



Greater Atlantic Region Bulletin

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Date Issued: 6/9/2015

Federal Lobster Permit Holders American Lobster Trap Transfer Program *Effective Date: June 9, 2015*

We recently published a notice that announced a new Lobster Trap Transfer Program. The Trap Transfer Program allows lobster permit holders the flexibility to buy and sell lobster trap allocation for some lobster management areas. For the purposes of this bulletin, ‘traps’ refers to the exchange of trap allocation.

We will accept trap transfer applications beginning August 1, 2015. The deadline to submit trap transfer applications for fishing year 2016 is September 30, 2015. We intend to process all transfer requests after the trap transfer period has closed and notify applicants of our decisions by December 31, 2015. Trap transfers will become effective on May 1, 2016.

If you are a dual (state and Federal) permit holder, please contact your state agency for information on state transfer requirements.

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

Frequently Asked Questions on Trap Transfers

1. *Who is allowed to transfer traps?*

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

2. *Can I lease traps?*

- Leasing traps is not allowed. Traps are permanently bought or sold.

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

- Area 2, 3, and/or Outer Cape Area traps can be transferred (bought or sold) between Federal lobster permits.
- In a trap transfer, multiple areas may be part of a transfer transaction but not all areas can be transferred to the buyer. **Only Area 2, 3, and/or Outer Cape Area traps are transferable to the buyer. Traps from Areas 1, 4, 5, and 6 are not transferable to the buyer and will be removed from the fishery permanently.**
 - For example, your permit is qualified to trap fish in Areas 2 and 4, and you would like to sell 200 traps. Because you have multiple areas (2 and 4) on your permit, both areas are reduced by 200 traps. In this example, the buyer can only receive Area 2 traps but not Area 4 traps because Area 4 is not transferable. The seller debits 200 traps from both Areas 2 and 4.
- **The Trap Transfer Program regulations require that Area 1 permit holders who choose to sell Area 2, 3, and/or Outer Cape Area traps will permanently give up their Area 1 trap fishing rights.**
- A Federal-only permit holder cannot buy or sell traps from or to a state-only permit holder. You must possess a Federal lobster permit to retain Federal traps, and you must possess a state permit to retain state traps.

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

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

5. *How many traps can I transfer?*

- You may sell traps in increments of 10 (e.g., 10, 20, 30, etc.). The buyer may **NOT** receive any quantity of traps that would exceed his/her permit's trap cap per area. If multi-area traps are purchased which satisfy one area's trap cap but exceed another, these additional traps will be removed from the fishery permanently. For example, if you have a permit with 400 Area 2 traps and you bought 600 traps from a permit with Area 2 and 3 eligibility, you would be buying 600 Area 2 and Area 3 traps. Because you already have 400 Area 2 traps, your permit can only receive traps up to the Area 2 trap cap of 800 traps.

Trap Caps by Area

Area 2 = 800 traps

Area 3 = 1,945 traps

Area 4 = 1,440 traps

Area 5 = 1,440 traps

Outer Cape Area = 800 traps

- **You must base any purchase/sale on your fishing year 2016 allocation. Your reduced allocation for the 2016 fishing year is outlined in the enclosed trap allocation letter. For more information on Area 2 and 3 trap reductions, please visit:**
<http://www.greateratlantic.fisheries.noaa.gov/nr/2015/January/15loba17a18phl.pdf>

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

- After all transfers have been approved or disapproved, the buyer and seller will each receive a receipt confirming approved trap transfers along with their final 2016 allocation. You may request a copy of your permit's allocation by contacting the permit office at 978-282-8438.
- If we approve the transfer, the seller's traps are reduced by the number of traps sold per area.
- The buyer is taxed 10 percent on his/her purchase and is able to receive 90 percent of the transferable traps to his/her permit; e.g., 100 traps are bought, 90 traps are transferred to the buyer's permit, and 10 traps are retired from the fishery. This is referred to as a **conservation tax**.

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

- A partial transfer is when you sell some or all of your traps but keep your Federal lobster permit. The buyer is taxed 10 percent of the traps upon transfer. If you sell all of your traps, you can still use your Federal lobster permit for non-trap fishing and maintain the option to buy back in to the Area 2, 3, and/or Outer Cape Area trap fishery at a later date.
- A full business transfer is when you sell your permitted vessel to another owner (ownership change) or when you transfer your permit onto another vessel (vessel replacement). All traps stay with the permit. This type of transfer is exempt from the 10-percent conservation tax.

8. *When can I transfer traps?*

- You may apply to transfer traps within the Trap Transfer Program from August 1, 2015, until September 30, 2015.

- If we approve the transfer request, the transferred traps will be effective for fishing at the start of fishing year 2016. The seller's reduced allocation will also go into effect at this same time.

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

- By applying for transfer, you are declaring into the Trap Transfer Program and are consenting to have your state and Federal allocations aligned at the lower allocation per Lobster Management Area. Allocation must be aligned at the beginning and end of each trap transfer period for each year. **This means that you will permanently forfeit the higher allocation. This situation only applies to certain dual permit holders whose initial Federal allocation does not match their initial state allocation.** If you have any questions about this or would like to find out if this situation applies to you, please contact the permit office at 978-282-8438. You may also need to contact your state agency. Refer to page 6 for this trap transfer scenario.

10. *How do I apply?*

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

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

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

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

- Once the trap transfer period is closed on September 30, 2015, we will coordinate with state agencies to review all applications and either approve or disapprove each trap transfer request. We will base this decision on whether the seller has the traps to sell and whether the buyer has the capability to transfer that number of traps to his/her lobster permit, based on the area-specific trap caps.
- If there are any changes to your state and/or Federal permit(s) involved in a trap transfer, please contact the agencies that issued those permits. If a change has occurred after an application is submitted, a corrected application may need to be re-submitted.
- If a trap transfer form is filled out incorrectly, the seller and buyer will be notified and another trap transfer form must be completed, with corrections, and re-submitted.

