations are not reduced proportionally across all LCMAs

Solution: When area-specific allocations are transferred, apply an Anti-Stacking Rule trap sale

Because of the different qualifying periods, and the assignment of allocations in multiple areas due to a lack of LCMA-specific harvest information (such as the 2/3 Overlap), some permit holders have trap allocations in multiple LCMAs that, in combination, are greater than the number of traps the license (or vessel) has ever fished. For example, a person might have historically fished no more than 800 traps at any one time, but moved those traps seasonally, so that they received an 800 trap allocation in each LCMA 2, 3, and Outer Cape. These “additional” traps could increase the amount of effort in any given area if dual permits with a single fishing history are allowed to be split off while retaining the allocation in other areas (see Problem Statement A). Similarly, if a permit holder with a multi-LCMA trap allocation (be it a dual permit holder or state-only license holder) is allowed to treat that multi-LCMA allocation as separate and individual history and therein transfer some of that history (in the form of traps) without it impacting the history (in the form of traps) in the other LCMAs, then double and triple counting of history will occur and effort will similarly increase.

To resolve this problem, apply the Anti-Stacking Rule to trap transfers. Fishermen cannot stack (combine) histories or area allocations as if they were separate and distinct (the Anti-Stacking Rule) because, in reality, they weren’t separate and distinct when the qualifying fishing history was accrued. Nor for the same reasons should they be allowed to split and transfer LCMA

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allocations as if the allocations (and the histories upon which they were based) were separate and distinct. For example, a dual permit holder with 800 Area 2 traps and 1000 Area 3 traps can't fish 1800 traps. Why? Because historically, the business operation never fished 800 traps in Area 2 whilst fishing 1000 traps in Area 3. It was one operation of 800-1000 traps historically, and it is the intention of the ISFMP to treat it as one operation of 800-1000 traps now. So, the business can not act as if there are 1,800 traps (800 Area 2 traps added to 1000 Area 3 traps) to transfer. A permit holder must subtract the number of traps transferred from each LCMA's starting number of traps allocated.

For example: if a permit holder has three trap designations: (1) LCMA 3: 1200 traps, (2) LCMA 2: 800 traps; and (3) LCMA 4: 600 traps, then at any given time this fisherman is not permitted to fish more than 1200 traps¹. Applying this concept to transferability, if he sells 400 LCMA 2 traps, then his overall portfolio would be reduced by 400 traps. His portfolio would become (1) LCMA 3: 800 traps; (2) LCMA 2: 400 traps; and (3) LCMA 4: 200 traps, and can fish no more than 800 traps, and can only transfer 800 traps in the future.

Seller Current Allocation	Transfers	Seller Trap Allocation	10 % Transfer Tax	Buyer Trap Allocation
800 LCMA 2	400 LCMA 2	400 LCMA 2	40	360 LCMA 2
1200 LCMA 3		800 LCMA 3		
600 LCMA 4		200 LCMA 4		

This solution follows the ISFMP's effort control strategy articulated in its addenda and Amendments since 1997. From acknowledgement in Amendment 3 that "maintaining existing cultural and social features" was a goal, to the creation of history based limited access programs in six out of the seven LCMAs, and finally to Addendum VII's guidance that permit holders with single fishing histories not be allowed to split (replicate and double count that history) the Lobster ISFMP has consistently sought to recognize the actual on-the-water history of the lobster fishery and to prevent technical interpretations that would distort that history and lead to effort proliferation. This present solution follows this theme; it ensures that additional traps that were not historically fished will not enter into the fishery. It allows effort levels to remain consistent with what each entity traditionally has fished, thus protecting the lobster stock from additional mortality from increased fishing effort.

ITT Conservation Tax and Application Deadlines

For each trap transfer program that is designed for a LCMA, it is recommended that a conservation tax of at least 10% be put in place to further reduce traps and allocations. For partial allocation transfers: all applications for transfers would have to be submitted by a date certain, annually (e.g. November 1). For full fishing business transfers: sale of an entire fishing business can take place at any point of the year.

¹ Note: Under the federal version of the most restrictive rule, this permit holder would be limited to fishing the lowest trap allocation among the LCMAs they chose. For example, if the holder elected Area 4, the trap limit would be 400 traps regardless of where they fished.

Appendix 6

ITT Ownership Limits

An ownership limit (anti-trust clause) should be established. An ownership limit would ensure the existing social and cultural features of the fishery, as asserted in objective number 4 of Amendment 3 to the FMP. Owner-operated vessels predominate the lobster fishery. Allowing entities to freely purchase and lease ITT could result in the concentration of permits and traps into the control of a few entities thereby change the character features of this fishery. Once a buyer has reached the trap cap for the area, traps can no longer be purchased with that area designation (or any traps purchased over the cap would be automatically relinquished).

Declare Only One LCMA if Obtaining Trap Allocation from a Multi-Area Permit Holders.

As noted in the examples for Issue C, some permit holders have been allocated traps in several ITT Areas. When held by a permit holder with historic trap allocations in several limited access LCMAs, one can view these as traps having fishing privileges for multiple LCMAs. When these traps are sold, the associated fishing privileges for multiple LCMAs must be accounted for. However, depending on the permit holders fishing history, it is possible for an individual trap to have fishing privileges for up to seven LCMAs. The potential for one entity to purchase traps from several permit holders, each potentially having fishing privileges in several different LCMAs, could result, over time, in the ownership of traps with dozens of combinations of fishing privileges. The ability of administering agencies to track, and the vender to issue trap tags under such a complicated ITT program is not practical. Therefore, to reduce the administrative burden (from accumulated LCMA permutations), and to enhance the ITT conservation benefits, when purchasing traps that were historically multi area traps, the purchaser must designate a single LCMA that the newly acquired traps will be authorized to be fished in.

Area 1 Conundrum

LCMA 1 is the only LCMA that has not established a history based allocation program. While states (ME, NH & MA) have varying degrees of limited entry, permit holders are subject to trap caps, not permit-specific allocations based on prior fishing performance. Moreover, under Federal regulations, all federal permit holders are eligible to elect Area 1 and fish traps in that area. This includes 1) federal permit holders who fish non-trap gears; 2) those who may have fished in other LCMA's but have been granted inadequate levels of traps through history-based allocation programs; and 3) those who have never (or not recently fished) in the fishery. Any of the aforementioned permit holders with a Federal permit may designate LCMA 1 to his Federal permit.

As fishermen fail to qualify and are squeezed out of the other limited access areas, the potential for migration of effort into Area 1 exists. Further, by establishing a transfer program in these other areas, it is possible that additional effort (traps) may shift into the LCMA 1. For example, an entity that is operating under an LCMA 1 trap cap of 800 traps and an LCMA 3 allocation of 800 traps (he has both a ME state license and a Federal permit). That individual may have an incentive to sell his federal vessel and permit but retain his state license to fish up to 800 LCMA 1 traps in ME waters. The new buyer now owns the federal permit with an LCMA 3 allocation, but because there is no history-based program for LCMA 1, that buyer can also fish up to 800 traps in LCMA 1. The net result would be a doubling of effort in Area 1 (800 traps under the state license with the original owner and 800 traps under the Federal permit with the new owner).

Appendix 6

One option to resolve this problem might be to develop some type of limited entry program in LCMA 1. While Draft Amendment 5 (under development) makes reference to an Area 1 limited entry program, the specifics on potential qualification and allocation criteria are lacking. Given LCMA 1's size and significance to the nation's overall lobster harvest, any potential LCMA 1 limited entry program should be set forth in great detail and only after significant input from the Area 1 fishermen, its LCMT, the Advisory Panel, and the public.

To resolve this problem, alternative approached should be considered:

For example, any permit holder who transfers or receives a trap allocation in a transfer may no longer be eligible to fish in Area 1 or elect Area 1 on their state or federal permit.

A type of limited entry program could be developed in LCMA 1. See example below:

Seller Current Trap cap or Allocation	Transfers	Seller Trap Allocation	10 % Transfer Tax*	Buyer Trap Allocation
800 LCMA 1 Trap cap – not an allocation)		Ineligible to fish in LCMA 1		Ineligible to fish in LCMA 1
1200 LCMA 3 Allocation	1200 LCMA 3	0	120	1080 LCMA 3

*For this examples purpose, the buyer's trap allocation is based on a 10% conservation tax.

Another option could be developed for Area 1: The seller's A1 trap cap could be reduced by an equivalent amount to the number of traps for the LCMA that was sold.

Seller Current Trap cap or Allocation	Transfers	Seller Trap Allocation	10% Transfer Tax*	Buyer Trap Allocation
800 LCMA 1 Trap cap – not an allocation)		400 LCMA 1 (personal trap cap)		Ineligible to fish in LCMA 1
800 LCMA 3 Allocation	400 LCMA 3	400 LCMA 3	40	360 LCMA 3

*For this examples purpose, the buyer's trap allocation is based on a 10% conservation tax.

Subcommittee Process:

The Lobster Transferability Subcommittee attendees (Dan McKiernan, Kim McKown, Mark Gibson, Mark Alexander, Bob Ross, Charles Lynch, and David Spencer; Staff: Toni Kerns) have met in March, July, September, and October (August via conference call) of 2007 to continue implementation of the Area 2 History Based Limited Entry and Individual Transferable Trap Program as specified in Addendum VII. As previously noted, several issues with assignment of fishing history and trap transferability were discussed at these meetings that could affect not only the LCMA 2 transfer program, but also any lobster transfer program for LCMAs with

Appendix 6

transferable trap programs. The committee continued to refine solutions for the implementation of an Area 2 History Based Limited Entry and Individual Transferable Trap Program as specified in Addendum VII.

Appendix 7

Atlantic States Marine Fisheries Commission

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Preston P. Pate, Jr. (NC), Chair
George D. Lapointe (ME), Vice-Chair

John V. O'Shea
Executive Director

Working towards healthy, self-sustaining populations for all Atlantic coast fish species, or successful restoration well in progress, by the year 2015

October 11, 2006

Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
Northeast Region
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Ms. Kurkul:



At the November 2005 American Lobster Board Meeting, the Board approved Addendum VII to Amendment 3 to the American Lobster Fishery Management Plan (FMP). A copy of the final document is enclosed for your review.

Addendum VII establishes a multi-state effort control program for Lobster Conservation Management Area 2 that governs traps fished in state and federal waters to cap effort (traps fished) at recent levels and allows adjustments in traps based on future stock conditions. This plan attempts to capture the attrition from the fishery, caused by stock decline, thereby preventing a return of overall fishing levels to historic highs of the late 1990's. The plan limits participation to permit holders who have been active in the fishery in recent years, creates permit-holder specific trap limits that are unique and based on reported traps fished and landings, and establishes a transfer program that allows the transfer of trap allocations.

"Predicted Traps Fished" was calculated for 2001, 2002, and 2003 from each fisherman's total landings in each of those years using the established regression relationship for LMA Area 2 to establish the number of traps allocated to each fisherman. The analysis was reviewed by the lobster technical committee (TC). The TC did not identify any technical deficiencies in the available data or the regression analysis. Please let me know if you have any questions or comments.

Sincerely,



John V. O'Shea

cc: Harry Mears
Robert Ross



Taking the Pulse of the Lobster Industry:
**A Socioeconomic Survey of
New England Lobster Fishermen**



**Gulf of Maine
Research Institute**
Science. Education. Community.

ACKNOWLEDGEMENTS

This project was the result of many individuals who shared their ideas, provided sound advice, and guided the efforts of Gulf of Maine Research Institute. We would particularly like to acknowledge Jason Maurice of Market Decisions, LLC who remained flexible to our needs and extremely engaged in the project from inception to final product. An exceptional member of the Steering Committee for this project was Eric Thunberg of the Northeast Fisheries Science Center, NOAA Fisheries. Eric conducted much of the analysis and generated many of the tables that are presented in this report. We greatly appreciated his patience, his support, and the time that he was able to give to this project. Kristen (Togue) Brawn provided research support for this project along the way and her contribution was much appreciated.

Our deepest gratitude is toward the lobster fishing community of New England. Members of the Steering Committee who represented the interests of the lobster community were thoughtful and supportive in their engagement with this project. Indeed, without the openness of the lobster fishing community to share their information, this project would not have been possible. Thank you!

Funding for this project was provided by the National Marine Fisheries Service (NOAA Fisheries Service), Northeast Cooperative Research Partners Program (NCRPP). Initiated in 1999, the goals of this program are to enhance the data upon which fishery management decisions are made as well as to improve communication and collaboration among commercial fishery participants, scientists, and fishery managers. NOAA Fisheries Service works in close collaboration with the New England Fishery Management Council's Research Steering Committee to set research priorities to meet management information needs.



For further information on the Cooperative Research Partners Program please contact:

National Marine Fisheries Service (NOAA Fisheries Service)
Northeast Cooperative Research Partners Program

(978) 281-9276 – Northeast Fisheries Science Center, Cooperative Research Office, Gloucester
(401) 782-3323 – Northeast Fisheries Science Center, Cooperative Research Office, Narragansett Laboratory

www.neto.noaa.gov/StateFedOff/coopresearch/

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**Gulf of Maine
Research Institute**

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About This Report

In the summer of 2005, the Gulf of Maine Research Institute (GMRI) initiated a project to collect baseline socioeconomic data on the New England lobster industry through a telephone survey. GMRI contracted Market Decisions, LLC, a market research firm based in Portland, Maine, to administer the survey. A Project Steering Committee was convened to help develop the survey and ensure collection of the most accurate and meaningful data. The Project Steering Committee consisted of federal and state (ME, MA, NH, RI) managers, as well as members of the Maine Lobstermen's Association, Massachusetts Lobstermen's Association, Atlantic Offshore Lobstermen's Association, and the South Shore Lobstermen's Association. The Project Steering Committee helped publicize the project with their constituents, and also assisted with overall outreach and interpretation of the final results.

This summary document provides an overview of the survey results for the *New England Lobster Socioeconomic Survey*. Although this survey sought baseline data in a broad range of areas, two areas were of particular interest to the Steering Committee: vulnerability and effort. Throughout this report, information concerning these two areas will be highlighted. It should be noted that all data presented here are in aggregate form. Those interested in learning more about the results of the survey are encouraged to review the entire report produced by Market Decisions, LLC, available through the Gulf of Maine Research Institute. However, all individual respons-

Project Steering Committee

- Eric Thunberg, National Marine Fisheries Service, Northeast Fisheries Science Center
- Bonnie Spinazzola, Atlantic Offshore Lobstermen's Association
- Patrice McCarron, Maine Lobstermen's Association
- Terry Stockwell and Sarah Cotnoir, Maine Department of Marine Resources
- Dan McKiernan, Massachusetts Division of Marine Fisheries
- Patricia Pinto Da Silva, National Marine Fisheries Service, Northeast Fisheries Science Center
- Cheri Patterson, New Hampshire Fish and Game
- Thomas Angell, Rhode Island Division of Fish and Wildlife
- David Casoni and Bill Adler, Massachusetts Lobstermen's Association
- Clare Grindal, Downeast Lobstermen's Association
- Fred Dauphinee, South Shore Lobstermen's Association

es to the survey are confidential. No one outside of the market research firm who conducted the phone interviews has access to individual responses.

The original survey targeted responses from 12 areas (described on page 13). To facilitate use of these survey results in management, most data in this report is presented by Lobster Conservation Management Area (LCMA). LCMA 1 is divided into ME and NH/MA. In some instances, Maine information is broken down further into three areas: Downeast

About This Report



(zones ABC), Midcoast (zones DE), and Southern Coast (zones FG). Due to the differences inherent in lobstering in LCMA 3 which is further offshore, responses for LCMA 3 will be given separately in several instances.

This report focuses on responses of active lobstermen (For the purpose of this report, active lobstermen are defined as those landing greater than 1000 pounds). General characteristics of all respondents who landed less than 1000 pounds of lobster in 2005 can be found in the Appendix.

The *New England Lobster Socioeconomic Survey* addresses the need for comprehensive socioeconomic data in the New England lobster industry. A great deal of valuable information was collected through this survey. It is hoped that fishermen, managers, and others will use this information to anticipate the socioeconomic impacts of changes in lobster policy and to facilitate sound management throughout the New England lobster fishery. This survey provides baseline information on the lobster fishery, but future surveys will be useful to gauge the changes in the industry over time.

Why We Conducted This Survey

American lobster is the most valuable fishery in the northeastern United States. Northern New England's lobster landings have continued to grow over the past fifteen years, with nearly every year surpassing the last. In 2006, reported lobster landings for Maine, New Hampshire and Massachusetts were over 86 million pounds with a landed value of \$363 million. As each year goes by, scientists, regulators and fishermen become more concerned that record setting lobster landings may not continue. Landings in Southern New England peaked several years ago and have declined substantially since. Rhode Island landings peaked at 7.4 million pounds in 1991 and had fallen to less than 3.8 million pounds by 2006 while landings in Connecticut fell from a peak of 3.5 million pounds in 1997 to 792 thousand pounds in 2006.

Lobster landings have risen and fallen over the course of the fishery's history, and current conditions represent an atypical apex in the landings trend (Figure 1). Despite current record lobster landings, some scientists have predicted the potential for a down-turn in landings on numerous occasions.

The 2005 peer-reviewed stock assessment report for American lobster indicates the health of the resource is variable. Throughout most of the Gulf of Maine (GOM) and Georges Bank (GBK), the stock abundance is stable and recent mortality rates are sustainable. However, the report cautions for both GOM and GBK stocks "effort indicators are negative." The report goes on to suggest: "This high effort is concurrent with high stock abundance, and is not likely to be supportable if abundance returns to median levels." (<http://www.nefsc.noaa.gov/sos/spsyn/iv/lobster/>)

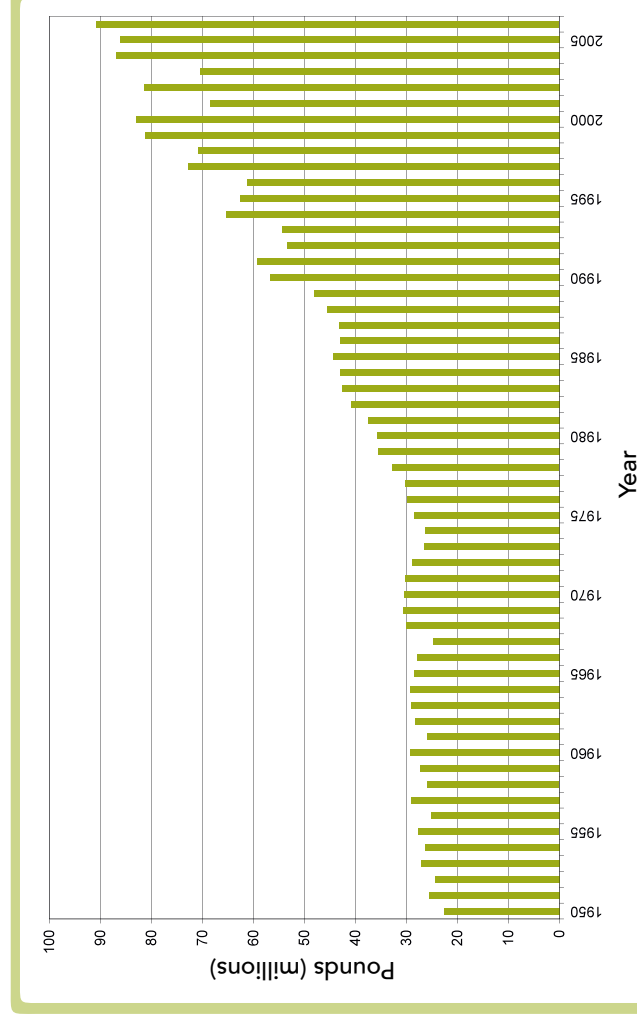


Figure 1: Landings data for ME, NH, MA, CT and RI from 1950-2006 (http://www.st.nmfs.noaa.gov/st1/commercial/landings/annual_landings.html)

Appendix 8

Why We Conducted This Survey

In Southern New England (SNE) the lobster resource is estimated to be at low abundance and low recruitment. The depleted stock abundance, low recruitment, and high fishing mortality rates over the past few years have led to consideration of additional harvest restrictions in this area. Decreased recruitment and abundance has also been estimated in Massachusetts Bay and Stellwagen Bank.

While lobster landings have been increasing in Northern New England, other Gulf of Maine fisheries have been declining. The relative health of the lobster resource has allowed the industry to absorb an influx of harvesters displaced from other fisheries experiencing declining stocks. Meanwhile, access to other fisheries in the region has become tightly controlled. It is believed that many fishermen who previously targeted lobsters only part-time, or not at all are now exclusively dependent on the lobster resource. Many rural coastal towns now depend almost entirely on lobstering to support the local economy.

Clearly, coastal communities face a huge risk. Any number of factors could reduce lobster landings—disease, overfishing, an oil spill or other man-made disaster, or environmental factors such as warming water temperatures. It is likely that the lobster resource will decline at some point in the future. If this happens, lobster fishermen could be out of work with few options for transitioning to other fisheries. Because most lobster fishermen are self-

“The fundamental issue that confronts both managers and lobstermen is this: given that the high recruitment and population levels are probably due to environmental conditions (such as higher water temperatures, decreased predation, or some other factors which we do not understand or control), is current abundance creating a false sense of security and leading us to believe that we can continue to fish at high exploitation rates?”

(from Amendment 3 of the Atlantic States Marine Fisheries Management Plan for American Lobster)

employed, the Department of Labor can provide almost no information about their employment, income levels, family status and so forth. This creates a dangerous situation for coastal communities: the current high stock abundance supports thousands of fishing jobs throughout New England, yet we have little information to quantify their dependence on the lobster resource.

The lack of socioeconomic data for the New England lobster industry makes it very difficult to prepare effectively for inevitable changes within the industry. The *New England Lobster Socioeconomic Survey* was initiated to address this lack of information about the New England lobster fishing industry and collect baseline socioeconomic data on the New England lobster industry. We hope the information collected will provide managers and the industry with baseline data on which to evaluate future policy and programs for the New England lobster fishery.

What Information was Collected

The study area for the survey encompassed the Atlantic States Marine Fisheries Commission's Lobster Conservation Management Areas 1 and 2, and that part of Area 3 fished by lobstermen from Maine, New Hampshire, Massachusetts and Rhode Island. The phone survey was administered in 2006 to a random sample of commercial lobster license holders within those states. Questions covered baseline information for the 2005 calendar year and included demographics, involvement in the lobster industry, business operations, and financial information. The Project Steering Committee was particularly interested in obtaining information on the financial vulnerability of lobstermen and their families and the amount of effort currently employed in the lobster industry.

Information Collected from Active* Lobstermen included:

Demographic Characteristics

- gender
- age
- marital status
- education/training
- number in household
- children's education/training

Involvement in the Lobster Industry

- years involved in lobstering
- years holding a lobster license
- years planning to lobster

Vessel Characteristics

- length
- horsepower
- crew size
- distance moored from home

2005 Lobstering by Quarter

- number of traps
- number of trap hauls per trip
- number of trips per week
- number of pounds per trip

Lobster Effort (*note: this term was not specifically defined for respondents)

- increased or decreased since 2004
- reasons for increase or decrease
- expectations for increase or decrease in future and reasons

Other Fishing Activities

- percent who hold other fishing licenses or permits
- type of license or permits
- percent earning income from other fisheries

Lobster Business

- gross revenue for lobster business 2005
- amount paid to sternmen in 2005
- % of revenue in 2005 that went towards fuel and oil
- % of revenue in 2005 that went towards bait
- % of revenue in 2005 that went to vessel insurance
- % of revenue that is profit after all expenses are paid

What Information was Collected

Investments and Financing of Lobster Business

- investments in lobster business (gear, boat, etc.)
- other investments
- amount and purpose of business loans
- source of financing
- plans for future investment in business

Household Income

- household income
- source of income (lobstering, other fishing, other)
- other household members who contribute to income
- source of other household members' income

Health Insurance Coverage

- insured or uninsured
- level of insurance
- source of insurance

Retirement

- plans to retire
- type of retirement assets (IRA, 401k, savings)

Comments about the Lobster Industry

- major changes seen in the lobster industry in the last 5-10 years
- major changes foreseen in the next 5-10

* For this survey active lobstermen are defined as those who landed 1000 pounds of lobster or more during 2005. A separate, shorter survey was done for those respondents who said they landed less than 1000 pounds in 2005.

Lobster Management and Data Collection in Brief

The New England Lobster Fishery is prosecuted in both state and federal waters. Each state manages the lobster fishery that occurs within its own waters (0-3 miles offshore). Federal waters (3-200 miles) are subject to federal management authority. Since 1997, the Atlantic States Marine Fisheries Commission (ASMFC) has managed the federal lobster fishery under its Interstate Fishery Management Plan for American Lobster (ISFMP). Management is conducted in seven separate Lobster Conservation Management Areas (LCMAs) four of which occur in New England (Figure 2).

Each LCMA has a Lobster Conservation Management Team (LCMT), consisting of area fishermen. Teams are encouraged to develop management recommendations that address the specific needs of their LCMA. The ASMFC Lobster Management Board considers these recommendations when pursuing the goals of the Interstate Fishery Management Plan. The ASMFC also helps states coordinate management plans to ensure comprehensive, compatible, and effective management of the US lobster resource.

Regulations differ somewhat across LCMAs and states, but the basic system of management is similar. All areas and states have limited access licenses (though they are not transferable in Maine while

What Information was Collected

they are in other states). All states have minimum size limits and prohibitions on landing female egg bearing lobsters. Maine also has a maximum size. Maine has codified a practice known as V-notching whereby egg bearing females have a notch cut in their tail when they are released. The notch may last several years and a lobsterman that captures a notched lobster even when not bearing eggs must release the lobster. Other states are now implementing this rule. This combination of effort controls and technical regulations has, to date, been successful at protecting a brood stock of lobster that has continued to provide recruits to the fishery.

Over three-quarters of New England's lobster is landed in Maine (79.8% in 2005 according to NMFS landings data). The Maine Department of Marine Resources (DMR) divides the lobster fishery into seven management zones. Within each zone, a zone council works with the Maine Lobster Advisory Council and the Commissioner of Marine Resources to enact management tailored to local conditions. Zones run from east (Zone A) to west (Zone G).

Collection of accurate and complete data is an important component of the management structure. In the lobster fishery, fisheries-dependent data is collected through catch and landings reports, port sampling, and sea sampling. The majority of data collected concerns

the health and stability of the lobster resource with little socioeconomic information collected. Each state collects these data through separate programs, which are not always compatible. The ASMFC is currently working to establish comprehensive standardized data collection throughout the lobster fishery to allow data to be compared more easily throughout the region.

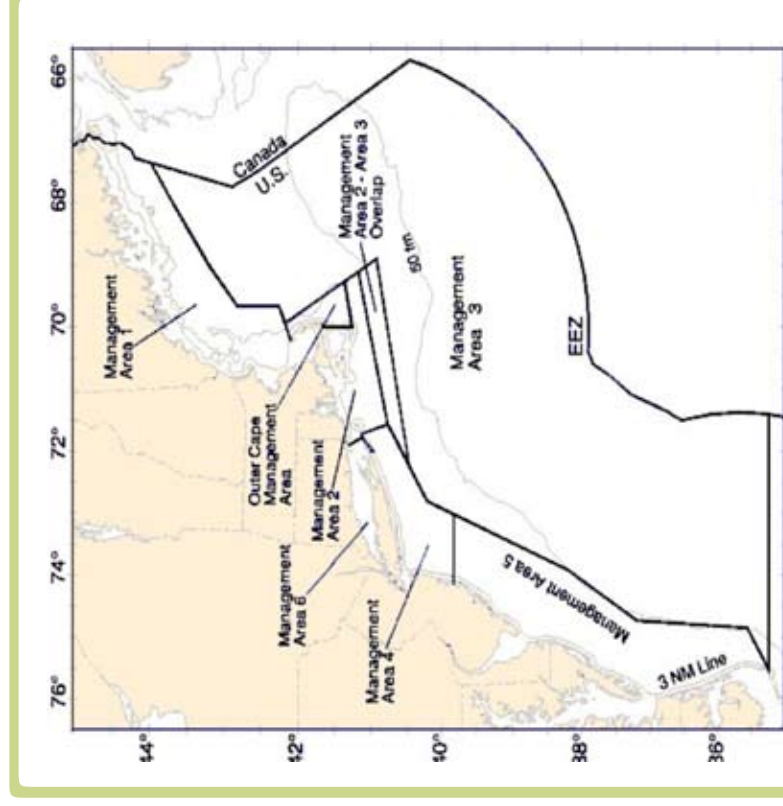


Figure 2. ASMFC Lobster Conservation Management Areas



How the Survey was Conducted

The *New England Lobster Socioeconomic Survey* was based on telephone interviews conducted from March 13th, 2006 to August 29th, 2006, with 1,158 randomly selected lobstermen in New England. In 2005, there were 9701 commercially licensed lobstermen within the study area. The sampling approach relied on a stratified sampling design that examined twelve fishing areas in Maine, New Hampshire, Massachusetts, and Rhode Island, including both state and federal waters. The table on the right displays the breakdown of the 12 areas, including the federal management area, the state area as appropriate, and the total number of interviews conducted among lobstermen in that area.

In addition to stratifying by geographic area, the sample was also stratified by activity level. Activity was defined by asking whether the respondent had landed 1000 pounds of lobster or more in 2005. Further, because this research was mainly concerned with lobstermen who make a living from catching and selling lobster, respondents who were considered as not actively lobstering (landed less than 1000 lbs. of lobster in 2005) were asked a limited set of questions. The results in this summary document are focused on active commercial lobster fishermen.

The random sample of telephone numbers called was based on the most recent list of lobster license holders within each state. When a working number was called, the person listed as the lobster license

holder was identified and interviewed. On average, it took six calls to make contact. The response rate was 40%, defined as the ratio of the number of completed interviews divided by the number of eligible units in the sample. The cooperation rate was 80%, which indicates 80% of those lobstermen reached by phone actually completed the survey.

Strata	LCMA	Zone	Sample size
Maine			
1	Lobster Management Area 1	Zone A	136
2	Lobster Management Area 1	Zone B	73
3	Lobster Management Area 1	Zone C	120
4	Lobster Management Area 1	Zone D	144
5	Lobster Management Area 1	Zone E	75
6	Lobster Management Area 1	Zone F	120
7	Lobster Management Area 1	Zone G	60
New Hampshire			
8	Lobster Management Area 1		59
Massachusetts			
9	Lobster Management Area 1		131
10	Lobster Management Area 2		65
Rhode Island			
11	Lobster Management Area 2		140
12	Lobster Management Area 3		33

Table 1: Number of interviews by sample strata, state, and LCMA.

How the Survey was Conducted



A note on confidence intervals:

In this survey, responses of a sample population reveal characteristics of a population as a whole. As in all surveys, the larger the sample population, the more likely it is that their responses accurately reflect characteristics of the larger group. The likelihood that survey results represent the larger population is expressed in confidence intervals, which in this report are represented by a +/- figure following numerical results, or by vertical bars extending above or below columns on charts. The confidence intervals used here are 95%, meaning there is a 95% chance that characteristics of the subject population fall within the range expressed. For instance: "49% (+/- 4.3%) of Maine Lobstermen have outstanding business loans." This means that 49% of the Maine lobstermen surveyed have an outstanding loan on their business. Based on the number of Maine lobstermen surveyed, compared to the number of Maine lobstermen overall, there is a 95% probability that the actual percentage of all Maine lobstermen with outstanding business loans falls between 44.7% and 52.3%.



What We Learned - Key Findings of the Survey

The "Average" Active Lobsterman in New England

Lobstermen in New England are an average of 50 years old. Approximately three-quarters are married, although fewer than one in three has children living at home. Eighty percent have at least a high school diploma or G.E.D., 12% have a Bachelor's degree, and 2% hold a graduate degree.

Maine lobstermen appear less likely to have graduated high school than those in other areas. In LCMA 1 ME, 19% (+/- 3%) of lobstermen did not graduate high school. In LCMA 1 NH/MA, that number is 12% (+/- 7%), in LCMA 2 it is 9% (+/- 6%), and in LCMA 3 it is 36% (+/- 20% note that the large confidence interval is due to a small sample size).

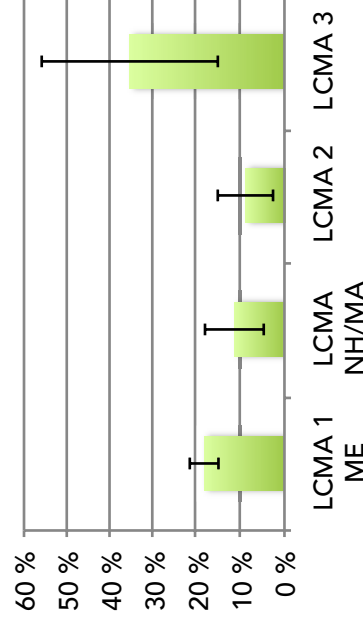


Figure 3: Did not Finish High School, by LCMA.

What We Learned - Key Findings of the Survey
 The "Average" Active Lobsterman in New England

How do lobstermen compare to the general population?

According to 2005 US Census data, the percent of people in the study area 25 years and over who have not completed high school (including equivalency) ranges from a low of 10% in New Hampshire to a high of 17% in Rhode Island (Maine, 11%, Massachusetts 12 %, +/- for all states 1% or less). Because the geographic breakdowns, age ranges, and confidence intervals are not the same, (US Census uses a 90% confidence interval), it is difficult to compare the two sources. However it is interesting to note that it appears Maine lobstermen are less likely than their local counterparts to have graduated from high school, but Rhode Island lobstermen are more likely to have done so.



On average, lobstermen have held a lobster permit for 28 years. Maine lobstermen have held their licenses for slightly longer than those in other areas (although only the difference between LCMA 1 ME and LCMA 1 NH/MA is statistically significant). Most lobstermen were involved in the industry for 2-4 years before getting their own license.

Approximately 60% of respondents in LCMA 1 and 2 said they planned to lobster as long as they could or as long as needed. Lobstermen in LCMA 3 generally planned to retire somewhere between 1 and 20 years in the future.

	LCMA 1 ME		LCMA 1 NH/MA		LCMA 2		LCMA 3	
	mean	+/-	mean	+/-	mean	+/-	mean	+/-
Years in Lobstering	31	1	29	3	27	3	29	5
Years with a License	29	1	24	3	25	3	25	5

Table 2: Number of years in the lobster industry and number of years with a lobster license by LCMA.

What We Learned - Key Findings of the Survey The "Average" Active Lobsterman in New England

Traps to Pounds to Dollars: What was the Scale of 2005 Lobster Operations in New England?

A Note of Precaution When Interpreting Effort Data

Each management zone has different laws concerning trap limits. Within Maine, Zone E allows a maximum of 600 traps per licensed lobster vessel. All other Maine zones have an 800 trap limit. In 2005, New Hampshire had a two-tiered approach to trap limits: all lobstermen were limited to either 1200 or 600 traps. Rhode Island and Massachusetts lobstermen were limited to 800 traps, and some lobstermen (in Rhode Island and south of Cape Cod) were limited to fewer than 800 traps, depending on their historic effort. LCMA 3 lobstermen were limited to no more than 2200 traps.

Lobster fishermen in New England are more active during 3rd and 4th quarters of the year. The relative participation rates by quarter are reasonably consistent across regions with the exception of LCMA 3. Participation is much more consistent throughout the year for LCMA 3 with 75% (+/- 17%) of lobsterman active in Quarter 1. In other areas participation rates tend to be much lower in Quarter 1 ranging from 17% to 47% for different state-zone-LCMA combinations (see table 3 on left).

For those fishermen who are active in each quarter, effort levels also tend to be higher in the 3rd and 4th quarters. For New England overall in the 3rd quarter, lobstermen had, on average, a maximum of 557 traps in the water, made four trips per week when they hauled traps, and hauled about 280 traps during each trip. In the 4th quarter, on average, lobstermen had a maximum of 550 traps in the water, made four trips per week when they hauled traps, and hauled about 225 traps during each trip.

LCMA and Zone	Quarter 1	Quarter 2	Quarter 3	Quarter 4
ME Zone A	17 % (11%-23%)	61 % (51%-71%)	95 % (90%-100%)	92 % (87%-98%)
ME Zone B	30 % (18%-42%)	82 % (71%-92%)	98 % (94%-100%)	90 % (81%-98%)
ME Zone C	27 % (18%-35%)	72 % (63%-82%)	100 % (100%-100%)	90 % (84%-96%)
ME Zone D	28 % (20%-36%)	80 % (72%-88%)	95 % (91%-100%)	92 % (86%-98%)
ME Zone E	42 % (29%-55%)	85 % (75%-95%)	95 % (89%-100%)	97 % (92%-100%)
ME Zone F	26 % (17%-34%)	69 % (59%-79%)	100 % (100%-100%)	95 % (90%-100%)
ME Zone G	47 % (29%-65%)	93 % (83%-100%)	98 % (95%-100%)	95 % (85%-100%)
NH LCMA 1	39 % (23%-55%)	82 % (69%-94%)	100 % (100%-100%)	94 % (86%-100%)
MA LCMA 1	33 % (23%-42%)	71 % (60%-82%)	99 % (98%-100%)	92 % (84%-99%)
MA LCMA 2	42 % (20%-64%)	82 % (62%-100%)	80 % (58%-100%)	67 % (44%-91%)
RI LCMA 2	42 % (30%-54%)	91 % (84%-98%)	96 % (90%-100%)	82 % (72%-92%)
Fed LCMA 3	75 % (57%-92%)	95 % (85%-100%)	95 % (85%-100%)	90 % (77%-100%)

Table 3: Percent of lobstermen surveyed who replied that they fished for lobster in each quarter of 2005 by LCMA and Maine Lobster Zone.

What We Learned - Key Findings of the Survey The "Average" Active Lobsterman in New England

Less effort was used by lobstermen who were active in the first half of the year. On average, lobstermen had a maximum of 450 traps in the water during the 1st quarter and 480 traps in the water during the 2nd quarter. There were an average of two trips per week when they hauled traps and three trips per week in the 1st and 2nd quarters, respectively. During those trips, lobstermen hauled about 250 traps and 216 traps for each quarter.

As the table below shows, the relatively higher effort levels of active fishermen in the 3rd and 4th quarters are most reflective of what occurs throughout LCMA 1 and LCMA 2. The maximum traps used on average in LCMA 3 are more consistent throughout the year, though few trips per week occur in Quarter 1.

The table on the next page provides data on lobster fishing effort and landings by LCMA by quarter.

Average landings per fisherman by quarter are also higher in the 3rd and 4th quarters. In fact, the higher level of landings in these quarters is more pronounced than are the effort levels. The higher average landings in the 3rd and 4th quarters apply to LCMA 3 as well as the other areas. We note that the Table 4 shows average landings for active fishermen during those periods. Because more lobstermen are active in the last two quarters, overall landings are heavily concentrated in the 3rd and 4th quarters.

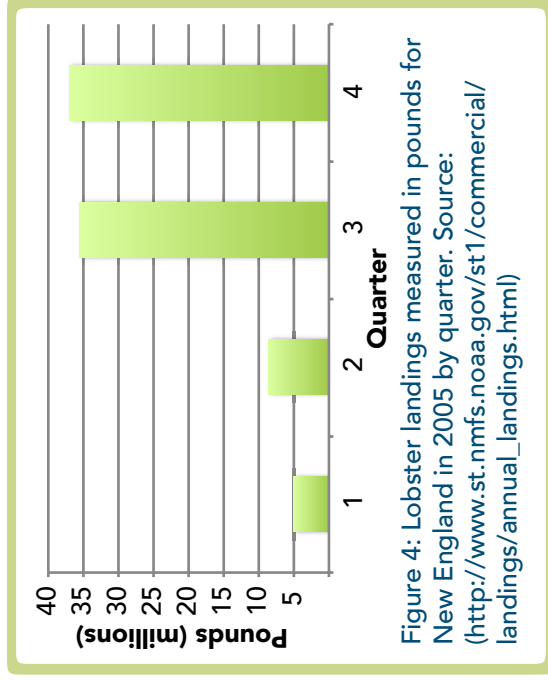


Figure 4: Lobster landings measured in pounds for New England in 2005 by quarter. Source: (http://www.st.nmfs.noaa.gov/st1/commercial/landings/annual_landings.html)

What We Learned - Key Findings of the Survey
The "Average" Active Lobsterman in New England

	LCMA 1 ME		LCMA 1 NH/MA		LCMA 2		LCMA 3	
	Mean	+/-	Mean	+/-	Mean	+/-	Mean	+/-
Quarter 1								
Maximum Traps	439	33	470	92	367	78	1041	294
Average Trips per Week	1.7	0.1	2.1	0.3	1.8	0.3	2.0	0.6
Average Traps Hauled per Week	232	15	247	60	196	36	939	345
Total Landed Pounds	2,980	575	3,076	2,445	1,848	836	5,618	2,937
Quarter 2						0		
Maximum Traps	485	23	436	52	401	62	1031	215
Average Trips per Week	3.4	0.1	3.4	0.3	2.8	0.3	2.5	0.9
Average Traps Hauled per Week	211	8	214	32	175	23	855	269
Total Landed Pounds	4,013	462	2,667	725	2,205	481	12,066	4,928
Quarter 3								
Maximum Traps	564	20	490	49	458	61	1055	191
Average Trips per Week	4.5	0.1	4.2	0.3	3.9	0.4	3.2	0.9
Average Traps Hauled per Week	222	8	230	25	193	24	853	272
Total Landed Pounds	11,914	3,924	5,710	1,568	5,348	1,297	25,970	9,597
Quarter 4								
Maximum Traps	555	21	501	52	448	67	1035	223
Average Trips per Week	3.9	0.1	3.8	0.3	2.7	0.3	2.4	0.8
Average Traps Hauled per Week	222	7	233	28	186	27	849	279
Total Landed Pounds	11,920	3,037	7,257	2,590	3,222	1,058	29,497	11,719

Table 4: Lobster fishing effort (measured by maximum number of traps, average trips per week, average traps hauled per trip, and total pound landed) by LCMA for each quarter of 2005.

