

Update on Trap Allocation Transfer Programs

Rhode Island DEM Division of Marine Fisheries

National Marine Fisheries Service

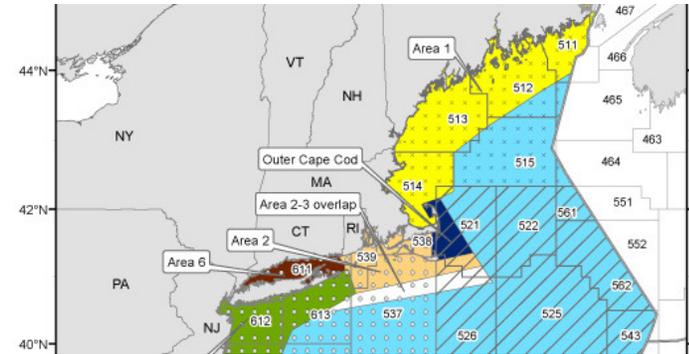
Atlantic States Marine Fisheries Commission

Agenda

- 1. Brief History and Background of ITT Programs**
- 2. Update on State and Federal Trap Allocation Transfer Programs**
- 3. Recently enacted Federal rules**
- 4. ASMFC and states' response to Federal trap transfer rules**
- 5. Demonstration of trap allocation transfer rules**
- 6. Challenges to creating the state/federal database to track transfers**
- 7. Future Milestones, Timelines, and expectations**

Federal, State & ASMFC Effort Control for Lobster Conservation

In certain LMA's, fishing effort is regulated by overall trap caps with each individual permit holder having a unique trap allocation based on past fishing history.



- **Area 3, 4 and 5.** In 2003, NMFS began allocating traps to Federal permits for these areas based on fishing activity during 1991-1999, consistent with ASMFC Plan.
- **Outer Cape Area.** MA DMF established permit specific trap limits in 2003 based on reported traps fished during 2000-2002. Later approved by ASMFC.
- **Area 2.** ASMFC approved permit specific trap limits for Area 2 in 2005 based on traps fished and landings during 2001-2003.
- NMFS has worked with the states to qualify permits and allocate traps for Federal permits in Area 2 and the Outer Cape Area.

Trap Allocation Transfer is one “safety valve” to mitigate the effects of low trap allocation and future cuts.

Interstate Plan Compliance for state/federal permit holders: “Effect of Most Restrictive Rule”

- State’s lobster rules (upholding interstate plan) apply to all commercial permit holders fishing in state waters or from state ports.
- This includes those permit holders who have a federal permit, fish in EEZ and land lobsters in a state port.
- Enforcement by state officials upholds the interstate plan. Courts have recognized this authority and state role.
- Through an agreement with NMFS, some states (e.g. RI, MA) authorize all trap tag orders and issuance of trap tags.
- Any permit holder who orders more trap tags than authorized by state may have their state permit suspended for failure to comply with state rules and the interstate plan.
- In OCC and Area 2, for nearly a decade (since 2004 in OCC and 2006 in Area 2) ASMFC through states have conservatively managed lobster trap fishing for both state waters and EEZ through the “most restrictive rule” and state/federal trap tag MOU.

Cooperative Implementation of Commission's Effort Control plans

- NMFS and states agreed to establish joint database to track all allocations and allow transfers among jurisdictions
- In several separate rulemaking actions over the past decade NMFS established regulations to allocate area-specific trap allocations to eligible Federal lobster permit holders on criteria in the ASMFC's Interstate Fishery Management Plan for American Lobster and in a manner consistent with state actions.
- Some elements of the Commission's trap transfer program were not adopted into the Federal program because they could not be effectively implemented. The Lobster Board is developing an addendum to the plan to align it with the Federal trap transfer program.

Trap Allocation Transfers Require a Functional Database & Process

- States and NMFS recognized the challenges of allocation tracking before transfers could be allowed among federal permit holders.
- Unprecedented task to coordinate state and federal permit databases
 - Fundamental Disconnect: NMFS permits vessels; and states licenses persons
- Key task: Identify each “entity” that was eligible for and received a trap allocation
- Challenges to avoid the “Pregnant Boat Syndrome”: Federal and state permit not sufficiently linked could result in transfers of permits proliferating trap allocations from one vessel to two.
- ACCSP has been working to create a custom database for transfers and tracking.
- Data must be accurate among partners and any discrepancies reconciled.