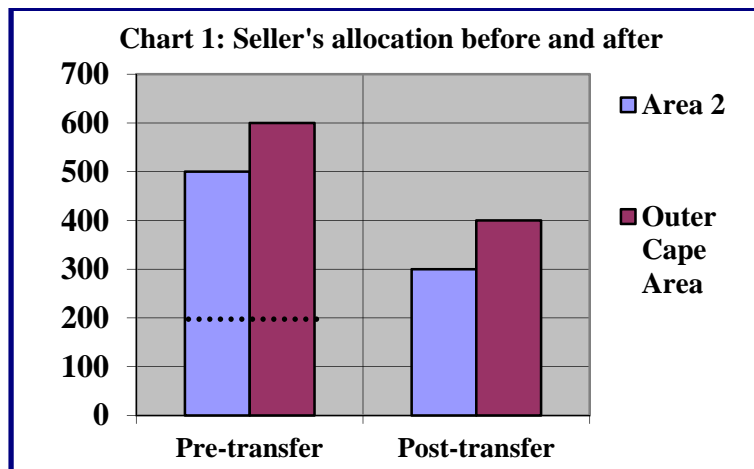
- We intend to make all decisions on all trap transfer requests by December 31st of each year. If we approve a transfer, we will send a receipt and final allocation letter to each party involved in the transfer. If your transfer is not approved, we will notify you in writing.
- We must approve a trap transfer application before the transfer is final. Buyers and sellers are cautioned not to finalize transfer deals unless we approve the transfer.

Trap Transfer Examples

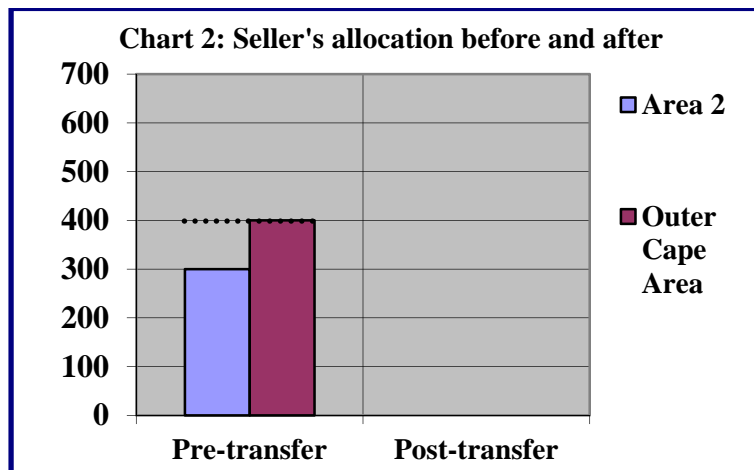
Area to Area Transfers:

If your lobster permit is qualified for trap fishing in more than one area, when you sell traps, the allocation from all areas will be reduced first. This is referred to as ‘bottom-up’ transferring. Your traps will be reduced by the number of traps sold depending on equal or varying allocations per area(s). The buyer retains fishing rights to all areas for which the purchased traps qualify and are transferable. **REMINDER:** If your permit is qualified for Area 1 and you sell traps, you will lose your ability to trap fish in Area 1. However, any Federal lobster permit, including those qualified for Area 1, may buy traps. A buyer may buy traps from area(s) where his/her permit did not previously qualify. The buyer’s permit will acquire the historical qualification specific to the transferable traps purchased.

Example 1: If you have 500 Area 2 traps and 600 Outer Cape Area traps, and you want to sell 200 traps, the transaction will occur from the bottom up, as shown in Chart 1 (traps numbered zero to 200). After the conservation tax is applied, the buyer receives 180 Area 2 traps and 180 Outer Cape Area traps to his permit.



Example 2: The same seller from Chart 1 wants to sell an additional 400 traps to a different buyer. He has 300 Area 2 and 400 Outer Cape Area traps left to sell. These traps are once again sold from the bottom up as seen in Chart 2 (traps zero to 400). After the conservation tax is applied, the buyer receives 270 Area 2 traps and 360 Outer Cape Area traps to his permit.



Most Restrictive Rule

A permit holder who elects more than one qualified area on his/her permit (for the fishing year), must fish the lower allocated trap number in all areas selected on his/her permit (for that fishing year). The permit may qualify for a higher allocation in one area or another, but when areas are elected together, fishing can only occur (across all areas designated) at the lowest of the allocations. State allocation restrictions may also apply for dual permit holders. Table 1 has some examples.

Table 1

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

Trap Transfer Scenarios

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

Table 2

Area Qualification	Initial Trap Allocation	Synchronized Trap Allocation for Trap Transfer
Area 2	State allocation = 500 Federal allocation = 600	State allocation = 500 Federal allocation = 500
Outer Cape Area	State allocation = 600 Federal allocation = 600	State allocation = 600 Federal allocation = 600

Table 3

Area Qualification	Initial Trap Allocation	Synchronized Trap Allocation for Trap Transfer
Area 2	State allocation = 600 Federal allocation = 500	State allocation = 500 Federal allocation = 500
Area 3	State allocation = No allocation since Area 3 is entirely Federal waters Federal allocation = 1102	State allocation = No allocation since Area 3 is entirely Federal waters Federal = 1102

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

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

Table 4

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

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

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

Table 5

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

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

Table 6

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

Table 7

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

Lobster Management Areas