What We Learned - Key Findings of the Survey
 The "Average" Active Lobsterman in New England

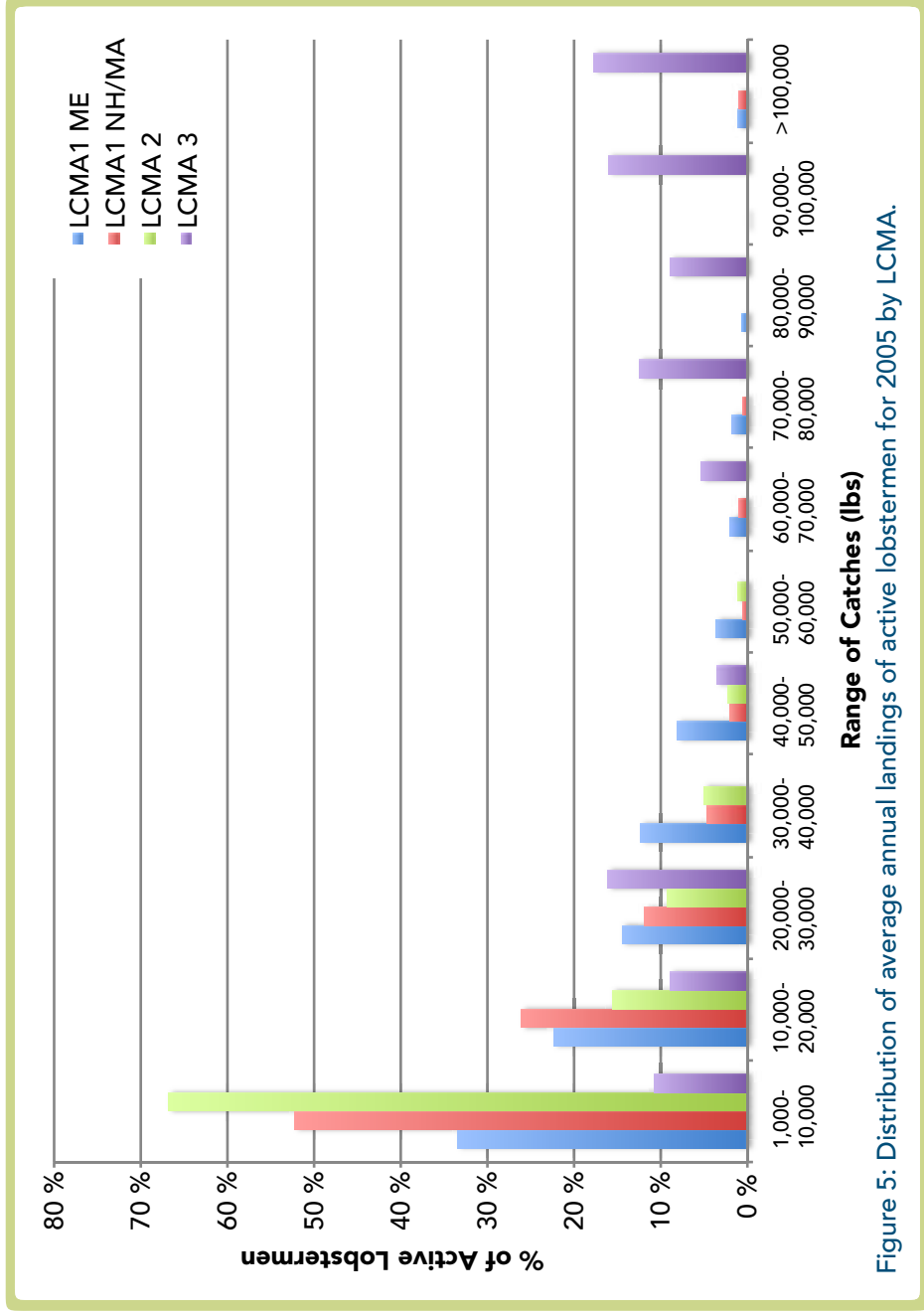


Figure 5: Distribution of average annual landings of active lobstermen for 2005 by LCMA.

The variation in landings by individuals within and between areas is striking. The chart above shows the range of average annual landings across management areas based on the survey data. While roughly 20% of lobstermen in LCMA 1 NH/MA and LCMA 2 reported landing more than 20,000 pounds annually, in Maine 44% reported doing so in 2005. Maine lobstermen are

also far more likely to land more than 40,000 pounds: around 17% of Maine lobstermen land more than 40,000 pounds of lobster annually, compared to 5% of the lobstermen in LCMA 1 NH/MA, and a negligible percentage in LCMA 2. In LCMA 3, 64% of lobstermen landed more than 40,000 pounds of lobster and 18% landed more than 100,000 pounds of lobster in 2005.

Effort in Maine Increases Over Time:

The Maine Department of Marine Resources estimated that the number of traps in Maine's coastal waters more than doubled between 1967 and 1997, and that the number of traps per boat had increased more than 600% over the same time period. Although this growth has slowed recently, the number of commercial trap tags sold increased roughly 13% between 1997 and 2006, with the largest increase occurring in Zones A and B (Maine DMR data). Maine traps per boat (as measured by number of commercial trap tags sold, excluding student tags, divided by the number of commercially licensed vessels) reached a peak in 1999 at 209, and stood at 194 traps per vessel in 2005.

Despite the growth in effort in Maine in recent years, there is still significant latent effort in the fishery in Maine and in other regions. As the table below shows, a significant percentage of lobsterman are "inactive", having landed less than 1000 pounds of lobster in 2005. About one quarter of licensed lobsterman caught under 1000 pounds of lobster in 2005 though the percentage of active fishermen varies greatly by area as illustrated by Table 5 on the right. Among those who did not land more than 1000 lbs. of lobster in 2005, over a quarter said they were not actively lobstering due to their own or a family member's illness. About another quarter said they had changed jobs, worked in another fishing industry, or were now working for another lobsterman. The percentage of Maine LCMA 1 and LCMA 3 lobster license holders who were inactive in 2005 was much lower than that for license holders in LCMA 1 and LCMA 2 in Massachusetts and Rhode Island.

What We Learned - Key Findings of the Survey The "Average" Active Lobsterman in New England

As noted above, the average number of trap tags per boat in Maine in 2005 was 194 while each license holder is entitled to purchase 800 except in Zone E where the limit is 600 traps. Trap limits are 800 in Massachusetts and Rhode Island, either 600 or 1200 in New Hampshire and 2200 for LCMA 3. As Table 4 illustrated, active fishermen are, on average, using well under the maximum number of traps and many are not participating year-round (Table 3). This

highlights the magnitude of latent effort and the potential for rapid increase in fishing capacity even with the restrictions in place on licenses and numbers of traps. It also complicates attempts to reduce effort by reducing trap limits. Increases in trap numbers by less active fisherman could offset the reductions taken by the most active fisherman.

	Yes	No
ME Zone A	89 % (84%-94%)	11 % (6%-16%)
ME Zone B	85 % (78%-92%)	15 % (9%-22%)
ME Zone C	87 % (81%-92%)	14 % (8%-19%)
ME Zone D	84 % (78%-90%)	16 % (10%-22%)
ME Zone E	82 % (75%-90%)	18 % (11%-25%)
ME Zone F	80 % (73%-87%)	20 % (13%-28%)
ME Zone G	80 % (70%-89%)	20 % (11%-30%)
NH LCMA 1	30 % (18%-41%)	70 % (59%-82%)
MA LCMA 1	39 % (27%-51%)	61 % (49%-73%)
MA LCMA 2	29 % (18%-40%)	71 % (60%-83%)
RI LCMA 2	48 % (40%-57%)	52 % (43%-60%)
Fed LCMA 3	69 % (51%-86%)	31 % (14%-49%)

Table 5: Percent of respondents who landed more than 1000 pounds of lobster during the 2005 calendar year by LCMA and Maine Lobster Zone.
Note: Confidence intervals are in parentheses.





What We Learned - Key Findings of the Survey

The "Average" Lobster Business for Active Lobstermen in New England

The average vessel size for active lobstermen was 32 feet. There were no statistically significant differences in vessel length or engine horsepower amongst LCMA 1 ME, LCMA 1 NH/MA and

LCMA 2. Not surprisingly, LCMA 3 vessels are significantly larger, and have greater horsepower engines than those in any other area.

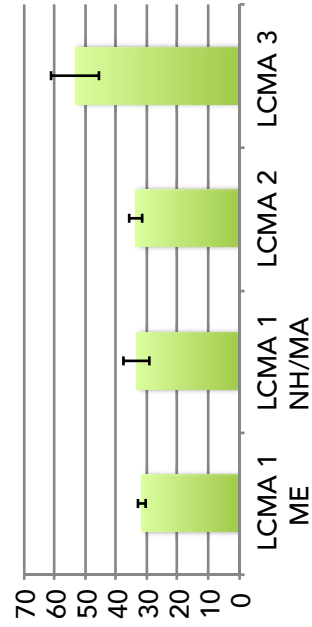


Figure 6: Average vessel length in feet for active lobstermen by LCMA.

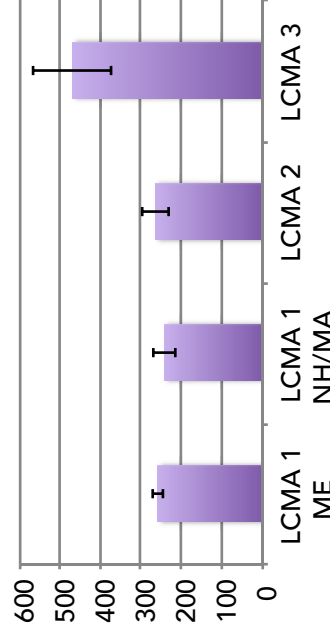


Figure 7: Average vessel horsepower for active lobstermen by LCMA.

What We Learned - Key Findings of the Survey The "Average" Lobster Business for Active Lobstermen in New England

Although there are some lobster license holders that are making substantial revenues from lobstering, the net revenues of lobstermen after accounting for operating expenses are not high on average, even for lobstermen that fished during more than two quarters in 2005. An exception is LCMA 3. As we note below, many households depend on other income to supplement income from lobstering. Note that the net return reflects only variable expenses and does not account for capital costs such as boat payments. Recent increases in fuel prices have almost certainly further reduced net returns since 2005.



Region	Fish More than two Quarters per Year	Sterman	Gross Revenue	Net Return After Expenses of Gross	Sterman Payment % of Gross	Fuel & Bait and P&I Insurance % of Gross
LCMA 1 Maine	YES	NO	\$47,854	\$15,397	NA	28 %
	NO	YES	\$106,317	\$35,247	20 %	25 %
LCMA 1 NH/MA	YES	NO	\$27,778	\$8,957	NA	29 %
	NO	YES	\$54,683	\$18,812	16 %	30 %
LCMA 2	YES	NO	\$49,368	\$15,523	NA	27 %
	NO	YES	\$119,609	\$35,570	26 %	33 %
LCMA 3	YES	NO	\$22,788	\$3,409	NA	29 %
	NO	YES	\$54,660	\$16,021	15 %	32 %
LCMA 3	YES	NO	\$44,524	\$14,074	NA	28 %
	NO	YES	\$112,206	\$35,979	17 %	24 %
LCMA 3	YES	NO	\$38,562	\$11,485	NA	25 %
	NO	YES	\$21,627	\$7,556	NA	17 %
LCMA 3	YES	YES	\$423,905	\$89,357	32 %	28 %

Table 6: Lobster business revenue characteristics for 2005 by LCMA, activity level, and use of a sterman.

What We Learned - Key Findings of the Survey
 The "Average" Lobster Business for Active Lobstermen in New England

How are Lobster Businesses Financed?

Almost four in five active lobstermen surveyed made an investment in their business during the 2005 calendar year. Common investments included new traps (65%), other new gear (24%), and ropes and buoys (22%). Of those that made investments, roughly one fifth to one half (by area) did so to comply with state or federal regulations.

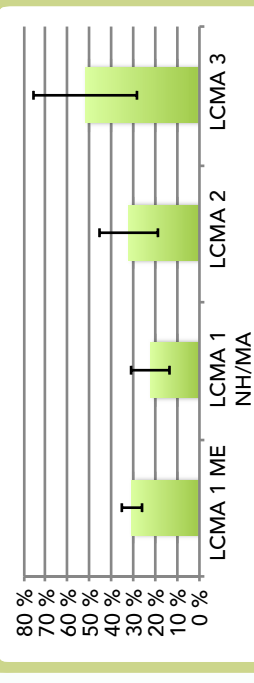


Figure 8: Percent of active lobstermen who made lobster business investments in 2005 due to fisheries regulations.

About a third of active lobstermen think they will invest more in their lobster business during the 2006 calendar year. When asked what they will invest in, 50% indicate new traps, 19% a new boat, and 17% say they will need a new engine for their boat.

In terms of financing these investments, just under half of all lobstermen have outstanding business loans. While 49% (+/- 4%) of lobstermen in LCMA 1 ME and 58% (+/- 21%) in LCMA 3 have outstanding business loans, only 26% of those in LCMA 1 NH/MA, and 15% (+/- 8%) of LCMA 2 lobstermen have outstanding business loans.

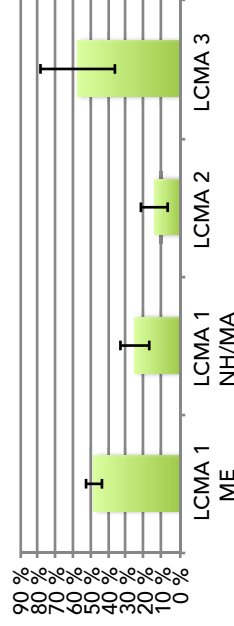


Figure 9: Percent of active lobstermen who have outstanding business loans by LCMA.

The size of the business loans varies significantly by geographic region. As might be expected, the larger loans are for LCMA 3 lobstermen with an average of \$149,334. However, the small sample size makes it difficult to consider this a reliable estimate as the confidence limits give a range of +/- \$90,092. Lobstermen in Maine, on average, have significantly larger loans than those lobstermen who fish in LCMA 2, with an average loan of \$56,279 (+/- \$7,860) in LCMA 1 ME and an average loan of \$20,015 (+/- \$14,017) in LCMA 2.

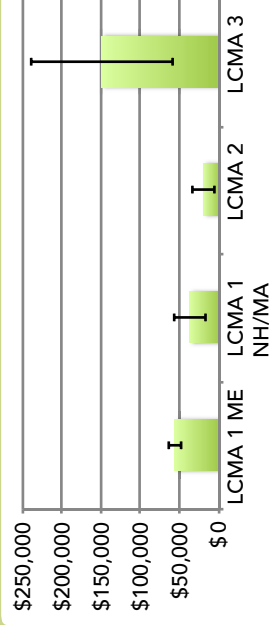


Figure 10: Average dollar amount owed on lobster business loans in 2005 by LCMA.

What We Learned - Key Findings of the Survey
 The "Average" Lobster Business for Active Lobstermen in New England

	LCMA 1 ME		LCMA 1 NH/MA		LCMA 2		LCMA 3	
	Mean	+/-	Mean	+/-	Mean	+/-	Mean	+/-
Average Amount Owed on Business Loans (\$)	56,279	7,860	37,278	19,945	20,015	14,017	149,334	90,092
New Boat	67.6%	5.8%	35.9%	15.5%	30%	2%	90%	19%
New/Rebuilt Engine	13.7%	4.4%	28.5%	19.0%	14%	19%	10%	19%
Gear/Equipment	21.6%	5.1%	28.1%	15.4%	19%	22%		
Truck/Vehicle	11.7%	3.6%	17.0%	13.7%	49%	30%		
Boat Repair/Overhaul	5.7%	3.0%	12.2%	10.9%			20%	22%

Table 8: Average dollar amount owed on lobster business loans in 2005 and purpose of loans (as a percent of total) by LCMA.

Loans are more likely to be for new boats in LCMA 3 and LCMA 1, and for a truck or other vehicle in LCMA 2.

Over half of active lobstermen use personal or family savings as a method to finance their lobster business, and about 1 in 5 use personal or family credit cards. Despite such a large proportion that uses personal means to finance their business, almost three-quarters of active lobstermen feel there are adequate sources of financing for their lobster business.

Nine percent of active lobstermen have invested profits from lobstering in another business during the past year. Among those who indicate they have invested profits from their lobstering business in another business in the past year, 39% invested in another fishing related business, and 17% invested in real estate or other property.

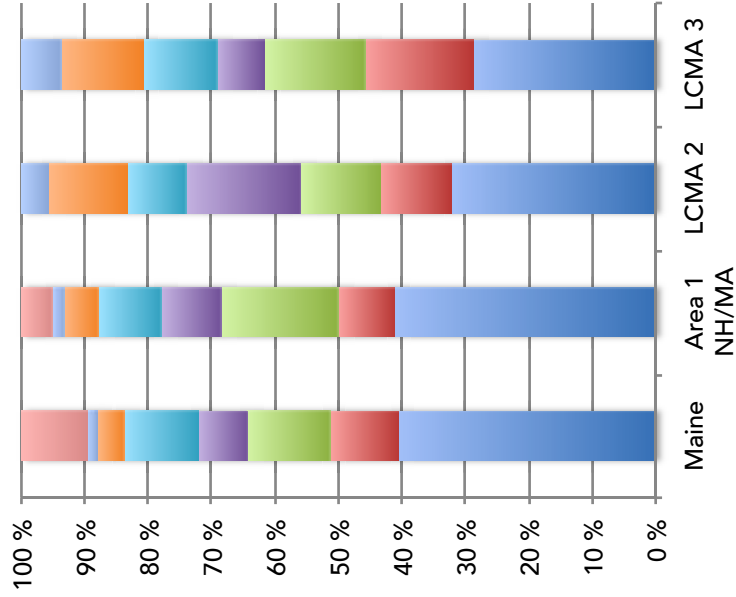


Figure 11: Sources of financing for lobster business loans as a proportion of total financing by LCMA.



What We Learned - Key Findings of the Survey

How Vulnerable are Lobster Fishing Families to a Potential Drop in Landings?

The average annual household income in New England for lobster fishing families surveyed ranged from a high of \$87,960 (+/- \$41,805) in LCMA 3 to a low of \$57,385 (+/- \$7,252) in LCMA 1 NH/MA. As a means of comparison, the U.S. Census reported that the *median* household income for the United States was \$44,389 in 2004 (DeNavas-Walt, et al., 2005). At the state level, the U.S. Census Bureau reported income based on a 3-year average median household income for 2002-2004. Maine had the lowest 3-year average median income with \$39,395, while New Hampshire had the highest 3-year average median income at \$57,352. Massachusetts and Rhode Island had a 3-year average median household income of \$52,354 and \$46,199, respectively. Although it is difficult to compare the *average annual* household income figures from the

survey to the 3-year *average median* income (average income tends to be higher than median income because income distributions are skewed), it appears as though the household income of the lobster industry is at or above the *median* incomes for New England and the United States.

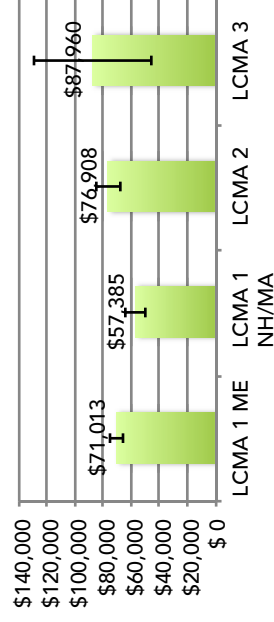


Figure 12: Average annual household income for active lobstermen in 2005 by LCMA.

What We Learned - Key Findings of the Survey How Vulnerable are Lobster Fishing Families to a Potential Drop in Landings?

Downeast Maine: Lobstering on the Edge?

Although Maine lobstermen have an average household income of just over \$70,000, this varies by zone. Household income decreases as one moves Downeast.

Downeast lobstermen appear most dependent on the lobster resource, and yet have the fewest alternate employment options should the resource decline. According to the U.S. Census Bureau, the median 2004 household income in Maine in was \$41,287. In Washington County, the 2004 median household income was \$29,087. However the average Maine lobsterman's household earned \$66,902 (+/- \$3,962), and the average lobsterman's household in Zones ABC earned \$58,680. Should the lobster resource decline, it is highly unlikely that lobstermen in Maine, and Downeast in particular, could find employment providing a similar income.

Washington County, Maine, the most eastern portion of the United States, is isolated from the rest of New England and this isolation has led to its dependence on the marine environment. It is also the poorest county in New England and the second poorest in the United States (Hall-Arber, et al.) In a compre-

hensive report that compiled information on New England's fishing communities and ranked their dependency on fishing, the authors determined that Downeast communities remain the most fishery-dependent communities of all the regions they surveyed in New England (see <http://seagrant.mit.edu/cmss/marfin/downeast.html> for greater detail). Alternative occupations were also considered in relation to fishing dependency. If fishing were to cease in Downeast Maine, there would be, on average, two and one half fishermen available to work in any single comparable occupation and the labor market would quickly be saturated.

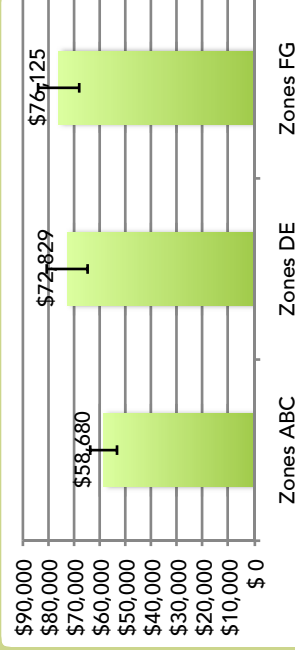


Figure 13: Average annual household income for Maine lobstermen in 2005 by areas.

What We Learned - Key Findings of the Survey

How Vulnerable are Lobster Fishing Families to a Potential Drop in Landings?

Active lobstermen were the sole wage earner in a little less than half of all households surveyed. Among those households with other members who contribute to the yearly household income, nearly all are the spouses of active lobstermen. In addition to being most dependent on lobster for household income, those fishing in LCMA 1 also derive a lower percent of overall income from another household member. Although 28% of household income in LCMA 3 comes from another member of the household, in LCMA 1 ME only 16% of household income comes from another household member.

Lobster provides an average of 68% (+/- 3%) of household income in LCMA 1 ME, higher than in any other area.

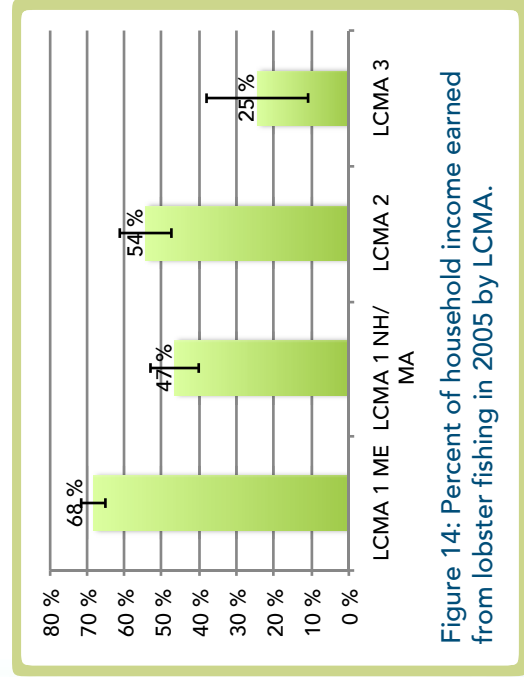


Figure 14: Percent of household income earned from lobster fishing in 2005 by LCMA.



What We Learned - Key Findings of the Survey

How Vulnerable are Lobster Fishing Families to a Potential Drop in Landings?

Are there other fishing opportunities?

Across New England, about four in ten lobstermen of those surveyed hold other fishing permits. The most common permits are those for scallop dredging, shrimping, and “commercial fishing”. Lobstermen in LCMA 1 (both ME and NH/MA) are less likely than those in LCMA 2 and LCMA 3 to hold other fishing permits.

Although more than a third of all lobstermen in the study area hold other fishing permits, less than a fifth of all lobstermen earned income from these permits in 2005. Again, lobstermen in LCMA 1 appear less likely to have earned income from other fisheries than those in LCMA 2 or LCMA 3. However, overlapping confidence intervals render comparisons between areas statistically insignificant.

What other job skills and/or training do New England lobstermen have?

Roughly two-thirds of lobstermen possess skills or training in fields other than lobstering. Of those with skills or training in other fields, 40% have skills as carpenters, tradesmen, or mechanics, while another 25% have skills in other types of commercial fishing, boat building, and maintenance.

A little over one-third of active lobstermen report they hold a degree or certification for a specific job, with over half of those saying that the degree or certification

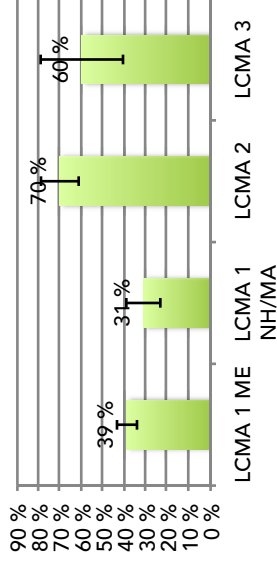


Figure 15: Percent of active lobstermen with other fishing permits in 2005 by LCMA.

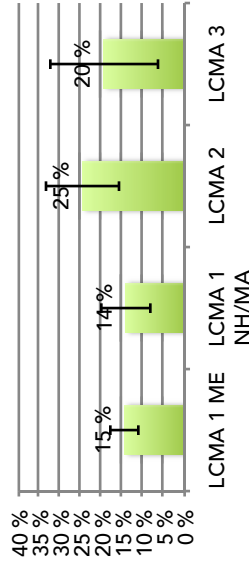


Figure 16: Percent of active lobster fishermen who earned income in 2005 from other fisheries.

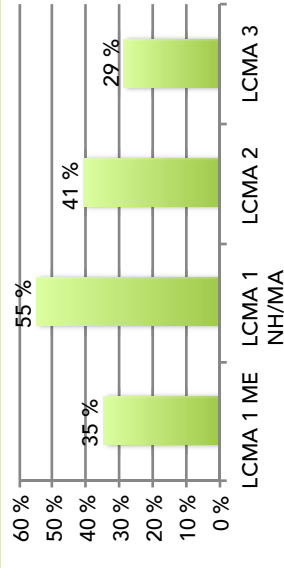


Figure 17: Percent of active lobstermen with some training in another field.

What We Learned - Key Findings of the Survey How Vulnerable are Lobster Fishing Families to a Potential Drop in Landings?

How Vulnerable are Lobster Fishing Families to a Potential Drop in Landings?

is a technical or vocational degree. Slightly more than 10 percent of those with degrees or certifications have a Bachelor's degree or a Captain's License/Marine Specific Degree. Only nine percent of active lobstermen who have a degree or certification report that they received federal assistance to obtain this training.

One in ten active lobstermen reports having received training on how to run a business. Among those active lobstermen who have not already received business training, almost half of lobstermen surveyed say they would **not** take advantage of business training if it were made available.

Do New England lobstermen have plans for retirement?

Maine lobstermen who fish in LCMA 1 are less likely than any other group to have retirement benefits:

70% of respondents in LCMA 3 said they or someone in their household has retirement benefits, compared with 51% of Maine lobstermen in LCMA 1.

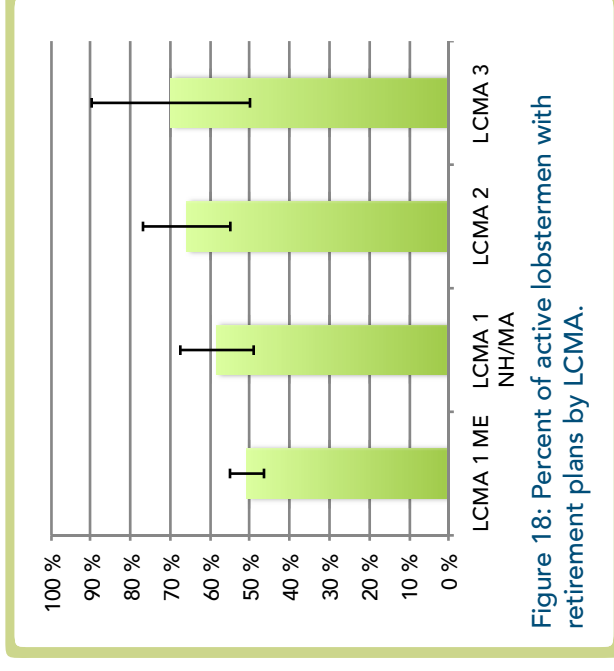


Figure 18: Percent of active lobstermen with retirement plans by LCMA.

Lobstermen Compared with Other Self-Employed Americans

In 2006, the National Association for the Self Employed conducted a survey of 3031 self-employed individuals that showed 66% were saving for retirement. This suggests that Maine lobstermen lag behind other self-employed individuals in terms of retirement planning. At 58%, LCMA 1 lobstermen in New Hampshire and Massachusetts are also behind, although lobstermen in LCMA 2 (66%) and LCMA 3 (70%) are on par with the national average.

More lobstermen in LCMA 1 than anywhere else plan to "never retire". Although only 4% of lobstermen in LCMA 3 and 1% LCMA 2 plan not to retire, in LCMA 1, 9% of Maine lobstermen and 14% of MA and NH lobstermen plan to continue working indefinitely.

What We Learned - Key Findings of the Survey How Vulnerable are Lobster Fishing Families to a Potential Drop in Landings?

Do lobstermen and their families have health coverage?

Among active lobstermen, almost a quarter have **no** insurance for anyone in their household. By contrast, 84.3 percent of the US population had health insurance coverage in 2004, with 15.7% of the population without health insurance. And in New England, the percentage of people without health insurance using a 3-year average for 2002-2004 was approximately 10.6 percent, well below the rate for the lobstermen surveyed (DeNavas-Walt, et al., 2005).

Among those lobstermen surveyed that reported they had health insurance, about a third get their health insurance through the spouse's place of employment; 25% indicate their health care coverage is through a state or federal program, like Medicare or Medicaid, and another quarter indicate that health insurance costs are paid out of pocket.

Among active lobstermen who have health insurance coverage for someone in the household, eighty-five percent report this insurance is full coverage while about 15% say the insurance is catastrophic only.

Respondents were asked to describe their health insurance coverage, and were classified as "insured" (full coverage), "underinsured" (catastrophic coverage only) or "uninsured" (no coverage). Approximately 25% (+/- 3.8%) of lobstermen from Maine in LCMA 1 are underinsured while only 6.9% (5.6%) of

New Hampshire and Massachusetts residents fishing in LCMA 1 reported that they were underinsured.

Traditional Fishing Families: Are younger generations preparing to enter the lobster fishery?

All lobstermen with children were asked about their plans for their children's future. Thirty percent of respondents had no plans because their children were grown and "on their own". Twenty percent said they are saving for their child's planned college education, but offered no specific details on their type of savings plan. More than 10% of respondents said they had no plans for their children's education or training.

Of those lobstermen with children, roughly half said their children were either currently involved in or intend to make a career in the lobster industry. Mainers were significantly more likely to have children who are involved in or intend to enter the lobster fishery.

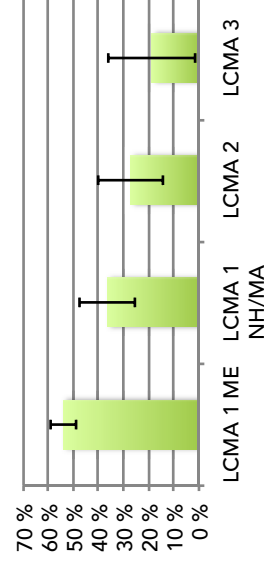


Figure 19: Percent of lobstermen with children who are in the lobster fishery or plan to enter the lobster fishery by LCMA.

Summary and Conclusions

It is difficult to make generalizations about the New England Lobster Fishery. Characteristics of the population vary according to geographic area, whether lobstermen fish seasonally or year-round, and a number of other distinctions. The upsurge in landings that occurred in the 1990's may have increased participation in the lobster fishery. However, the average age of New England lobstermen (roughly 50 years old) suggests that most lobstermen have arrived at their current position after a long history in the lobster fishery (an average of 30 years).

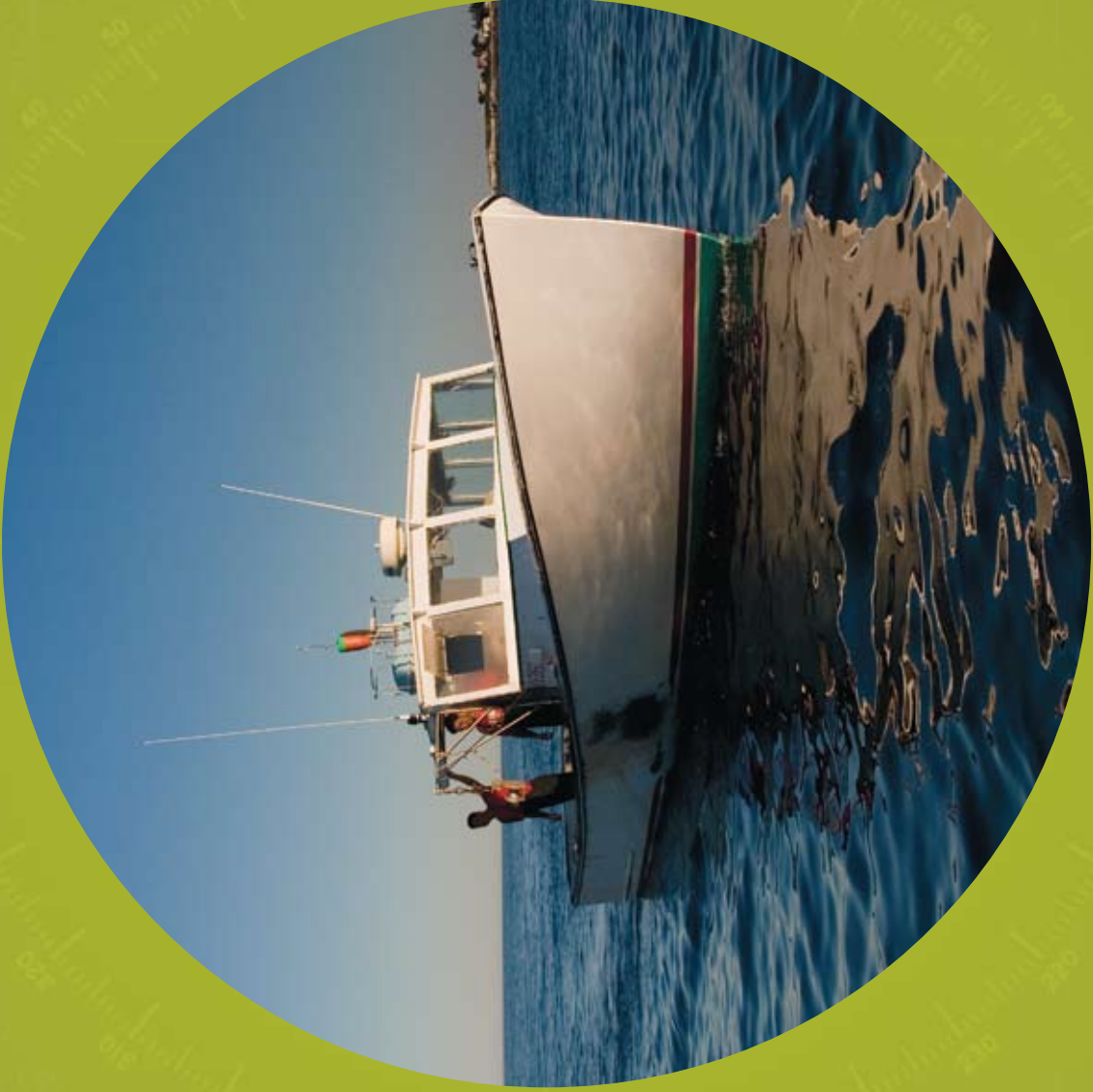
Despite the increase in effort in Maine in recent years, substantial latent effort still exists throughout New England. Increases in effort could put more pressure on the resource and potentially reduce profitability for existing full-time fishermen. Attempts to reduce effort by reducing trap limits would impact only the most active fishermen and could, by increasing catch per trap, create incentives for activation of latent capacity.

Although there are some lobster license holders that are making substantial revenues from lobstering, the net incomes of lobstermen after accounting for operating expenses are not high, on average, even for lobstermen that fished during more than two quarters in 2005. Recent increases in fuel cost will have further eroded profitability.

Lobstermen lag behind others in the region in terms of percentage of health insurance coverage.

However, they are on par with other self-employed individuals when comparing retirement planning. One area of concern is that over half of active lobstermen use personal or family savings as a method to finance their lobster business, and about 1 in 5 use personal or family credit cards.

While the active lobsterman who participated in this survey had an average household income that was above the 3-year median for most of the country, that income was based primarily on lobster landings. The families of New England lobstermen, particularly those in northern New England, are dependent on the continued health of the lobster fishery to sustain the majority of their household income. This is especially true in Downeast Maine where there are fewer options for comparably profitable occupations. These findings are unlikely to surprise those familiar with the New England lobster fishery. The data on the socioeconomic health of the lobster fishery presented by this report provides a critical baseline against which we can check the pulse of the lobster industry over time.



Appendix

Inactive Lobstermen

Demographic Characteristics

The average age of the inactive lobstermen surveyed is 53. About 85% live in households with 1 or more other people, with about a third of those living in households with children under the age of 18. Among inactive lobstermen, eight in ten have at least a high school diploma or G.E.D., 14% have a Bachelor's degree, and 8% hold a graduate degree.

Lobstering in 2000-2004

Only about two in ten inactive lobstermen in 2005 landed more than 1000 pounds of lobster in any year from 2000 to 2004. The main reasons they did not actively use their lobster permit in 2000 through 2004 were that they were lobstering part-time only, had another job or occupation, were not lobstering due to health reasons, or were fishing for personal use or recreation only.

Involvement in the Lobster Industry

On average, most inactive lobstermen were involved in the lobster industry an average of 26 years and had held a commercial lobster license or permit for 22 years.

Among inactive lobstermen, over half plan to increase their lobstering activity in the future; furthermore, almost half of those who plan to increase their lobstering in the future expect it to become the primary source of income.

Among inactive lobstermen, one quarter indicate that their children are involved in or intend to lobster as a career.

Other Fishing Activities

Four in ten inactive lobstermen hold other state fishing licenses or permits. The most common permits among inactive lobstermen include state licenses or permits for Striped Bass, Multi-species permits, and Commercial Fishing. Among inactive lobstermen who hold federal fishing permits, 20% hold a federal permit for American Lobster, 18% have a federal Northeast Multi-species permit, and 16% hold a federal permit for Monkfish.

About 1 in 5 inactive lobstermen earned income from other fishing activities. Among those who earned income from other fishing, 20% earned income from Striped Bass, while 13% earned income from Commercial Fishing, and 10% from Sea Bass.

Household Income

Among inactive lobstermen, the average household income reported is \$56,495. Among those who earned income from other fishing activities, 39% of household income, on average, came from these other fishing activities in 2005.

References

- DeNavas-Walt, Carmen, Bernadette D. Proctor, and Cheryl Hill Lee, U.S. Census Bureau, Current Population Reports, P60-229, Income, Poverty, and Health Insurance Coverage in the United States: 2004, U.S. Government Printing Office, Washington, DC, 2005
- Hall-Arber, Madeleine, Chris Dyer, John Poggie, James McNally, and Renee Gagne, New England's Fishing Communities, data? Found at <http://seagrant.mit.edu/cmss/marfn>

Appendix 8



Appendix 9

LCMA 2 Trap Tag Data by State – 2000-2007

		# Vessels Elected A2	# Tags Auth	# Tags Purchased	# Vessels Purchasing Tags
MA	2000	253	202,400		
	2001	281	224,800	110,151	157
	2002	264	211,200	103,239	146
	2003	228	182,400	73,440	106
	2004	204	163,200	42,115	65
	2005	191	152,800	36,214	55
	2006	187	149,600	28,530	45
	2007	176	140,624	28,051	51
	% Change - '01-'07	-30.4%	-30.5%	-74.5%	-67.5%
RI	2000	215	172000		
	2001	217	173,600	160,345	207
	2002	208	166,400	94,935	107
	2003	211	168,800	112,064	144
	2004	201	160,800	104,630	134
	2005	193	154,400	92,912	123
	2006	188	150,400	78,719	99
	2007	169	133,777	79,870	112
	% Change - '01-'07	-21.4%	-22.2%	-50.2%	-45.9%
CT	2000	12	9600		
	2001	18	14,400	4840	7
	2002	17	13,600	3440	4
	2003	18	14,400	3030	4
	2004	16	12,800	2150	3
	2005	16	12,800	2370	4
	2006	17	13,600	1760	2
	2007	16	12,800	880	1
	% Change - '01-'07	-11.1%	-11.1%	-81.8%	-85.7%
NY	2000	33	26,400		
	2001	32	25,600	12030	17
	2002	40	32,000	13480	16
	2003	39	31,200	11380	14
	2004	43	34,400	8720	10
	2005	42	33,600	7380	9
	2006	39	31,200	6980	9
	2007	42	33,600	5730	7
	% Change -	27.3%	27.3%	-52.4%	-58.8%

Appendix 9

LCMA 2 Trap Tag Data by State – 2000-2007

	'01-'07				
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Appendix 9

LCMA 3 Trap Tag Data by State – 2000-2007

		# VESSELS elected A3	(authorized) MAXIMUM TAGS	A3 TAGS PURCHASED	# Vessels purchasing tags
MA	2000	173	170,400		
	2001	205	197,000	145,287	156
	2002	215	206,000	139,099	150
	2003	175	169,124	94,520	90
	2004	43	57,022	56,758	43
	2005	34	43,216	42,070	29
	2006	32	40,584	41,770	30
	2007	34	42,920	39,650	29
	% Change - '01-'07	-80.3%	-74.8%	-72.7%	-81.4%
RI	2000	93	112,400		
	2001	114	132,200	153820	139
	2002	117	134,600	65315	67
	2003	117	136,107	123550	107
	2004	43	70,672	73711	50
	2005	39	63,165	58932	35
	2006	39	58,924	46855	26
	2007	39	55,937	51822	30
	% Change - '01-'07	-58.1%	-50.2%	-66.3%	-78.4%
NH	2000	32	39600		
	2001	36	43800	**	**
	2002	34	41200	**	**
	2003	25	31056	**	**
	2004	13	20501	880	1
	2005	12	17959	19859	11
	2006	10	16000	17597	10
	2007	10	15556	15300	9
	% Change - '01-'07	-68.8%	-60.7%		
	**from NMFS authorized lists only				
	**no clear LMA identified				

Appendix 9

LCMA OCC Trap Tag Data by State – 2000-2007

		# VESSELS elected OC	(authorized) MAXIMUM TAGS	TAGS PURCHASED	# vessels purchasing tags
MA	2000	174	139,200		
	2001	193	154,400	82090	110
	2002	194	155,200	74335	98
	2003	171	136,800	220 on NMFS sheet, 40920 on state sheet	4 on NMFS sheet, 55 on state sheet
	2004	155	124,000	22237	35
	2005	137	109,268	845 on NMFS sheet	1 on NMFS sheet
	2006	133	105,968	1725 on NMFS sheet, 12,444 on MA sheet	2 on NMFS sheet, 14 on MA sheet
	2007	131	103,370	15,756	25
		% Change - '01-'07	-24.7%	-25.7%	
RI	2000	10	8,000		
	2001	22	17,600	5710	7
	2002	21	16,800	6970	9
	2003	25	20,000	612 on NMFS sheet, 6520 on state sheet	1 on NMFS sheet, 9 on state sheet
	2004	27	21,600	3260	4
	2005	26	20,800	5450	8
	2006	22	17,600	2560	3
	2007	20	16,000	7885	9
		% Change - '01-'07	100.0%	100.0%	
NH	2000	1	800		
	2001	3	2400	400 on NMFS sheet	1 on NMFS sheet
	2002	4	3200	500 on NMFS sheet	1 on NMFS sheet
	2003	2	1600	0	no areas on state sheet
	2004	2	1600	0	no AOC on state sheet
	2005	2	1600	0	0
	2006	1	800	0	0
	2007	3	2400	0	0

no areas
on state
sheet
no areas
on state
sheet

Appendix 9

LCMA OCC Trap Tag Data by State – 2000-2007

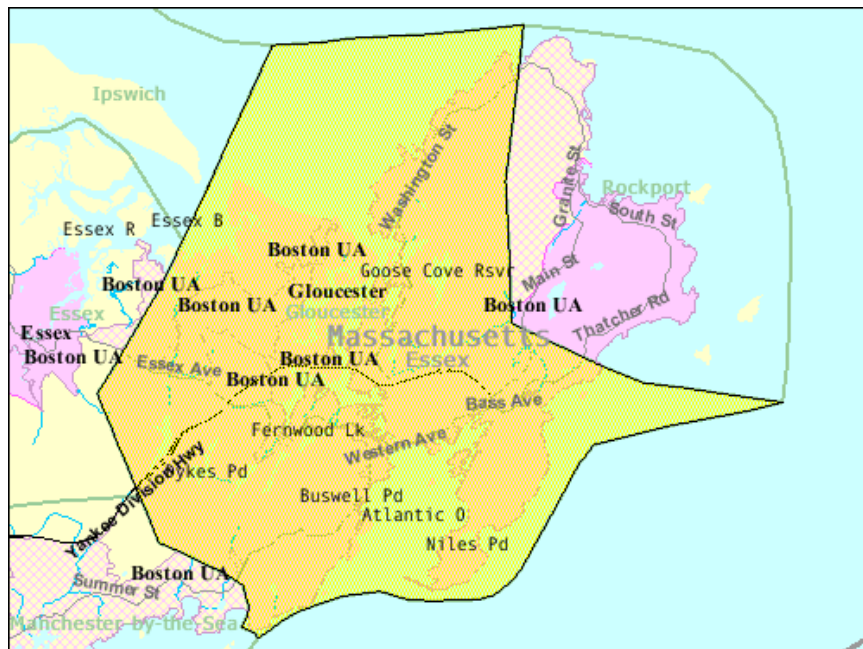
	% Change - '01-'07	200.0%	200.0%		
	**from NMFS authorized lists only				
	**no clear LMA identified				

GLOUCESTER, MA¹ Community Profile²

PEOPLE AND PLACES

Regional orientation

The city of Gloucester (42.62°N, 70.66°W) is located on Cape Ann, on the northern east coast of Massachusetts in Essex County. It is 30 miles northeast of Boston and 16 miles northeast of Salem. The area encompasses 41.5 square miles of territory, of which 26 square miles is land (USGS 2008).



