



ATLANTIC OFFSHORE LOBSTERMEN'S ASSOCIATION

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Dr. Christopher M. Moore, Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

Dear Dr. Moore,

The Atlantic Offshore Lobstermen's Association (AOLA) represents federal water lobster and Jonah crab fishermen who sail from ports in New Jersey to Maine; this includes a number of members fishing in the Mid-Atlantic. These operations could be impacted by the MAFMC's Deep Sea Coral Amendment, depending on specifications recommended at the June 10th Council Meeting.

As a representative of AOLA, I'm writing to express my deep concerns with the process being undertaken by the Council on this issue, which could lead to potential restrictions on the offshore lobster fishery. All of which would be developed within the last few weeks of a long regulatory process and outside of the public hearing process. I do not believe that this is consistent with either the public process envisioned under the Magnuson Stevens Act or the NEPA legal requirements.

Our concerns with possible Council's actions at the June Meeting are as follows:

- 1) Prosecuting this Amendment under the mackerel, squid, and butterfish FMP has positioned the issue to receive limited attention by other fisheries and fishermen. For example, lobster fishery representatives were not invited to the April 29-30 Industry Workshop, yet at that workshop the lobster fishery was discussed, with invited participants suggesting that lobster pot gear should not be universally exempt.
- 2) Every draft of the Amendment made available to the public, including the 27 May 2015 update, has made multiple references as follows: *"Management measures developed in this amendment would not apply to any species managed solely by the Atlantic States Marine Fisheries Commission (Commission), such as American lobster, unless the Commission takes complementary action."* However, the meeting summary of the 13 May 2015 FMAT webinar, which was only made broadly available as part of the Council Meeting briefing documents on 29 May 2015, characterizes the Council's authority differently. *"In 2010, the NMFS advised the New England and Mid-Atlantic Councils that they could not regulate the use of lobster gear independently of the ASMFC in a deep-sea coral management action. That advice was revised in 2014 to say that such regulations can be proposed by fishery management councils under certain circumstances and provided some detail about what those circumstances might be. Any action by the Council to regulate the use of lobster pots in the EEZ would require a consultation, and probably collaboration, with the Atlantic States Marine Fisheries Commission."*
- 3) Impact analyses for the lobster resource and fishery are not included in the Amendment document. In fact it is stated in the Amendment: *"Of these gear-species combination, American lobster and Jonah crab were not included in further analysis due to the nature or the regulatory authority under which the alternative in this document are proposed."* Inclusion of management of the lobster fishery at this late date would contradict NEPA requirements, unless the analyses were updated

and the revised Amendment made available for public comment. This is not a trivial issue, as I point out that we estimate there to be 27 +/- New England and Mid-Atlantic lobster vessels that potentially fish in the area (primarily Hudson Canyon to the east) in any given year and they generate millions of dollars of economic activity for a range of coastal communities from Virginia to Rhode Island. Based on 2013 landings data from the LCMA 3 management component of the Southern New England lobster stock area, we estimate lobster landings in excess of \$3 million pounds worth over \$15M ex vessel. This does not take into account the value of Jonah crab also landed by this fleet. A fishery of this magnitude should be directly integrated into the impact analyses before any regulatory changes are implemented.

- 4) Bottom impacts by the trap fishery are minimal according to the SASI model developed by the New England Fishery Management Council. In addition, most of the impacts are located nearshore with little documented impact offshore, which is where the coral resides. From the October 2014 version of the NEFMC's Omnibus Habitat Amendment II DEIS (pg. 147): *"Trap gear adverse effects probably reflect concentrations of effort in the lobster fishery, and occur mainly along the coasts of Maine, New Hampshire, Massachusetts, and Rhode Island (Map 49). Adverse effects were lower in 2009 as compared to 2000 and 2005."* See the attached figures and table. Furthermore trap gear has one of the lowest adverse realized impacts of any gear type, as noted in Volume 3 of the DEIS (pg. 155): *"The SASI analysis concluded that: (1) Mobile bottom-tending gears have a greater per unit area impact than fixed bottom-tending gears, and (2) they have a greater overall magnitude of impacts, since individual mobile gear fishing events contact more of the seabed than individual fixed gear fishing events and there is more overall fishing effort by mobile gears than fixed gears. Due to the much greater magnitude of mobile vs. fixed bottom-tending gear impacts, eliminating mobile bottom-tending gear use in an area should reduce the adverse effects of fishing on seabed habitats significantly within that area."*
- 5) Management actions by the ASMFC have resulted in significant declines in lobster traps in LCMA 3, which contains the bulk of the coral. Trap cuts were implemented for the fishery from 2003-2013, which resulted in LCMA 3 area wide trap reductions from ~211,000 to 146,000 traps. An additional five years of 5% per year trap reductions are slated to start in FY 2016. In MAFMC jurisdictional waters, we estimate LCMA 3 lobster traps to have already been reduced by 36% from historic levels (based on 2002 limited access qualifications).