Lobster Trap Transfer Program



ASMFC Lobster Management Program

- Lobster resource managed cooperatively by states and NMFS via the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for American Lobster
- NMFS enacts regulations under the Atlantic Coastal Act to support the Commission's actions

Federal Actions Relevant to Permit-Based Trap Allocation

- Final Rule in 2003 to qualify and allocate in Areas 3, 4, and 5
- Final Rule in August 2014 to qualify and allocate in Area 2 and the Outer Cape Area and establish trap transfer program for Area 2, 3, and Outer Cape Area allocations
- Final Rule in 2015 to begin annual series of trap cuts for Area 2 and Area 3 starting in 2016

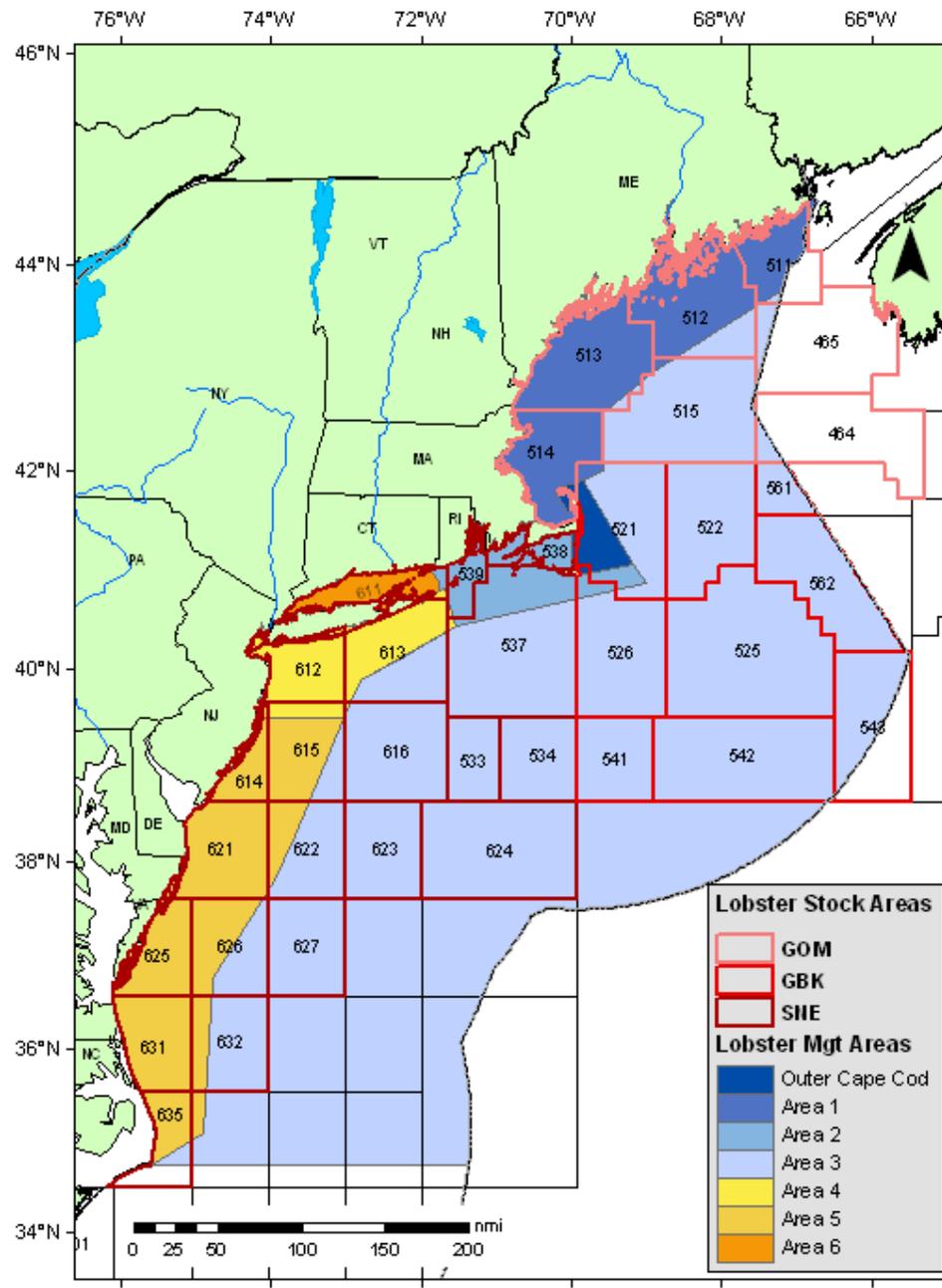


Figure 32.1. Statistical Areas used to define American Lobster Gulf of Maine, Georges Bank and Southern New England Stocks and Regions defining 7 ASMFC Management Areas.