Map 1. Location of Gloucester, MA (US Census Bureau 2000)

Historical/Background

The history of Gloucester has revolved around the fishing and seafood industries since its settlement in 1623. Part of the town's claim to fame is being the oldest functioning fishing community in the United States. It was established as an official town in 1642 and later became a city in 1873. By the mid 1800s, Gloucester was regarded by many to be the largest fishing port in the world. Unfortunately, with so many fishermen going to sea there were many deaths during the dangerous voyages. At least 70 fishermen died at sea in 1862 and the annual loss peaked at 249 in 1879. The construction of memorial statues and an annual memorial to fishermen demonstrates that the high death tolls are still in the memory of the town's residents.

¹ These community profiles have been created to serve as port descriptions in Environmental Impact Statements (EISs) for fisheries management actions. They also provide baseline information from which to begin research for Social Impact Assessments (SIAs). Further, they provide information relevant to general community impacts for National Standard 8 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and information on minorities and low income populations for Executive Order (E.O.) 12898 on Environmental Justice.

² For purposes of citation please use the following template: "Community Profile of *Town, ST*. Prepared under the auspices of the National Marine Fisheries Service, Northeast Fisheries Science Center. For further information contact Lisa.L.Colburn@noaa.gov."

Appendix 10

In 1924 a town resident developed the first frozen packaging device, which allowed Gloucester to ship its fish around the world without salt. The town is still well-known as the home of Gorton's frozen fish packaging company, the nation's largest frozen seafood company.

As in many communities, after the U.S. passed and enforced the Magnuson Act and foreign vessels were prevented from fishing within the country's EEZ (Exclusive Economic Zone), Gloucester's fishing fleet soon increased -- only to decline with the onset of major declines in fish stocks and subsequent strict catch regulations. For more detailed information regarding Gloucester's history. (Hall-Arber et al. 2001).

Demographics³

According to Census 2000 data (US Census Bureau 2000a), Gloucester had a total population of 30,273, up 5.4% from a reported population of 28,716 in 1990 (US Census Bureau 1990). Of this 2000 total, 47.9% were males and 52.1% were females. The median age was 40.1 years and 75.2% of the population was 21 years or older while 18.1% of the population was 62 or older.

The age structure (see Figure 1) between genders in Gloucester shows a peak between ages the ages of 40 to 49. Gloucester had a much lower percentage between the ages of 20-29. This may be an indication of out-migration after high school graduation for college or work since the fishing industry is not as strong as it was in the past.

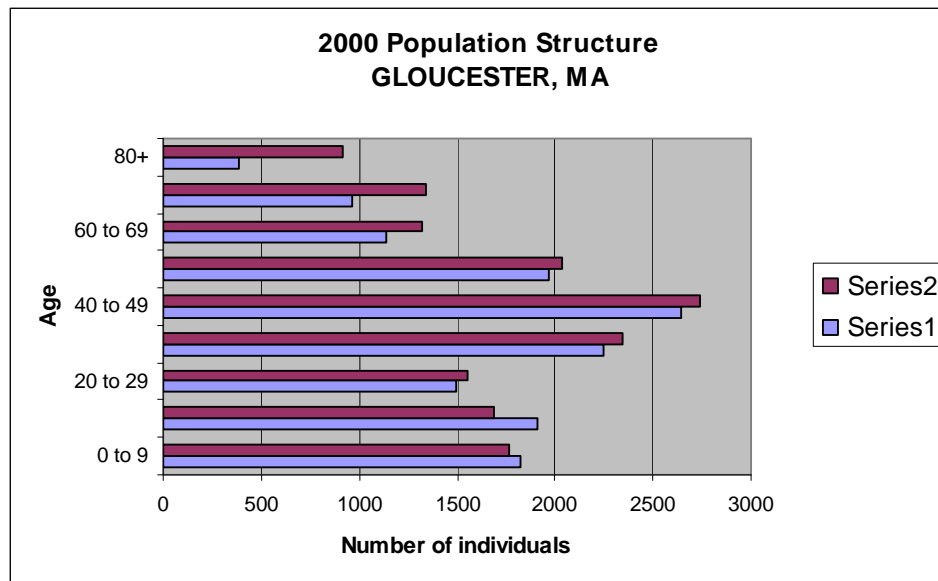


Figure 1. Gloucester's population structure by sex in 2000 (US Census Bureau 2000)

The majority of the population was white (96.9%), with 0.9% black or African American, 0.9% Asian, 0.4% Native American, and 0.1% Pacific Islander or Hawaiian (see Figure 2). Only 1.5% of the population identified themselves as Hispanic/Latino (see Figure 3). Residents linked their backgrounds to a number of different ancestries including: English (15.1%), Irish (20.1%), Italian (21.9%) and Portuguese (9.8%). With regard to region of birth, 77.4% were born in

³ While mid-term estimates are available for some larger communities, data from the 2000 Census are the only data universally available for the communities being profiled in the Northeast. Thus for cross-comparability we have used 2000 data even though these data may have changed significantly since 2000 for at least some communities.

Appendix 10

Massachusetts, 16.2% were born in a different state and 5.3% were born outside the U.S (including 2.6% who were not United States citizens).

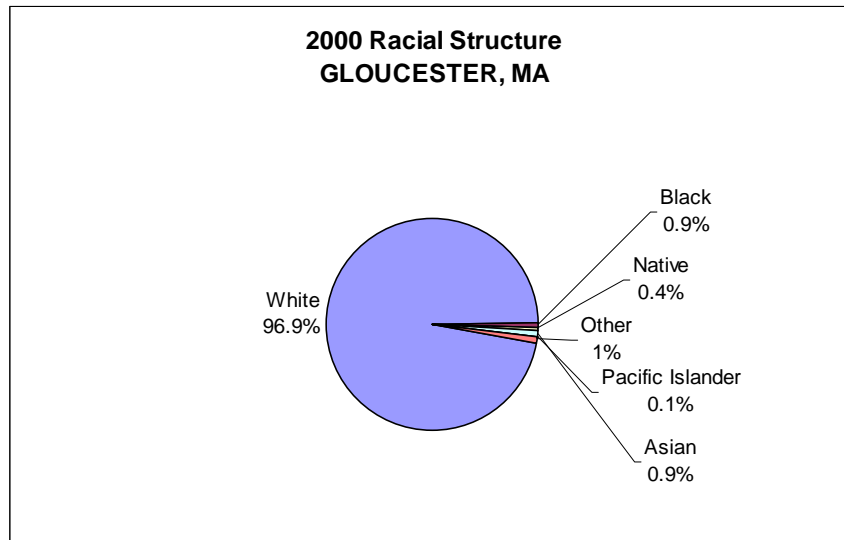


Figure 2. Racial Structure in 2000 (US Census Bureau 2000)

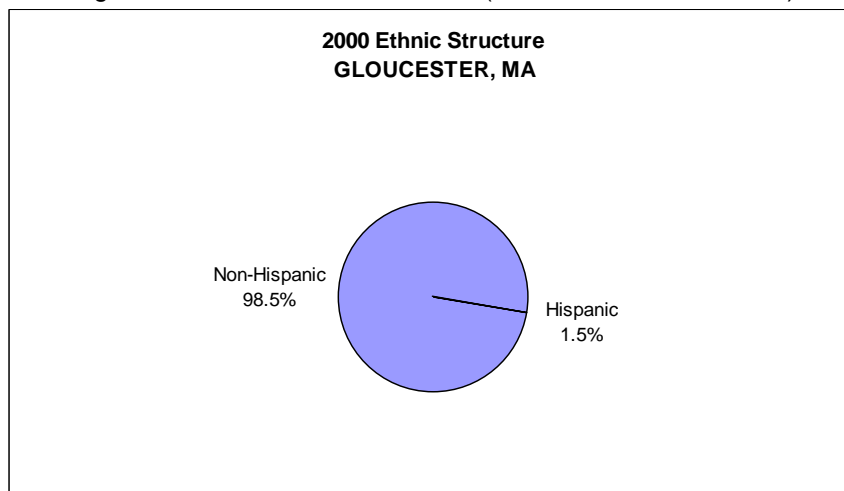


Figure 3. Ethnic Structure in 2000 (US Census Bureau 2000)

According to Griffith and Dyer (1996), “Probably 80 percent of Gloucester's fishermen are Italian (mostly Sicilian). Although large immigration flows ended in the mid-1970s, there are at least 26 vessels (out of approximately 200) on which only Italian is spoken. Even among the fishermen who arrived at a very young age, Italian is often the first and virtually only language spoken. Some of these men depend on their wives to communicate with the English-speaking population when necessary” (Griffith and Dyer 1996).

For 89.7% of the population, only English was spoken in the home, leaving 10.3% in homes where a language other than English was spoken, including 3.6% of the population who spoke English less than “very well” according to the 2000 Census. Further, Doeringer et al. (1986) noted with regard to both Gloucester and New Bedford: “[m]any workers are geographically immobile because of close ties to community and family -- ties that are reinforced in some ports by the presence of a large number of recent immigrants, many of whom lack facility in English (Miller and van Maaned 1979; Poggie and Pollnac 1980)”

Appendix 10

Of the population 25 years and over, 85.7% were high school graduates or higher and 27.5% had a bachelor's degree or higher. Again of the population 25 years and over, 5.2% did not reach ninth grade, 9.2% attended some high school but did not graduate, 25.9% completed high school, 31.5% had some college with no degree, 8.7% received an associate's degree, 17.2% earned a bachelor's degree, and 10.2% received either a graduate or professional degree.

Although the religion percentages are not available through U.S. Census data, according to the Association of Religion Data Archives (ARDA) in 2000, the religion with the highest number of congregations and adherents in Essex County was Catholic with 70 congregations and 362,900 adherents. Other prominent congregations in the county were United Church of Christ (49 with 15,358 adherents), United Methodist (31 with 8,713 adherents), Jewish (29 with 21,700 adherents), Episcopal (28 with 14,064 adherents) and American Baptist (24 with 5,291 adherents). The total number of adherents to any religion was up 4.1% from 1990 (ARDA 2000).

Issues/Processes

As regulations tighten, fishermen have been concerned that they will go out of business. It is interesting, however, that Gloucester has gained some business from Maine vessels which land here due to tightening restrictions at the statewide level in Maine.⁴

Fishermen and environmentalists in the Gloucester area have been heavily opposed to the development of two offshore LNG facilities near Gloucester. The facilities require fishermen to avoid a large area for security reasons, restricting some important fishing grounds and causing vessels to have to steam longer to get around the closed areas. Environmentalists have been concerned about the effect the ship traffic may have on endangered right whales inhabiting the area. In December 2006, \$6.3 million was provided to the Gloucester Fishing Community Preservation Fund as part of a \$12.6 million mitigation package for the LNG terminal being built off the coastline. These funds will be used to buy fishing permits from local fishermen who wish to leave the industry, and lease them to others (Moser 2007).

Cultural attributes

Gloucester demonstrates dedication to its fishing culture through numerous social events, cultural memorial structures, and organizations. [St. Peter's Fiesta](#), celebrated since 1927, is in honor of the patron saint of fishermen. It is put on by the St. Peter's Club, an organization that facilitates social interactions for fisherman. The celebration lasts for five days at the end of June each year. Festivities for this celebration include a seine boat race and a greasy pole competition, but the parade carrying a statue of St. Peter around the town and a blessing of the Italian-American fishing fleet are the foci of the festival.

2004 marked the 20th anniversary of the [Gloucester Schooner Festival](#), which is sponsored by Gorton's Seafood. "The Gloucester Schooner Festival celebrates the major contribution of the classic fishing schooner to the history of Gloucester. The events feature the last remaining of these great old vessels and their replicas, as they compete in the Mayor's Race for the Esperanto Cup, a trophy from the first International Fishermen's Races sailed in 1920." The Gloucester Maritime Heritage Center has held Gloucester Maritime Heritage Day annually for the last four years in conjunction with the Schooner Festival; activities commemorate the

⁴ Profile review comment, Caleb Gilbert, Port Agent, NMFS, 11-15 Parker St., Gloucester, MA 01930, February 8, 2008

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city's ties to the sea.⁵ Another festival that celebrates the area's fishing culture is the Essex Clamfest.

Other indications of the fishing culture in Gloucester include its annual Fishermen's Memorial Service, an annual tradition to honor fishermen lost at sea. The earliest recording of this ceremony was in the mid 1800s. In the 1960s this service stopped due to the closure of Fishermen's Union Hall (the organization previously in charge of it), but in 1996 the Gloucester Mayor asked residents to revive the tradition. Now there is a committee that documents the ceremony's speeches and ceremonial walk from the American Legion Square to the Fishermen's Monument each year, so that the tradition is not lost in the future.⁶

Interesting infrastructure that demonstrates the significance of fishing history in this city include "Our Lady of Good Voyage Church" built in 1893 and the recent opening of the [Gloucester Maritime Heritage Center](#), which provides visitors and the city residents with information of the historic and current fishing industry. The statue named "The Man at the Wheel" was built in memory of the 5,300 fishermen that died at sea. In 2001 a new statue dedicated to fishermen's wives was built by The Gloucester Fishermen's Wives Association.

INFRASTRUCTURE

Current Economy

Gorton's of Gloucester employs approximately 500 people in their fish processing facility, but it is important to note that at least as of 2000, the company had been processing and packaging only imported fish since the mid 1990s. Major employers that provide over 100 jobs in Gloucester include the following businesses (number of employees listed in parentheses): Varian Semi Conductor Equipment Associates (950), Gorton's of Gloucester (500), Battenfeld Gloucester Engineering (400), Shaw's Supermarkets (350), Addison Gilbert Hospital (325), NutraMax Products (220), and Seacoast Nursing and Retirement (160). [Cape Pond Ice](#) employs up to 30 people during the busy summer season.

According to the U.S. Census 2000⁷, 66.1% (24,397 individuals) of the population 16 years or older were in the labor force (see Figure 4), of which 3.2% were unemployed, 0.2% were in the Armed Forces, and 62.7% were employed.

⁵ Profile review comment, Harriet Webster, Gloucester Maritime Heritage Center, 23 Harbor Loop Rd., Gloucester, MA 01930, October 19, 2007

⁶ For more information call (978) 281-9740 and (978) 283-1645 to speak with either Thelma Parks or Lucia Amero, both are on Fishermen Memorial Service Committee

⁷ Again, Census data from 2000 are used because they are universally available and offer cross-comparability among communities. Some statistics, particularly median home price, are likely to have changed significantly since 2000.

Appendix 10

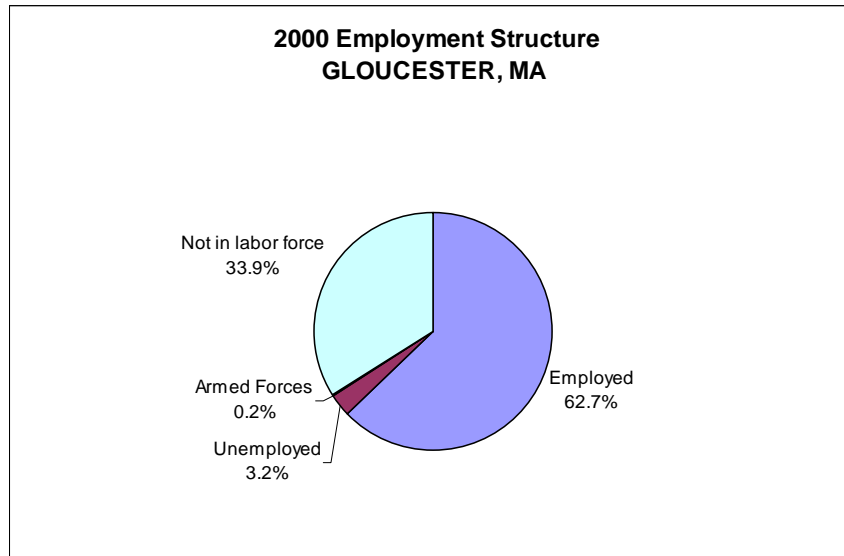


Figure 4. Employment Structure in 2000 (US Census Bureau 2000)

According to Census 2000 data, jobs in the census grouping which includes agriculture, forestry, fishing and hunting, and mining accounted for 382 or 2.5% of all jobs. Self employed workers, a category where fishermen might be found, accounted for 1,319 positions or 8.6% of jobs. Educational, health and social services (20.2%), manufacturing (16.7%), retail trade (10.8%) and arts, entertainment, recreation, accommodation and food services (9.2%) were the primary industries.

The median household income in 2000 was \$47,772 (up 46.1% from \$32,690 in 1990 [US Census Bureau 1990]) and median per capita income in 2000 was \$25,595. For full-time year round workers, males made approximately 35.7% more per year than females.

The average family in Gloucester in 2000 consisted of 3.0 persons. With respect to poverty, 7.1% of families (up from 6.7% in 1990 [US Census Bureau 1990a]) and 8.8% of individuals were below the U.S. Census poverty threshold. This threshold is \$8,794 for individuals and ranges from \$11,239 through \$35,060 for families, depending on number of persons (2-9) (US Census Bureau 2000a). In 2000, 26.0% of all families (of any size) earned less than \$35,000 per year.

In 2000, Gloucester had a total of 13,958 housing units, of which 90.2% were occupied and 54.3% were detached one unit homes. Just over half (53.9%) of these homes were built before 1940. Mobile homes accounted for 0.1% of housing units; 88.7% of detached units had between 2 and 9 rooms. In 2000, the median cost for a home in this area was \$204,600. Of vacant housing units, 70.4% were used for seasonal, recreational, or occasional use. Of occupied units, 40.3% were renter occupied.

Government

Gloucester's city government is run by an elected mayor and city council.

Fishery involvement in government

The Gloucester Fisheries Commission is the only municipal-level government sector focused on fisheries, but it is currently inactive. However, NOAA Fisheries, Fisheries Statistics Office, has two port agents based here. Port agents sample fish landings and provide a 'finger-on-the-pulse' of their respective fishing communities. The [NOAA Fisheries Northeast Regional](#)

Appendix 10

[Office](#) is based in Gloucester; many of the employees here work closely with the city.⁸ There is also a harbor master in town.

Institutional

Fishing associations

Both the Gloucester Fishermen's Association and Gloucester Lobstermen's Association are located in Gloucester (Stevenson nd). The Massachusetts Fisherman's Partnership focuses on issues for fishermen in different ports in Massachusetts. The Partnership responded to the need of health care for fishermen and their families by developing the Fishing Partnership Health Insurance Plan with federal and state aid. This plan has been in place since 1997 and reduces the amount of money that fishermen's families have to pay to be covered by health insurance (Hall-Arber et al. 2001).

Fishing assistance centers

The Gloucester Fishermen and Family Assistance Center was established in 1994. Currently it is run and funded by grants from the Department of Labor. "In an effort to help fishermen, their families, and other fishing workers to transition to new work, Massachusetts applied for and received grants from the U. S. Department of Labor to set up career centers. National Emergency Grants (NEG) fund centers in Gloucester, New Bedford and Cape Cod and the Islands to provide re-employment and re-training services to those individuals who can no longer make an income from fishing and fishing related businesses" (Commonwealth Corporation 2007).

The [Gloucester Fishermen's Wives Association](#) (GFWA) was founded in 1969 by the wives of Gloucester fishermen. In 2001 they constructed a memorial statue to the fishermen's wives of Gloucester.

The Gloucester Fishing Community Preservation Fund was established in 2007 to manage a project buying fishing permits from those who wish to get out of the industry and leasing them to others, using the funding received in a mitigation package for the development of an offshore LNG terminal in the fishing grounds (Moser 2007).

Other fishing related organizations

[Northeast Seafood Coalition](#) is a non-profit, membership organization located in Gloucester, focused on representing the interests of commercial fishermen. "The Gloucester Maritime Heritage Center is the only working historic waterfront in the Northeast that combines a historic working marine railway, where wooden vessels are hauled and repaired, with a Gulf of Maine aquarium, ongoing construction of wooden boats, and educational exhibits and programs" (GMHC 2007). They have a number of educational programs for children and teens, including field trips, boat building, internships, and after school programs (GMHC 2007).

Physical

There are several ways to access Gloucester and to travel within the city. Cape Ann Transportation Authority (CATA) is the bus system that runs from Gloucester to Rockport. State Routes 128, 127, and 133 are highway system providing access within and to the city. The neighboring town of Beverly has a small municipal airport with three asphalt runways. Amtrak and MBTA (Massachusetts Bay Transportation Authority) trains provide public transportation

⁸ Profile review comment, Caleb Gilbert, Port Agent, NMFS, 11-15 Parker St., Gloucester, MA 01930, February 8, 2008

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from Gloucester to the Boston area (State of Massachusetts 2007). Gloucester is approximately 35 miles from Boston and 106 miles from Portland, Maine by car (MapQuest nd).

Gloucester has been a full service port for the commercial fishing industry in the region; however, this status would be jeopardized if one or more of the facilities went out of business. Thus far it has provided all the necessary facilities for fishermen in the town, and even facilities needed for neighboring fishing communities. Offloading facilities located within the city include Capt. Vince, which deals almost exclusively in lobster, the Gloucester Seafood Display Auction, Ocean Crest, John B. Wrights, NE Marine Resources, and a few others who have been offloading fish in Gloucester for years (Robinson S 2003). There are nine lobster buyers that are either based in or come to Gloucester for purchasing.

Fishermen can purchase necessary equipment and have it repaired in town by either Gloucester Marine Railways or Rose Marine, both of which can provide haul out service for large vessels (Robinson 2003). Additionally, the Gloucester Maritime Heritage Center specializes in large wooden vessel restoration projects.⁹ There are three other facilities that provide services for vessels under 40ft. Gloucester fishermen have a choice of nine gear and supply shops in town (Robinson S 2003). Harbor plans in 2006 have been formulated to maintain the necessary fishing infrastructure (Hall-Arber 2001). There are at least 11 locations that provide long-term mooring space and seven for temporary mooring space. At least four facilities provide a place for fishermen to purchase fuel (Robinson S 2003). Whole Foods runs the 17,000 sq. ft. Pigeon Cove seafood processing facility, which supplies Whole Foods markets throughout the country with seafood. Some of the fish processed here is caught in Gloucester or Rockport, but much of it is imported from elsewhere in New England or flown in from other parts of the world (Hall-Arber 2001).

[Cape Pond Ice](#), started in 1848, is the only ice business remaining in Gloucester, and provides other ice services, such as vegetable transport and ice sculptures to offset the declining business from the fishing industry. B&N Gear is the only bottom trawl gear seller in town (Finch 2004). Gloucester Seafood Display Auction, opened in 1997 by the Cuilla family, quickly grew to become the largest open display auction of fresh seafood in North America as of 2000. This allows buyers to purchase fish directly from the boats rather than having to rely on fish brokers, as they did in the past (Dornbusch 2003).

INVOLVEMENT IN NORTHEAST FISHERIES¹⁰

Commercial

Although there are threats to the future of Gloucester's fishery, the fishing industry remains strong in terms of recently reported landings. Gloucester's commercial fishing industry had the 13th highest landings in pounds (78.5 million) and the nation's ninth highest landings

⁹ Profile review comment, Harriet Webster, Gloucester Maritime Heritage Center, 23 Harbor Loop Rd., Gloucester, MA 01930, October 19, 2007

¹⁰ In reviewing the commercial landings data several factors need to be kept in mind. 1) While both federal and state landings are included, some states provide more detailed data to NMFS than others. For example, shellfish may not be included or data may be reported only by county and not by port. 2) Some communities did not have individual port codes until more recently. Before individual port codes were assigned, landings from those ports were coded at the county level or as an aggregate of two geographically close small ports. Where landings were coded at the county level they cannot be sorted to individual ports for those earlier years, e.g., prior to 2000. 3) Where aggregated codes were used, those aggregate codes may still exist and be in use alongside the new individual codes. Here the landings which are still assigned to the aggregate port code cannot be sorted into the individual ports, so port level data are only those which used the individual port code. 4) Even when individual port codes exist, especially for small ports, landings may be coded at the county level. Here again it is impossible to disaggregate these to a port level, making the port level landings incomplete. 5) In all these cases, the per port data in this profile may under report the total level of landings to the port, though all landings are accounted for in the overall NMFS database.

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value in 2002 (\$41.2 million). In 2003 recorded state landings totaled 11.6 million pounds, with catches of lobster, cod, and haddock at 2.0 million, 4.7 million, and 2.6 million pounds landed, respectively (US Fisheries 2002). In 2002 Gloucester had the highest landings value of lobster in Massachusetts with the state-only landings worth \$2 million and the combined state and federal landings recorded from federally permitted vessels was just over \$10 million.

Gloucester's federally managed group with the highest landed value was largemesh groundfish with nearly \$20 million in 2006 (see Table 1). Lobster landings were second in value, bringing in more than \$10 million in 2006, a significant increase from the 1997-2006 average value of just over \$7 million. Monkfish and herring were also valuable species; both had more valuable landings in 2006 than the ten year average values. The number of vessels home ported (federal) increased slightly from 1997 to 2006, but there was a slight reduction for the years 1998, 1999, and 2000 (Table 2).

Landings by Species

Table 1. Dollar value of Federally Managed Groups of landing in Gloucester

	Average from 1997-2006	2006 only
Largemesh Groundfish¹¹	17,068,934	19,577,975
Lobster	7,036,231	10,179,221
Monkfish	3,556,840	4,343,644
Other¹²	3,246,920	1,906,551
Herring	3,127,523	5,623,383
Squid, Mackerel, Butterfish	1,065,567	3,692,506
Scallop	735,708	1,113,749
Smallmesh Groundfish¹³	732,353	254,287
Dogfish	375,972	316,913
Skate	63,488	27,334
Tilefish	52,502	245,398
Surf Clams, Ocean Quahog	29,033	77,805
Bluefish	21,672	18,116
Summer Flounder, Scup, Black Sea Bass	1,286	603

Note: Red crab are also landed, but cannot be reported due to confidentiality

¹¹ Largemesh groundfish: cod, winter flounder, yellowtail flounder, American plaice, sand-dab flounder, haddock, white hake, redfish, and pollock

¹² "Other" species includes any species not accounted for in a federally managed group.

¹³ Smallmesh multi-species: red hake, ocean pout, mixed hake, black whiting, silver hake (whiting)

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Vessels by Year¹⁴

Table 2. All columns represent vessel permits or landings value combined between 1997 and 2006

Year	# Vessels (home ported)	# Vessels (owner's city)	Level of fishing home port (\$)	Level of fishing landed port (\$)
1997	277	216	15,483,771	23,497,650
1998	250	196	18,078,326	28,394,802
1999	261	199	18,396,479	25,584,082
2000	261	202	19,680,155	41,929,807
2001	295	230	18,614,181	37,961,334
2002	319	247	21,316,029	37,795,464
2003	301	225	22,451,526	37,795,464
2004	298	227	24,531,345	42,760,975
2005	287	217	34,319,544	45,966,974
2006	284	213	34,255,146	47,377,485

(Note: # Vessels home ported = No. of permitted vessels with location as homeport
Vessels (owner's city) = No. of permitted vessels with location as owner residence¹⁵
Level of fishing home port (\$) = Landed value of fisheries associated with home ported vessels
Level of fishing landed port (\$) = Landed value of fisheries landed in location)

Recreational

Gloucester is home to roughly a dozen fishing charter companies and party boats fishing for bluefin tuna, sharks, striped bass, bluefish, cod, and haddock. Between 2001- 2005, there were 50 charter and party vessels making 4,537 total trips registered in logbook data by charter and party vessels in Gloucester carrying a total of 114,050 anglers (NMFS VTR data). Some of the charter and party boats may be captained by part-time fishermen that needed a new seasonal income (Cape Ann Chamber of Commerce 2007). The [Yankee Fleet](#) offers deep sea fishing on their party boats on half-day, full-day, and overnight trips and charter fishing trips. [Sandy B Fishing Charters](#) takes passengers in search of cod, haddock, tuna, and striped bass. [Black Pearl Charters](#) also has offshore trips for cod and haddock, and inshore trips for bluefish and striped bass.

Subsistence

Information on subsistence fishing in Gloucester is either unavailable through secondary data collection or the practice does not exist.

FUTURE

The Massachusetts Department of Housing and Community Development recognize that the fishing industry is changing. The city must adapt to these major economic changes.

¹⁴ Numbers of vessels by owner's city and homeport are as reported by the permit holder on permit application forms. These may not correspond to the port where a vessel lands or even spends the majority of its time when docked.

¹⁵ The Owner-City from the permit files is technically the address at which the owner receives mail concerning their permitted vessels, which could reflect the actual location of residence, the mailing address as distinct from residence, owner business location, or the address at which a subsidiary receives mail about the permits.

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Although the city is preparing for other industries, such as tourism, they are also trying to preserve both the culture of fishing and the current infrastructure necessary to allow the fishing industry to continue functioning. The city is also currently working with the National Park Service to plan an industrial historic fishing port, which would include a working fishing fleet (State of Massachusetts 2007). This would preserve necessary infrastructure for the fishing industry and preserve the culture to further develop tourism around fishing.

According to newspaper articles (Finch 2004) and city planning documents, residents have conflicting visions for the future of Gloucester. Many argue that the fishing industry is in danger of losing its strength. For example an anthropological investigation of the fishing infrastructure in Gloucester (Robinson 2003) found that the port is in danger of losing its full-service status if some of the businesses close down. With stricter governmental regulations on catches to rebuild declining and depleted fish stocks, many residents are choosing to find other livelihood strategies, such as tourism or other businesses. In 1996, the NMFS piloted a vessel buyback program to decrease the commercial fishing pressure in the northeast. Of the 100 bids applying to be bought by the government, 65 were from Gloucester fishermen (Gorlick 2000). This could be taken as an indication that these fishermen do not see any future in fishing for themselves in the Northeast. NMFS adjusted this program to just buy back permits rather than vessels. Massachusetts had the highest sale of permits, though the number of Gloucester permits could not be obtained at this time.¹⁶

On the other hand, there are fishermen who claim the fishing and seafood industries will remain strong in the future, despite the pessimistic forecasts. The Gloucester Seafood Festival and Forum is one example of celebrating and promoting Gloucester seafood industry (City of Gloucester 2007).

Whole Foods/Pigeon Cove recently expanded its facility to 17,000 sq. ft., and has plans to expand further (Hall-Arber et al. 2001).

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¹⁶ If buyback data is needed on the port level, contact Drew Kitts at NEFSC in Woods Hole, MA.

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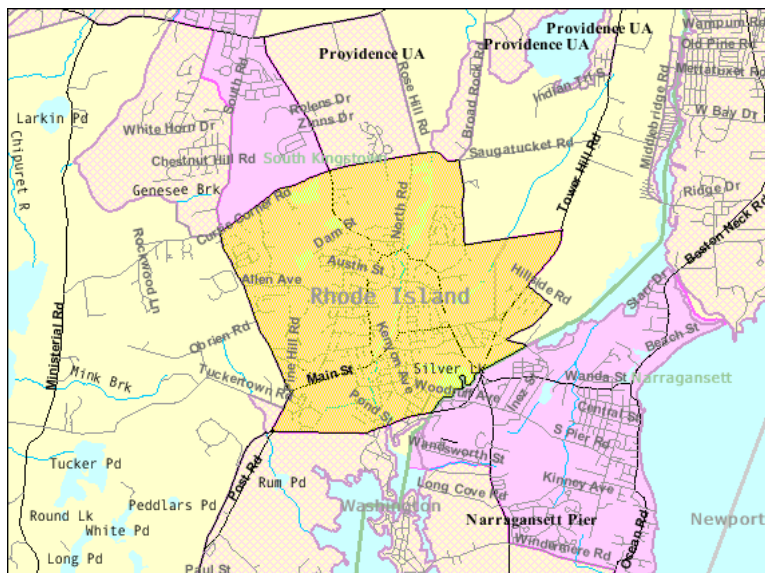
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WAKEFIELD, RI¹ Community Profile²

PEOPLE AND PLACES

Regional orientation

Wakefield (41.437N, 71.501W) (USGS 2008) is located, along with Peacedale and several other villages, in Washington County, 25 miles southeast of Providence, and is roughly 4 miles north of Point Judith. For U.S. Census purposes, Wakefield and Peacedale are combined into a single Census Designated Place or CDP, as neither village is incorporated as a separate town. In fact, Wakefield and Peacedale (along with the villages of Curtis Corner, Green Hill, Indian Lake Shore, Kingston, Matunuck, Middlebridge, Perryville, Rocky Brook, Snug Harbor, Tuckertown, Usquepaugh, and West Kingston) are actually part of the town of South Kingstown (SKCC 2004).



Map 1. Location of the Wakefield- Peacedale CDP (US Census Bureau 2000a)

Historical/Background

In 1674, King's Town was founded and included the present towns of Narragansett, North Kingstown, and South Kingstown (Town of South Kingstown 2008). Narragansett Indians hunted, fished, and raised corn in this area. The first settlement was in South Kingstown. Colonial soldiers from Rhode Island, Massachusetts and Connecticut defeated King Philip there during the Great Swamp Fight, in 1675. Farming was the most common occupation during this time. By 1800, many people were employed by the Wakefield Manufacturing Company, or the

¹ These community profiles have been created to serve as port descriptions in Environmental Impact Statements (EISs) for fisheries management actions. They also provide baseline information from which to begin research for Social Impact Assessments (SIAs). Further, they provide information relevant to general community impacts for National Standard 8 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and information on minorities and low income populations for Executive Order (E.O.) 12898 on Environmental Justice.

² For purposes of citation please use the following template: "Community Profile of *Town, ST*. Prepared under the auspices of the National Marine Fisheries Service, Northeast Fisheries Science Center. For further information contact Lisa.L.Colburn@noaa.gov."

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Peace Dale Mill, which became one of the town's largest industries (RIEDC 2008). The village of Peace Dale was founded about that time by Rowland Hazard, the owner of the Peace Dale Mill, who named the village after his wife, Mary Peace. Around 1820, Hazard renamed the nearby industrial village of Wakefield after the town and family of the same name in England, who were friends of his (SKCC 2004). The Rhode Island College of Agriculture and Mechanic Arts was founded in 1892, near the Village of Kingston. This was an important milestone in the history of the area. Rhode Island College became the University of Rhode Island and now this institution plays a key role in the economy and the cultural life of the area. In recent years, small industries have replaced the town's previous chief textile manufacturers. For many years, the J.P. Stevens Company operated in the Peace Dale Mill, until the textile industry and sales declined at the end of World War II. The South Kingstown shoreline and beach areas have increased residency, as well as developed summer resort and tourist facilities (RIEDC 2008).

Demographics³

According to Census 2000 data, Wakefield- Peacedale CDP had a total population of 8,468, up 18.7% from a reported population of 7,134 in 1990 (US Census Bureau 1990). Of this 2000 total, 46.7% were males and 53.3% were females. The median age was 37 years and 68.6% of the population was 21 years or older while 15.1% was 62 or older.

The population structure for Wakefield (see Figure 1) shows a community with many families and children. The largest percentage of the population was between the ages of 30-39, followed by 40-49, with many children age 0-9 and 10-19 as well. Like many fishing communities, Wakefield experienced a decline in the population of residents between the ages of 20-29.

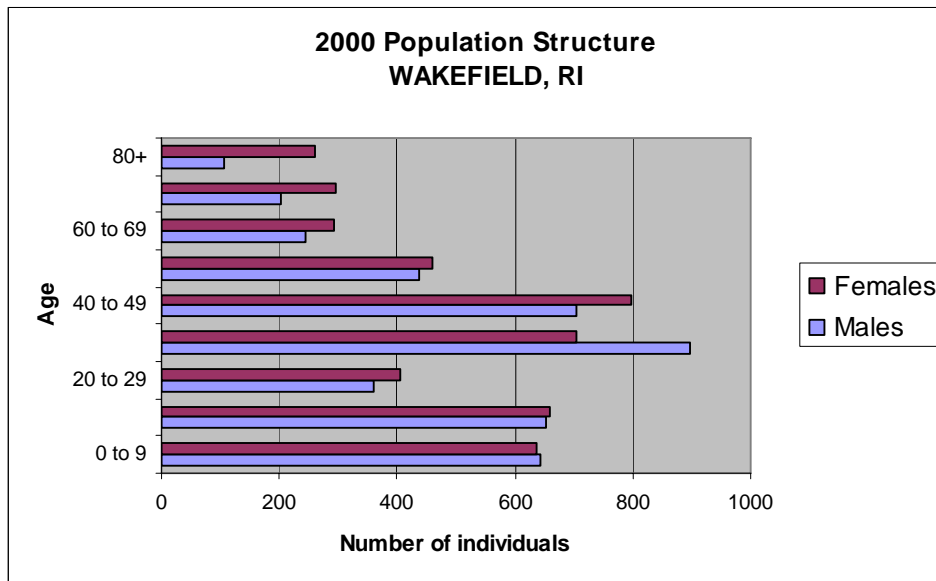


Figure 1. Wakefield's population structure by sex in 2000 (US Census Bureau 2000a)

³ While mid-term estimates are available for some larger communities, data from the 2000 Census are the only data universally available for the communities being profiled in the Northeast. Thus for cross-comparability we have used 2000 data even though these data may have changed significantly since 2000 for at least some communities.

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The majority of the population was white (89.1%), with 3.6% black or African American, 1.5% Asian, 4.7% American Indian and Alaska Native, and none Pacific Islander or Hawaiian (see Figure 2). Only 1.6% of the population identified themselves as Hispanic/Latino (see Figure 3). Residents linked their backgrounds to a number of different ancestries including: Irish (23%), Italian (17.2%), and English (17.2%).

With regard to region of birth, 66.7% were born in Rhode Island, 29.9% were born in a different state and 3.1% were born outside of the U.S. (including 1.4% who were not United States citizens).

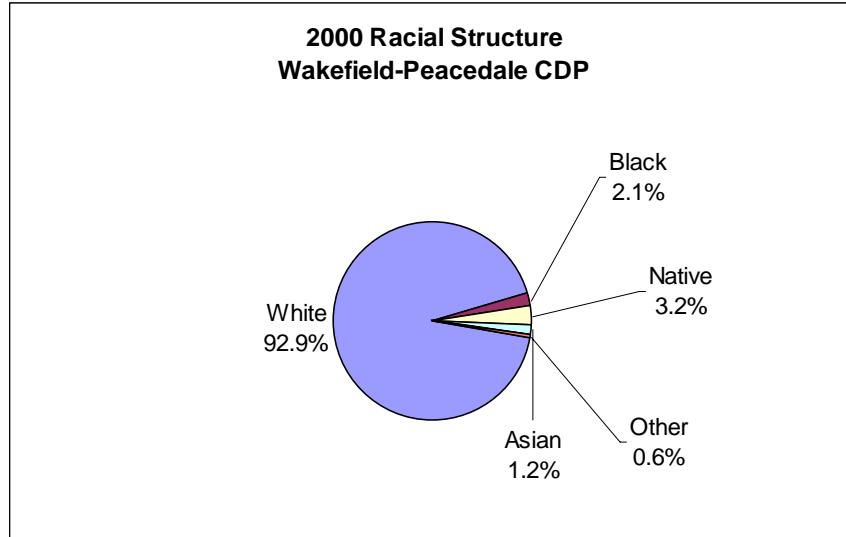


Figure 2. Racial Structure in 2000 (US Census Bureau 2000)

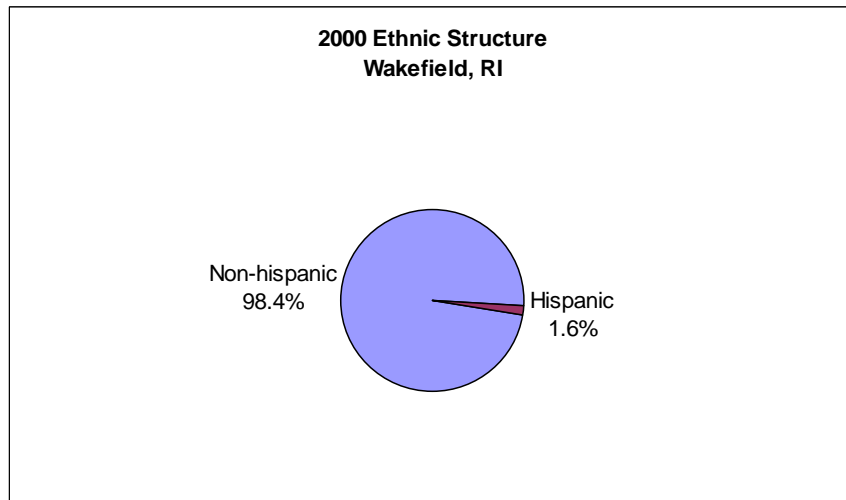


Figure 3. Ethnic Structure in 2000 (US Census Bureau 2000)

For 94.1% of the population, only English was spoken in the home, leaving 5.9% in homes where a language other than English was spoken, including 1.2% of the population who spoke English less than “very well” according to the 2000 Census.