Therefore, I urge you to not consider action on the lobster fishery as part of this Amendment. If the Council wants to consider management of lobster gear as part of a future action, the Council should engage the Atlantic States Marine Fisheries Commission and NMFS in a formal consultation process.

I apologize for the late submission of this letter, but AOLA was not in a position to provide comments on this issue until reviewing the meeting materials made available on 29 May. It is quite clear the direction of this discussion changed at recent meetings, which has necessitated this response. Please distribute this electronically to the members of your Council. I am also happy to discuss by phone.

Sincerely,



David Borden
Executive Director

Map 49 – Spatial distribution of realized adverse effects from trap gear type at three timesteps: 2000, 2005, and 2009. All panels use the same color scale. The maps given an annual snapshot of adverse effects, summing impacts from previous years fishing where the habitat has not yet fully recovered combined with new impacts.

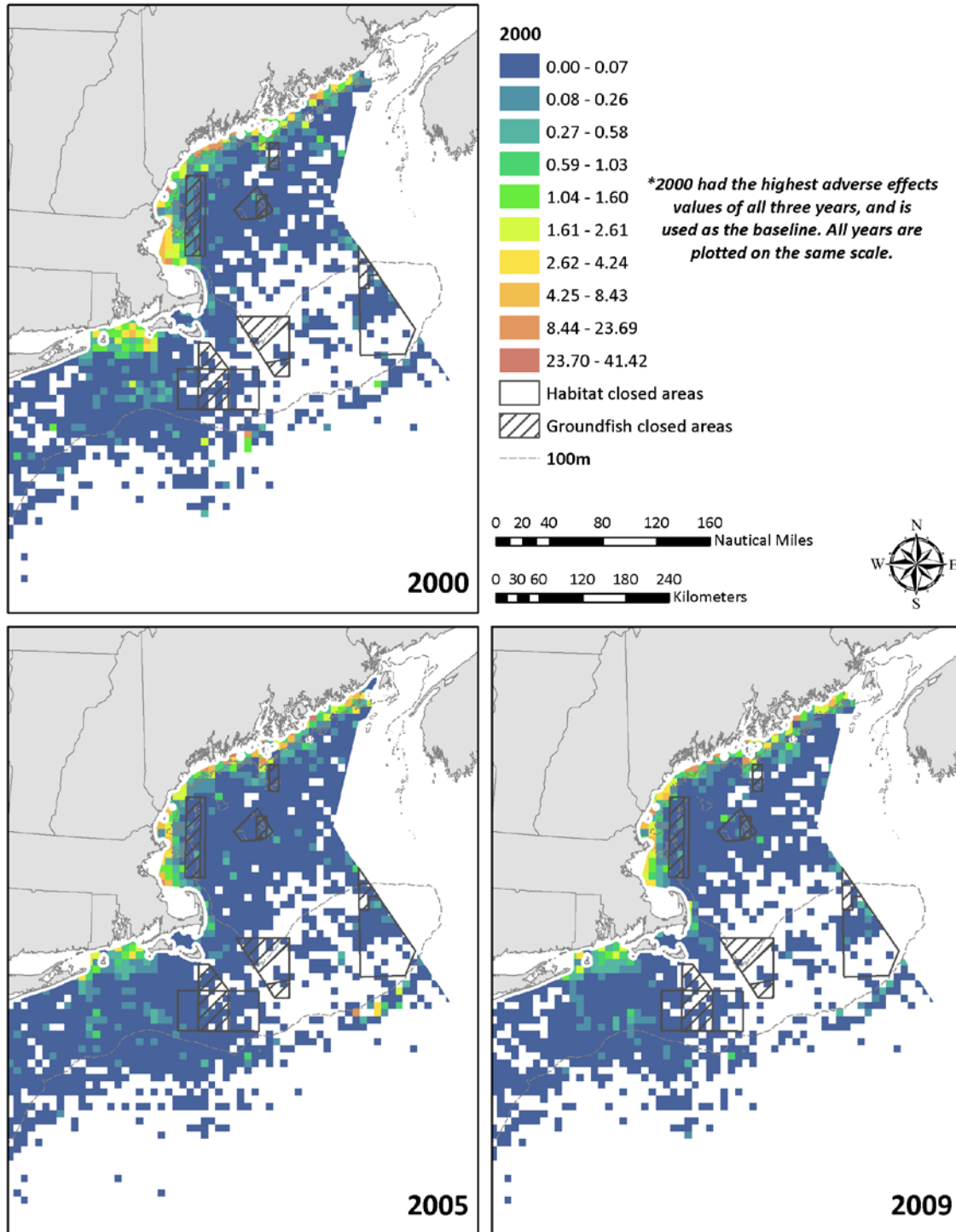


Figure 8 – Comparison of estimated realized adverse effects from the SASI model by gear type and calendar year. All values in km².