Of the population 25 years and over, 81.8% were high school graduates or higher and 41.9% had a bachelor’s degree or higher. Again of the population 25 years and over, 3% did not

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reach ninth grade, 7.2% attended some high school but did not graduate, 25.9% had completed high school, 15.9% had some college with no degree, 6.1% received an associate's degree, 25.3% earned a Bachelor's degree, and 16.6% received either a graduate or professional degree.

Although religion percentages are not available through U.S. Census data, according to the Association of Religion Data Archives (ARDA) in 2000, the religion with the highest number of congregations and adherents in Washington County was Catholic with 20 congregations and 58,668 adherents. Other prominent congregations in the county were American Baptist Churches (15 congregations with 3,022 adherents) and Episcopal (10 with 4,720 adherents). The total number of adherents to any religion was up 57.3% from 1990 (ARDA 2000).

Issues/Processes

Information on issues/processes in Wakefield is unavailable through secondary data collection, though at least some Wakefield fishermen fish out of Point Judith and would share the concerns for that port.

Cultural attributes

[Snug Harbor Marina](#) in Wakefield hosts three fishing tournaments; a shark fishing tournament, a striped bass tournament, and a bass and bluefish tournament.

INFRASTRUCTURE

Current Economy

The economy in Wakefield has been slowly recovering since the 1990s. According to South Kingstown's Chamber of Commerce, the local economic base is strong because it doesn't rely on one industry. The local economy is supported by businesses of all sizes and a number of industries. There are more than 10,000 businesses in and around South Kingstown (SKCC 2004).

Education, government, and health care account for the majority of the local economy. In recent years, companies, including APC, have invested millions of dollars in property, buildings, and equipment in the South Kingstown area, creating many job opportunities. Small and medium-sized businesses are the most prominent in South Kingstown. Most of the area businesses employ fewer than 20 workers. These businesses include specialty retail shops, financial service firms, management consultancies, and fitness firms. Tourism is also a substantial aspect of the economy of South Kingstown.

In addition to these aspects of economy, the South Kingstown area is home to multiple fish processing and wholesaling companies. In Wakefield itself, [Deep Sea Fish](#) of Rhode Island Inc. is a wholesale supplier and exporter of Southern New England seafood that receives fish from independently owned and operated fishing vessels. Deep Sea Fish then ships the fish to auctions and wholesalers worldwide. [Four Sisters Lobster Company](#), was located in Wakefield, delivers live, fresh lobsters throughout the United States, but has apparently closed by 2007. Additional companies include Stone Cove Marina, Inc., Salt Pond Marine Railway, Inc., Ocean State Marine Railway, Inc., Industrial Marine Marketing (commercial fishing supplies), Channel Marina Snug Harbor, Kenport Marina Fish Market, Main Street Fish Market, and Moonstone Oysters.

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According to the U.S. Census 2000⁴, 70.4% (4,488 individuals) of the total population 16 years of age and over are in the labor force (see Figure 4), of which 3.2% were unemployed, 0.3% were in the Armed Forces, and 66.9% were employed.

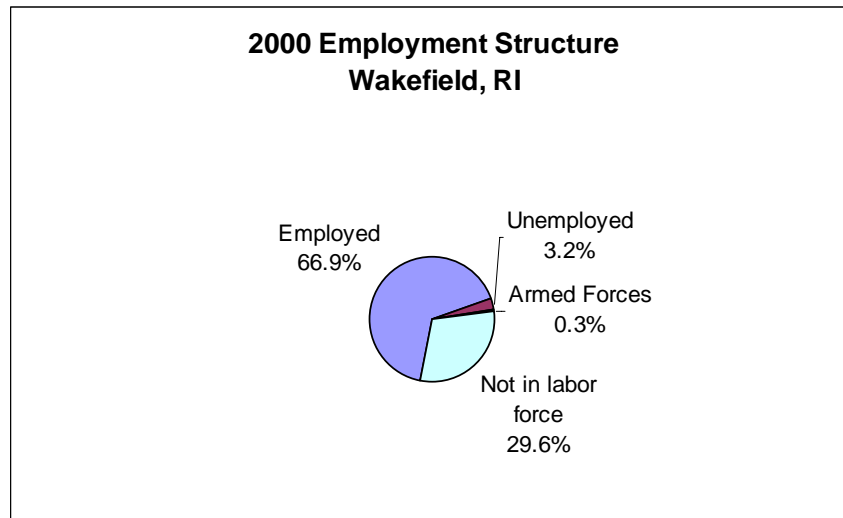


Figure 4. Employment Structure in 2000 (US Census Bureau 2000)

According to Census 2000 data, jobs in the census grouping which includes agriculture, forestry, fishing and hunting, and mining accounted for 32 positions or 0.7% of all jobs. Self employed workers, a category where fishermen might be found, accounted for 426 positions or 10% of jobs. Educational, health and social services (34%), professional, scientific, management, administrative, and waste management services (9.2%), manufacturing (9.4%) and arts, entertainment, recreation, accommodation and food services (9.2%) were the primary industries.

Median household income in Wakefield- Peacedale CDP was \$50,313, up 44.8% from \$34,748 in 1990 (US Census Bureau 1990) and median per capita income was \$24,191. For full-time year round workers, males made approximately \$20,548 more per year than females.

The average family in Wakefield-Peacedale CDP consisted of 3.14 persons. With respect to poverty, 3.9% of families, up from 3.6% in 1990 (US Census Bureau 1990) and 5.4% of individuals earned below the official U.S. Census poverty threshold. This threshold is \$8,794 for individuals and ranges from \$11,239 through \$35,060 for families, depending on number of persons (2-9) (US Census Bureau 2000b). In 2000, 32.3% of all families of any size earned less than \$35,000 per year.

In 2000, Wakefield-Peacedale CDP had a total of 3,381 housing units of which 95.2% were occupied and 69.5% were detached one unit homes. Slightly more than a third of these homes were built before 1940. Mobile homes accounted for 0.3% of housing units; 89.8% of detached units had between 2 and 9 rooms. In 2000, the median cost for a home in this area was \$151,700. Of vacant housing units, 1.3% were used for seasonal, recreational, or occasional use. Of occupied units, 28.7% were renter occupied.

⁴ Again, Census data from 2000 are used because they are universally available and offer cross-comparability among communities. Some statistics, particularly median home price, are likely to have changed significantly since 2000.

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Government

Wakefield's government is the same as the town of South Kingstown, as it is a village of South Kingstown. The South Kingstown government consists of a Town Manager and a Town Council. The Town Council has five members elected at large in November of even-numbered years. The Town Council meets regularly on the second and fourth Monday of each month in the Town Council Chambers, at 180 High Street, in Wakefield (Town of South Kingstown 2008).

Fishery Involvement in Government

The Waterfront Advisory Commission of South Kingstown advises the Town Council on issues concerning the preservation and development of South Kingstown's property in the shoreline area and the management of commercial and recreational waterfront activities, the conservation of existing coastal access and the increase of physical access and enjoyment of the coast by the public, and commercial fisheries practices which directly or indirectly limit or impede the public's use of ponds and tidal waters (Town of South Kingstown 2008). The Rhode Island Department of Environmental Management, Division of Fish and Wildlife, is based in Wakefield (RIDEM 2008). The South Kingstown Conservation Commission provides advisory opinions to the Town Council, CRMC, and DEM regarding proposed projects within and proximate to coastal resource areas.⁵ The town also has a harbormaster.

Institutional

Fishing associations

No fishing associations were found in Wakefield itself, however associations were located in surrounding areas such as Point Judith and Narragansett. However, Rhode Island Seafood Council, a now-defunct not-for-profit organization established in 1976, was located here and promoted quality seafood products. The American Seafood Institute was established in 1982 in conjunction with the Rhode Island Seafood Council and provides assistance to the fishing industry in exporting product overseas (Hall Arber et al. 2001). The Point Club is a self-insurance group for fishermen to protect against price gouging, etc.⁶ Additionally, the Rhode Island Commercial Fishermen's Association has members throughout the state.

Fishing assistance centers

The Bay Company was developed under the Rhode Island Marine Trade Education Initiative and attempts to link academia to the marine industry to improve productivity and economic viability; it is now defunct since the funding disappeared in 2003 (Hall-Arber et al. 2001).

Other fishing related organizations

The Rhode Island Sea Grant College Program is based at the University of Rhode Island's Graduate School of Oceanography in Narragansett. They design and support research, education, and other programs that foster stewardship of coastal and marine resources (RI Sea

⁵ Profile review comment, Raymond T. Nickerson, Principal Planner, South Kingstown Town Hall, 180 High St., Wakefield, RI 02879, September 27, 2007

⁶ Profile review comment, Chris Brown, Rhode Island Commercial Fishermen's Association, 35 Erica Court West Kingston, RI 02892, October 19, 2007

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Grant 2008). The RI Sea Grant Sustainable Fisheries Program is located at the East Farm Campus of the University of Rhode Island (URI).

The [Commercial Fisheries Center of Rhode Island](#) was founded in 2004 and is home to nonprofit commercial fishing organizations, and serves “as a headquarters for bringing fishermen, scientists, managers, and elected officials together to discuss issues.” The goals of the center are “to improve fisheries and understanding of the marine environment through education, collaborative research, and cooperation” (CFCRI nd).

Physical

Wakefield is part of the town of South Kingstown, located in the southern part of Rhode Island and bordering the Atlantic Ocean. Wakefield itself is not on the ocean, but sits at the north end of Point Judith Pond, which provides access to the Atlantic. There are buses from Wakefield to Providence, Newport, and T.F. Green Airport run by the Rhode Island Public Transit Authority (RIPTA nd). [Amtrak](#) trains stop at nearby Kingston while running between Boston and New York. Wakefield is 6 miles from Point Judith, 18 miles from Newport, and 163 miles from New York City.

The charter fishing fleet in Wakefield is based at [Snug Harbor Marina](#). [Billington Cove Marina](#) in Wakefield provides full service to boats. [Point Judith Marina](#) is another full-service marina located in Wakefield. There are several other marinas listed for Wakefield which provide services to recreational boaters, including Gooseberry Marina, Kenport Marina, Ram Point Marina, Marina Bay Docking, Silver Spring Marine, and Stone Cove Marina (Explore RI 2008).

INVOLVEMENT IN NORTHEAST FISHERIES⁷

Commercial

Wakefield is not actually a commercial fishing port. However, members of this community fish commercially from neighboring ports including Narragansett and Point Judith. There are, however, a number of vessels both home ported and whose owner’s city is Wakefield, although both these values generally decreased between 1997 and 2006. While there were no values for landed port, the level of fishing home port values ranged between \$2-4 million (see Table 1).

⁷ In reviewing the commercial landings data several factors need to be kept in mind. 1) While both federal and state landings are included, some states provide more detailed data to NMFS than others. For example, shellfish may not be included or data may be reported only by county and not by port. 2) Some communities did not have individual port codes until more recently. Before individual port codes were assigned, landings from those ports were coded at the county level or as an aggregate of two geographically close small ports. Where landings were coded at the county level they cannot be sorted to individual ports for those earlier years, e.g., prior to 2000. 3) Where aggregated codes were used, those aggregate codes may still exist and be in use alongside the new individual codes. Here the landings which are still assigned to the aggregate port code cannot be sorted into the individual ports, so port level data are only those which used the individual port code. 4) Even when individual port codes exist, especially for small ports, landings may be coded at the county level. Here again it is impossible to disaggregate these to a port level, making the port level landings incomplete. 5) In all these cases, the per port data in this profile may under report the total level of landings to the port, though all landings are accounted for in the overall NMFS database.

Appendix 10

Vessels by Year⁸

Table 1. All columns represent vessel permits or landings value combined between 1997-2006

Year	# Vessels (home ported)	# Vessels (owner's city)	Level of fishing home port (\$)	Level of fishing landed port (\$)
1997	26	95	4,019,707	0
1998	31	88	3,951,249	0
1999	31	94	3,734,059	0
2000	31	93	3,874,318	0
2001	28	94	3,007,981	0
2002	27	92	2,825,931	0
2003	20	86	2,833,778	0
2004	17	84	2,661,484	0
2005	16	91	3,002,598	0
2006	17	87	3,076,804	0

Vessels home ported = No. of permitted vessels with location as homeport

Vessels (owner's city) = No. of permitted vessels with location as owner residence⁹

Level of fishing home port (\$) = Landed value of fisheries associated with home ported vessels

Level of fishing landed port (\$) = Landed value of fisheries landed in location

Recreational

Rhode Island marine waters also support a sizable recreational fishing sector. “In Rhode Island, nearly 362,000 recreational marine anglers - more than half from out-of-state - made over 1.5 million trips, catching 4.3 million pounds of sport fish and releasing about 55 percent in 2004” (RIDEM 2004). This indicates that the recreational component is significant both in terms of the associated revenues generated (support industries) and harvesting capacity. South Kingstown is to the Frances Fleet charter fishing excursions, as well as Old Salt Charters. [Snug Harbor Marina](#) in Wakefield also has charter boat bookings for Rhode Island. Charter boats here take passengers both on inshore trips and offshore big game excursions, and have the opportunity to catch more than 30 species of fish. Miller Time Charters offers fishing for bluefish, striped bass, sea bass, flounder, tuna, and shark. [Snappa Charters](#) targets shark, tuna, sea bass, porgies, dolphin fish, cod, bonito, and other species, as well as shark cage diving trips. (State of Rhode Island 2008)

Subsistence

Information on subsistence fishing in Wakefield is either unavailable through secondary data collection or the practice does not exist.

FUTURE

No information was collected on plans or perspectives for the future of Wakefield specifically. The Town encourages new and expanded industrial development in an effort to

⁸ Numbers of vessels by owner's city and homeport are as reported by the permit holder on permit application forms. These may not correspond to the port where a vessel lands or even spends the majority of its time when docked.

⁹ The Owner-City from the permit files is technically the address at which the owner receives mail concerning their permitted vessels, which could reflect the actual location of residence, the mailing address as distinct from residence, owner business location, or the address at which a subsidiary receives mail about the permits.

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increase diversity of the tax base to reduce dependence on residential tax payers.¹⁰ The town has experienced significant residential expansion, and development of its summer resort and tourist facilities due to its shoreline and beach areas. Increasing tourism at the port of Point Judith has caused parking issues and rent increases. As values of local dock space and land increase, further declines in fishing infrastructure may follow (Griffith and Dyer 1996).

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¹⁰ Profile review comment, Raymond T. Nickerson, Principal Planner, South Kingstown Town Hall, 180 High St., Wakefield, RI 02879, September 27, 2007

Appendix 10

MONTAUK, NY¹ Community Profile²

PEOPLE AND PLACES

Regional orientation

Montauk (41.00°N, 71.57°W) is located in Suffolk County at the eastern tip of the South Fork of Long Island in New York. It is situated between the Atlantic Ocean to the south, and Block Island Sound to the north, about 20 miles off the Connecticut coast. The total area of Montauk is about 20mi², of which 2.3 mi² of it (11.5%) is water (USGS 2008).



Map 1. Location of Montauk, NY

Historical/Background

Montauk was originally inhabited by the Montauket tribe, who granted early settlers permission to pasture livestock here, essentially the only function of this area until the late 1800s. The owner of the Long Island Railroad extended the rail line here in 1895, hoping to develop Montauk “the first port of landing on the East Coast, from which goods and passengers would be transported to New York via the rail. While his grandiose vision was not fulfilled, the rail provided the necessary infrastructure for the transportation of seafood, and Montauk soon became the principal commercial fishing port on the East End. In the early 1900s, the railroad also brought recreational fishermen to the area from the city by the car-load aboard the

¹ These community profiles have been created to serve as port descriptions in Environmental Impact Statements (EISs) for fisheries management actions. They also provide baseline information from which to begin research for Social Impact Assessments (SIAs). Further, they provide information relevant to general community impacts for National Standard 8 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and information on minorities and low income populations for Executive Order (E.O.) 12898 on Environmental Justice.

² For purposes of citation please use the following template: “Community Profile of *Town, ST*. Prepared under the auspices of the National Marine Fisheries Service, Northeast Fisheries Science Center. For further information contact Lisa.L.Colburn@noaa.gov.”

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‘Fishermen’s Special’, depositing them right at the dock where they could board sportfishing charter and party boats.” Montauk developed into a tourist destination around that time, and much of the tourism has catered to the sportfishing industry since (Montauk Sportfishing 2005).

Demographics³

According to Census 2000 data, Montauk had a total population of 3,851, up 28.3% from a reported population of 3,001 in 1990. Of this 2000 total, 51.3% were males and 48.7% were females. The median age was 39.3 years and 77.4% of the population was 21 years or older while 17.7% were 62 or older.

Montauk’s age structure (Figure 1) showed large variation between sexes in different age groups. It is important to note that the differences appear dramatic because this population is small. In the age group including people from 20 to 29 years old, there were more than twice as many males as females in Montauk. A similar pattern exists in the 30 to 39 year age group. This is probably because males come to the area to work after high school for demanding labor jobs such as landscaping and construction. Females do not traditionally seek after these types of jobs that are available in Montauk.

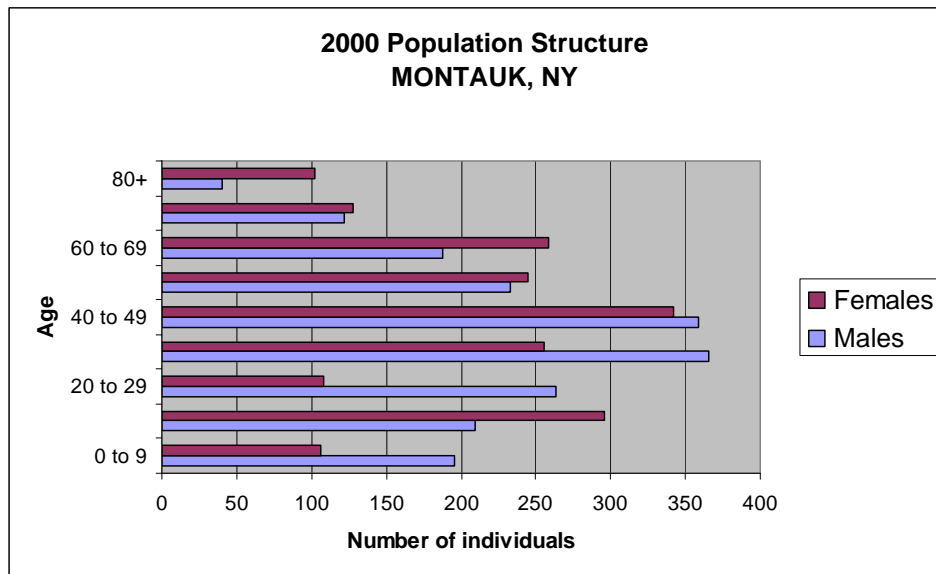


Figure 1. Montauk’s population structure by sex in 2000 (US Census Bureau 2000)

The majority of the population of Montauk was White (88.2%), with 0.9% of residents Black or African American, 0.1% Native American, 0.8% Asian, and none Pacific Islander or Hawaiian (Figure 2). A reported 23.9% of the population identified themselves as Hispanic/Latino (Figure 3). Residents linked their backgrounds to a number of different ancestries including: Irish (26.5%), German (17.3%) and Italian (13.1%). With regard to region of birth, 61.1% were born in New York, 11.1% were born in a different state and 27.0% were born outside of the U.S. (including 21.2% who were not United States citizens).

³ While mid-term estimates are available for some larger communities, data from the 2000 Census are the only data universally available for the communities being profiled in the Northeast. Thus for cross-comparability we have used 2000 data even though these data may have changed significantly since 2000 for at least some communities.

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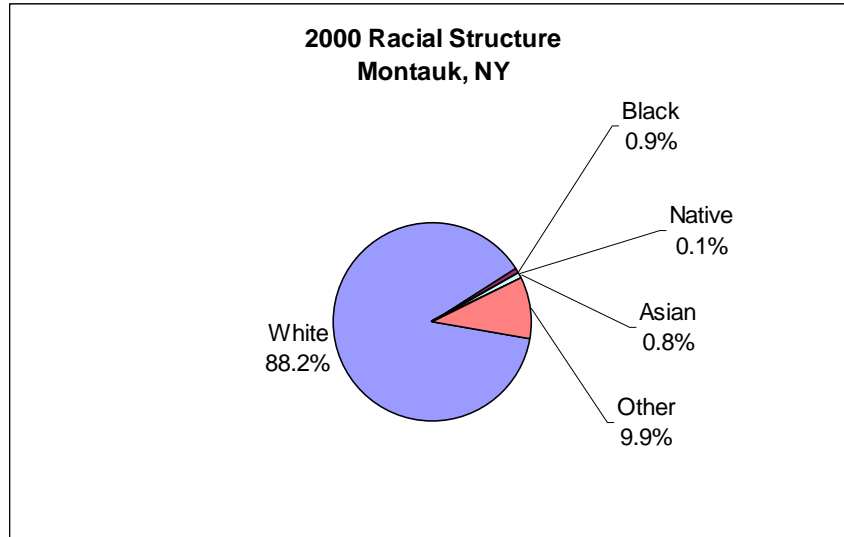


Figure 2. Racial Structure in 2000 (US Census Bureau 2000)

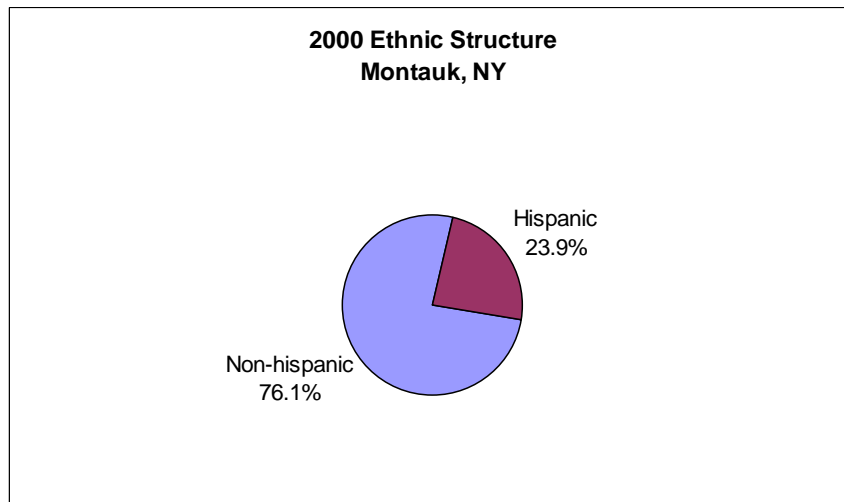


Figure 3. Ethnic Structure in 2000 (US Census Bureau 2000)

For 69.7% of the population, only English was spoken in the home, leaving 30.3% in homes where a language other than English was spoken, including 15.6% of the population spoke English less than “very well” according to the 2000 Census.

Of the population 25 years and over, 84% were high school graduates or higher and 24.8% had a bachelor’s degree or higher. Again of the population 25 years and over, 7.6% did not reach ninth grade, 8.4% attended some high school but did not graduate, 31.9% completed high school, 19.6% had some college with no degree, 7.8% received an associate’s degree, 17.0% earned a bachelor’s degree, and 7.8% received either a graduate or professional degree.

Although religion percentages are not available through the U.S. Census, according to the Association of Religion Data Archives (ARDA) in 2000, the religion with the highest number of congregations and adherents in Suffolk County was Catholic with 72 congregations and 734,147 adherents. Other prominent congregations in the county were Jewish (48 with 100,000 adherents), United Methodist (47 with 22,448 adherents), Episcopal (40 with 16,234 adherents),

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Evangelical Lutheran Church (26 with 19,378 adherents), and Muslim (9 with 12,139 adherents). The total number of adherents to any religion was up 3.8% from 1990 (ARDA 2000).

Issues/Processes

Some fishermen are concerned about the accuracy of their assigned historical landings by species for fisheries (often used for promulgating new regulations), as the method used to land fish in New York varies from that in most other states. Called the “box method” it involves fish being boxed at sea, then landed at a consignment dock and from there shipped to Hunts Point Market in the Bronx, New York. Prior to the implementation of dealer electronic reporting NMFS port agents counted the number of boxes landed from each vessel and received a species breakdown from the dock manager (who did not open the boxes but rather based the breakdown on his knowledge of the vessel’s general fishing patterns). This system allowed greater potential for accidental misreporting. Now, the boxes are landed at the consignment dock and immediately shipped to Fulton, where the dealer opens the boxes and reports the landings. (Further, individual fishermen report using VTR, logbooks and other methods.)

While this method is more accurate in terms of the number and type of fish landed, it can still lead to another type of accidental reporting error. That is, landings are assigned to the incorrect state. This can have inequitable effects on states should an allocation scheme be developed, such as the one for summer flounder, that bases a state’s allocation on the landings of a particular species in that state.

The docks make money by charging \$10-12 per box (2007 prices) and by selling fuel. Catch limits and trip limits reduce the number of boxes to be shipped, and have made it very difficult for the docks to stay in business. New York is losing much of its infrastructure, and many of the docks have closed or changed hands in recent years.⁴

Inlet Seafood, the largest seafood packing operation in the state, recently expanded their facility to include a restaurant and convenience store, which met with considerable opposition from those living in the surrounding neighborhood, as residents were concerned about a resulting increase in traffic (Packer and McCarthy 2005). There are very strict zoning regulations in the town, which make it very difficult for any industry located on the waterfront to expand (McCay and Cieri 2000). There was also a bill proposed recently to limit beach access by vehicles in areas where coastal erosion is a problem, which would restrict access to many of the spots favored by surf casters in Montauk (Anonymous 2005a). There is also concern that recent regulations reducing allowable catches of certain species by recreational fishermen will have a negative impact on the party and charter fishing industry (Anonymous 2004).

The Long Island Power Authority is seeking permission to construct a wind farm off Long Island, a proposal which has met with opposition from commercial fishermen in Montauk and elsewhere on the island, because the turbines will block access to a highly productive squid fishery (Anonymous 2005b). The lobstermen working out of Montauk have seen their industry decline largely because of the prevalence of shell disease in lobsters taken from Long Island Sound (von Bubnoff 2005).

Cultural attributes

Montauk has several annual festivities that celebrate sport fishing and one that celebrates commercial fishing. The Blessing of the Montauk Fleet takes place in June. The Grand Slam Fishing Tournament has been in Montauk since 2002. The Harbor Festival at Sag Harbor, which

⁴ Personal Communication, Erik Braun, NMFS port agent, E. Hampton, NY, July 22, 2005

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is located next to Montauk, is celebrated in September. There is also a Redbone Fishing Tournament, the Annual Striped Bass Derby (13th year in 2005), and the Annual Fall Festival (24th year in 2005), which includes shellfish related activities such as a clam chowder festival and clam shucking (Montauk Chamber of Commerce nd). There is also a monument in Montauk dedicated to over 100 commercial fishermen from the East End who have lost their lives at sea over the years (Oles 2005).

INFRASTRUCTURE

Current Economy

The majority of the employers in Montauk are seasonal and dependent on the tourist industry, including restaurants and hotels. Probably the largest seasonal employer is Gurney's Inn, which is a resort hotel, spa, and conference center, open year round, with 350 employees during the summer months.⁵ "With the exception of a few resorts and retail businesses, (Inlet Seafood) is one of the only full-time, year-round employers in Montauk, employing between four and six dock workers, a secretary, and a manager. All of the employees live in Montauk or East Hampton, but housing is a problem due to the high cost of living in the area. Labor turnover is low due to the ability of the dock to provide equitable wages and predictable pay throughout the year. The dock does compete with landscaping and construction companies for labor, especially from among immigrant populations. All of the dock workers are immigrants from Central and South America" (Oles 2005). Many of the fishermen have had to learn Spanish to communicate with the dock workers. This has been a dramatic change within the last 5 years, said NMFS port Agent Erik Braun. He also stated that there are no new fishermen starting up, and the children of fishermen, even those that are doing well, are not encouraged to enter into this business.⁶ The marinas here also employ a large number of people, including Montauk Marine Basin, with 21 employees during the summer months.⁷

According to the U.S. Census 2000⁸, 61.5% (1,944 individuals) of the total population 16 years of age and over were in the labor force (Figure 4), of which 7.7% were unemployed, none were in the Armed Forces, and 53.8% were employed.

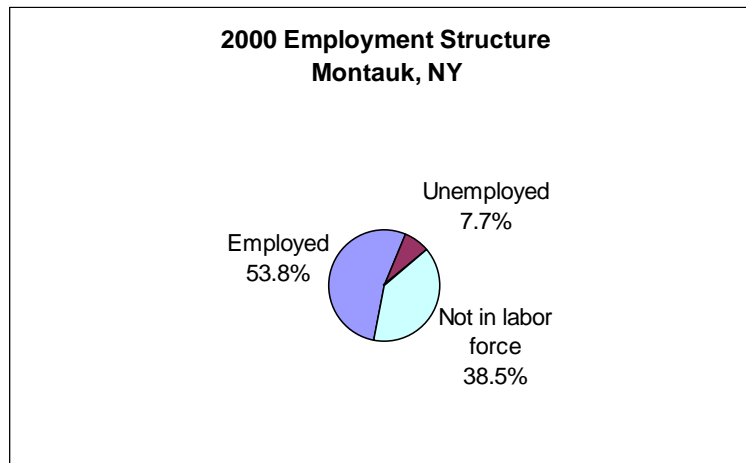


Figure 4. Employment Structure in 2000 (US Census Bureau 2000)

⁵ Personal communication, Gurney's Inn, 290 Old Montauk Highway, Montauk, NY 11954, July 19, 2005.

⁶ Personal Communication, Erik Braun, NMFS port agent, E. Hampton, NY, July 22, 2005

⁷ Personal communication, Montauk Marine Basin, 426 W. Lake Dr., Montauk, NY 11954, July 19, 2005

⁸ Again, Census data from 2000 are used because they are universally available and offer cross-comparability among communities. Some statistics, particularly median home price, are likely to have changed significantly since 2000.

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According to Census 2000 data, jobs in the census grouping which includes agriculture, forestry, fishing and hunting, and mining accounted for 103 positions or 6.1% of all jobs. Self employed workers, a category where fishermen might be found, accounted for 314 positions or 18.5% of jobs. Arts, entertainment, recreation, accommodation and food services (20.3%), construction (18.5%) and retail trade (10.1%) were the primary industries.

Median household income in Montauk was \$42,329 (up 32.9% from \$23,875 in 1990 [US Census Bureau 1990]). For full-time year round workers, males made approximately 41.6% more per year than females.

The average family in Montauk consists of 2.90 persons. With respect to poverty, 8.3% of families (unchanged from 1990 [US Census Bureau 1990]) and 10.6% of individuals earned below the official U.S. Census poverty threshold. This threshold is \$8,794 for individuals and ranges from \$11,239-35,060 for families, depending on number of persons (2-9) (US Census Bureau 2000b). In 2000, 40.0% of all families (of any size) earned less than \$35,000 per year.

In 2000, Montauk had a total of 4,815 housing units of which 33.1% were occupied and 61.7% were detached one unit homes. Less than 10% (9.4%) of these homes were built before 1940. Mobile homes, boats, RVs, and vans accounted for 4.0% of the total housing units; 84.1% of detached units had between 2 and 9 rooms. In 2000, the median cost for a home in this area was \$290,400. Of vacant housing units, 62.9% were used for seasonal, recreational, or occasional use, while of occupied units 34.3% were renter occupied.

Government

Montauk is an unincorporated village within East Hampton Township. The Town Board runs the town (Town of East Hampton nd). The town was established in 1788. Although Montauk is not incorporated, there is one incorporated village situated within the East Hampton's borders, the Village of East Hampton, and part of a second village, Sag Harbor (Town of East Hampton nd).

Fishery involvement in government

The Town Board of East Hampton organized a “Fishing Committee” to represent the fishing industry’s interests in the development of the town’s comprehensive plan (Oles 2005).

Institutional

Fishing associations

The Long Island Commercial Fishing Association, located in Montauk, promotes commercial fishing throughout Long Island (Oles 2005). The Montauk Tilefish Association (MTA) “is a registered non-profit organization whose objective is to provide an organizational structure for making collective decisions for its members. “The MTA also provides member protection under the Fishermen’s Collective Marketing Act” (Oles 2005). Further, it “has worked to create and foster a fisheries management regime that is efficient and encourages resource stewardship at the local level. Other important outcomes from this collaboration include fresher fish for the market and a more stable operating environment” (Kitts et al. 2007).

The New York Seafood Council is the larger association representing fishing interests in the state. “The New York Seafood Council (NYSC) is an industry membership organization comprised of individuals, businesses, or organizations involved in the harvesting, processing, wholesale, distribution or sale of seafood products or services to the seafood industry in New York” (NYSC 2008).

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Fishing assistance centers

Information on fishing assistance centers in Montauk is unavailable through secondary data collection.

Other fishing-related organizations

The Montauk Boatmen's and Captain's Association has a membership of over 100 captains of charter and party boats, and is one of the only organized, politically active charter boat associations in New York (Oles 2005). The Montauk Surfcasters Association is an organization of surf fishermen with over 900 members who wish to preserve their access to surf casting on the East End beaches of Long Island. They hold beach clean-ups and educate the public about the proper use of the beach (Montauk Surfcasters Association nd).

Physical

The fishing fleet is located in Lake Montauk, which opens to the north onto Block Island Sound. "Montauk is connected to points west via Route 27, and the Metropolitan Transportation Authority's Long Island Rail Road." Montauk Airport on East Lake Drive provides another mode of access to the area, but is strictly for small, private aircraft. On the easternmost tip of Long Island, Montauk is roughly 117 miles from New York City, but only about 20 miles by boat from New London, CT. There is one small airport in Montauk, and Long Island Islip MacArthur Airport is 67 miles away (MapQuest 2005). During the summers, a ferry service runs between Montauk and New London on weekends, daily to Block Island, RI, and occasionally to Martha's Vineyard (Viking Fleet nd). There are also three different ferry services that run between New London and nearby Sag Harbor (Easthampton.com nd). Most fish landed in Montauk is sold at the Fulton Fish Market in New York City (McCay and Cieri 2000).

The infrastructure needed for a commercial and sport fishing fleet is available in the village, including docks with off-loading facilities and other services that commercial fishermen need to land their catch (NYSC 2008). Montauk used to have five docks used by the commercial fishing industry for packing out fish, but they now only have two.⁹ Inlet Seafood Company, a corporation owned by six Montauk fishermen (NYSC 2008), includes a dock with unloading and other services, and is the largest fish packing facility in the state (Easthampton Star 2003). There is another dock servicing commercial fishermen, but this dock is barely surviving financially.¹⁰ There are also at least fourteen marinas used by the sportfishing industry (Oles 2005).

⁹ Personal Communication, Erik Braun, NMFS port agent, E. Hampton, NY, July 22, 2005

¹⁰ Personal Communication, Erik Braun, NMFS port agent, E. Hampton, NY, July 22, 2005

INVOLVEMENT IN NORTHEAST FISHERIES¹¹

Commercial

The village of Montauk is the largest fishing port in the state of New York. Montauk's main industry has been fishing since colonial times, and it continues to be an important part of its economy and traditions (Oles 2005). Montauk is the only port in New York still holding on to a commercial fishing industry.¹² Montauk's location naturally provides a large protected harbor on Lake Montauk and is close to important fishing grounds for both commercial and recreational fishermen.

Montauk has a very diverse fishery, using a number of different gear types and catching a variety of species; in 1998, there were a total of 90 species landed in Montauk (McCay and Cieri 2000). According to NMFS Landings Data, the top three valued fisheries in 2003 were Squid (\$2.3million), Golden Tilefish (\$2.1million), and Silver Hake (\$2.1million). There was a striking difference between the 2006 scallop landings value and the value for the 1997-2006 average. The 2006 values were over \$1.5 more than the nine year average (Table 1).

There used to be a number of longline vessels that fish out of Montauk, including 4-5 fishing for tilefish and up to 8 fishing for tuna and swordfish. Additionally, a number of longline vessels from elsewhere in New York State and New Jersey sometimes land their catch at Montauk (NYSC 2008). As of April 2007, there were 3 tilefish longliners in Montauk, one of which has bought out a fourth.¹³ There were also 35-40 trawlers based in Montauk, with a number of others that unload their catch here, and between 10-15 lobster vessels (NYSC 2008). The six owners of Inlet Seafood each own 1-2 trawlers.¹⁴ There are also a number of baymen working in the bays around Montauk catching clams, scallops, conch, eels, and crab as well as some that may fish for bluefish and striped bass. However, these baymen may move from one area to another depending on the season and fishery, and as a result may not be a part of the permanent fleet here (NYSC 2008).

The number of vessels home ported in Montauk showed a slightly decreasing trend between 1997 and 2006, while the number of vessels whose owner's city was Montauk showed a slight increasing trend over the same time period. Both the level of fishing home port and landed port also stayed fairly consistent, with a jump in 2005, but generally ranging from over \$9 million to over \$16 million for the 1997-2006 year period (Table 2).

¹¹ In reviewing the commercial landings data several factors need to be kept in mind. 1) While both federal and state landings are included, some states provide more detailed data to NMFS than others. For example, shellfish may not be included or data may be reported only by county and not by port. 2) Some communities did not have individual port codes until more recently. Before individual port codes were assigned, landings from those ports were coded at the county level or as an aggregate of two geographically close small ports. Where landings were coded at the county level they cannot be sorted to individual ports for those earlier years, e.g., prior to 2000. 3) Where aggregated codes were used, those aggregate codes may still exist and be in use alongside the new individual codes. Here the landings which are still assigned to the aggregate port code cannot be sorted into the individual ports, so port level data are only those which used the individual port code. 4) Even when individual port codes exist, especially for small ports, landings may be coded at the county level. Here again it is impossible to disaggregate these to a port level, making the port level landings incomplete. 5) In all these cases, the per port data in this profile may under report the total level of landings to the port, though all landings are accounted for in the overall NMFS database.

¹² Personal Communication, Erik Braun, NMFS port agent, E. Hampton, NY, July 22, 2005

¹³ José Montañez, MAFMC, April 18, 2007; NMFS landings data.

¹⁴ Personal Communication, Erik Braun, NMFS port agent, E. Hampton, NY, July 22, 2005

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Landings by Species

Table 1. Dollar value of Federally Managed Groups of landing in Montauk

	Average from 1997-2006	2006 only
Squid, Mackerel, Butterfish	3,146,620	3,640,565
Tilefish	2,366,489	2,942,310
Smallmesh Groundfish ¹⁵	2,028,574	1,198,711
Summer Flounder, Scup, Black Sea Bass	1,964,880	3,900,690
Other ¹⁶	1,652,214	1,379,958
Largemesh Groundfish ¹⁷	646,634	426,272
Lobster	585,627	613,598
Monkfish	373,486	643,731
Scallop	366,169	1,869,196
Bluefish	91,346	123,277
Skate	29,360	40,981
Dogfish	9,895	1,323
Herring	413	874
Surf Clams, Ocean Quahog	20	150
Salmon	9	90
Red Crab	5	CONFIDENTIAL

Vessels by Year¹⁸

Table 2. All columns represent vessel permits or landings value combined between 1997-2006

Year	# Vessels (home ported)	# vessels (owner's city)	Level of fishing home port (\$)	Level of fishing landed port (\$)
1997	165	89	9,222,288	13,556,572
1998	146	88	9,652,978	12,080,693
1999	158	98	10,863,508	12,124,707
2000	166	103	10,286,306	13,139,382
2001	160	103	12,302,916	13,231,619
2002	153	99	11,981,882	11,131,789
2003	152	104	12,405,663	11,033,366
2004	152	98	11,243,881	13,061,890
2005	144	96	14,104,902	16,475,642
2006	145	96	13,517,890	16,781,742

Vessels home ported = No. of permitted vessels with location as homeport

Vessels (owner's city) = No. of permitted vessels with location as owner residence¹⁹

Level of fishing home port (\$) = Landed value of fisheries associated with home ported vessels

Level of fishing landed port (\$) = Landed value of fisheries landed in location

¹⁵ Smallmesh multi-species: red hake, ocean pout, mixed hake, black whiting, silver hake (whiting)

¹⁶ "Other" species includes any species not accounted for in a federally managed group

¹⁷ Largemesh groundfish: cod, winter flounder, yellowtail flounder, American plaice, sand-dab flounder, haddock, white hake, redfish, and pollock

¹⁸ Numbers of vessels by owner's city and homeport are as reported by the permit holder on permit application forms. These may not correspond to the port where a vessel lands or even spends the majority of its time when docked.

¹⁹ The Owner-City from the permit files is technically the address at which the owner receives mail concerning their permitted vessels, which could reflect the actual location of residence, the mailing address as distinct from residence, owner business location, or the address at which a subsidiary receives mail about the permits.

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Recreational

Montauk is the home port of a large charter and party boat fleet, and a major site of recreational fishing activity (Oles 2005). The facilities supporting the recreational fishing industry include six bait and tackle shops and 19 fishing guide and charter businesses.

According to one website there are at least 27 fishing charters in Montauk. Montauk has been called the “sport fishing capital of the world”, and even has its own magazine dedicated to Montauk sportfishing (Montauk Sportfishing nd). Between 2001- 2005, there were 122 charter and party vessels making 18,345 total trips registered in logbook data by charter and party vessels in Montauk carrying a total of 185,164 anglers.

Subsistence

Information on subsistence fishing in Montauk is either unavailable through secondary data collection or the practice does not exist.

FUTURE

The comprehensive plan for the town of East Hampton recognizes the importance of the commercial and recreational fishing industries here, and includes a commitment to supporting and retaining this traditional industry (Oles 2005). There has been discussion of developing a large wholesale seafood market on Long Island similar to the Fulton Fish Market so that fish caught here could be sold directly on Long Island rather than being shipped to New York City (NY Sea Grant nd).

Nonetheless Erik Braun, the port agent for this part of New York, was not hopeful about the future of the fishing industry. He said there are no new fishermen getting into commercial fishing, and that even those who have done well are not encouraging their children to get into the industry. Much of the fishing infrastructure is disappearing, and those who own docks can make much more by turning them into restaurants. Montauk is the one port still holding on to a commercial fishing industry, however.²⁰

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²⁰ Personal Communication, Erik Braun, NMFS port agent, E. Hampton, NY, July 22, 2005

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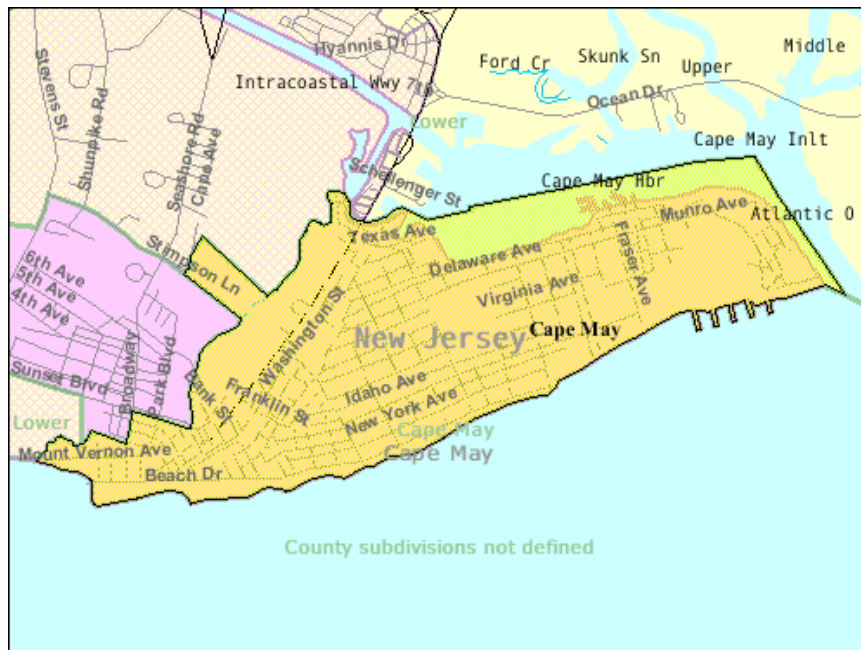
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CAPE MAY, NJ¹ Community Profile²

PEOPLE AND PLACES

Regional orientation

The city of Cape May, New Jersey (38.94°N, 74.91°W), is located in Cape May County (see Map 1). It is at the southern tip of the state of New Jersey on Cape Island at the end of Cape May Peninsula, with the Atlantic Ocean to the east and Delaware Bay to the west (USGS 2008).



Map 1. Location of Cape May, NJ (US Census Bureau 2000a)

Historical/Background

Cape May is part of Cape Island at the southern tip of Cape May Peninsula. The island was artificially created in 1942 when the U.S. Army Corps of Engineers dredged a canal that passes through to the Delaware Bay (City of Cape May nd). Fishing and farming have been important in this area since its beginnings, and whaling, introduced by the Dutch, was a significant industry in Cape May for roughly a century beginning in the mid-1600s. In the 18th century, this area became a summer resort for wealthy residents of Philadelphia wishing to escape the crowded city during the summer months, and is known as “America’s oldest seaside resort.” Because of this history and because of a fire that destroyed much of the city in 1878, Cape May has numerous Victorian homes and hotels, and was declared a National Historic Landmark City in 1976 (Cape Publishing 2005). “Today commercial fishing is still the backbone of the county and is the second largest industry in Cape May

¹ These community profiles have been created to serve as port descriptions in Environmental Impact Statements (EISs) for fisheries management actions. They also provide baseline information from which to begin research for Social Impact Assessments (SIAs). Further, they provide information relevant to general community impacts for National Standard 8 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and information on minorities and low income populations for Executive Order (E.O.) 12898 on Environmental Justice.

² For purposes of citation please use the following template: “Community Profile of *Town, ST*. Prepared under the auspices of the National Marine Fisheries Service, Northeast Fisheries Science Center. For further information contact Lisa.L.Colburn@noaa.gov.”

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County. The port of Cape May is considered one of the largest and busiest seaports along the eastern seaboard and generates more than \$500 million annually”(Cape May County nd).

Demographics³

According to the Census 2000 data⁴, Cape May had a total population of 4,034, down from a reported population of 4,668 in 1990 (US Census Bureau 1990). Of this total in 2000, 49.3% were males and 50.7% were females. The median age was 47.4 years and 77.7% of the population was 21 years or older while 32.4% were 62 or older.

Cape May’s population structure by age group (see Figure 1) was similar for all age categories. However, men were dominant for the population between 0 and 29 years, and then the population for male and female was the same until age 40 when it switched to female dominance through 80 years and over. Further, unlike the U.S. as a whole, the middle years are overall in lower percentages than the youngest and oldest. This large number of males in the 20-29 age bracket followed by a drop in the ages 30-59 is also very unlike most other fishing communities.

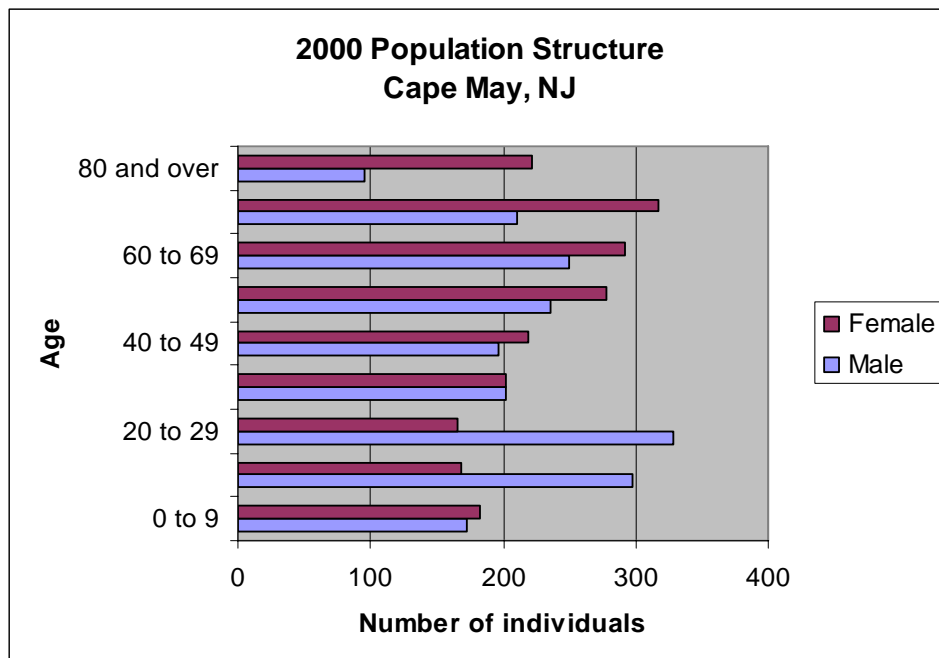


Figure 1. Cape May's population structure by sex in 2000 (US Census Bureau 2000a)

The vast majority of the population of Cape May in 2000 was white (91.0%), with 5.9% black or African American, 0.6% Native American or Alaskan, 0.8% Asian, and 0.07% Pacific Islander or Hawaiian (see Figure 2). Only 3.8% of the population identified themselves as Hispanic/Latino (see Figure 3). Residents linked their heritage to a number of European ancestries including: Irish (26.9%), German (21.9%), English (16.2%), Italian (14.2%), Polish (6.9%), French (3.5%), and Scottish (2.7%). With regard to region of birth, 25.6% of residents were born in New Jersey, 66.9% were born in a different state, and 6.1% were born outside the U.S. (including 2.4% who were not United States citizens).

³ While mid-term estimates are available for some larger communities, data from the 2000 Census are the only data universally available for the communities being profiled in the Northeast. Thus for cross-comparability we have used 2000 data even though these data may have changed significantly since 2000 for at least some communities.

⁴ These and all census data, unless otherwise referenced, can be found at <http://factfinder.census.gov/home/saff/main.html>; census data used are for Cape May city

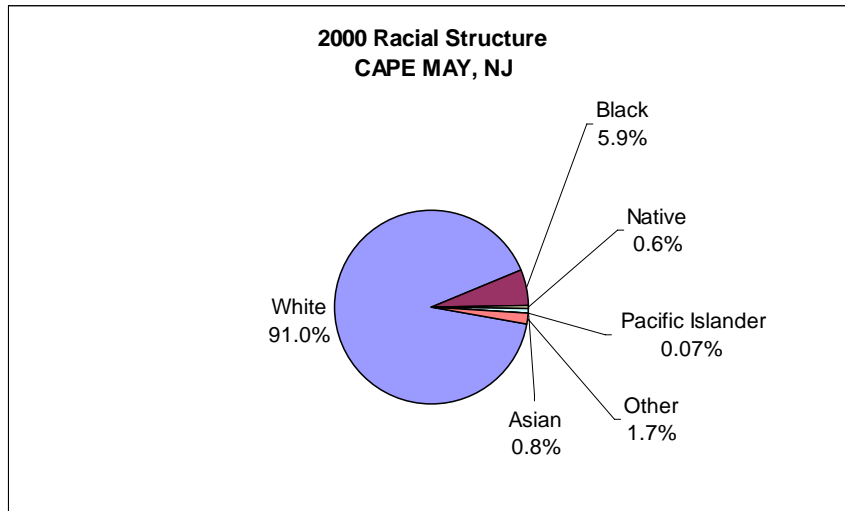


Figure 2. Racial Structure in 2000 (US Census Bureau 2000a)

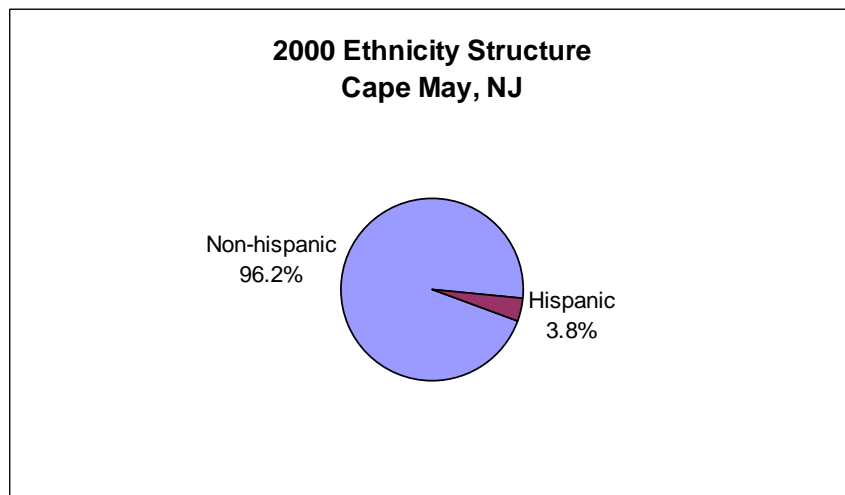


Figure 3. Ethnic Structure in 2000 (US Census Bureau 2000)

For 91.1% of the population in 2000, only English was spoken in the home, leaving 8.9% in homes where a language other than English was spoken, including 2.9% of the population who spoke English less than “very well” according to the US Census Bureau.

Of the population 25 years and over, 87.6% were high school graduates or higher and 30.8% had a bachelor’s degree or higher. Again of the population 25 years and over, 2.6% did not reach ninth grade, 9.8% attended some high school but did not graduate, 30.5% completed high school, 20.1% had some college with no degree, 6.2% received an associate’s degree, 19.0% earned a bachelor’s degree, and 11.8% received a graduate or professional degree.

Although religious percentages are not available through U.S. Census data, according to the Association of Religion Data Archive in 2000 the religion with the highest number of congregations in Cape May County was Catholic, with 15 congregations and 32,307 adherents. Other prominent congregations were United Methodist (25 with 5,133 adherents), Episcopal (6 with 1,588 adherents) and Evangelical Lutheran Church in America (6 with 2,142 adherents). The total number of adherents to any religion was up 15% from 1990 (ARDA 2000).

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Issues/Processes

Offshore wind farms have been proposed for four locations off of Cape May County, and fishermen are concerned about the impact wind turbines could potentially have on the fish or on their access to the fisheries (AP 2005). In 2006, rising fuel costs were having a detrimental effect on the charter fishing industry, especially on those boats going further out to go canyon fishing. The boat owners have been forced to raise their prices, and many potential customers were thinking twice about taking a trip offshore (McCann 2006).

Like in many other fishing communities with a significant tourism industry, commercial fishermen in Cape May are often competing with recreational fishing and with residential development for space. Lower Township, the municipality where the fishing industry is based, currently has three “marine development” zones in place, which are mostly used by recreational businesses; Schellenger’s Landing, where much of the commercial fishing industry is based, is specially zoned for “marine general business” to permit expansion of the fishing-related businesses located here (McCay and Cieri 2000).

Cultural attributes

The Lobster House dock and fish packing plant operates a 45-minute tour to teach visitors about Cape May’s commercial fishing industry (CMCDT nd). The Cape May County Fishing Tournament is one of the longest continuously running fishing tournaments on the East Coast (Cape May County nd). Cape May has a fisherman’s memorial, with a woman and child looking out to sea, which was created thanks to a now defunct fishermen’s wives association (McCay and Cieri 2000). Cape May County holds an annual seafood festival each July (Cape May Lewes nd); the commercial fishing industry reportedly has little involvement in the festival (McCay and Cieri 2000). A significant seafood festival is being organized (August 2007) to promote Cape May seafood as well as preparing for the Annual Seafood Cook-off held in New Orleans, LA. The Garden State Seafood Association is helping to coordinate this event along with many local restaurants and other groups throughout the state.⁵

INFRASTRUCTURE

Current Economy

“Like many Jersey Shore communities, much of Cape May’s and Wildwood’s economies are dependent on seasonal tourism - which is dependent both on the weather and the overall state of the economy. The year-round character of commercial fishing is a major factor in keeping these communities going in the off-season” (CMCPCBA nd). Commercial fishing is the second largest industry in Cape May County after tourism (CMCDT nd). The tenth largest employer (140 employees) in Cape May County is [Snow’s/Doxsee Inc.](#) (NJDA nd; CMCCC nd), with an 86,000 square-foot plant in Cape May that produces clam products including chowder, soups, canned clams, clam juice, and seafood sauces. Cold Spring Fish and Supply employs 500 people, and is the third largest employer in the county. Other top employers in the county include Burdette Tomlin Memorial Hospital (now the Cape Regional Medical Center) (1100), Acme Markets (600), WaWa (485), Holy Redeemer Visiting Nurse (250), and Super Fresh (250) (CMCCC nd). Cape May also has the only basic training facility for the U.S. Coast Guard (USMilitary.com 2007).

According to the U.S. Census 2000, 57.5% (1,985 individuals) of the total population over 16 years of age and over was in the labor force (Figure 4), of which 3.8% were unemployed, 14.2% were in the armed forces, and 39.5% were employed.

⁵ Community Review Comments, Greg DiDomenico, Garden State Seafood Association, 212 West State Street, Trenton, NJ, 08608, August 24, 2007

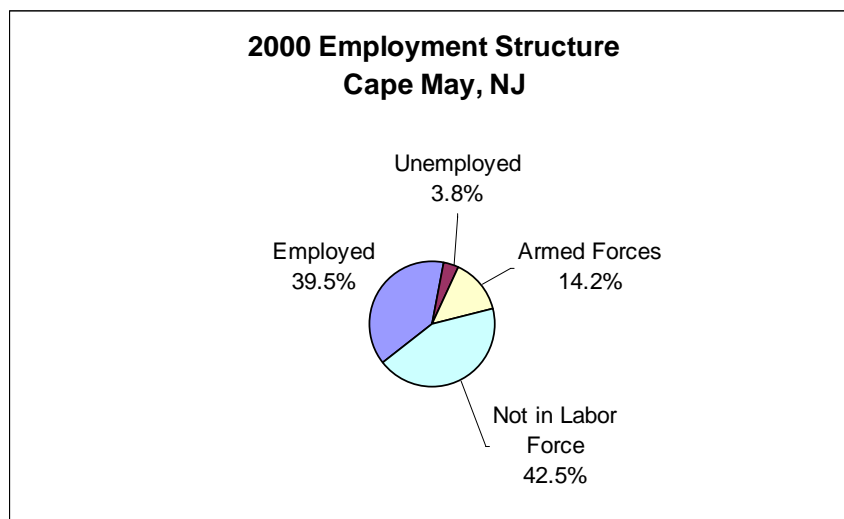


Figure 4. Employment Structure in 2000 (US Census Bureau 2000a)

According to the U.S. Census 2000⁶, jobs in the census grouping which includes agriculture, forestry, fishing and hunting, and mining accounted for 5 positions or 0.4% of all jobs. Self employed workers, a category where fishermen might be found, accounted for 205 positions or 15% of jobs. Arts, entertainment, recreation, accommodation and food services (21.1%), retail trade (16.4%), and educational, health and social services (13.6%), and finance, insurance, real estate and rental and leasing (10.6%) were the primary industries.

Median household income in Cape May in 2000 was \$33,462 (up 21.4% from \$27,560 in 1990 [US Census Bureau 1990]) and median per capita income was \$29,902. For full-time year round workers, males made approximately 13.0% more per year than females.

The average family in Cape May in 2000 consisted of 2.69 persons. With respect to poverty, 7.7% of families (up from 2.7% in 1990 [US Census Bureau 1990]) and 9.1% of individuals were below the U.S. Census poverty threshold. This threshold is \$8,794 for individuals and ranges from \$11,239 through \$35,060 for families, depending on number of persons (2-9) (US Census Bureau 2000b). In 2000, 36.7% of all families in Cape May (of any size) earned less than \$35,000 per year.

In 2000, Cape May had a total of 4,064 housing units, of which 44.8% were occupied and 40.8% were detached one unit homes. Fewer than a third (29.1%) of these homes were built before 1940. Mobile homes and boats accounted for only 0.3% of the total housing units; 82.3% of detached units had between 2 and 9 rooms. In 2000, the median cost for a home in this area was \$212,900. Of vacant housing units, 93.1% were used for seasonal, recreational, or occasional use. Of occupied units, 43.2% were renter occupied.

Government

The City of Cape May operates under the Council/Manager form of government. Cape May voters directly elect the Mayor. The person elected serves a four year term. The mayor presides over the council and has a vote. There are four members of Council, in addition to the Mayor. Their terms are staggered, where the members of the first council draw lots to determine who serves a four year term. The remaining three will serve a two year term. Subsequently, all councilmen elected serve for four years (City of Cape May nd).

⁶ Again, Census data from 2000 are used because they are universally available and offer cross-comparability among communities. Some statistics, particularly median home price, are likely to have changed significantly since 2000.

Appendix 10

Fishery involvement in government

The Cape May County Planning Board expresses in its comprehensive plan its policies regarding commercial fishing, which include promoting and encouraging land use policies which benefit the commercial fishing industry and protecting the fishing industry from economic or environmental harm by opposing projects which may have a negative effect (Cape May County nd).

NOAA Fisheries Statistics Office has port agents based in Cape May. Port agents sample fish landings and provide a ‘finger-on-the-pulse’ of their respective fishing communities (NOAA FSO nd).

Institutional

Fishing associations

[Garden State Seafood Association](#) (GSSA) in Trenton is a statewide organization of commercial fishermen and fishing companies, related businesses and individuals working in common cause to promote the interests of the commercial fishing industry and seafood consumers in New Jersey. Lunds, Atlantic Capes, and Cold Spring are all members of the GSSA. Lunds and Atlantic Capes are founding contributors of the National Fisheries Institute, Scientific Monitoring Committee, which raises millions of dollars through the Research Set-Aside Program. Rutgers University is a major contributor to these science-based efforts and has an office in Cape May.⁷

The [Jersey Coast Anglers Association](#) (JCAA) is an association of over 75 saltwater fishing clubs throughout the state. Founded in 1981, the purpose of the organization is to unite and represent marine sport anglers to work towards common goals. The JCAA website (www.jcaa.org) also provides links for many NJ anglers associations.

Fishery assistance centers

The Cape May County government, along with the State of New Jersey, developed the Cape May County Revolving Fishing Loan Program. Instituted in 1984, it is designed “to help commercial, charter and party boat fishermen with low interest loans for safety and maintenance of fishing vessels.” More than \$2.5 million has been loaned to date (Cape May County nd). The Cape May County Technical School integrates projects such as commercial fishing net mending and gear construction and operating a fish market in their curriculum to prepare students for careers in the commercial fishing industry (CMCTSD nd).

Other fishing related organizations

The [Cape May County Party and Charter Boat](#) Association is an organization of small recreational fishing boats located along the coast of Southern New Jersey. The [Cape May Marlin & Tuna Club](#) hosts several tournaments throughout the year.

Physical

Cape May, like all of New Jersey's seafood industry, is within easy reach of airports in Newark, New York and Philadelphia. All these offer next-day service for fresh seafood to virtually every major market in the world. The container port in Newark/Elizabeth handles hundreds of thousands of shipping containers each month, many of them packed with chilled or frozen food products (NJ Fishing nd). Cape May also has extensive bus service to the surrounding area as well as Philadelphia and Atlantic City (NJ Transit nd). There is also a [ferry terminal](#) connecting Cape May to Lewes, DE. It is 48 miles from Atlantic City, NJ, 87 miles from Philadelphia, PA, and 169 miles from New York City.

⁷ Community Review Comments, Greg DiDomenico, Garden State Seafood Association, 212 West State Street, Trenton, NJ, 08608, August 24, 2007

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Commercial and recreational fishing docks are scattered around Cape May or, more properly, Lower Township, but centered in an area known as Ocean Drive (McCay and Cieri 2000), “a road which leaves the main highway and crosses the marshes toward the Diamond Beach section of Lower Township and Wildwood Crest, and Schellenger's Landing, just over a large bridge that connects the mainland with the center of Cape May and its beaches.”⁸ The fishing industry is really based in Lower Township, rather than within Cape May proper. Schellenger's Landing has a dock and fish market; a number of large vessels are located here. In the vicinity are also a marine railway, two marinas, two bait and tackle shops, two marine suppliers, and a “marlin and tuna club”. Some commercial fishing boats also use Cape May's recreational marinas (McCay and Cieri 2000). [Two Mile Landing](#) is a marina with recreational boats and a restaurant; some commercial fishing activity is found here as well (McCay and Cieri 2000).

INVOLVEMENT IN NORTHEAST FISHERIES⁹

Commercial

The combined port of Cape May/Wildwood is the largest commercial fishing port in New Jersey and is one of the largest on the East Coast. Cape May/Wildwood is the center of fish processing and freezing in New Jersey. Some of the largest vessels fishing on the East Coast are home ported here. Cape May fishing vessels have frequently been responsible for developing new fisheries and new domestic and international markets. The targeted species are diverse; fisheries focus on squid, mackerel, fluke, sea bass, porgies, lobsters and menhaden. Some of the boats out of Wildwood are also targeting surf clams and ocean quahogs (NJ Fishing nd).

[F.H. Snow's Canning Co/Doxsee](#) is a large clam cannery based in Lower Township (not Cape May)¹⁰, and the only domestic manufacturer to harvest its own clams. Snow's/Doxsee has the nation's largest allocation for fishing and harvesting ocean clams. Established in 1954 in Cape May, [Lund's Fisheries, Inc.](#), is a freezer plant and a primary producer of various species of fish found along the Eastern Seaboard of the USA. It is also a member of the [Garden State Seafood Association](#). There is one other exporter of seafood in Lower Township¹¹, the Atlantic Cape Fisheries Inc. which exports marine fish and shellfish, oysters, scallops, clams and squids (NJDA nd). The Axelsson and Johnson Fish Company Inc. which used to export shad, marine fish, conch, American lobster, lobster tails, scallops and whole squid went out of business several years before the creation of this profile.¹²

The top species landed in Cape May in 2006 were scallops (over \$23 million), squid, mackerel, butterfish (over \$12 million) and summer flounder, scup, and black sea bass (over \$1.9 million) (Table 1). Between 1997 and 2006 home ported vessels increased from 109 to 184 while the number of vessels whose owner's city was Cape May also increased from 73 to

⁸ Community Reviewer Comments, James Smith, Cape May County Planning. Comments received September 12, 2007.

⁹ In reviewing the commercial landings data several factors need to be kept in mind. 1) While both federal and state landings are included, some states provide more detailed data to NMFS than others. For example, shellfish may not be included or data may be reported only by county and not by port. 2) Some communities did not have individual port codes until more recently. Before individual port codes were assigned, landings from those ports were coded at the county level or as an aggregate of two geographically close small ports. Where landings were coded at the county level they cannot be sorted to individual ports for those earlier years, e.g., prior to 2000. 3) Where aggregated codes were used, those aggregate codes may still exist and be in use alongside the new individual codes. Here the landings which are still assigned to the aggregate port code cannot be sorted into the individual ports, so port level data are only those which used the individual port code. 4) Even when individual port codes exist, especially for small ports, landings may be coded at the county level. Here again it is impossible to disaggregate these to a port level, making the port level landings incomplete. 5) In all these cases, the per port data in this profile may under report the total level of landings to the port, though all landings are accounted for in the overall NMFS database.

¹⁰ Community Reviewer Comments, James Smith, Cape May County Planning. Comments received September 12, 2007.

¹¹ Community Reviewer Comments, James Smith, Cape May County Planning. Comments received September 12, 2007.

¹² Community Review Comments, Walter Makowski, NMFS Port Agent, August 8, 2007

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88 vessels. Additionally, home port value and landed port value also steadily increased over the same time period, with the exception of a decline in the later category in 2006 (Table 2).

Landings by Species

Table 1. Dollar value of Federally Managed Groups of Landings for Cape May

	Average from 1997-2006	2006 only
Scallop	22,263,937	23,677,160
Squid, Mackerel, Butterfish	7,584,550	12,375,958
Summer Flounder, Scup, Black Sea Bass	2,044,420	1,979,899
Other ¹³	1,696,617	1,637,321
Surf Clams, Ocean Quahog	588,296	0
Lobster	420,312	8,861
Herring	412,103	2,896,122
Monkfish	322,895	397,841
Red Crab	40,358	0
Smallmesh Groundfish ¹⁴	23,939	2,997
Bluefish	20,626	4,267
Skate	12,299	4,387
Largemesh Groundfish ¹⁵	8,067	3,705
Dogfish	6,574	0
Tilefish	597	1,230

Vessels by Year¹⁶

Table 1. All columns represent vessel permits or landings value combined between 1997-2006

Year	# Vessels (home ported)	# Vessels (owner's city)	Level of fishing home port (\$)	Level of fishing landed port (\$)
1997	109	73	27,687,667	23,636,983
1998	105	68	27,614,763	25,770,007
1999	106	72	29,153,706	22,353,284
2000	116	74	30,488,271	23,936,235
2001	116	71	32,923,798	27,155,864
2002	118	72	34,529,920	28,312,296
2003	129	78	42,777,501	36,372,658
2004	135	73	62,308,441	60,630,752
2005	155	82	69,641,897	63,298,068
2006	184	88	75,058,370	42,989,748

Vessels home ported = No. of permitted vessels with location as homeport

Vessels (owner's city) = No. of permitted vessels with location as owner residence¹⁷

Level of fishing home port (\$) = Landed value of fisheries associated with home ported vessels

Level of fishing landed port (\$) = Landed value of fisheries landed in location

Recreational

In NJ the charter/party fleet is the largest on east coast. Many vessels are over 120ft long and carry over 150 people.¹⁸ The Cape May County Party and Charter Boat Association lists several dozen charter and party vessels based out of the City of Cape May. There are 35

¹³ "Other" species includes any species not accounted for in a federally managed group

¹⁴ Smallmesh multi-species: red hake, ocean pout, mixed hake, black whiting, silver hake (whiting)

¹⁵ Largemesh groundfish: cod, winter flounder, yellowtail flounder, American plaice, sand-dab flounder, haddock, white hake, redfish, and pollock

¹⁶ Numbers of vessels by owner's city and homeport are as reported by the permit holder on permit application forms. These may not correspond to the port where a vessel lands or even spends the majority of its time when docked.

¹⁷ The Owner-City from the permit files is technically the address at which the owner receives mail concerning their permitted vessels, which could reflect the actual location of residence, the mailing address as distinct from residence, owner business location, or the address at which a subsidiary receives mail about the permits.

¹⁸ Community Review Comments, Bruce Freeman, NJ Coast Anglers Association, 1201 Route 37 East, Suite 9, Toms River, NJ 08753, October 2, 2007

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vessels listed carrying 1-6 passengers, six vessels which can carry more than six passengers, and three party boats (NJ Fishing nd). The [Miss Chris](#) fleet of party boats makes both full- and half-day trips, targeting largely fluke and stripers for most of the year. The [Porgy IV](#), another party boat, targets sea bass, blackfish, and flounder. Many of the charter boats go offshore canyon fishing (McCay and Cieri 2000). Between 2001- 2005, there were 56 charter and party vessels making 6,599 total trips registered in NMFS logbook data by charter and party vessels in Cape May, carrying a total of 116,917 anglers (NMFS VTR data). There are several fishing tournaments held throughout the year sponsored by the [Cape May Marlin and Tuna Club](#).

Subsistence

Information on subsistence fishing in Cape May is either available through primary data collection or the practice does not exist.

FUTURE

Information on the future in Cape May was unavailable through secondary data collection.

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John V. O'Shea, Executive Director
Atlantic States Marine Fisheries Commission
1444 Eye Street, N.W., 6th Floor
Washington, D.C. 20005

Dear Mr. O'Shea,

I am writing to comment on draft Addendum XII to Amendment 3 to the Commission's Interstate Fishery Management Plan (ISFMP) for American Lobster. NOAA's National Marine Fisheries Service (NMFS) would like to commend the Commission for the effective coordination and participation of industry and State management staff to draft this document. Draft Addendum XII serves to highlight several issues, including the critical need to establish and fund a centralized database to monitor lobster permit and trap allocation transfers, and respond in a unified way to the issues that would arise when fishing privileges are transferred or when individual trap allocations are transferred as part of a multi-jurisdictional trap transferability program.

NMFS personnel attended public hearings in Rhode Island, New Hampshire, Massachusetts, and Maine on draft Addendum XII. Although draft Addendum XII is one of the more comprehensive and detailed addenda thus far proposed by the Commission, NMFS remain concerned over one important aspect of the addendum, the establishment of a centralized database. It remains largely conceptual and critical logistics on funding, access, and accountability remain to be worked out. As noted in the document, despite the overall similarity of the various Lobster Conservation Management Area-specific (LCMA) effort control plans, administration of similar, but not identical, plans involving potential regulations by twelve states and NMFS, is obviously complex. Due to the intricacy of the effort control plans, we reiterate our position that establishment of a central database to monitor lobster permit and trap allocation transfers is a critical necessity prior to Federal implementation of the various multi-jurisdictional trap transferability programs. NMFS fully commits to work with the Commission and impacted states to help establish this database. But, since associated logistics are still in a formative stage, it may not be possible to quickly develop and populate the database consistently across multiple jurisdictions, or with 100% effectiveness, in the timeframe envisioned by many lobstermen that testified at the public hearings. Accordingly, although we hope the necessary logistics can be quickly accomplished, I believe we should be cautiously realistic in our expectations regarding the implementation of the various LCMA-specific trap transferability programs. As noted in the addendum, until a central database is operational and NMFS implements compatible Federal regulations, we will be unable to recognize partial transfers of LCMA-specific trap allocations, or the application of a conservation reduction surcharge (trap conservation tax) on the transfer of Federal lobster permits.

NMFS review of a component of draft Addendum XII, specifically the Commission's Most Restrictive Rule, Option A - Status Quo (Section 4.2.1), indicates this approach may conflict with the stated objectives of the various LCMA-specific effort control plans (to cap effort at or near historic levels), by proposing a mechanism to activate what might be considered latent effort. Option A, the Commission's



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most restrictive rule, as approved by the Commission in Addendum IV to the ISFMP, may allow the number of traps fished to increase over existing levels, depending on what LCMA a fisherman chooses to elect on their permit. As the Commission noted in the document, this potential for an increase in effort may be problematic since the latest stock assessment suggested that the Southern New England stock is overfished and that fishing effort needs to decrease or be constrained in all lobster stock areas.

One other concern relates to Section 4.4, "The Effect of Permit & Trap Allocation Transferability on LCMAs without History-based Allocations (currently LCMA 1)." In Option B (Section 4.4.2) and Option C (Section 4.4.3), either the buyer, or both the buyer and seller of transferable traps would be ineligible to fish in the Federal waters of LCMA 1 in the future, once any of the sellers' transferable traps are sold. While the document indicates the intent of these options is to prevent future effort shift into (the Federal waters of) LCMA 1 from other transferable trap LCMAs, there are a number of current LCMA 1 lobstermen that also have allocations in other LCMAs, including LCMA 3. As written, these options (B and C) would appear to deny future access to fish with traps in LCMA 1 for lobstermen that may exclusively or primarily fish with traps in LCMA 1. NMFS would recommend, prior to approval of Addendum XII, wording in the document clarify whether or not lobstermen that actively fish in LCMA 1, and also have transferable traps in another LCMA, would be prohibited from future access into LCMA 1 if all or a part of their transferable trap allocation in another LCMA is sold.

Assuming we can find an acceptable approach to assign fishing history and individual trap allocations as part of a trap transferability program, the respective jurisdictions should be able to implement independent, yet congruent LCMA-specific effort control plans. However, while Addendum XII represents a significant step forward, it is unlikely to rectify all of the inter-jurisdictional trap transferability coordination problems. I continue to have concerns, as noted in my letter to you dated April 23, 2007 (attached), that variations in how the states interpret and implement the effort control measures in Addendum XII and earlier addenda may continue to be an issue. NMFS may face challenges to move forward with federal regulations that are complementary to respective state regulations when the respective state regulations may be at odds with one another. We hope that passage of Addendum XII will establish uniform principles and criteria that are acceptable and appropriate for the Federal Government as well as the States.

Resolution of the complex issues associated with the various effort control plans addressed in this draft addendum will facilitate our collective efforts to move towards the goal of having one plan for the American lobster throughout its range. If you wish to discuss any of these comments in further detail, please do not hesitate to contact me or Harold Mears of my staff at 978-281-9300.

Sincerely,



Patricia A. Kurkul
Regional Administrator



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

NOV 29 2008

John V. O'Shea, Executive Director
Atlantic States Marine Fisheries Commission
1444 Eye Street, N.W., 6th Floor
Washington, DC 20005

Dear Mr. O'Shea,

This letter provides NOAA's National Marine Fisheries Service (NMFS) comments on draft Addendum XII to Amendment 3 to the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for American Lobster. As you know, the latest version of this draft Addendum reflects many months of coordinated effort by members of the Lobster Inter-jurisdictional Transferable Trap (ITT) Subcommittee to reach general consensus on several complex and precedent-setting issues that have far-reaching significance for both state and Federal lobster management, including the establishment of ITT programs in Areas 2, 3, and the Outer Cape, and the application of the Most-Restrictive Rule for the commercial lobster fishery.

Given our interest to support state-Federal consistency in lobster management and our responsibilities under the Atlantic Coastal Fisheries Cooperative Management Act (ACA) to implement regulations that are compatible with the relevant coastal states, NMFS appreciates the opportunity to work with the Commission on these important issues. As we have consistently stated in our past comments on this subject, NMFS believes that resolution of the issues identified in Addendum XII is crucial to the effective inter-jurisdictional administration and management of the ITT programs previously approved by the Commission.

In that respect, we would like to commend the Commission's support, as reflected in Section 4.2.2. of the current draft Amendment XII, to identify Option B under the Most-Restrictive Rule as the preferred option, which would effectively support current Federal regulations governing commercial trap allocations. As you know, NMFS expressed concerns in our previous comments on this issue that Option A under the Most Restrictive Rule, as identified in Section 4.2.1., is a less-restrictive interpretation of the Most Restrictive Rule that could result in increased fishing effort and adversely impact the goals of the effort control plans for the Southern New England lobster stock, which are under stress from overfishing.

Clearly significant progress has been made with regard to the current draft, nonetheless, we note that issues remain and, while approval of Addendum XII is an important step forward, it is not the final step in this process. As NMFS proceeds with its effort to develop and implement compatible ITT regulations, inconsistencies in the approach taken



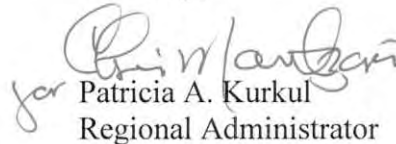
Appendix 11

by the states to implement these effort control programs will continue to challenge NMFS' ability to effectively implement and administer an inter-jurisdictional trap transferability program. Therefore, we look forward to continued Commission support as NMFS moves forward with the development of Federal regulations to ensure inter-jurisdictional compatibility and achievement of the ISFMP objectives.

Finally, given the well-recognized complexities of the multi-jurisdictional effort control plans for American lobster and the added challenges that inter-jurisdictional trap transfers would present, we again restate our position that funding of a central database to monitor and administer lobster permit and trap allocation transfers across jurisdictions continues to be critical to successful implementation. We note that this view is supported in the testimony of both the Industry Advisory Panel and the ITT Subcommittee. In this regard, we commend the ACCSP for its commitment, at the October 2008 Annual Meeting, to fund the initial development of a central database, and we encourage the Commission to continue its efforts to identify a viable long-term funding mechanism for ongoing maintenance and operation of this database.

NMFS remains committed to the ongoing efforts of our respective organizations to resolve these concerns as we strive to implement compatible management measures for the American lobster throughout its range. Please feel free to contact me or Harold Mears of my staff at 978-281-9300 if you have any questions or comments.

Sincerely,


for Patricia A. Kurkul
Regional Administrator



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

APR 23 2007

John V. O'Shea, Executive Director
Atlantic States Marine Fisheries Commission
1444 Eye Street, N.W., 6th Floor
Washington, D.C. 20005

Dear Vince,

I am writing to comment on the American lobster history based effort control plan for Lobster Conservation Management Area 2. The Area 2 implementation issues are difficult and reflect the challenges facing this fishery. Last October, you provided information on the analytical methods used as the basis for proposed trap limits and associated logistics for a program that would allow the transfer of trap gear allocations among qualified participants in the Southern New England waters of Area 2. The most recent modifications to that program were adopted by the Commission in October 2005 through approval of Addendum VII to Amendment 3 of the Interstate Fishery Management Plan (ISFMP) for American Lobster.

That addendum recommended that the federal government promulgate complementary regulations to be consistent with those of the participating states. As the National Marine Fisheries Service continues the development of this federal rulemaking, we are concerned over the continuing disparity among the qualification and associated appeal procedures being used by the States, particularly between Massachusetts and Rhode Island, the "home states" for the majority of Federal lobster permits that have since 2000 been authorized to harvest lobster with traps in the federal water portion of Area 2. As we have indicated in the past, Federal lobster regulations do not distinguish based upon an individual's state citizenship. Our objective is to identify a "one standard" approach that would comply with the legislative requirements to be consistent with the national standards set forth in the Magnuson-Stevens Act, and at the same time, be consistent with the effective implementation of the Interstate Plan. Given the present situation, however, it is particularly difficult for us to move forward with federal regulations that are complementary to respective state regulations when the respective state regulations are themselves at odds with one another.

The problem is not a simple one; uniformity is a difficult and complex task given the multiple jurisdictions involved in lobster management. We understand the difficulties and acknowledged the challenges not only during several subsequent Lobster Board meetings following the addendum's approval, but even in our comments to the Lobster Conservation Management Team when the present plan was in its infancy. State/Federal consistency is particularly fundamental



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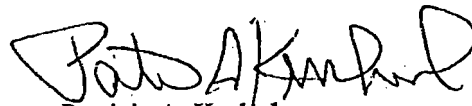
in the implementation of a limited access program based upon fishing history, such as has been proposed in Area 2, where that single fishing history was often established under a dual state and federal permit. This dilemma, at least in part, was recognized by Addendum VII in Section 4.1.1.1(a) that stated there should be a moratorium on permit splitting accomplished through the "...establishment of a new state/federal licensing scheme...".

Unfortunately, however, there has been no real resolution to many of the core issues in Addendum VII. Certain progress is being made – NMFS staff are assisting in the drafting of a Commission white paper on permit history and transferability issues – but that progress has been slow and far outpaced by the speed in which the states are implementing the Addendum. Presently, the seeming disconnect between unresolved core issues and state implementation of Addendum VII is impeding federal efforts for identifying management alternatives responding to the recommendations made in Addendum VII in a fair and equitable manner. We fear that these issues are becoming increasingly irreconcilable with every passing week.

We believe that affirmative steps need to be taken now to prevent potential jurisdictional chaos in lobster management, especially if states intend to implement trap transferability across jurisdictional boundaries prior to resolution of the differential qualification criteria, and transferable trap allocations. Preliminarily, I would appreciate hearing your perspective on the seemingly disparate state regulations. We would also be interested in your thoughts on how the Lobster Board is attempting to resolve some of the more intractable core problems it faces. Perhaps the professional services of a facilitator can help us move beyond the current impasse on these primary issues. Resolution is essential to facilitate compatible and effective Federal implementation of the ISFMP recommendations in a fair and equitable manner.

I look forward to hearing back from you. If you wish to discuss the above concerns in greater detail, please don't hesitate to contact me or Harry Mears.

Sincerely,



Patricia A. Kurkul
Regional Administrator

cc: George Lapointe
cc: Paul Diodati
cc: Mark Gibson
cc: Eric Smith



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

JUN 12 2007

**NOTICE TO AMERICAN LOBSTER
PERMIT HOLDERS FISHING
IN AREA 2, 3 AND OUTER CAPE COD
LOBSTER CONSERVATION MANAGEMENT AREAS**

This Notice is to remind all Federal American lobster permit holders that the Atlantic States Marine Fisheries Commission (Commission) has taken, and that the National Marine Fisheries Service (NMFS) is contemplating taking, actions that may impact your lobster fishing business.

At present, the Commission has recommended that NMFS implement regulations that would potentially further limit access to Lobster Conservation Management Areas 2, 3 and the Outer Cape Lobster Conservation Management Area. As you are aware, the states and NMFS manage lobster within the framework of the Commission Interstate Fishery Management Plan for American Lobster (Lobster FMP). The Commission, comprised of state and Federal government representatives, coordinates efforts to develop fishery conservation and management strategies for coastal species, including lobster. Upon developing the strategy, the Commission will recommend that the states and NMFS create regulations to implement the strategy in their jurisdictional waters. The states manage lobster within the waters of their individual states, out to 3 nautical miles from shore, while NMFS manages lobster for the Federal government and has primary jurisdiction in waters 3 to 200 nautical miles from the shoreline.

Based on Commission recommendations, NMFS published an Advance Notice of Proposed Rulemaking in the Federal Register on May 10, 2005 (70 FR 24495), announcing its intention to evaluate a suite of measures that include limited access and/or transferable trap programs in LCMAs 2, 3, and the Outer Cape LCMA. Further, NMFS has noted in Federal Register notices dating from September 1, 1999 (64 FR 47756), that the agency would consider limitations or restrictions to future access to the lobster fishery in certain geographic areas. NMFS analysis of the Commission recommendations is presently ongoing and the agency has not determined what, if any, of the recommendations it will accept.

In the meantime, Federal lobster permit holders should be aware that present Federal lobster regulations remain in effect. NMFS regulations do not currently authorize a program for trap transferability, or the splitting of any Management Area eligibility



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associated with a vessel's fishing and permit history, in any LCMA, including LCMA 2, and may not in the future. In addition, Federal lobster regulations require permit holders to abide by the more restrictive of either state or Federal regulations, including, but not limited to, LCMA-specific trap allocations. Further, Federal lobster permit holders should be aware that the sale or transfer of a Federal limited access permit might impact any future potential application into LCMA 2, 3 and the Outer Cape, to the extent that access to those areas is limited based upon a permit's fishing history. As you know, your Federal permit's fishing history is an indivisible part of your Federal lobster permit and cannot be separated and split off of the permit during transfer. NMFS will notify Federal lobster permit holders and interested parties of Federal regulatory actions and opportunity for public comment as appropriate.

For additional information specifically on the Commission Lobster FMP, please visit their website at www.asmfc.org. For additional information on current Federal lobster regulations, the full text of the regulations is available on our website: www.nero.noaa.gov. You may also request a copy of current Federal regulations by calling (978) 281-9327, or by writing to NMFS, State, Federal and Constituent Programs Office, One Blackburn Drive, Gloucester, MA 01930. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is fluid and cursive, with the first name "Patricia" being the most prominent part.

Patricia A. Kurkul
Regional Administrator

Appendix 14

Reducing Trap Effort in the Lobster Conservation Management Area 2 Fishery through an Effort Control Plan

Comprehensive Status Report
(May 2006 through August 31, 2008)



by
Daniel J. McKiernan, Deputy Director &
Melanie N. Griffin, Fisheries Management Specialist

Massachusetts Division of Marine Fisheries
251 Causeway Street, Suite 400
Boston, MA 02114

Appendix 14

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I. EXECUTIVE SUMMARY

In the spring of 2006, *Marine Fisheries* notified eligible commercial lobster permit holders of Initial Trap Allocations for use in Lobster Conservation Management Area 2 (LCMA 2) beginning January 1, 2007. This LCMA 2 Effort Control Plan was enacted as part of a multi-state effort control program approved in compliance with Addenda VII and IX to the Interstate Fishery Management Plan for American Lobster and after approval of the Marine Fisheries Advisory Commission. The plan seeks to cap effort (traps fished) at recent levels in response to declining stock conditions.

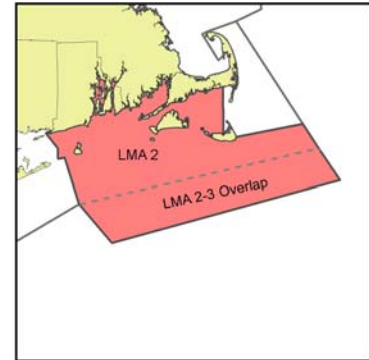


Figure 1. Map of LCMA 2 and LCMA2/3 overlap.

The plan features an Individual Trap Allocation for each fisherman that is unique and reflective of their fishing history during 2001-2003. In the summer of 2006, *Marine Fisheries* assigned a total of 49,769 traps (includes successful appeals of Initial Trap Allocations) to 300 permit holders, of which 139 permit holders qualified for zero traps. *Marine Fisheries* qualified 161 permit holders to fish traps in LCMA 2. Initial Trap Allocations (>0) assigned by *Marine Fisheries* ranged from 7 – 800 traps. The average non-zero Initial Trap Allocation equaled 309 traps and the median Initial Trap Allocation equaled 250 traps. Seventeen permit holders qualified for an 800-trap allocation.

As of July 31, 2008, 148 permit holders held trap allocations ranging from 7 – 800 traps, sixteen of whom qualified for an 800-trap allocation. The average and median had increased to 335 and 285 traps, respectively. In 2007, traps reported fished in LCMA 2 totaled 35,337 – a 20% reduction from a baseline of 44,361 traps reported fished in 2004 (see Addendum VII). The LMCA 2 permit population (those with an allocation from 0-800) has declined by 16% from 2004 (306 permit holders) to 2007 (258 permit holders). The Commonwealth’s LCMA 2 fishery continues to hold latent effort that has been reduced annually through passive reductions from 2006-2008 (Table 1). Future reduction of effort, if warranted, may require active reductions.

Table 1. Summary of permit holders and trap allocations in LCMA 2 during 2006-2008.

	2004	2006 ¹	2007	2008	% change
# of permit holders with trap allocation = 0	N/A	139	107	106	- 43%
# of permit holders with trap allocation >0	N/A	169	151	148	23%
# of permit holders with trap allocation = 800	N/A	17	17	16	
Total traps allocated	244,800 ²	49,769	49,727	49,548	- 80%
Total traps fished	44,361	N/A	35,337	N/A	- 20%
Trap allocation range	N/A	7- 800	7 – 800	7 – 800	
Median non-zero allocation	N/A	250	252	285	14%
Average non-zero allocation	N/A	309	329	335	8%

II. BACKGROUND

On May 1, 2006 the Division of Marine Fisheries (*Marine Fisheries*) notified Massachusetts Coastal and Offshore Lobster Permit holders of their Initial Trap Allocations in LCMA 2.

¹ Information is based on snapshot of LCMA 2 population (permits and traps) after notifying permit holders of Initial Trap Allocations they would be eligible for in 2007 and finalizing any appeals.

² Based on maximum limit of 800 traps per permit holder.

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Marine Fisheries, with approval of the Marine Fisheries Advisory Commission assigned trap allocations to eligible commercial lobster trap fishermen in Area 2 as part of the effort control plan contained in Addendum VII to the interstate plan (approved by ASMFC in November of 2005). Note that recreational lobster fishermen, seasonal (student) lobster permit holders and non-trap fishermen are not affected by this plan.

The LCMA 2 plan was the subject of numerous industry meetings and endorsement by the LCMA 2 Lobster Conservation Management Team. Its structure is similar to the Outer Cape Cod Effort Control Plan enacted by *Marine Fisheries* in 2003; the plan features an Individual Trap Allocation for each fisherman that is unique and reflective of their fishing history during 2001-2003. Trap allocations are transferable among fishermen, but the overall number of allocated traps is constrained to not increase under state oversight. A 10% trap tax is levied on all permit and trap allocation transfers, consistent with Addendum IX.

III. PLAN SPECIFICS

The main aspects of *Marine Fisheries*' plan included:

- Eligibility criteria based on verifiable landings of lobster caught by traps from LCMA 2 in any one year from 2001 – 2003
- Trap Allocations assigned based on maximum traps fished and landings (in lbs.) during 2001, 2002, and 2003 – either the “predicted” number of traps for that level of poundage or the number of traps reported fished – whichever was lower. Among the three years, each permit holder was given the highest value as an initial trap allocation. Addendum VII did allow for medical appeals, for which *Marine Fisheries* allowed any permit holder who had no documented fishing performance due to documented medically-based inability or military service to appeal for an Initial Trap Allocation based on their 1999 and 2000 fishing performance in LCMA 2).

In 2007, *Marine Fisheries* enacted regulations that allow state permit holders to qualify for trap allocations in Outer Cape Cod and LCMA 2 based on historical landings of lobster caught by SCUBA gear.³

- Transfer programs that enable permits and/or trap allocations to be transferred. Trap allocations may not be transferred out of LCMA 2, must be transferred in quantities of 50 or more traps, and every transaction shall be assessed a 10% reduction in trap allocation. *Marine Fisheries* must receive applications for trap transfers by November 30 of the previous fishing year.

IV. LCMA 2 EFFORT CONTROL PLAN ENACTMENT & ADMINISTRATION

The LCMA 2 Effort Control Plan affects all Massachusetts commercial lobster permit holders whether fishing took place in state and/or federal waters. To be eligible to receive a trap allocation, a permit holder had to have fished in LCMA 2 in at least one year from 2001 - 2003.

³ No LCMA 2 trap allocations were issued based on historical harvest of lobsters by SCUBA. This exemption has only been utilized in Outer Cape Cod LCMA (see “Reducing Trap Effort in the Outer Cape Cod Lobster Conservation Management Area Fishery through an Effort Control Plan – Comprehensive Status Report (December 2003 - July 2008)”.

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Marine Fisheries sent eligible lobster permit holders letters, based on DMF's own analysis of DMF's annual re-call log data, indicating their initial trap allocation. Initial Trap Allocations were assigned based on maximum Effective Traps Fished in any one year during 2001 – 2003.

Effective Traps Fished is the lower value between actual traps fished in any one year as reported on annual catch reports submitted to *Marine Fisheries* and a “predicted” number of traps for the level of reported pounds for a given year. The value for a typical number of traps was calculated based on Addendum XII's depiction of traps fished and pounds landed for LCMA 2 and that relationship is depicted in Figure 2 of 322 CMR 6.13 (see attached). This relationship is an aggregation of all the individual values for traps fished versus pounds landed for lobster fishermen with landings in at least one LCMA 2 statistical area during the years 2001 - 2003.

Permit holders were then eligible to appeal initial trap allocations based on 1) technical data errors and/or miscalculations & 2) medical appeals. As part of the ASMFC-approved effort control plan in LCMA 2, DMF allowed permit holders who had no documented fishing performance due to documented medically-based inability or military service to appeal for an Initial Trap allocation based on their 1999 and 2000 fishing performance in LCMA 2. Note, this did not allow for medical appeal of minimal or reduced fishing performance.

Each state with LCMA 2 fishermen was expected to enact regulations to implement the plan prior to the 2007 fishing year beginning on January 1, 2007.

V. RESULTS OF THE LCMA 2 LOBSTER TRAP EFFORT CONTROL PLAN

In the summer of 2006, *Marine Fisheries* assigned a total of 49,769 traps (includes successful appeals of Initial Trap Allocations) to 300 permit holders, of which 139 permit holders qualified for zero traps. Permit holders are categorized as state-only, dual or federal-only.⁴ Those who received a zero Initial Trap Allocation may retain their commercial lobster permit endorsed for LCMA 2; however, they are unable to fish their permit with traps until they receive a trap allocation through transfer from another LCMA 2 permit holder.

During the qualification year (2006), twenty-six permit holders appealed their Initial Trap Allocation. Two appeals resulted in increased allocations (based on data errors). Additionally, a dual permit holder was allowed to combine the Initial Trap Allocations authorized for their coastal and offshore lobster permits onto their coastal lobster permit. Sixteen permits were not renewed in 2006⁵ or no longer were endorsed for LCMA 2; these entities thus are no longer a part of the population eligible to fish traps in LCMA 2.

Initial Trap Allocations (>0) assigned by *Marine Fisheries* in 2006 ranged from 7 – 800 traps. A total of 17 permit holders qualified for an 800-trap allocation. Of the 49,769 traps allocated, 20,462 were allocated to state-only permit holders, 26,875 were allocated to dual permit holders

⁴ State-only permit holders possess a coastal lobster permit issued by the Commonwealth but no federal lobster permit. Dual permit holders possess a coastal lobster permit issued by the Commonwealth in addition to a federal lobster permit. Federal-only permit holders possess an offshore lobster permit issued by the Commonwealth in addition to a federal lobster permit. Coastal Lobster Permit allows the taking, landing and sale of lobsters (to a licensed dealer) harvested from within the coastal waters of the Commonwealth. Offshore Lobster Permit allows the landing and sale of lobsters (to a licensed dealer) taken outside of the coastal waters of the commonwealth only; pursuant to a federal lobster permit.

⁵ Initial Trap Allocations for LCMA 2 were sent to permit holders in June of 2006. The permit population included those who had not yet renewed in 2006, since they still had six months to renew. There are a handful of permits that never were renewed in 2006 and thus any Initial Trap Allocations were eliminated along with the permit.

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and 2,432⁶ were allocated to federal permit holders. The average non-zero Initial Trap Allocation equaled 309 traps and the median equaled 250 traps.

Eighteen permits were not renewed for 2007; one of the permits not renewed in 2007 had had its Initial Trap Allocation revoked (-800 traps) upon *Marine Fisheries* discovering that the federal permit had been split from the state lobster permit and transferred with a LCMA 3 trap allocation. Two permit holders were added to the Commonwealth's LCMA 2 population during 2007, one as a result of a federal permit transfer from Connecticut, the other after a dual permit holder with a LCMA 3 trap allocation appealed for and was granted a LCMA 2 trap allocation upon giving up their LCMA 3 designation.⁷ Total traps reduced equaled 17 (Table 1).

Tables 2 & 3 summarize permit and trap transactions that occurred in 2006, 2007 and 2008, respectively (for transaction-specific details see Appendix C). Note that trap reductions attributed to transfer of permits are attributed to the year in which the permit transfer was approved. Because applications for trap transfers are accepted only during a two month period at the end of each year, trap reductions attributed solely to transfer of traps are attributed to the next calendar year (i.e. trap transfer allocations submitted during the 2007 trap transfer request period became effective January 1, 2008).

Table 1, Figure 2 and Table 4 summarize the population of permit holders and distribution of trap allocations within that population from 2006 – 2008.

As of July 31, 2008, 148 permit holders held trap allocations (>0) that still range from 7 – 800 traps. Of the 49,584 traps allocated, 17,322 were allocated to state-only permit holders, 28,156 were allocated to dual permit holders and 4,106⁸ were allocated to federal permit holders. Sixteen permit holders qualify for an 800-trap allocation. The average and median (>0) had increased to 335 and 285 traps, respectively.

At the request of NMFS, trap allocation transfers involving federal permit holders (e.g., federal-only and dual permit holders) have not been allowed since July 1, 2008. *Marine Fisheries* awaits the results of Addendum XII (and possible NMFS rulemaking) before inter-jurisdictional trap allocation transfers resume.

Table 2. Summary of LCMA 2 trap transactions from June 2006 through July 2008.

2006 Trap Reduction Results	
<u>Trap reduction count</u>	<u>Reason for trap reduction and # of transactions</u>
25	<u>16 permits not renewed in 2006</u>
25	= Total trap reduction achieved prior to first year of Plan
2007 Trap Transaction Results	
<u>Change in Trap count</u>	<u>Reason for trap reduction and # of transactions</u>
- 449	17 permits not renewed in 2007

⁶ This includes 71 traps allocated to permit holders for whom we only have a record of a state offshore permit (i.e., lack federal permit information); however, the presumption is that they are federal-only.

⁷ This federal category permit holder had their state-issued offshore permit re-issued for LCMA 2 after qualifying through history conducted in the LCMA 2/3 overlap under authorization of their state and federal permits endorsed for LCMA 3.

⁸ This includes 70 traps allocated to a permit holder for whom we only have a record of a state offshore permit (i.e., lack federal permit information); however, the presumption is that they are federal-only.

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- 800	One trap allocation revoked and associated permit was not renewed in any area in 2007
+ 1,520	Two permit holders approved for LCMA 2 allocations based upon a federal permit transfer and appeal by LCMA 3 permit holder, respectively.
- 131	Six permit transfers within LCMA
<u>- 157</u>	<u>Ten trap allocation transfers (four permits retired)</u>
17	= Total trap reduction achieved in first year of Plan
2008 Trap Reduction Results	
<u>Trap reduction count</u>	<u>Reason for trap reduction and # of transactions</u>
890	Six permits have yet to renew as of July 31, 2008 or were surrendered.
80	Two permit transfers in LCMA 2
<u>43</u>	<u>(Five trap allocation transfers (one permit retired)</u>
1,012	= Total trap reduction achieved in second year of Plan

Table 3. Summary of trap and permit reductions through transfers and revocations in LCMA 2 during 2007-2008.

	2006	2007	2008*	Total
# of permits surrendered or revoked	16	18	6	40
# of traps reduced via surrender or revocation	25	1,249	890	2,164
# of permit transfers	N/A	6	2	8
# of traps reduced via permit transfers	N/A	131	80	211
# of trap allocation transfers	N/A	10	5	15
# of traps reduced via trap transfers	N/A	157	43	200

* #s associated with 2008 are not final until end of year, except for trap transfers, which are finalized by November 30th of the preceding year (2007).

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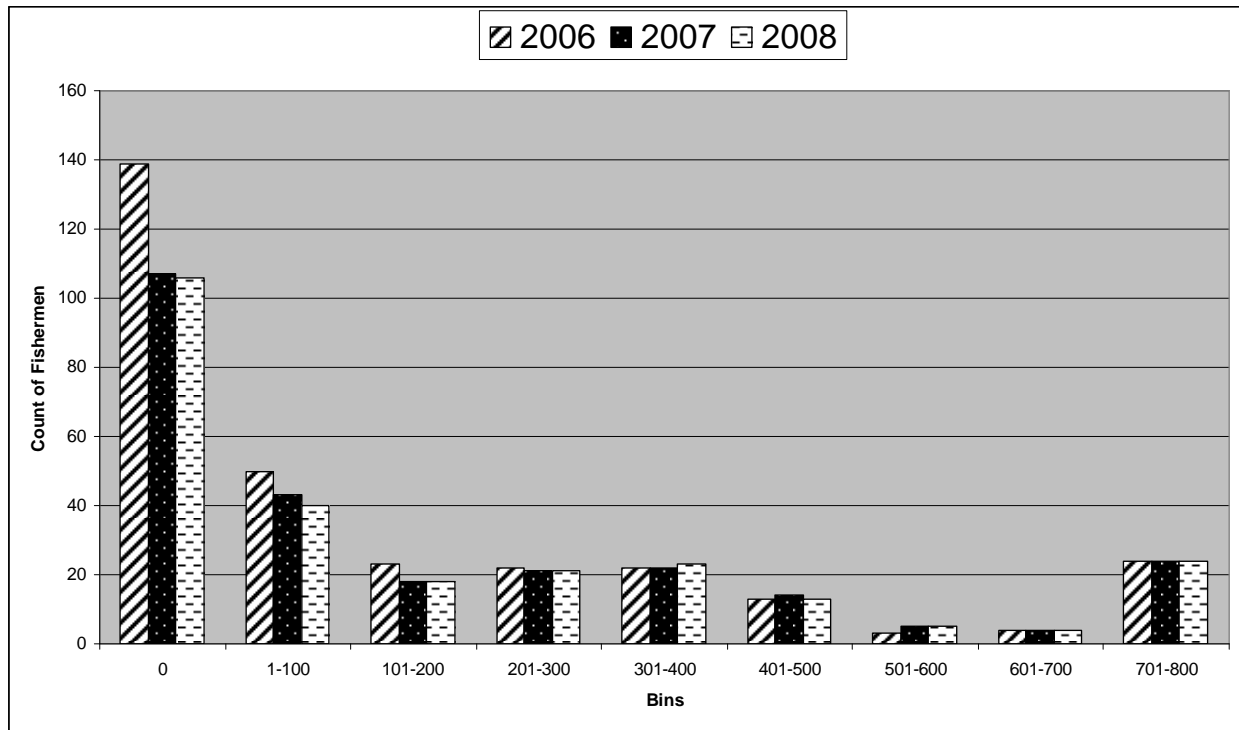


Figure 2. Trend in frequency of LCMA 2 trap allocations in 100-trap increments during 2006 (initiation year), 2007 & 2008 (n =300 in 2006, n = 258 in 2007, n = 254 in 2008).

Table 4. Net change in frequency of LCMA 2 trap allocations (in 100-trap increments) from 2006 to 2008.

Trap Interval	Count of Fishermen			Net Change
	2006	2007	2008	
0	139	107	106	-33
1-100	50	43	40	-10
101-200	23	18	18	-5
201-300	22	21	21	-1
301-400	22	22	23	1
401-500	13	14	13	0
501-600	3	5	5	2
601-700	4	4	4	0
701-800	24	24	24	0
Σ	300	258	254	-46

VI. CONCLUSION

Non-renewal of permits with non-zero trap allocations has provided the greatest reduction in permit numbers and trap count from year-to-year. Should the permit population reach equilibrium, future effort reduction, if warranted, may require “active reductions” given the permit population at the higher end of the trap allocation spectrum as well as the number of trap and permit transfers remain relatively static.

VII. APPENDICES

APPENDIX A – DETERMINATION OF INDIVIDUAL TRAP ALLOCATIONS

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Below is a table showing Effective Traps Fished for 2001 – 2003 for a hypothetical commercial lobster permit (Table 4). As you will see, the LCMA 2 trap allocation of 345 traps is based on the 2003 fishing history.

Table 4. Summary of traps reported fished, pounds of lobster reported landed and predicted traps during the period 2001-2003 used by *Marine Fisheries* to determine Effective Traps Fished and a permit holder's Initial Trap Allocation for LCMA 2.

	<u>2001</u>	<u>2002</u>	<u>2003</u>
Total Traps reported fished on DMF catch reports	98	100	345
Poundage	387	1,856	4,550
Predicted Traps for the reported poundage Based on Figure 2.	106	292	521
Effective Traps Fished	98	100	345

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Table 5 details commercial lobster permit non-renewals in LCMA 2 and resultant trap reductions prior to the first official year of the plan going into effect but after notification of Initial Trap Allocations. Tables 6a-c detail commercial lobster permit non-renewals and trap reductions due to coastal lobster permit and trap transfers within LCMA 2 during its first year after implementation (2007). Tables 7a-c trap reductions due to coastal lobster permit and trap transfers as well as permits that have yet to be renewed during the second year of the plan (2008), as of July 31, 2008.

YEAR 2006

Table 5. Permits removed from LCMA 2.

Transaction #	Former LCMA 2 Traps Eliminated	Permit Category
1	25	State
2	0	State
3	0	State
4	0	Federal
5	0	Federal
6	0	Federal
7	0	Federal
8	0	Federal *
9	0	Federal *
10	0	Federal *
11	0	Federal *
12	0	Federal *
13	0	Federal *
14	0	Federal *
15	0	Federal *
16	0	Federal *
Total =	25	

* DMF has record only of a state offshore permit (i.e., lack federal permit information); however, the presumption is that they are federal-only. Permits were removed either through non-renewal or the permit holder elected not to endorse for LCMA 2 in 2006 and beyond. Individuals, who did not renew their commercial lobster permits may have elected to get out of fishing entirely, retain or acquire permits for other fisheries, or acquire a non-trap offshore lobster permit.

YEAR 2007**Table 6a.** Permits removed from LCMA 2.

Transaction #	Former LCMA 2 Traps Eliminated	Permit Category
1	0	State
2	30	State
3	0	State
4	800	State
5	8	State
6	30	State
7	25	State
8	0	State
9	0	Federal
10	250	State
11	0	Federal
12	15	State
13	0	Federal *
14	0	State
15	0	State
16	0	Federal
17	0	Federal *
18	91	Dual
Total =	1,249	

* DMF has record only of a state offshore permit (i.e., lack federal permit information), however, the presumption is that they are federal-only. Permits were removed either through non-renewal or revocation. Individuals who did not renew their commercial lobster permits may have elected to get out of fishing entirely, retain or acquire permits for other fisheries, or acquire a non-trap offshore lobster permit

Table 6b. 2007 permit transfers within LCMA 2.

Transaction #	Original LCMA 2 Trap Allocation	Final 2007 LCMA 2 Trap Allocation	LCMA 2 Traps Eliminated	Permit Category
1	200	180	20	State → State
2	500	450	50	Dual → Dual
3	256	231	25	State → Dual
4	32	29	3	State → State
5	55	50	5	Dual → State
6	280	252	28	State → Dual
Total =			131	

Table 6c. 2007 LCMA 2 trap allocation transfers.

Transaction # (same # indicates multiple transfers from single permit holder)	LCMA 2 Trap Allocation Transferred	LCMA 2 Trap Allocation Received (minus 10% trap transfer tax)	LCMA 2 Traps Eliminated	Permit Category
1	100	90	10	State → State
1	100	90	10	State → State
1	100	90	10	State → Dual
4	100	90	10	State → Dual
5	250	225	25	State → Federal
6	118	106	12	State → State
7	79	71	8	State → Dual
8	225	203	22	State → State
9	200	180	20	State → State
10	300	270	30	State → State
Total =			157	

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YEAR 2008

Table 7a. 2008 (thru July 31, 2008) permit transfers within LCMA 2.

Transaction #	Beginning 2008 LCMA 2 Trap Allocation	Current 2008 LCMA 2 Trap Allocation	LCMA 2 Traps Eliminated	Permit Category
1	800	720	80	Dual → Dual
2	0	0	0*	State → State
Total =			80	

*This permit was transferable despite the 0 trap allocation, because this was the original Initial Trap Allocation.

Table 7c. Permits yet to be renewed as of July 31, 2008 or surrendered in LCMA 2.

Transaction #	Former LCMA 2 Traps Eliminated	Permit Category
1	20	State
2	70	Federal*
3	0	Federal
4	0	State
5	0	Federal
6	800	Dual
Total =		890

* DMF only has a record of a state offshore permit (i.e., lack federal permit information), however, the presumption is that they are federal-only.

Table 7b. 2008 (thru July 31, 2008) LCMA 2 trap allocation transfers.

Transaction # [†]	LCMA 2 Trap Allocation Transferred	LCMA 2 Trap Allocation Received (minus 10% trap transfer tax)	LCMA 2 Traps Eliminated	Permit Category
1	50	45	5	State → State
1	100	90	10	State → State
3	100	90	10	State → State
4	76	68	8	State → State
5	100	90	10	Dual → State
Total =			43	

[†]same # indicates multiple transfers from single permit holder.

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APPENDIX C - RELEVANT REGULATIONS – 322 CMR

6.13 Lobster Trap Limit in the Coastal Waters of the Commonwealth

(1) Definitions. For the purposes of 322 CMR 6.13 the following words shall have the following meanings.

Effective Traps Fished means a value used in

(a) the Outer Cape Cod Trap Allocation Determination that was calculated in the assessment of each eligible fisherman's annual performance for the years 2000, 2001, and 2002. For each year that traps and landings were reported, Effective Traps Fished is the lower value of the maximum number of traps reported fished for the year and the predicted number of traps that is associated with the permit holder's reported poundage of lobsters for the year. The value for predicted number of traps was calculated based on a DMF published analysis of traps fished and pounds landed for the OCCLCMA and that relationship is depicted in Figure 1.

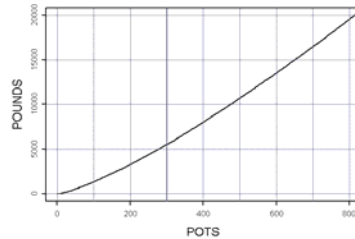


Figure 1. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from catch reports from fishermen fishing primarily in OCCLCMA during years (1997-2001).

(b) the LCMA 2 Trap Allocation Determination that was calculated in the assessment of each eligible fisherman's annual performance for the years 2001, 2002, and 2003. For each year that traps and landings were reported, Effective Traps Fished is the lower value of the maximum number of traps reported fished for the year and the predicted number of traps that is associated with the permit holder's reported poundage of lobsters for the year. The value for predicted number of traps was calculated based on the Interstate Lobster Management Plan Addendum VII published by the Atlantic States Marine Fisheries Commission. That relationship is depicted in Figure 2.

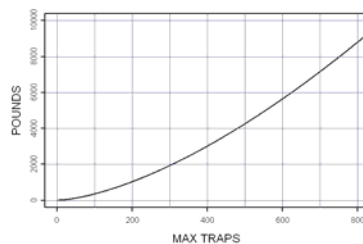


Figure 2. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from catch reports from fishermen fishing primarily in LCMA 2 during years (2001-2003).

(c) Exception. For coastal lobster permit holders who fished for lobster primarily by hand using SCUBA gear in a LCMA under control of an effort control plan, Effective Traps Fished means the annual predicted number of traps that is associated with the permit holder's reported poundage of lobsters during the performance years specified for a LCMA under control of an effort control plan as defined in 322 CMR 6.13(1)(a&b). The value for predicted number of traps was calculated based on a DMF published analysis of traps fished and pounds landed for a LCMA and that relationship is depicted in Figures 1 & 2.

Fish means to set lobster traps on the ocean bottom.

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LCMA 2 Trap Allocation means the number of traps assigned to a commercial lobster permit holder endorsed for LCMA 2 plus or minus any traps allocated through the trap transfer process outlined in 322 CMR 7.03.

Lobster means that species known as *Homarus americanus*.

Outer Cape Cod Trap Allocation means the number of traps assigned to a coastal permit holder endorsed for the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) plus or minus any traps allocated through the trap transfer process outlined in 322 CMR 7.03.

(2) Eligibility for Trap Allocation.

(a) To be eligible for Trap Allocation in OCCLCMA, permit holders must have documented lawful fishing of lobster traps primarily in OCCLCMA during years 1999, 2000, or 2001. Any permit holder who held a permit endorsed for OCCLCMA during the years 1999, 2000, or 2001 but dropped OCCLCMA from their permit during a subsequent year is not eligible. Any permit holder who received their permit off the waiting list during 2001 and had no fishing performance in 2001 may appeal for an Initial Trap Allocation based on their 2002 fishing performance in OCCLCMA.

(b) To be eligible for Trap Allocation in LCMA 2, permit holders must have documented lawful fishing of lobster traps primarily in LCMA 2 during years 2001, 2002, and 2003. Any permit holder who held a permit endorsed for LCMA 2 during the years 2001, 2002, and 2003 but dropped LCMA 2 from their permit during a subsequent year is not eligible. Any permit holder who had no documented fishing performance during the years 2001-2003 due to documented medically-based inability or military service may appeal for an Initial Trap Allocation based on their 1999 and 2000 fishing performance in LCMA 2.

(c) Exception. Coastal Lobster permit holders who fished for lobster primarily by hand using SCUBA gear during the years of eligibility for a LCMA under control of an effort control plan as defined in 322 CMR 6.13(2) may be eligible for Trap Allocation in a LCMA based on documented lawful landings of lobster as provided for in 322 CMR 6.13(1)(c) & (3).

(3) Trap Allocation Determination.

(a) Outer Cape Cod

1. Initial Trap Allocation shall be the highest value of Effective Traps Fished for each permit holder during the period 2000 through 2002. The Director may lower a permit holder's Initial Trap Allocation if the permit holder failed to purchase and use valid trap tags for any year used in the allocation determination or if after a DMF audit the values for traps fished or poundage are determined to be incorrect.

2. Trap Allocation shall be adjusted annually based on any Trap Allocation transfers approved by the Director pursuant to 322 CMR 7.03.

(b) LCMA 2

1. Initial Trap Allocation shall be the highest value of Effective Traps Fished for each permit holder during the period 2001 through 2003. The Director may lower a permit holder's Initial Trap Allocation if the permit holder failed to purchase and use valid trap tags for any year used in the allocation determination or if after a DMF audit the values for traps fished or poundage are determined to be incorrect.

2. Trap Allocation shall be adjusted annually based on any Trap Allocation transfers approved by the Director pursuant to 322 CMR 7.03.

(4) Trap Limitation. It is unlawful for any person with a commercial lobster permit endorsed for:

(a) LCMA 1 to fish more than 800 lobster traps at any one time in LCMA 1;

(b) LCMA 2 to fish more than their trap allocation approved by the Director subject to trap allocation regulations established by 322 CMR 6.13;

(c) LCMA 3 to fish more traps than their allocation approved by NOAA Fisheries and the Director consistent with the interstate plan; or

(d) OCCLCMA to fish more than their trap allocation as approved by the Director subject to trap allocation regulations established by 322 CMR 6.13.

(5) Vessel Limitation. The trap limit established by 322 CMR 6.13(2), shall apply to any vessel involved in the coastal commercial lobster fishery, regardless of the number of fishermen holding coastal commercial lobster permits on board said vessel.

(a) Commercial Lobster Permits Endorsed for LCMA 1, 2 or the OCCLCMA. It shall be unlawful to fish more than 800 traps aboard any vessel involved in the offshore commercial lobster fishery in LCMA 1, 2, or OCCLCMA or the coastal commercial lobster fishery, regardless of the number of fishermen holding coastal or offshore commercial lobster permits on board said vessel.

(b) Commercial Lobster Permits Endorsed for LCMA 3. It shall be unlawful to fish more than the

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allocation approved by NOAA Fisheries and the Director consistent with the interstate plan aboard any vessel involved in the offshore commercial lobster fishery in LCMA 3, regardless of the number of fishermen holding offshore commercial lobster permits on board said vessel.

6.33 Lobster Management Areas

(1) Definitions.

(a) Lobster Management Area means one of three Recreational Lobster Areas or one of seven Lobster Conservation Management Areas (LCMA) as specified in the Atlantic States Marine Fisheries Commission American Lobster Fishery Management Plan (FMP) and endorsed on the Massachusetts Commercial Fisherman Permit pursuant to 322 CMR 6.31.

(2) Area Boundaries.

(a) LCMA 1. Beginning at the Massachusetts/New Hampshire border, following the outer boundary of the territorial waters of New Hampshire and Maine to the US/Canada border, thence to the intersection of LORAN C 9960-Y-44400 with the boundary of the US Exclusive Economic Zone, thence to the intersection of 9960-Y-44400 with 70 [degrees] West Longitude, thence following the 70th meridian to its intersection with 9960-W-13700, thence following 9960-W-13700 to its intersection with 9960-Y-44120, thence following 9960-Y-44120 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 southeasterly to its intersection with 9960-Y-44110, thence following 9960-Y-44110 easterly to Race Point in Provincetown, thence following the MA shoreline back to the beginning.

(b) Outer Cape LCMA. Beginning at Race Point in Provincetown, following 9960-Y-44110 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 northwesterly to 9960-Y-44120, thence following 9960-W-44120 easterly to its intersection with 9960-W-13700, thence following 9960-W-13700 southerly to 9960-Y-43780, thence following 9960-Y-43780 westerly to its intersection with 70 [degrees] five minutes West Longitude, thence following 70 [degrees] five minutes West Longitude north through Nantucket Island to the shoreline of Harwich, thence following the shoreline of Cape Cod east and north back to the beginning.

(c) Overlap- Area 1/OCLMA. Beginning at Race Point in Provincetown, following 9960-Y-44110 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 southeasterly to its intersection with 9960-X-25330, thence following 9960-X-25330 northeasterly to the shoreline of Great Island in Wellfleet, thence following the shoreline northerly back to the beginning.

Fishermen endorsed for either LCMA 1 or OCLMA may fish in the overlap zone under the rules of the area(s) endorsed on their permits. Fishermen with both areas endorsed must observe the most restrictive rules.

(d) Overlap- Area 1/Area 2. The Cape Cod Canal, from the Massachusetts Maritime Academy pier at the southern end to the end of the east breakwater on the northern end.

Fishermen from either LCMA 1 or LCMA 2 may fish in the overlap zone under the rules of the area(s) endorsed on their permits. Fishermen with both areas endorsed must observe the most restrictive rules.

(e) LCMA 2. Beginning at the shoreline of Harwich, following the 70 [degrees] five minutes West Longitude south through the Island of Nantucket to its intersection with 9960-Y-43780, thence following 9960-Y-43780 easterly to its intersection with 9960-W-13700, thence following 9960-W-13700 southerly to its intersection 9960-W-14610, thence following 9960-14610 northerly to the outer boundary of New York territorial waters, thence following the outer boundary of the territorial waters of New York and Rhode Island to the Massachusetts/Rhode Island boundary, thence following the Massachusetts/Rhode Island boundary to the shoreline, thence following the shoreline of Massachusetts back to the beginning.

(f) LCMA 3. All waters of the Exclusive Economic Zone (EEZ) of the United States seaward of LCMA 1, OC, 2, 4, 5, and 6.

(g) Overlap Area 2/Area 3. Fishermen from either Area 2 or Area 3 may fish in an area bounded as follows under their respective LCMA rules: Beginning at the intersection of 9960-W-13700 and 9960-Y-43700, thence westerly along the 43700 line to the intersection with 9960-W-14610, thence southwesterly along a line whose extension reaches the intersection of 9960-Y-43500 with 9960-X-26400 to 9960-Y-43600, thence easterly along the 43600 line to 9960-W-13700, thence northwesterly along the 13700 line to the beginning.

(h) LCMA 4. All waters including state and federal waters that are near-shore in the northern Mid-Atlantic area, as defined by the area bounded by straight lines connecting the following points:

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Point	LATITUDE (°N)	LONGITUDE (°W)
M	40° 27.5'	72° 14'
N	40° 45.5'	71° 34'
O	41° 07'	71° 43'
P	41° 06.5'	71° 47'
S	40° 58'	72° 00'
T	41° 00.5'	72° 00'
From pt. "T", along the NY/NJ coast to pt. "W"		
W	39° 50'	74° 09'
V	39° 50'	73° 01'
U	40° 12.5'	72° 48.5'
From pt. "U" back to pt. "M".		

(i) LCMA 5. All waters including state and federal waters that are near-shore in the southern Mid-Atlantic area, as defined by the area bounded by straight lines connecting the following points, in the order stated:

Point	LATITUDE (°N)	LONGITUDE (°W)
W	39° 50'	74° 09'
V	39° 50'	73° 01'
X	38° 39.5'	73° 40'
Y	38° 12'	73° 55'
Z	37° 12'	74° 44'
ZA	35° 34'	74° 51'
ZB	35° 14.5'	75° 31'
From pt "ZB", along the coasts of NC/VA/MD/DE/NJ back to pt. "W".		

(j) LCMA 6. All state waters as defined by the area bounded by straight lines connecting the following points, in the order stated:

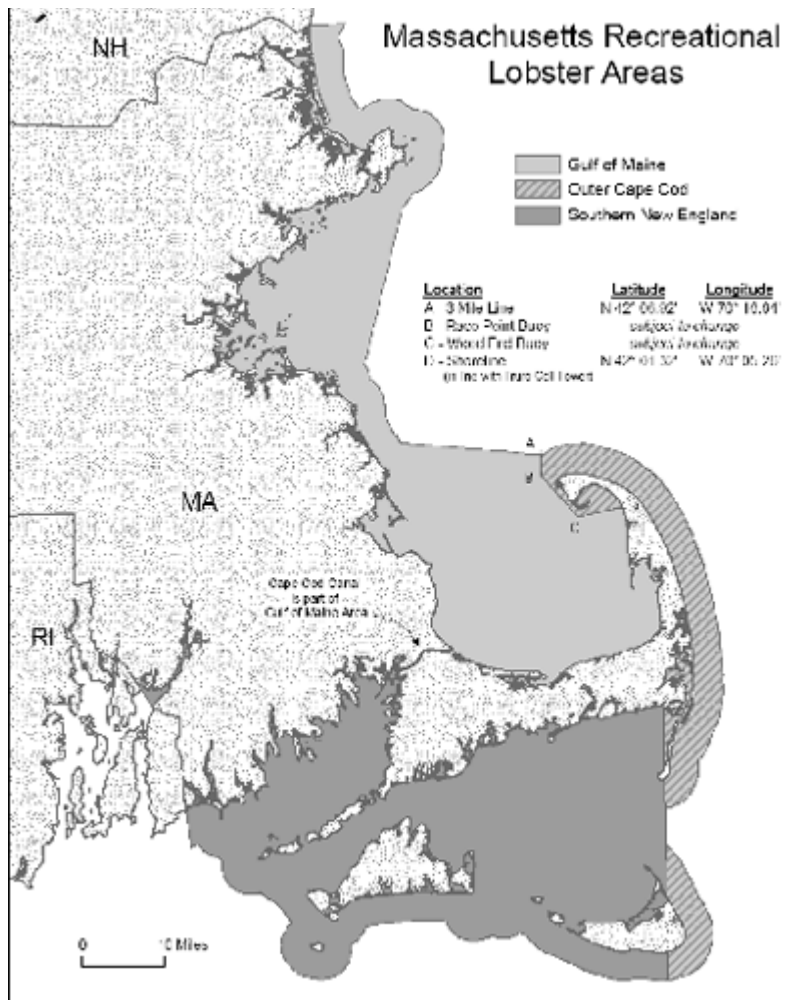
Point	LATITUDE (°N)	LONGITUDE (°W)
T	41° 00.5'	72° 00'
S	40° 58'	72° 00'
From pt. "S", boundary follows the 3 mile limit of NY state waters as it curves around Montauk Pt. To pt. "P"		
P	41° 06.5'	71° 47'
Q	41° 18' 30"	71° 54' 30"
R	41° 11' 30"	71° 47' 15"
From pt. "R", along the maritime boundary between CT & RI to the coast; then west along the coast of CT to the western entrance of Long Island Sound; then east along the NY coast of Long Island Sound and back to pt. "T".		

(k) Gulf of Maine Recreational Lobster Area means those state waters north of Cape Cod Bay to the New Hampshire border including waters of the Cape Cod Canal.

(l) Outer Cape Cod Recreational Lobster Area means all state waters eastward of 70 degrees longitude off Nantucket and eastward and northward of Outer Cape Cod from Chatham to Provincetown's Race Point, including a portion of upper Cape Cod Bay as defined by a line drawn from the three nautical mile line northwest of race Point at 42 degrees 7 minutes latitude and 70 degrees 16 minutes longitude south to the Race Point Buoy then southeast to the Wood End Buoy and east to the shoreline at 42 degrees 01.32 minutes latitude and 70 degrees 05.26 minutes longitude.

(m) Southern New England Recreational Lobster Area means those state waters west of 70 degrees and south of Cape Cod.

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7.03 Coastal Lobster Permit & Trap Allocation Transfer Programs

(1) Purpose and Scope. The purpose of 322 CMR 7.03 is to regulate the number of lobster traps on a regional and individual basis to prevent over-fishing within each Lobster Conservation Management Area (LCMA) managed by the Commonwealth through the ASMFC, and to establish a process to enable the transfer of existing commercial lobster permits and traps pursuant to M.G.L. c. 130, § 38B, and St. 1992 c. 369.

The American lobster fishery is the state's most economically important fishery conducted within the territorial waters. To meet conservation goals of the interstate plan specific to the nearshore waters around eastern Cape Cod and southern New England, the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) and Lobster Conservation Management Area 2 (LCMA 2) were developed, respectively. The following regulation (322 CMR 7.03) details the effort control plans for the OCCLCMA and LCMA 2 comprised of trap limit programs and transfer programs as well as the transfer regulations for the remainder of the coastal lobster fishery conducted in LCMA 1.

The transfer program for the coastal lobster fishery conducted in LCMA 1 allows permit holders to transfer their permits along with lobster related business assets under the historical transfer criteria developed for the coastal lobster fishery. Beginning in 2004, the only permit transfers allowed under LCMAs are those involving the transfer of a permit to an LCMA under management of an effort control plan. This will enable commercial fishermen to retain the maximum flexibility in the conduct of their businesses while ensuring conservation goals of any area-specific effort control plans are not compromised by increases in traps fished.

(2) Definitions. For the purposes of 322 CMR 7.03 the following words shall have the following meanings

(a) Actively Fished means landing and selling at least 1,000 lbs. of lobster or landing and selling

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lobster on at least 20 occasions, in a single year.

(b) Allocation Transferee means the holder of a commercial lobster permit to whom a transfer of trap allocation is made.

(c) Permit Holder means a holder of a coastal commercial lobster permit endorsed for either LCMA 1, 2 or OCC.

(d) Permit Transferee means the person to whom a commercial lobster permit is transferred who must document that he/she has at least one year of full-time or equivalent part-time experience in the commercial lobster trap fishery or two years of full-time or equivalent part-time experience in other commercial fisheries, according to criteria developed by the Division.

(e) Transfer Trap Debit means the area-specific percentage of each allocation transfer transaction retained by the Division for conservation purposes as defined by the Division and subject to criteria developed by the Division, and not restricted by the Director under his authority to condition permits.

(3) Renewals.

(a) The Director shall renew all existing Coastal Commercial Lobster Permits in accordance with M.G.L. c.130, § 38B, and 322 CMR 7.01(2)(a) and (5)(f), provided that catch reports and renewal applications are received by February 28 and the renewal process, including late renewals approved for sufficient cause, is completed prior to December 31st of any year.

(b) All Coastal Lobster and Offshore Lobster Permit holders must declare the ASMFC Lobster Conservation Management Area(s) as defined in 322 CMR 6.33 in which they will fish during that license year when renewal forms are submitted.

(c) Coastal Lobster Permit holders are prohibited from multiple LCMA endorsements, except those commercial lobster permits held by persons with valid federal authorization for LCMA 3 who may additionally receive authorization for either LCMA 1, 2 or Outer Cape Cod or those commercial lobster permit holders not fishing with trap gear who may additionally receive authorization for LCMA 1, 2, or Outer Cape Cod.

(d) Those authorized for more than one LCMA as designated on their permits shall observe the most restrictive of different regulations for the areas declared as established by 322 CMR and the ASMFC Lobster Management Plan.

(e) Coastal Lobster Permit holders are prohibited from making changes in area designations during the annual renewal period except to drop a LCMA or to add a LCMA under management of an approved effort control plan for which the permit holder has received a LCMA-specific trap allocation.

(4) Forfeiture. All Coastal Lobster Permits which are not renewed in accordance with 322 CMR 7.03 shall be forfeited to the Division. The Director may transfer, in order, no more than 50% of the forfeited permits to waiting list applicants.

(5) Transfer Programs.

(a) OCC Transfer Program is administered by the Division. Applications for transfers shall be provided by the Division, must be signed by the permit holder and the allocation or permit transferee, and must be notarized prior to submission to the Division. No applications may be accepted after November 30 for the following fishing year. Commercial lobster permit holders endorsed for Outer Cape Cod may:

1. transfer their commercial lobster permit involving the sale or transfer their entire trap allocation;
2. transfer all of their trap allocation to an allocation transferee ; or
3. in compliance with 322 CMR 7.03(9)(d), transfer part of their transferable allocation in multiples of 50 traps to an allocation transferee.

(b) LCMA 2 Transfer Program is administered by the Division. Applications for transfers shall be provided by the Division, must be signed by the permit holder and the allocation or permit transferee, and must be notarized prior to submission to the Division. No trap allocation transfer applications may be accepted after November 30 for the following fishing year. Commercial lobster permit holders endorsed for LCMA 2 may:

1. transfer their commercial lobster permit involving the sale or transfer their entire trap allocation;
2. transfer all of their trap allocation to an allocation transferee ; or
3. transfer part of their transferable allocation in multiples of 50 traps to an allocation transferee.

(c) LCMA 1 Transfer Program enables commercial lobster permit holders endorsed for LCMA 1 to transfer their permits to a permit transferee, provided the permit has been actively fished for four

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of the last five years, as evidenced by valid catch reports filed with the Division, subject to criteria developed by the Division, and is not restricted by the Director under his authority to prohibit transfers. The transfer program is administered by the Division. Applications for transfers shall be provided by the Division, must be signed by the permit holder and the transferee, and must be notarized prior to submission to the Division. Commercial lobster permit holders endorsed for LCMA 1 may transfer their commercial lobster permit involving the sale or transfer of lobster related business assets to a permit transferee.

(6) Restrictions.

- (a) Transfers shall involve the sale or transfer of lobster related business assets.
- (b) Permit and allocation transfers may be denied if any evidence of fraud is found, or the Director determines that the transfer is not in the best interests of the Commonwealth.
- (c) All lobster businesses fishing under the authority of a coastal lobster permit as defined in 322 CMR 7.01(2)(a) shall be owner-operated.
- (d) Trap Allocation transfers may be subject to a transfer trap debit of 10% of the total amount of traps transferred through the trap transfer process.
- (e) Any permit holder authorized to fish traps in OCCLMA or LCMA 2 who transfers a portion of their Trap Allocation resulting in the Allocation totaling less than 50 traps shall have their permit retired immediately.
- (f) Any permit holder issued a trap allocation based in part or whole upon SCUBA history as determined in 322 CMR 6.13 shall be prohibited from transferring any part of their trap allocation except when transferring their commercial lobster permit.
- (g) Any permit holder issued a trap allocation based in part or whole upon SCUBA history as determined in 322 CMR 6.13 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 filed with the Division, subject to criteria developed by the Division, and not restricted by the Director under his authority to prohibit transfers. Catch history prior to the issuance of a trap allocation shall not apply towards fulfilling meeting actively fished requirements.

(7) Exceptions.

- (a) Performance criteria for permit holders as established by 322 CMR 7.03(2) may be waived for the following reasons:
 - 1. documented disability of the permit holder, provided that the permit holder fished during at least four of the five years immediately preceding the disability as evidenced by catch reports, and provided further that a signed statement by a physician verifies the disability precludes the permit holder from fishing.
 - 2. for the purposes of transferring a permit to an immediate family member, including transfers involving the death of the permit holder. Immediate family member shall mean the legal father, mother, wife, husband, sister, brother, son, daughter, or grandchild of the permit holder in the direct line.
- (b) Performance criteria established by 322 CMR 7.03 shall be waived for forfeited permits issued to waiting list applicants.
- (c) The requirement that permit holders be owner/operators may be waived through a letter of authorization issued by the Director that is subject to annual renewal. Letters of authorization may be granted for use of the permit and associated fishing operation that includes the gear and vessel owned by the permit holder that was actively fished prior to the request. Authorizations may be issued for permit holders on active military service or for immediate family members. For the recipient of a posthumous transfer, or disabled permit holder, authorizations may be issued for up to two years, provided the disability prevents the permit holder from fishing their permit as evidenced by a signed statement from a physician.
- (d) The requirement that allocation transfers involve multiples of 50 traps may be waived for permit holders who transfer all of their transferable allocation.

(8) Waiting List. Persons on the established waiting list for Coastal Commercial Lobster Permits must reapply to hold their relative positions on the list prior to August 1, 1993, after which the list will be closed. Persons who can document, to the satisfaction of the Director, that, due to unforeseen circumstances, they were unable to reapply before the list closure date may be reinstated to the bottom of the waiting list.

(9) Prohibitions. It shall be unlawful:

- (a) To loan, lease, or sell a Coastal Commercial Lobster Permit except under the provisions of 322 CMR 7.03.

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- (b) To submit false or incomplete forms or applications according to the provisions of M.G.L. c. 130, § 38B.
- (c) for the holder of a Coastal Commercial Lobster Permit to acquire an additional permit(s) through a transfer pursuant to 322 CMR 7.03 or from the established waiting list.
- (d) for a Permit Holder to retain a trap allocation equal to less than 50 traps after they have transferred part of their trap allocation to another permit holder or a trap allocation greater than 800 traps after they receive a trap allocation from another permit holder;
- (e) for allocation transfers to involve the transfer of traps outside of the specific LCMA for which the trap allocation is designated;
- (f) to transfer a commercial lobster permit endorsed for traps from one LCMA to another LCMA unless the permit is transferred to an LCMA under management of an approved effort control plan for which the permit holder has received an LCMA-specific trap allocation.

**Reducing Trap Effort in the Outer Cape Lobster Conservation Management Area Fishery
through an Effort Control Plan**

Comprehensive Status Report

(December 2003 through July 2008)



by

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I. EXECUTIVE SUMMARY

Calendar year 2007 marks the fourth year the Outer Cape Effort Control Plan, enacted in December 2003, has been in effect. Marine Fisheries assigned eligible lobstermen an individual trap allocation reflective of their best fishing year during 2000 through 2002 based on their annual catch reports. Marine Fisheries estimated that approximately 33,000 traps were fished commercially in 1998 in the Outer Cape Lobster Conservation Management Area (OCLCMA, see Figure 1) by fishermen who fished exclusively in this area as well as those who fished there on a seasonal basis. This report summarizes the effectiveness to date of the plan designed to control fishing mortality by reducing traps fished in the area by 20% below the number estimated fished in 1998.

Through December of 2007, allocated traps number approximately 30,000 – an 8% reduction from 1998 levels. This reduction has been achieved incrementally by a 7% trap reduction in 2004, an additional 3% reduction during 2005. Total trap allocations remained static in 2006 and increased by 3% in 2007 due to the issuance of trap allocations to eligible permit holders based upon historical harvest of lobster by SCUBA gear. Excluding SCUBA-based trap allocations, total traps reported fished in 2007 (28,682) represent a 10% reduction from 1998 levels. Reductions are a result of a 10% “conservation tax” on each permit and trap transfer, as well as permit non-renewals, permit transfers to other areas and revocation of permits. Actual traps fished in any year during 2004 - 2007 have ranged between 27,000 – 28,000 traps. To date, the plan’s allocation scheme has resulted in a varied scale of fishing operations. As of July 31, 2008, 74 permit holders were eligible to fish a range of trap allocations from 9 to 800 traps - the median trap level (459 traps) has increased steadily since 2004 (372 traps). Ten permit holders are eligible to fish the maximum of 800 traps.

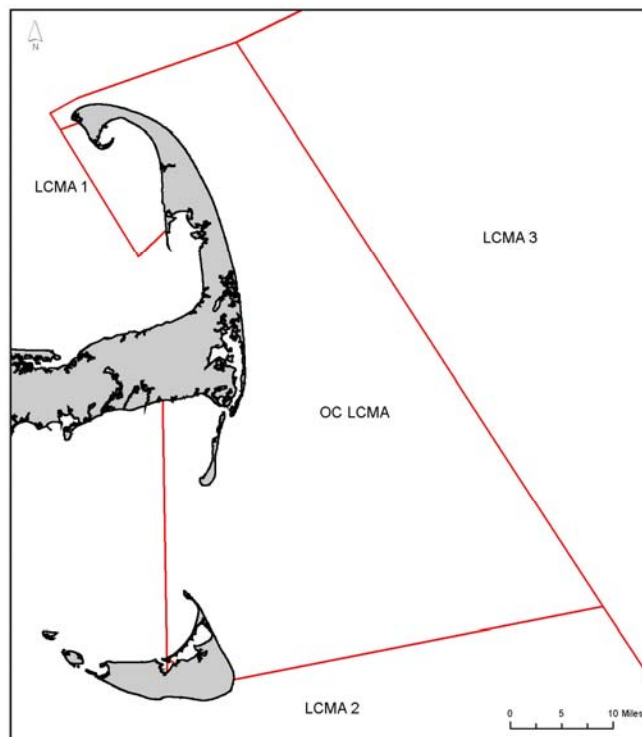


Figure 1. The Outer Cape Lobster Conservation Management Area (OCLCMA) abuts the three other Lobster Management Conservation Areas (1-3) governed by the interstate plan and Massachusetts regulations.

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II. BACKGROUND

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 Outer Cape 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 (*Marine Fisheries*) catch reports (see Appendix A).

The basis of the 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.

Marine Fisheries established a formal trap allocation transfer process to provide lobstermen opportunity to increase the scale of their lobster business without adding to the overall number of traps in the fishery. Fishermen wishing to enter the fishery or increase their trap allocation are allowed to obtain trap allocations from fishermen seeking to exit the fishery or scale down – a zero-sum situation. Overall trap numbers in the Outer Cape are passively reduced through a “trap tax” of 10% per transfer (permit and/or trap). For example, if a lobsterman seeks to transfer a 100-trap allocation to another lobsterman, the recipient would receive only a 90 trap allocation, the remaining 10 would be eliminated for conservation purposes.

III. PLAN SPECIFICS

Marine Fisheries proposed - and the ASMFC approved - a plan 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 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 are more dependable than traps reported fished. The main aspects of *Marine Fisheries*' plan included:

- Eligibility criteria based on verifiable landings of lobster caught primarily by traps from the Outer Cape in any one year from 1999 – 2001 (Exception: those who received permits off the waiting list in 2001 were able to appeal for a Trap Allocation based on their 2002 fishing performance).
- Trap Allocations assigned based on maximum traps fished and landings (in lbs.) during 2000, 2001, and 2002 – either the “predicted” number of traps for that level of poundage or the number of traps reported fished – whichever was lower. Among the three years, each permit holder was given the highest value as an initial trap allocation.

In 2007, *Marine Fisheries* enacted regulations that allow permit holders to qualify for trap allocations based on historical landings of lobster caught by SCUBA gear during the years of eligibility for a LCMA under control of an effort control plan. Allocations are based on the “predicted” number of traps for the historical level of poundage. Among the three years, each permit holder is given the highest value as additional trap allocation.

- Transfer programs that enable permits and/or trap allocations to be transferred. Trap allocations may not be transferred out of the Outer Cape, must be transferred in quantities of 50 or more traps, and every transaction shall be assessed a 10% reduction in trap numbers. *Marine Fisheries* must receive applications for trap transfers by November 30 of the previous fishing year.

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To prevent a “doubling” of effort that might occur if a SCUBA diver transfers their trap allocation but continues to dive for lobsters, permit holders who receive trap allocations based upon SCUBA history will be limited to transferring their entire trap allocation as a block with their permit (i.e., they cannot transfer just increments of their trap allocation). Furthermore, permit transfers will be prohibited until a permit has been actively fished with traps in four of the last five years, excluding catch history prior to the issuance of trap allocations.

IV. PLAN ENACTMENT AND ADMINISTRATION

The first phase of the plan was accomplished in January – March 2004 by issuing Outer Cape commercial lobster permits endorsed for trap gear only to those fishermen who had a documented history fishing the area during 1999-2001 and had remained in the area during 2000 through 2003. *Marine Fisheries* prohibited all other fishermen from entering the Outer Cape commercial lobster trap fishery by instituting a regulation mandating that all holders of a Coastal Lobster Permit (state waters) designate only a single Lobster Conservation Management Area (LCMA) on their permit (322 CMR 7.03, see Appendix C). *Marine Fisheries* exempted federal permit holders with a valid Area 3 allocation from this regulation, allowing them to designate LCMA 3 on their permit in addition to one inshore LCMA. Consequently, many fishermen who fished primarily in LCMA 1 or 2 but set traps in the Outer Cape on a seasonal basis were prohibited from fishing traps in the OCLCMA.

Marine Fisheries established trap allocations for each individual Outer Cape lobster trap fisherman based on their “Effective Traps Fished” as defined in state regulations 322 CMR 6.13 & 7.03. *Marine Fisheries* used lobsterman-provided catch reports to allocate traps based on a combination of traps reported fished and landings.

Where records showed a substantial increase in fishing performance in the final year of eligibility (2002), *Marine Fisheries* staff audited permit holders’ records. *Marine Fisheries* mailed each eligible Outer Cape lobsterman a letter that listed their landings history and calculated Initial Trap Allocation; permit holders were asked to sign the letter indicating their acceptance or non-acceptance of the allocation. Permit holders were allowed to appeal allocations solely on the basis of data entry and/or mathematical errors in logs.

This program applied to all commercial lobster permit holders fishing in Massachusetts waters or from Massachusetts ports - including those permit holders who have a federal permit and only land lobsters in the Commonwealth. Through an agreement with NOAA Fisheries, *Marine Fisheries* is the responsible party for issuing all trap tags for federal and state permitted fishermen with Massachusetts home addresses.

Details of the Trap Allocation Transfer program include:

- Transfer applications made available from *Marine Fisheries* on-line at: <http://www.mass.gov/marinefisheries>;
- All applications must be signed by both permit holders involved in the transfer, and each signature must be notarized;
- Fishermen with Outer Cape trap allocations may transfer some or all of their allocation to other lobstermen in 50 trap increments;
- Fishermen with a trap allocation less than 50 may transfer all of their allocation;
- Any fisherman whose trap allocations declines below 50 traps after transfer shall have the remaining trap allocation and the permit retired;
- All transfers are subject to a 10% trap tax; and

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- A fisherman with an LCMA 1 or LCMA 2 permit may receive an Outer Cape trap allocation via a transfer but shall no longer be allowed to fish in LCMA 1 or 2 and may only fish the trap allocation in the Outer Cape.
- Any permit holder issued a trap allocation based in part or whole upon SCUBA history as determined in 322 CMR 6.13 shall be prohibited from transferring any part of their trap allocation except when transferring their commercial lobster permit.
- Any permit holder issued a trap allocation based in part or whole upon SCUBA history as determined in 322 CMR 6.13 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 filed with the Division, subject to criteria developed by the Division, and not restricted by the Director under his authority to prohibit transfers. Catch history prior to the issuance of a trap allocation shall not apply towards fulfilling meeting actively fished requirements.

V. RESULTS OF THE OUTER CAPE LOBSTER TRAP EFFORT CONTROL PLAN

Based on DMF analyses, the estimated reported traps fished in 1998 totaled 33,234 traps fished by 94 trap fishermen in state and federal waters of the Outer Cape LCMA. Consequently the 2008 target trap level to accomplish the 20% reduction is 26,587 traps. By July 31, 2008, the population of Outer Cape commercial lobster trap fishermen comprised 74 individuals allocated a total of 30,705 traps.

The plan allocated 32,106 traps to 90 eligible permit holders in early 2004 representing an immediate 3% reduction from 1998 levels. Thirteen permit holders, however, did not renew their permits in 2004 or transferred to another LCMA resulting in an additional trap reduction of 3% to 31,111 traps. Following trap and permit transfers occurring throughout 2004, traps declined by another 1% to 30,820. Throughout 2005, transfers and permit revocations reduced total trap allocations by 3%.¹ Permit and trap allocation transfers in 2006 & 2007 resulted in further reductions, however DMF resolved an ongoing appeal regarding historical lobster harvest using SCUBA gear in 2007 that added additional traps for eligible permit holders. Nevertheless, through July 31, 2008, overall traps allocated has been reduced from 1998 levels by 8% to 30,705 traps (Table 1, see Appendix B for details).

Table 1. Summary of Outer Cape trap reductions in 2004 and 2005, respectively. Note that trap reductions attributed to transfer of permits are attributed to the year in which the permit transfer was approved. Because applications for trap transfers are accepted only during a two month period at the end of each year, trap reductions attributed solely to transfer of traps are attributed to the next calendar year (i.e. trap transfer allocations submitted during the 2005 trap transfer request period will become effective beginning in 2006).

2004 Trap Reduction Results

<u>Trap reduction count</u>	<u>Reason for trap reduction and # of transactions</u>
43	Two permits were not renewed in any area for 2004
607	Six permits were transferred to LCMA 1
345	Five permits were transferred to LCMA 2
218	Nine permit transfers within OCC resulting in passive reduction of traps
<u>73</u>	<u>Eleven trap allocation transfers resulting in passive reduction of traps</u>
1,286	= Total trap reduction achieved in first year of Plan

2005 Trap Reduction Results

<u>Trap reduction count</u>	<u>Reason for trap reduction and # of transactions</u>
31	One permit not renewed in any area for 2005

¹ One permit holder finally accepted their Initial Trap Allocation in 2005.

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800	One permit revoked permanently
5	One permit transfer within OCC resulting in passive reduction of traps
<u>72</u>	<u>Seven trap allocation transfers resulting in passive reduction of traps</u>
908	= Total trap reduction achieved in second year of Plan
2006 Trap Reduction Results	
<u>Trap reduction count</u>	<u>Reason for trap reduction and # of transactions</u>
60	One permit transfer within OCC resulting in passive reduction of traps
<u>60</u>	<u>Four trap allocation transfers resulting in passive reduction of traps</u>
120	= Total trap reduction achieved in third year of Plan
2007 Trap Reduction Results	
<u>Trap reduction count</u>	<u>Reason for trap reduction and # of transactions</u>
16	Two permit transfers within OCC resulting in passive reduction of traps
<u>57</u>	<u>Two trap allocation transfers resulting in passive reduction of traps</u>
73	= Total trap reduction achieved in fourth year of Plan
2008 Trap Reduction Results	
<u>Trap reduction count</u>	<u>Reason for trap reduction and # of transactions</u>
<u>25</u>	3 trap allocation transfers resulting in passive reduction of traps <u>(two permits were retired after transferring entire allocations)</u>
25	= Total trap reduction achieved in fifth year of Plan

Actual traps fished annually in 2004 – 2007 represent a larger percent reduction from estimated 33,234 traps fished in 1998 (Table 2).

Table 2. Summary of traps reported fished on annual catch reports submitted by permit holders endorsed to fish traps in the Outer Cape Cod LCMA.

	2004	2005	2006	2007*
Total Traps Reported Fished	26,801	27,547	27,730	28,682
% Reduction From 1998 Baseline	-19%	-17%	-17%	-14%

* Two catch reports, representing in total a 196 trap allocation, have yet to be submitted. This is a consequence of “cancelling” the 2007 permits in the DMF licensing database when permit holders transferred their entire allocation for the 2008 fishing year. Trap allocations for the 2008 fishing year are finalized by November 30, 2007 resulting in permit holders replacing their lobster permits with non-lobster permits in the 2007 calendar year. DMF is working to resolve this issue and better align the permit and Outer Cape Cod Trap Allocation databases.

The plan’s allocation scheme has structured the fishery into a varied scale of fishing operations: in 2007 the population of Outer Cape trap lobstermen included 77 permit holders eligible to fish trap allocations ranging from 9 to 800 traps (Figure 3). Median trap allocation was 425 and average was 404. Only ten permit holders were eligible to fish the maximum level of 800 traps. Table 3 shows the net change in trap allocations as fishermen scaled their businesses up or down from 2004 to July 31, 2008.

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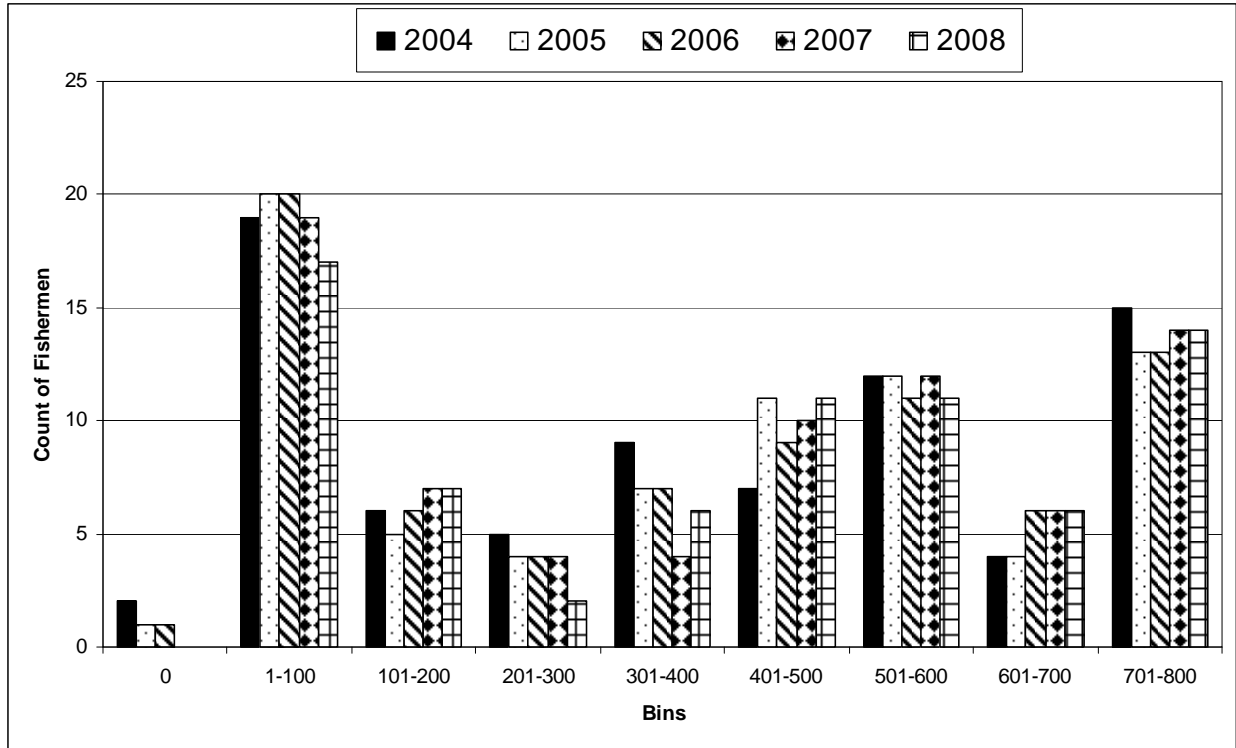


Figure 3. Trend in frequency of Outer Cape Cod trap allocations in 100-trap increments during January 1, 2004 – July 31, 2008 (n = 79 in 2004, n = 77 in 2005 & 2006, n = 76 in 2007 & n = 74 in 2008).

Table 3. Net change in frequency of Outer Cape Cod trap allocation (in 100-trap increments) from 2004 to July 31, 2008.

Trap Interval	Count of Fishermen					Net Change
	2004	2005	2006	2007	2008	
0	2	1	1	0	0	-2
1-100	19	20	20	19	17	-2
101-200	6	5	6	7	7	1
201-300	5	4	4	4	2	-3
301-400	9	7	7	4	6	-3
401-500	7	11	9	10	11	4
501-600	12	12	11	12	11	-1
601-700	4	4	6	6	6	2
701-800	15	13	13	14	14	-1
Σ	79	77	77	76	74	-5

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VI. APPENDICES

APPENDIX A - MARINE FISHERIES LOBSTER CATCH REPORTS & STATISTICAL MAPS



2007 COASTAL LOBSTER CATCH REPORT

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES
251 CAUSEWAY STREET, SUITE 101, BOSTON, MA 02114-2153



CATCH REPORT DUE DATE: JANUARY 31, 2008

PRINT IN INK ONLY

PLEASE REFER TO INSTRUCTIONS ON BACK PAGE WHILE COMPLETING THIS LOBSTER CATCH REPORT

****IMPORTANT**** THIS REPORT IS SUBJECT TO A RANDOM STATISTICAL AUDIT BY THE DIVISION, YOU SHOULD MAINTAIN ALL RECEIPTS, DEALER SLIPS, PERSONAL RECORDS, ETC. USED TO COMPLETE THIS REPORT FOR AT LEAST ONE YEAR FOLLOWING THE DATE OF SUBMISSION IN CASE YOU ARE CHOSEN.

PLEASE PRINT IN INK ONLY

IDENTIFICATION: DMF ID No: _____ Permit No: _____
Name as it appears on permit application: _____
(Last) (First) (MI)
Address: _____
(No.) (Street) (City/Town) (Zip Code)
Telephone Number: _____ Email: _____

CATCH STATUS & PARTNERSHIP INFORMATION:

- A. If you **DID NOT CATCH** any lobster during 2007, check the box AND sign your name and date the report at bottom of this page and return it to the Division.
- B. If you **DID CATCH** lobster during 2007, complete **BOTH SIDES** of this report as completely and accurately as possible. All lobster taken under this permit must be recorded on this report, even if taken incidentally

**** If you fished in conjunction with another permit holder in 2007, please report your catch and effort information separately ****

GEAR:

- A) Circle one or more of the following gear types used to catch lobster: TRAPS/POTS DIVING GEAR TRAWL/DREDGES GILLNET
- B) If you fished traps in 2007, estimate the average value of one trap including warp and buoy: \$ [] [] [] [] []
- C) Indicate the type of traps by completing the percent of total that were fished in 2007:
1. Wood Framed [] [] [] % 2. Wire Framed [] [] [] % 3. Other [] [] [] [] [] %
- D) If you dove for lobster in 2007, estimate the value of your diving gear and the percent used for catching lobsters:
Estimated Value of Diving Gear: \$ [] [] [] [] [] Percent Used for Catching Lobsters: [] [] [] %

PORT(S) OF LANDING:

PLEASE FILL OUT THIS SECTION WHETHER OR NOT YOU USED A BOAT TO LAND YOUR LOBSTER.

	PORT NAME	PERCENT
Indicate the port(s) where you landed your catch. If you landed your catch in more than one port, estimate the percent of lobster landed at each port listed.	1. [] [] [] [] []	[] [] [] %
	2. [] [] [] [] []	[] [] [] %
	3. [] [] [] [] []	[] [] [] %

SIGNATURE: _____ Date: _____

Knowingly falsifying any information contained within this report constitutes the act of perjury and may result in a fine, imprisonment or loss of license (MGL, Chapter 130, Sections 2, 21, 33).

COMPLETE BACK OF THIS FORM IF YOU CAUGHT LOBSTER IN 2007

2007 COASTAL LOBSTER CATCH REPORT

VESSELS:

THIS SECTION SHOULD BE COMPLETED BY VESSEL OWNER OR PRINCIPAL USER ONLY. BE SURE TO INCLUDE TENDERS USED.

Power (Y/N)	Boat Name	Reg/Doc Number	Length (ft)	Home Port	Estimated Dollar Value of Vessel	Percent Used for Lobstering

FUEL:

Total gallons of fuel used for the year to catch lobster: Gasoline: Diesel:

TOTAL EMPLOYMENT:

Counting yourself, what was the maximum number of people fishing for lobster on your vessel at any one time in 2007?

* For example, if you employed one stemman, you would answer two (2).

DEALERS SOLD TO:

	<u>DEALER NAME</u>	<u>MA DEALER PERMIT #</u>	<u>PERCENT</u>
Indicate the dealer(s) you sold your catch to. If you sold your catch to more than one dealer, estimate the percent of lobster sold to each dealer. If you sold lobsters retail, be sure to indicate yourself as a dealer.	1. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 30px;" type="text"/> %
	2. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 30px;" type="text"/> %
	3. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 30px;" type="text"/> %
	4. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 30px;" type="text"/> %
	5. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 30px;" type="text"/> %

HARVEST TABLE:

***** IMPORTANT *****

REFER TO MAP OF STATISTICAL REPORTING AREAS ON NEXT PAGE TO COMPLETE THE AREA(S) FISHED PORTION OF HARVEST TABLE

DO NOT INDICATE LMA'S (Lobster Management Areas) IN AREA(S) FISHED IN TABLE BELOW

	GEAR USED TO HARVEST LOBSTER	FILL IN SHADED AREA ONLY IF YOU USED TRAPS AS YOUR GEAR				REFER TO MAP OF STASTICAL REPORTING AREAS ON NEXT PAGE →→→→→								
		MAX TRAPS FISHING	SET OVER DAYS	AVERAGE TRAPS HAULED PER TRIP WHEN FISHING	TOTAL TRIPS WHEN TRAPS HAULED	POUNDS HARVESTED			FIRST AREA FISHED	% OF CATCH	SECOND AREA FISHED	% OF CATCH	THIRD AREA FISHED	% OF CATCH
						LOBSTER SOLD	LOBSTER NOT SOLD*	CRABS						
EX.	TRAPS	400	2	200	28	2240	60	0	5	75	7	25		
JAN														
FEB														
MAR														
APR														
MAY														
JUN														
JUL														
AUG														
SEP														
OCT														
NOV														
DEC														
TOTAL:														

* Lobster Not Sold includes any lobsters consumed or given away to family or friends



2007 OFFSHORE LOBSTER CATCH REPORT

COMMONWEALTH OF MASSACHUSETTS
 DIVISION OF MARINE FISHERIES
 251 CAUSEWAY STREET, SUITE 101, BOSTON, MA 02114-2153



CATCH REPORT DUE DATE: JANUARY 31, 2008

PRINT IN INK ONLY

PLEASE REFER TO INSTRUCTIONS ON BACK PAGE WHILE COMPLETING THIS LOBSTER CATCH REPORT

PLEASE PRINT IN INK ONLY

IDENTIFICATION: DMF ID No: _____ Permit No: _____

Name as it appears on permit application: _____
 (Last) (First) (MI)

Address: _____
 (No.) (Street) (City/Town) (Zip Code)

Telephone Number: _____ Email: _____

CATCH STATUS & PARTNERSHIP INFORMATION:

- A. If you DID NOT CATCH any lobster during 2007, check the box AND sign your name and date the report at bottom of this page and return it to the Division.
- B. If you DID CATCH lobster during 2007, complete BOTH SIDES of this report as completely and accurately as possible. All lobster taken under this permit must be recorded on this report, even if taken incidentally

** If you fished in conjunction with another permit holder in 2007, please report your catch and effort information separately **

GEAR:

- A) Circle one or more of the following gear types used to catch lobster: TRAPS/POTS DIVING GEAR TRAWL/DREDGES GILLNET
- B) If you fished traps in 2007, estimate the average value of one trap including warp and buoy: \$ [] [] [] [] []
- C) Indicate the type of traps by completing the percent of total that were fished in 2007:
 1. Wood Framed [] [] [] % 2. Wire Framed [] [] [] % 3. Other [] [] [] [] [] %
- D) If you dove for lobster in 2007, estimate the value of your diving gear and the percent used for catching lobsters:
 Estimated Value of Diving Gear: \$ [] [] [] [] [] Percent Used for Catching Lobsters: [] [] [] [] [] %

PORT(S) OF LANDING:

PLEASE FILL OUT THIS SECTION WHETHER OR NOT YOU USED A BOAT TO LAND YOUR LOBSTER.

Indicate the port(s) where you landed your catch. If you landed your catch in more than one port, estimate the percent of lobster landed at each port listed.	PORT NAME	PERCENT
	1. [] [] [] [] []	[] [] %
	2. [] [] [] [] []	[] [] %
	3. [] [] [] [] []	[] [] %

SIGNATURE: _____ Date: _____

Knowingly falsifying any information contained within this report constitutes the act of perjury and may result in a fine, imprisonment or loss of license (MGL, Chapter 130, Sections 2, 21, 33).

COMPLETE BACK OF THIS FORM IF YOU CAUGHT LOBSTER IN 2007

2007 OFFSHORE LOBSTER CATCH REPORT

VESSELS:

THIS SECTION SHOULD BE COMPLETED BY VESSEL OWNER OR PRINCIPAL USER ONLY. BE SURE TO INCLUDE TENDERS USED.

Power (Y/N)	Boat Name	Reg/Doc Number	Length (ft)	Home Port	Estimated Dollar Value of Vessel	Percent Used for Lobstering

FUEL:

Total gallons of fuel used for the year to catch lobster: Gasoline: Diesel:

TOTAL EMPLOYMENT:

Counting yourself, what was the maximum number of people fishing for lobster on your vessel at any one time in 2007?

* For example, if you employed one stemman, you would answer two (2).

DEALERS SOLD TO:

	DEALER NAME	MA DEALER PERMIT #	PERCENT
Indicate the dealer(s) you sold your catch to. If you sold your catch to more than one dealer, estimate the percent of lobster sold to each dealer. If you sold lobsters retail, be sure to indicate yourself as a dealer.	1. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 20%;" type="text"/> %
	2. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 20%;" type="text"/> %
	3. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 20%;" type="text"/> %
	4. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 20%;" type="text"/> %
	5. <input style="width: 100%;" type="text"/>	<input style="width: 50%;" type="text"/>	<input style="width: 20%;" type="text"/> %

HARVEST TABLE:

***** IMPORTANT *****

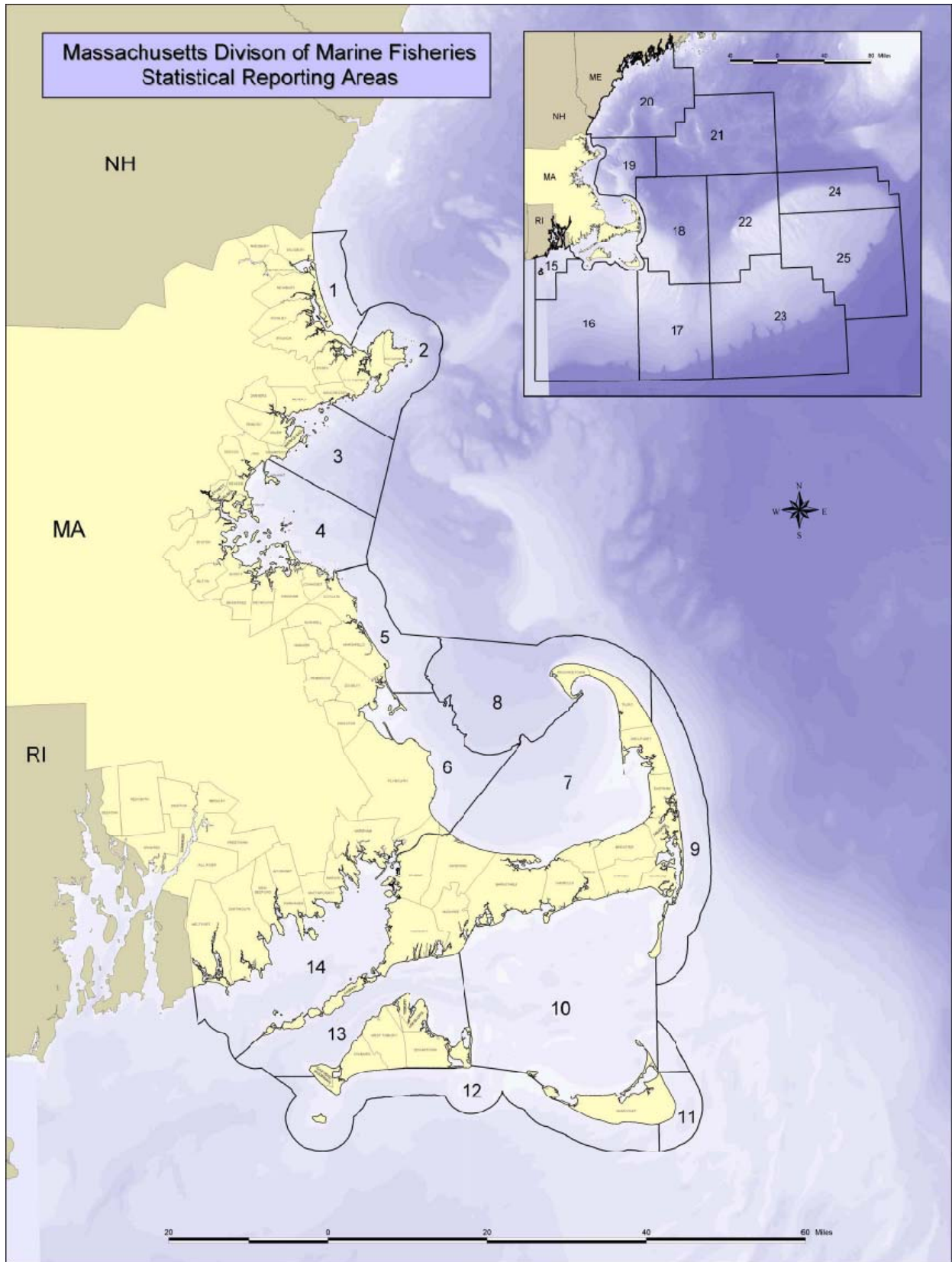
REFER TO MAP OF STATISTICAL REPORTING AREAS ON NEXT PAGE TO COMPLETE THE AREA(S) FISHED PORTION OF HARVEST TABLE

DO NOT INDICATE LMA'S (Lobster Management Areas) IN AREA(S) FISHED IN TABLE BELOW

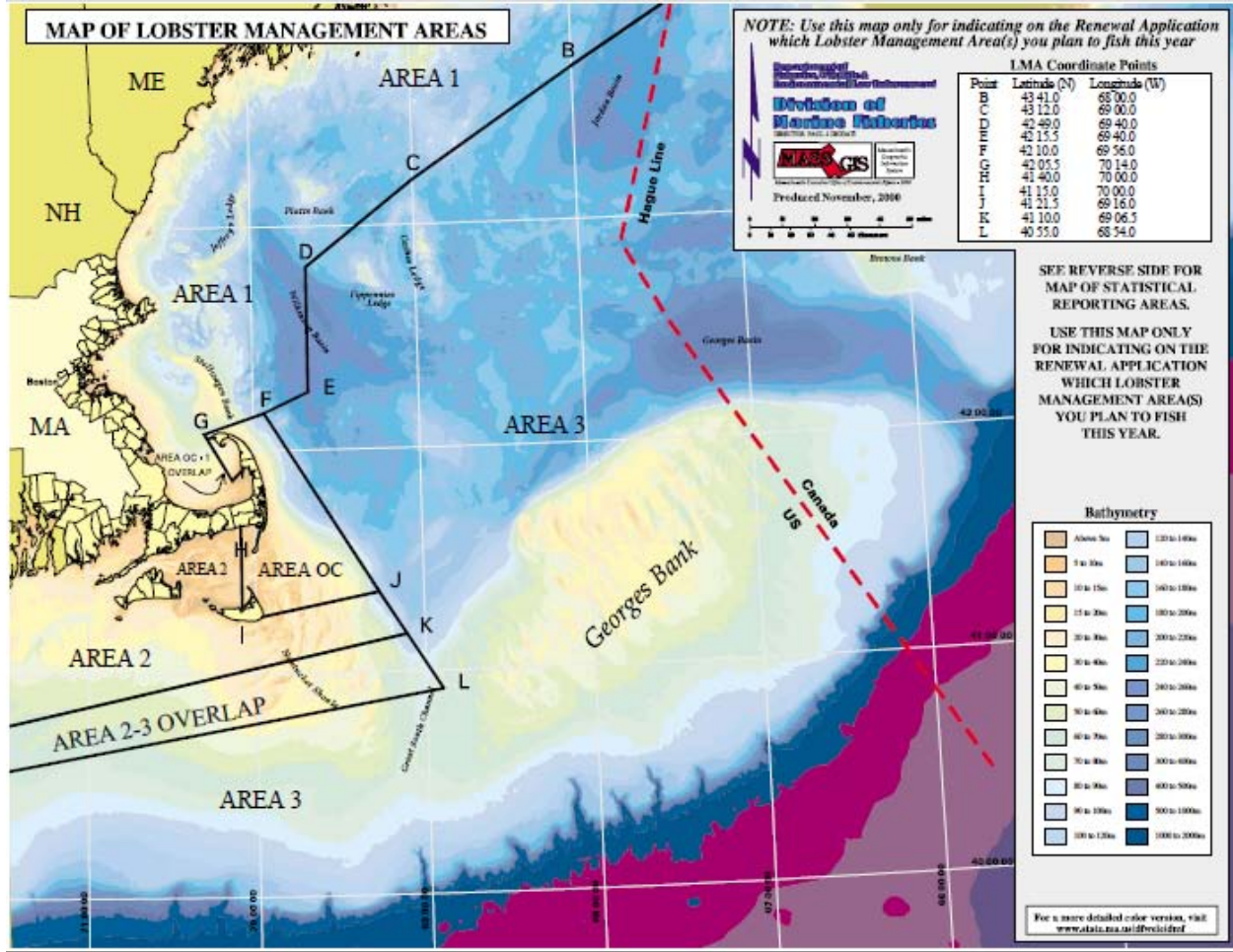
	GEAR USED TO HARVEST LOBSTER	FILL IN SHADED AREA ONLY IF YOU USED TRAPS AS YOUR GEAR				REFER TO MAP OF STASTICAL REPORTING AREAS ON NEXT PAGE →→→→→								
		MAX TRAPS FISHING	SET OVER DAYS	AVERAGE TRAPS HAULED PER TRIP WHEN FISHING	TOTAL TRIPS WHEN TRAPS HAULED	POUNDS HARVESTED			FIRST AREA FISHED	% OF CATCH	SECOND AREA FISHED	% OF CATCH	THIRD AREA FISHED	% OF CATCH
						LOBSTER SOLD	LOBSTER NOT SOLD*	CRABS						
EX.	TRAPS	400	2	200	28	2240	60	0	5	75	7	25		
JAN														
FEB														
MAR														
APR														
MAY														
JUN														
JUL														
AUG														
SEP														
OCT														
NOV														
DEC														
TOTAL:														

* Lobster Not Sold includes any lobsters consumed or given away to family or friends

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Appendix B. Tables 3a-c detail coastal lobster permit and trap reductions accomplished by the effort control plan in the Outer Cape Cod Lobster Management Area during its first year after implementation (2004). Tables 4a-c detail coastal lobster permit and trap reductions accomplished by the effort control plan in the Outer Cape Cod Lobster Management Area during its second year after implementation (2005). Tables 5a-b detail coastal lobster permit and trap reductions accomplished by the effort control plan in the Outer Cape Cod Lobster Management Area during its third year after implementation (2006). Tables 6a-c detail coastal lobster permit and trap reductions accomplished by the effort control plan in the Outer Cape Cod Lobster Management Area during its fourth year after implementation (2007). Table 7 details trap reductions accomplished by the effort control plan in the Outer Cape Cod Lobster Management Area during its fifth year after implementation (2008).

YEAR 2004

Table 3a. 2004 Permit transfers within the OCC.

Transaction #	Original Outer Cape Trap Allocation	Final 2004 Outer Cape Trap Allocation	Outer Cape Traps Eliminated
1	57	51	6
2	220	198	22
3	175	157	18
4	200	180	20
5	600	540	60
6	195	175	20
7	101	91	10
8	617	555	62
9	0	0	0
Total =			218

Table 3b. Permits removed from the OCC either through non-renewal or transfer to another LCMA in 2004.

Transaction #	Fate of 13 permits who opted not to renew in OCC LCMA:	Former Outer Cape Trap Allocation
1	Moved to LCMA 1	29
2	Did not renew	38
3	Moved to LCMA 2	10
4	Did not renew	5
5	Moved to LCMA 1	86
6	Moved to LCMA 1	60
7	Moved to LCMA 2	4
8	Moved to LCMA 2	60
9	Moved to LCMA 2	147
10	Moved to LCMA 1	5
11	Moved to LCMA 1	66
12	Moved to LCMA 1	361
13	Moved to LCMA 2	124
Total =		995

Table 3c. 2004 OCC Trap Allocation transfers.

Transaction # *	Outer Cape Trap Allocation Transferred	Outer Cape Trap Allocation Received (minus 10% trap transfer tax)	Outer Cape Traps Eliminated
1	50	45	5
1	50	45	5
1	50	45	5
1	50	45	5
1	50	45	5
1	20	18	2
2	100	90	10
3	8	7	1
4	100	90	10
5	200	180	20
Total =			73

*same # indicates multiple transfers from single permit holder.

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YEAR 2005

Table 4a. 2005 permit transfers within the OCC.

Transaction #	Original Outer Cape Trap Allocation	Final 2005 Outer Cape Trap Allocation	Outer Cape Traps Eliminated
1	50	45	5
Total =			5

Table 4b. Permits removed from the OCC through revocation or non-renewal in 2005.

Transaction #	Traps Eliminated	
1	800	
2	31	
Total =		831

Table 4c. 2005 OCC trap allocation transfers.

Transaction # *	Outer Cape Trap Allocation Transferred	Outer Cape Trap Allocation Received (minus 10% trap transfer tax)	Outer Cape Traps Eliminated
1	50	45	5
1	70	63	7
1	100	90	10
2	50	45	5
3	200	180	20
4	100	90	10
5	150	135	15
Total =			72

*same # indicates multiple transfers from single permit holder.

YEAR 2006

Table 5a. 2006 Permit transfers within the OCC.

Transaction #	Original Outer Cape Trap Allocation	Final 2006 Outer Cape Trap Allocation	Outer Cape Traps Eliminated
1	600	540	60
Total =			60

Table 5b. 2006 OCC trap allocation transfers.

Transaction # *	Outer Cape Trap Allocation Transferred	Outer Cape Trap Allocation Received (minus 10% trap transfer tax)	Outer Cape Traps Eliminated
1	100	90	10
1	350	315	35
2	50	45	5
3	100	90	10
Total =			60

*same # indicates multiple transfers from single permit holder.

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YEAR 2007

Table 6a. 2007 Permit transfers within the OCC.

Transaction #	Original Outer Cape Trap Allocation	Final 2006 Outer Cape Trap Allocation	Outer Cape Traps Eliminated
1	100	90	10
2	63	57	6
Total =			16

Table 6b. Permits removed from the OCC through non-renewal in 2007.

Transaction #	Traps Eliminated
1	0*
Total =	
0	

*traps transferred from offshore permit to coastal permit.

Table 6c. 2007 Outer Cape Trap Allocation transfers within OCC.

Transaction # *	Outer Cape Trap Allocation Transferred	Outer Cape Trap Allocation Received (minus 10% trap transfer tax)	Outer Cape Traps Eliminated
1	225	203	22 [†]
2	350	315	35
Total =			57

*same # indicates multiple transfers from single permit holder.

[†]10% trap transfer tax should have eliminated 23 traps, not 22.

YEAR 2008

Table 7. 2008 Outer Cape Trap Allocation transfers within OCC.

Transaction # (same # indicates multiple transfers from single permit holder)	Outer Cape Trap Allocation Transferred	Outer Cape Trap Allocation Received (minus 10% trap transfer tax)	Outer Cape Traps Eliminated
1	97	87	10
2	50	45	5
3	99	89	10
Total =			25

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APPENDIX C - RELEVANT REGULATIONS – 322 CMR

6.13 Lobster Trap Limit in the Coastal Waters of the Commonwealth

(1) Definitions. For the purposes of 322 CMR 6.13 the following words shall have the following meanings.

Effective Traps Fished means a value used in

(a) the Outer Cape Cod Trap Allocation Determination that was calculated in the assessment of each eligible fisherman's annual performance for the years 2000, 2001, and 2002. For each year that traps and landings were reported, Effective Traps Fished is the lower value of the maximum number of traps reported fished for the year and the predicted number of traps that is associated with the permit holder's reported poundage of lobsters for the year. The value for predicted number of traps was calculated based on a DMF published analysis of traps fished and pounds landed for the OCCLCMA and that relationship is depicted in Figure 1.

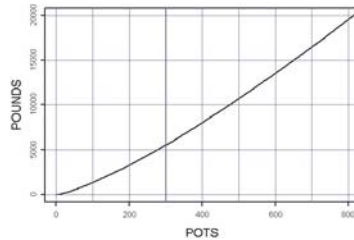


Figure 1. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from catch reports from fishermen fishing primarily in OCCLCMA during years (1997-2001).

(b) the LCMA 2 Trap Allocation Determination that was calculated in the assessment of each eligible fisherman's annual performance for the years 2001, 2002, and 2003. For each year that traps and landings were reported, Effective Traps Fished is the lower value of the maximum number of traps reported fished for the year and the predicted number of traps that is associated with the permit holder's reported poundage of lobsters for the year. The value for predicted number of traps was calculated based on the Interstate Lobster Management Plan Addendum VII published by the Atlantic States Marine Fisheries Commission. That relationship is depicted in Figure 2.

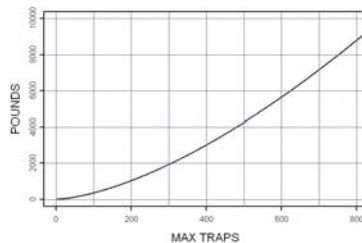


Figure 2. Relationship between pounds harvested and traps fished used to allocate Initial Trap Allocation. Data to calculate the relationship was obtained from catch reports from fishermen fishing primarily in LCMA 2 during years (2001-2003).

(c) Exception. For coastal lobster permit holders who fished for lobster primarily by hand using SCUBA gear in a LCMA under control of an effort control plan, Effective Traps Fished means the annual predicted number of traps that is associated with the permit holder's reported poundage of lobsters during the performance years specified for a LCMA under control of an effort control plan as defined in 322 CMR 6.13(1)(a&b). The value for predicted number of traps was calculated based on a DMF published analysis of traps fished and pounds

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landed for a LCMA and that relationship is depicted in Figures 1 & 2.

Fish means to set lobster traps on the ocean bottom.

LCMA 2 Trap Allocation means the number of traps assigned to a commercial lobster permit holder endorsed for LCMA 2 plus or minus any traps allocated through the trap transfer process outlined in 322 CMR 7.03.

Lobster means that species known as *Homarus americanus*.

Outer Cape Cod Trap Allocation, means the number of traps assigned to a coastal permit holder endorsed for the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) plus or minus any traps allocated through the trap transfer process outlined in 322 CMR 7.03.

(2) Eligibility for Trap Allocation.

(a) To be eligible for Trap Allocation in OCCLCMA, permit holders must have documented lawful fishing of lobster traps primarily in OCCLCMA during years 1999, 2000, or 2001. Any permit holder who held a permit endorsed for OCCLCMA during the years 1999, 2000, or 2001 but dropped OCCLCMA from their permit during a subsequent year is not eligible. Any permit holder who received their permit off the waiting list during 2001 and had no fishing performance in 2001 may appeal for an Initial Trap Allocation based on their 2002 fishing performance in OCCLCMA.

(b) To be eligible for Trap Allocation in LCMA 2, permit holders must have documented lawful fishing of lobster traps primarily in LCMA 2 during years 2001, 2002, and 2003. Any permit holder who held a permit endorsed for LCMA 2 during the years 2001, 2002, and 2003 but dropped LCMA 2 from their permit during a subsequent year is not eligible. Any permit holder who had no documented fishing performance during the years 2001-2003 due to documented medically-based inability or military service may appeal for an Initial Trap Allocation based on their 1999 and 2000 fishing performance in LCMA 2.

(c) Exception. Coastal Lobster permit holders who fished for lobster primarily by hand using SCUBA gear during the years of eligibility for a LCMA under control of an effort control plan as defined in 322 CMR 6.13(2) may be eligible for Trap Allocation in a LCMA based on documented lawful landings of lobster as provided for in 322 CMR 6.13(1)(c) & (3).

(3) Trap Allocation Determination.

(a) Outer Cape Cod

1. Initial Trap Allocation shall be the highest value of Effective Traps Fished for each permit holder during the period 2000 through 2002. The Director may lower a permit holder's Initial Trap Allocation if the permit holder failed to purchase and use valid trap tags for any year used in the allocation determination or if after a DMF audit the values for traps fished or poundage are determined to be incorrect.

2. Trap Allocation shall be adjusted annually based on any Trap Allocation transfers approved by the Director pursuant to 322 CMR 7.03.

(b) LCMA 2

1. Initial Trap Allocation shall be the highest value of Effective Traps Fished for each permit holder during the period 2001 through 2003. The Director may lower a permit holder's Initial Trap Allocation if the permit holder failed to purchase and use valid trap tags for any year used in the allocation determination or if after a DMF audit the values for traps fished or poundage are determined to be incorrect.

2. Trap Allocation shall be adjusted annually based on any Trap Allocation transfers approved by the Director pursuant to 322 CMR 7.03.

(4) Trap Limitation. It is unlawful for any person with a commercial lobster permit endorsed for:

(a) LCMA 1 to fish more than 800 lobster traps at any one time in LCMA 1;

(b) LCMA 2 to fish more than their trap allocation approved by the Director subject to trap allocation regulations established by 322 CMR 6.13;

(c) LCMA 3 to fish more traps than their allocation approved by NOAA Fisheries and the Director consistent with the interstate plan; or

(d) OCCLCMA to fish more than their trap allocation as approved by the Director subject to trap allocation regulations established by 322 CMR 6.13.

(5) Vessel Limitation. The trap limit established by 322 CMR 6.13(2), shall apply to any vessel involved in the coastal commercial lobster fishery, regardless of the number of fishermen holding

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coastal commercial lobster permits on board said vessel.

(a) Commercial Lobster Permits Endorsed for LCMA 1, 2 or the OCCLCMA. It shall be unlawful to fish more than 800 traps aboard any vessel involved in the offshore commercial lobster fishery in LCMA 1, 2, or OCCLCMA or the coastal commercial lobster fishery, regardless of the number of fishermen holding coastal or offshore commercial lobster permits on board said vessel.

(b) Commercial Lobster Permits Endorsed for LCMA 3. It shall be unlawful to fish more than the allocation approved by NOAA Fisheries and the Director consistent with the interstate plan aboard any vessel involved in the offshore commercial lobster fishery in LCMA 3, regardless of the number of fishermen holding offshore commercial lobster permits on board said vessel.

6.33 Lobster Management Areas

(1) Definitions.

(a) Lobster Management Area means one of three Recreational Lobster Areas or one of seven Lobster Conservation Management Areas (LCMA) as specified in the Atlantic States Marine Fisheries Commission American Lobster Fishery Management Plan (FMP) and endorsed on the Massachusetts Commercial Fisherman Permit pursuant to 322 CMR 6.31.

(2) Area Boundaries.

(a) LCMA 1. Beginning at the Massachusetts/New Hampshire border, following the outer boundary of the territorial waters of New Hampshire and Maine to the US/Canada border, thence to the intersection of LORAN C 9960-Y-44400 with the boundary of the US Exclusive Economic Zone, thence to the intersection of 9960-Y-44400 with 70 [degrees] West Longitude, thence following the 70th meridian to its intersection with 9960-W-13700, thence following 9960-W-13700 to its intersection with 9960-Y-44120, thence following 9960-Y-44120 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 southeasterly to its intersection with 9960-Y-44110, thence following 9960-Y-44110 easterly to Race Point in Provincetown, thence following the MA shoreline back to the beginning.

(b) Outer Cape LCMA. Beginning at Race Point in Provincetown, following 9960-Y-44110 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 northwesterly to 9960-Y-44120, thence following 9960-W-44120 easterly to its intersection with 9960-W-13700, thence following 9960-W-13700 southerly to 9960-Y-43780, thence following 9960-Y-43780 westerly to its intersection with 70 [degrees] five minutes West Longitude, thence following 70 [degrees] five minutes West Longitude north through Nantucket Island to the shoreline of Harwich, thence following the shoreline of Cape Cod east and north back to the beginning.

(c) Overlap- Area 1/OCLMA. Beginning at Race Point in Provincetown, following 9960-Y-44110 westerly to its intersection with 9960-W-13850, thence following 9960-W-13850 southeasterly to its intersection with 9960-X-25330, thence following 9960-X-25330 northeasterly to the shoreline of Great Island in Wellfleet, thence following the shoreline northerly back to the beginning.

Fishermen endorsed for either LCMA 1 or OCLMA may fish in the overlap zone under the rules of the area(s) endorsed on their permits. Fishermen with both areas endorsed must observe the most restrictive rules.

(d) Overlap- Area 1/Area 2. The Cape Cod Canal, from the Massachusetts Maritime Academy pier at the southern end to the end of the east breakwater on the northern end.

Fishermen from either LCMA 1 or LCMA 2 may fish in the overlap zone under the rules of the area(s) endorsed on their permits. Fishermen with both areas endorsed must observe the most restrictive rules.

(e) LCMA 2. Beginning at the shoreline of Harwich, following the 70 [degrees] five minutes West Longitude south through the Island of Nantucket to its intersection with 9960-Y-43780, thence following 9960-Y-43780 easterly to its intersection with 9960-W-13700, thence following 9960-W-13700 southerly to its intersection 9960-W-14610, thence following 9960-14610 northerly to the outer boundary of New York territorial waters, thence following the outer boundary of the territorial waters of New York and Rhode Island to the Massachusetts/Rhode Island boundary, thence following the Massachusetts/Rhode Island boundary to the shoreline, thence following the shoreline of Massachusetts back to the beginning.

(f) LCMA 3. All waters of the Exclusive Economic Zone (EEZ) of the United States seaward of LCMA 1, OC, 2, 4, 5, and 6.

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(g) Overlap Area 2/Area 3. Fishermen from either Area 2 or Area 3 may fish in an area bounded as follows under their respective LCMA rules: Beginning at the intersection of 9960-W-13700 and 9960-Y-43700, thence westerly along the 43700 line to the intersection with 9960-W-14610, thence southwesterly along a line whose extension reaches the intersection of 9960-Y-43500 with 9960-X-26400 to 9960-Y-43600, thence easterly along the 43600 line to 9960-W-13700, thence northwesterly along the 13700 line to the beginning.

(h) LCMA 4. All waters including state and federal waters that are near-shore in the northern Mid-Atlantic area, as defined by the area bounded by straight lines connecting the following points:

Point	LATITUDE (°N)	LONGITUDE (°W)
M	40° 27.5'	72° 14'
N	40° 45.5'	71° 34'
O	41° 07'	71° 43'
P	41° 06.5'	71° 47'
S	40° 58'	72° 00'
T	41° 00.5'	72° 00'
From pt. "T", along the NY/NJ coast to pt. "W"		
W	39° 50'	74° 09'
V	39° 50'	73° 01'
U	40° 12.5'	72° 48.5'
From pt. "U" back to pt. "M".		

(i) LCMA 5. All waters including state and federal waters that are near-shore in the southern Mid-Atlantic area, as defined by the area bounded by straight lines connecting the following points, in the order stated:

Point	LATITUDE (°N)	LONGITUDE (°W)
W	39° 50'	74° 09'
V	39° 50'	73° 01'
X	38° 39.5'	73° 40'
Y	38° 12'	73° 55'
Z	37° 12'	74° 44'
ZA	35° 34'	74° 51'
ZB	35° 14.5'	75° 31'
From pt "ZB", along the coasts of NC/VA/MD/DE/NJ back to pt. "W".		

(j) LCMA 6. All state waters as defined by the area bounded by straight lines connecting the following points, in the order stated:

Point	LATITUDE (°N)	LONGITUDE (°W)
T	41° 00.5'	72° 00'
S	40° 58'	72° 00'
From pt. "S", boundary follows the 3 mile limit of NY state waters as it curves around Montauk Pt. To pt. "P"		
P	41° 06.5'	71° 47'
Q	41° 18' 30"	71° 54' 30"
R	41° 11' 30"	71° 47' 15"
From pt. "R", along the maritime boundary between CT & RI to the coast; then west along the coast of CT to the western entrance of Long Island Sound; then east along the NY coast of Long Island Sound and back to pt. "T".		

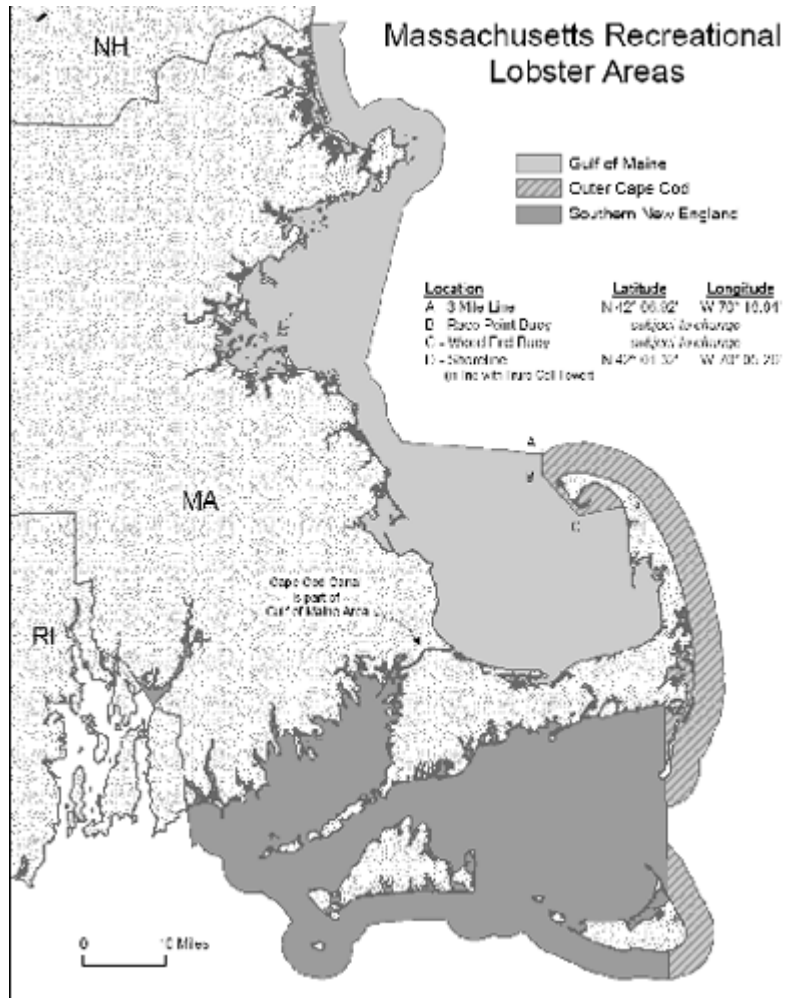
(k) Gulf of Maine Recreational Lobster Area means those state waters north of Cape Cod Bay to the New Hampshire border including waters of the Cape Cod Canal.

(l) Outer Cape Cod Recreational Lobster Area means all state waters eastward of 70 degrees longitude off Nantucket and eastward and northward of Outer Cape Cod from Chatham to Provincetown's Race Point, including a portion of upper Cape Cod Bay as defined by a line drawn from the three nautical mile line northwest of race Point at 42 degrees 7 minutes latitude and 70

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degrees 16 minutes longitude south to the Race Point Buoy then southeast to the Wood End Buoy and east to the shoreline at 42 degrees 01.32 minutes latitude and 70 degrees 05.26 minutes longitude.

(m) Southern New England Recreational Lobster Area means those state waters west of 70 degrees and south of Cape Cod.



7.03 Coastal Lobster Permit & Trap Allocation Transfer Programs

(1) Purpose and Scope. The purpose of 322 CMR 7.03 is to regulate the number of lobster traps on a regional and individual basis to prevent over-fishing within each Lobster Conservation Management Area (LCMA) managed by the Commonwealth through the ASMFC, and to establish a process to enable the transfer of existing commercial lobster permits and traps pursuant to M.G.L. c. 130, § 38B, and St. 1992 c. 369.

The American lobster fishery is the state's most economically important fishery conducted within the territorial waters. To meet conservation goals of the interstate plan specific to the nearshore waters around eastern Cape Cod and southern New England, the Outer Cape Cod Lobster Conservation Management Area (OCCLCMA) and Lobster Conservation Management Area 2 (LCMA 2) were developed, respectively. The following regulation (322 CMR 7.03) details the effort control plans for the OCCLCMA and LCMA 2 comprised of trap limit programs and transfer programs as well as the transfer regulations for the remainder of the coastal lobster fishery conducted in LCMA 1.

The transfer program for the coastal lobster fishery conducted in LCMA 1 allows permit holders to transfer their permits along with lobster related business assets under the historical transfer criteria

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developed for the coastal lobster fishery. Beginning in 2004, the only permit transfers allowed between LCMAs are those involving the transfer of a permit to an LCMA under management of an effort control plan. This will enable commercial fishermen to retain the maximum flexibility in the conduct of their businesses while ensuring conservation goals of any area-specific effort control plans are not compromised by increases in traps fished.

(2) Definitions. For the purposes of 322 CMR 7.03 the following words shall have the following meanings

(a) Actively Fished means landing and selling at least 1,000 lbs. of lobster or landing and selling lobster on at least 20 occasions, in a single year.

(b) Allocation Transferee means the holder of a commercial lobster permit to whom a transfer of trap allocation is made.

(c) Permit Holder means a holder of a coastal commercial lobster permit endorsed for either LCMAs 1, 2 or OCC.

(d) Permit Transferee means the person to whom a commercial lobster permit is transferred who must document that he/she has at least one year of full-time or equivalent part-time experience in the commercial lobster trap fishery or two years of full-time or equivalent part-time experience in other commercial fisheries, according to criteria developed by the Division.

(e) Transfer Trap Debit means the area-specific percentage of each allocation transfer transaction retained by the Division for conservation purposes as defined by the Division and subject to criteria developed by the Division, and not restricted by the Director under his authority to condition permits.

(3) Renewals.

(a) The Director shall renew all existing Coastal Commercial Lobster Permits in accordance with M.G.L. c.130, § 38B, and 322 CMR 7.01(2)(a) and (5)(f), provided that catch reports and renewal applications are received by February 28 and the renewal process, including late renewals approved for sufficient cause, is completed prior to December 31st of any year.

(b) All Coastal Lobster and Offshore Lobster Permit holders must declare the ASMFC Lobster Conservation Management Area(s) as defined in 322 CMR 6.33 in which they will fish during that license year when renewal forms are submitted.

(c) Coastal Lobster Permit holders are prohibited from multiple LCMA endorsements, except those commercial lobster permits held by persons with valid federal authorization for LCMA 3 who may additionally receive authorization for either LCMA 1, 2 or Outer Cape Cod or those commercial lobster permit holders not fishing with trap gear who may additionally receive authorization for LCMA 1, 2, or Outer Cape Cod.

(d) Those authorized for more than one LCMA as designated on their permits shall observe the most restrictive of different regulations for the areas declared as established by 322 CMR and the ASMFC Lobster Management Plan.

(e) Coastal Lobster Permit holders are prohibited from making changes in area designations during the annual renewal period except to drop a LCMA or to add a LCMA under management of an approved effort control plan for which the permit holder has received a LCMA-specific trap allocation.

(4) Forfeiture. All Coastal Lobster Permits which are not renewed in accordance with 322 CMR 7.03 shall be forfeited to the Division. The Director may transfer, in order, no more than 50% of the forfeited permits to waiting list applicants.

(5) Transfer Programs.

(a) OCC Transfer Program is administered by the Division. Applications for transfers shall be provided by the Division, must be signed by the permit holder and the allocation or permit transferee, and must be notarized prior to submission to the Division. No applications may be accepted after November 30 for the following fishing year. Commercial lobster permit holders endorsed for Outer Cape Cod may:

1. transfer their commercial lobster permit involving the sale or transfer their entire trap allocation;
2. transfer all of their trap allocation to an allocation transferee ; or
3. in compliance with 322 CMR 7.03(9)(d), transfer part of their transferable allocation in multiples of 50 traps to an allocation transferee.

(b) LCMA 2 Transfer Program is administered by the Division. Applications for transfers shall be

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provided by the Division, must be signed by the permit holder and the allocation or permit transferee, and must be notarized prior to submission to the Division. No trap allocation transfer applications may be accepted after November 30 for the following fishing year. Commercial lobster permit holders endorsed for LCMA 2 may:

1. transfer their commercial lobster permit involving the sale or transfer their entire trap allocation;
2. transfer all of their trap allocation to an allocation transferee ; or
3. transfer part of their transferable allocation in multiples of 50 traps to an allocation transferee.

(c) LCMA 1 Transfer Program enables commercial lobster permit holders endorsed for LCMA 1 to transfer their permits to a permit transferee, provided the permit has been actively fished for four of the last five years, as evidenced by valid catch reports filed with the Division, subject to criteria developed by the Division, and is not restricted by the Director under his authority to prohibit transfers. The transfer program is administered by the Division. Applications for transfers shall be provided by the Division, must be signed by the permit holder and the transferee, and must be notarized prior to submission to the Division. Commercial lobster permit holders endorsed for LCMA 1 may transfer their commercial lobster permit involving the sale or transfer of lobster related business assets to a permit transferee.

(6) Restrictions.

- (a) Transfers shall involve the sale or transfer of lobster related business assets.
- (b) Permit and allocation transfers may be denied if any evidence of fraud is found, or the Director determines that the transfer is not in the best interests of the Commonwealth.
- (c) All lobster businesses fishing under the authority of a coastal lobster permit as defined in 322 CMR 7.01(2)(a) shall be owner-operated.
- (d) Trap Allocation transfers may be subject to a transfer trap debit of 10% of the total amount of traps transferred through the trap transfer process.
- (e) Any permit holder authorized to fish traps in OCCLMA or LCMA 2 who transfers a portion of their Trap Allocation resulting in the Allocation totaling less than 50 traps shall have their permit retired immediately.
- (f) Any permit holder issued a trap allocation based in part or whole upon SCUBA history as determined in 322 CMR 6.13 shall be prohibited from transferring any part of their trap allocation except when transferring their commercial lobster permit.
- (g) Any permit holder issued a trap allocation based in part or whole upon SCUBA history as determined in 322 CMR 6.13 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 filed with the Division, subject to criteria developed by the Division, and not restricted by the Director under his authority to prohibit transfers. Catch history prior to the issuance of a trap allocation shall not apply towards fulfilling meeting actively fished requirements.

(7) Exceptions.

- (a) Performance criteria for permit holders as established by 322 CMR 7.03(2) may be waived for the following reasons:
 1. documented disability of the permit holder, provided that the permit holder fished during at least four of the five years immediately preceding the disability as evidenced by catch reports, and provided further that a signed statement by a physician verifies the disability precludes the permit holder from fishing.
 2. for the purposes of transferring a permit to an immediate family member, including transfers involving the death of the permit holder. Immediate family member shall mean the legal father, mother, wife, husband, sister, brother, son, daughter, or grandchild of the permit holder in the direct line.
- (b) Performance criteria established by 322 CMR 7.03 shall be waived for forfeited permits issued to waiting list applicants.
- (c) The requirement that permit holders be owner/operators may be waived through a letter of authorization issued by the Director that is subject to annual renewal. Letters of authorization may be granted for use of the permit and associated fishing operation that includes the gear and vessel

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owned by the permit holder that was actively fished prior to the request. Authorizations may be issued for permit holders on active military service or for immediate family members. For the recipient of a posthumous transfer, or disabled permit holder, authorizations may be issued for up to two years, provided the disability prevents the permit holder from fishing their permit as evidenced by a signed statement from a physician.

(d) The requirement that allocation transfers involve multiples of 50 traps may be waived for permit holders who transfer all of their transferable allocation.

(8) Waiting List. Persons on the established waiting list for Coastal Commercial Lobster Permits must reapply to hold their relative positions on the list prior to August 1, 1993, after which the list will be closed. Persons who can document, to the satisfaction of the Director, that, due to unforeseen circumstances, they were unable to reapply before the list closure date may be reinstated to the bottom of the waiting list.

(9) Prohibitions. It shall be unlawful:

(a) To loan, lease, or sell a Coastal Commercial Lobster Permit except under the provisions of 322 CMR 7.03.

(b) To submit false or incomplete forms or applications according to the provisions of M.G.L. c. 130, § 38B.

(c) for the holder of a Coastal Commercial Lobster Permit to acquire an additional permit(s) through a transfer pursuant to 322 CMR 7.03 or from the established waiting list.

(d) for a Permit Holder to retain a trap allocation equal to less than 50 traps after they have transferred part of their trap allocation to another permit holder or a trap allocation greater than 800 traps after they receive a trap allocation from another permit holder;

(e) for allocation transfers to involve the transfer of traps outside of the specific LCMA for which the trap allocation is designated;

(f) to transfer a commercial lobster permit endorsed for traps from one LCMA to another LCMA unless the permit is transferred to an LCMA under management of an approved effort control plan for which the permit holder has received an LCMA-specific trap allocation.

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APPENDIX D – NOTIFICATION TO PERMIT HOLDERS QUALIFIED FOR ADDITIONAL TRAP ALLOCATION BASED ON SCUBA GEAR

August 16, 2007

<Name>

<Address>

<Address>

Dear <Name>,

At an August 2nd business meeting the Marine Fisheries Advisory Commission (MFC) approved criteria for transferring SCUBA-based effort in the directed lobster fishery to trap-based effort in those Lobster Conservation Management Areas under management of an effort control plan, LCMA 2 and Outer Cape Cod (322 CMR 6.13 & 7.03). In the Outer Cape, this action allows SCUBA divers to be eligible for a trap allocation based on the poundage-based formula to calculate “effective traps fished” during 2000 through 2002.

Based on the 2000 through 2002 catch reports on file at *Marine Fisheries*, you are eligible to receive an Outer Cape Lobster Management Area (OCLCMA) trap allocation of ### for commercial lobster permit # ----, DMF ID # ----. This allocation replaces any previous allocation you may have received.

Please note that the new regulations also restrict your ability to transfer your trap allocation. To prevent a “doubling” of effort that might occur if a SCUBA diver transfers their trap allocation but continues to dive for lobsters, permit holders who receive trap allocations based upon SCUBA history will be limited to transferring their entire trap allocation as a block with their permit (i.e., they cannot transfer just increments of their trap allocation). Furthermore, permit transfers will be prohibited until a permit has been actively fished with traps in four of the last five years, excluding catch history prior to the issuance of trap allocations.

Questions regarding your trap allocation may be directed to Melanie Griffin at 617.626.1528 or me at 617.626.1536. If you have questions regarding trap tags or trap transfers, you can contact Jeanne Shaw Hayes at 617.626.1531.

Sincerely,

Dan McKiernan

Appendix 14

Outer Cape Lobster Effort Control Plan – Comprehensive Status Report (2004-July 2008)

Deputy Director

Appendix 15

Summary of Scoping Comments Received Relevant to Effort Control Regulatory Action

Public comments were received in response to an ANPR/NOI published in the Federal Register on May 10, 2005 (70 FR 24495). That notice requested public comments regarding the issues that NMFS should address relative to fishing effort reduction measures as proposed in Addenda II through VI of the Commission's ISFMP for American Lobster. Most of the comments received in response to the notice were pertinent to the broodstock protection measures of these addenda, were considered and addressed during previous rulemaking actions and, therefore, are not addressed again here. The effort control comments pertain to trap transferability, trap caps, the "choose and use" provision of the Area 3 plan, the anti-monopoly clause, and the most restrictive rule.

Comment 1: One comment was received in favor of the "choose and use" provision of Addendum III. The commentator suggests that this provision will help eliminate latent traps prior to the implementation of a transferability plan and will reduce and identify actual effort within the fishery. The same commentator, representing part of the Area 3 offshore industry, expressed opposition to allowing permit holders to re-designate Area 3 on the Federal permit once the permit holder has decided not to elect Area 3 on the permit under the "choose and use" provision.

Response: The "choose and use" provision was adopted into the Commission's plan as part of Addendum III to Amendment 3, which was approved in 2002. This provision was brought forth by the Area 3 industry to require Area 3 qualifiers to either fish in Area 3 or not. NOAA Fisheries did not specifically analyze choose and use in this DEIS because the provision ultimately was overtaken by events (e.g., the manner in which the Commission amended and then withdrew a version of the Most Restrictive Rule) and thus NOAA Fisheries concluded that the provision was beyond the scope of this rulemaking and DEIS. However, the spirit of this provision could be addressed depending on the selected course of action with this rulemaking.

More specifically, the foundational principles of transferability programs established in Addendum XII may effectively carry out the intent of the "choose and use" provision since Addendum XII prohibits Federal permit holders who transfer all or part of their Area 3 allocation from fishing traps in Area 1 in the future. The impacts of the proposed management alternatives are detailed in Chapter 4 of the DEIS.

Comment 2: The same commentator supports the possibility of a lower trap cap in the future for Area 3 and recommends that NMFS consider the Area 3 LCMT's proposals for transferability and trap caps for Area 3.

Response: Since this comment was made, the Commission has adopted the Area 3 industry's revised trap cap of 2,000 traps. In general, however, trap caps are a component of the limited access programs analyzed in the DEIS (see, for example, Ch 4- Environmental Consequences).

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Comment 3: Two fishermen who own a single vessel from New Jersey commented that the most restrictive rule has reduced their fishable trap allocation to a level lower than their historical allocation. Their Federal lobster vessel qualified for 1,400 traps in Area 4 but they are subjected to their lower Area 5 allocation, since they fish in both areas.

Response: Since the time of the comment, the Commission altered its policy on the Most Restrictive Rule and withdrew the amended version of the Rule from the Lobster Plan. Therefore, changes to the Most Restrictive Rule are beyond the scope of the proposed rulemaking and this DEIS. Additionally, the DEIS does not consider additional management actions for Areas 4 and 5 and, therefore, this specific situation is outside the scope of the DEIS for that reason as well. Eligibility and allocations for Areas 4 and 5 were completed as part of a separate rulemaking published in March 2003 (68 FR 14902). The DEIS does address the Most Restrictive Rule, but within the context of Areas 2, 3 and the Outer Cape, which is the scope of the presently proposed action as recommended by the Lobster Board and contained in the Lobster Plan.

Comment 4: A Federal lobster permit holder from New Hampshire disagrees with the most restrictive rule which impacts him by restricting the his lobster trap limits and the size of the lobster he can harvest since he fishes in two distinct lobster management areas. Therefore, he is subject to the most restrictive trap limit of the two areas and the most restrictive minimum and maximum carapace sizes. He further states that the choose and use provision will force multi-area fishermen like himself into a economically compromising situation by requiring the choice between areas and leaving Area 3 to the vessels that fish exclusively in that area.

Response: Since the time this comment was provided, the ASMFC has revised the Most Restrictive Rule (MRR) policy. MRR policy is an integral component to the analysis for this proposed action, is within scope for this document, and is discussed throughout the DEIS (see, for example, Ch 4-Environmental Consequences).

Comment 5: A delegate of the Massachusetts Lobstermen's Association wrote to request that NMFS implement a static trap limit of either 400 or 800 traps. He recommends that the state or Federal government initiate trap reductions through a trap buyback program to limit effort.

Response: At one time, the Commission considered an effort control program for Area 2 that would qualify permit holders at either 400 or 800 traps, dependent upon each vessel's annual landings during a specified period. However, that proposal was subsequently rejected by the Commission. The DEIS examines the Commission's preferred option of effort control based on the historical number of traps fished by each permit holder. One of the alternatives proposed in the DEIS, however, does include an "qualify-only" option that would require qualified Federal permit holders in Area 2 and the Outer Cape Area to abide by the 800 trap or any more restrictive state allocation. These options are evaluated in Ch. 4 of this DEIS.

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Comment 6: An attorney representing Area 3 lobster fishermen wrote in opposition to certain provisions set forth in Addendum V of the Commission's ISFMP (the focus of this opposition was on trap caps) and stated that they should be analyzed within the scope of the DEIS for the proposed lobster management actions.

Response: Trap caps are an element of the alternatives considered in Ch. 4 and are among the issues highlighted for public review and comment in that chapter.

Comment 7: An owner of multiple lobster trap vessels which fish exclusively in Area 3 is in favor of transferability but is opposed to the 2,200 trap cap. He believes that this measure will allow qualified Area 3 vessels to increase their operations and achieve a trap allocation that is higher than their historical number of traps. In the meantime, the cap will force his vessels to fish a lower number of traps than they have historically fished. He does support the 2,600 trap cap.

Response: See response to Comment 6.

Comment 8: The same vessel owner from Comment 7 agrees with the anti-monopoly clause only if it maximizes the aggregate number of traps fished by all the vessels under that one permit holder, and not a cap on the number of vessels, per se. In other words, if the maximum number of permits that the anti-monopoly clause would allow is five permits of 2,200 traps each, then the total aggregate number of traps allowed would be 11,000 traps. The commentator recommends changing the wording of the anti-monopoly clause to reference a maximum of five permits or 11,000 traps. This would still control the number of effort afforded to each permit holder.

Response: The commentator seems to be suggesting that traps be counted against the individual rather than the permit, which on its face constitutes a radical departure from certain foundational elements of the Lobster Plan and would be well beyond the scope of the present potential rulemaking and DEIS analysis. The DEIS discusses in great detail the ramifications of having incongruent state and Federal regulations throughout Ch. 4. Although the commentator's proposed concept is not specifically analyzed for the reason stated above, this DEIS discussion is nevertheless relevant to the issue.

Comment 9: An Area 3 lobster fisherman wrote in opposition to the trap transferability provisions and believes that the maximum trap allocation for this area should not exceed 1,800 traps, with annual reductions capping the overall allocations at not more than 1,600 traps. This will make fishermen fish their gear more efficiently and will allow a higher number of participants and provide more opportunities to allow smaller operations to participate in the fishery.

Response: See response to Comment 6. The Commission's plan sets the trap ceiling at 2,000 traps. The 2,000 trap cap will allow some permit holders to increase their allocations to more economically sustainable levels while limiting the trap ceiling and associated fishing effort when compared to higher trap caps. See also Ch. 4 for evaluation of ITT alternatives.

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Comment 10: If transfers are allowed, a fisherman suggests that vessels transfer traps with vessels fishing traps of similar size (assuming that smaller vessels with smaller allocations are likely fishing smaller-sized traps). This will ensure that fishing effort will not increase through the transfers by replacing a smaller-sized trap with a larger trap if the traps are purchased by a larger offshore vessel which is likely fishing larger-sized traps.

Response: While this commentator suggests the use of different trap sizes as an approach to lobster management, not enough information was provided to meaningfully evaluate the efficacy of this approach. Further, such a provision is not part of the Commission's Plan and would seem to require information and data sets that are neither collected nor readily available. The commentator's proposal is therefore beyond the scope of this analysis.

Comment 11: This commentator also recommends that a surcharge be attributed to lobster trap tags to develop an industry-sponsored trap tag buy-back program and also provide a funding base for subsidizing observers, enforcement, and a rope buyback to offset costs associated with the phase-out of floating lobster lines. If a monetary tax cannot be implemented, then a more restrictive trap conservation tax is suggested, however, the manner of implementation is not provided in the comments.

Response: Industry-funded programs to subsidize costs for observers, enforcement, and rope and permit buybacks are outside the scope of this DEIS. The use of conservation taxes as a means of reducing latent trap fishing effort are considered within the context of the Commission's plan for effort control in the affected lobster management areas.



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