Available Trap Allocations

Total number of qualified permits and aggregate trap allocation, Areas 2, 3 and Outer Cape

Area	Number of Federal Permits	Current Trap Allocation (combined permits)	Trap Allocation After First Year Reduction Schedule
Area 3	136	145,433	138,162 (5% reduction)
Area 2*	174	110,176	82,632 (25% reduction)
Area Outer Cape*	18	9,314	N/A

*NMFS is still in the process of qualifying all permit holders who applied to the Limited Access Program for Area 2 and Area Outer Cape. These are not final numbers but estimates based on pre-qualified applications.

Lobster Trap Transfer Program

- Based on lobster industry recommendations
- Allows fishermen to buy and sell trap allocation to optimize their fishing businesses
- Cooperative state and Federal development and implementation
- Required completion of a database; necessary for tracking transfers by dual (state/Federal) permit holders
- With the database ready, we will accept transfer applications in 2015
- Transferable allocation based on first year of trap cut
- Trap cut and any transfers will be effective May 1, 2016

Trap Reduction Schedules

- ❖ Trap transfer program is timed so that you can make transfers which will cover reduced trap numbers.
- ❖ Transfers will be based off the reduced allocation for each Area, each year according to schedule

Effective Fishing Year (May 1 – April 30)	Area 2 reduction	Area 2 example (traps)	Area 3 reduction (%)	Area 3 example (traps)
2015	N/A	800	N/A	800
2016	25%	600	5%	760
2017	5%	570	5%	722
2018	5%	542	5%	686
2019	5%	515	5%	652
2020	5%	490	5%	620
2021	5%	466	N/A	N/A

Basic Federal Trap Transfer Rules

- Only Area 2, 3, and Outer Cape allocations are transferable. These are considered “transferrable areas”
- Areas 1, 4, 5 or 6 cannot be transferred
- **No banking** – allocations capped at area-specific trap limits
 - Area 2 trap limit = 800 traps
 - Area Outer Cape trap limit = 800 traps
 - Area 3 trap limit = 1,945 traps
- Buyer is taxed a 10% conservation tax trap reduction upon transfer
 - For example, 100 traps are sold and the buyer is able to transfer 90 traps to his permit
- No tax on full business transfers. A full business transfer is when you transfer the entire permit.
- Any Federal lobster permit holder may “buy-in” to a transferrable Area even if the permit has no trap fishing history in that area

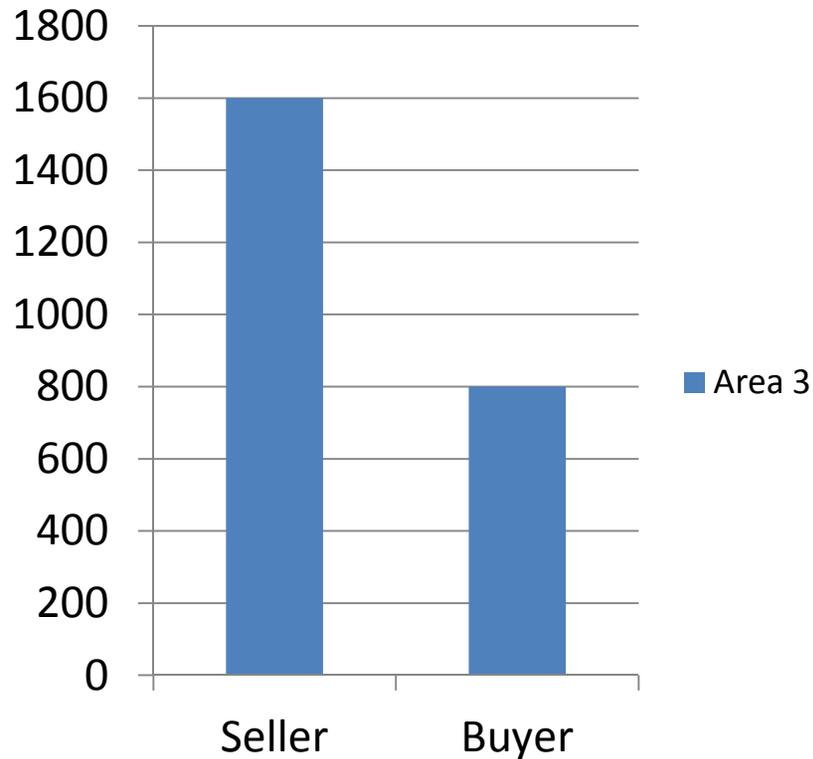
Basic Federal Trap Transfer Rules cont.

- If an Area 1 permit holder has also qualified for Area 2, 3 and/or Outer Cape and sells trap allocation, he/she will no longer be able to fish in Area 1
- Area 1 permit holders may buy into a transferrable area and fish both areas, subject to the most restrictive rule

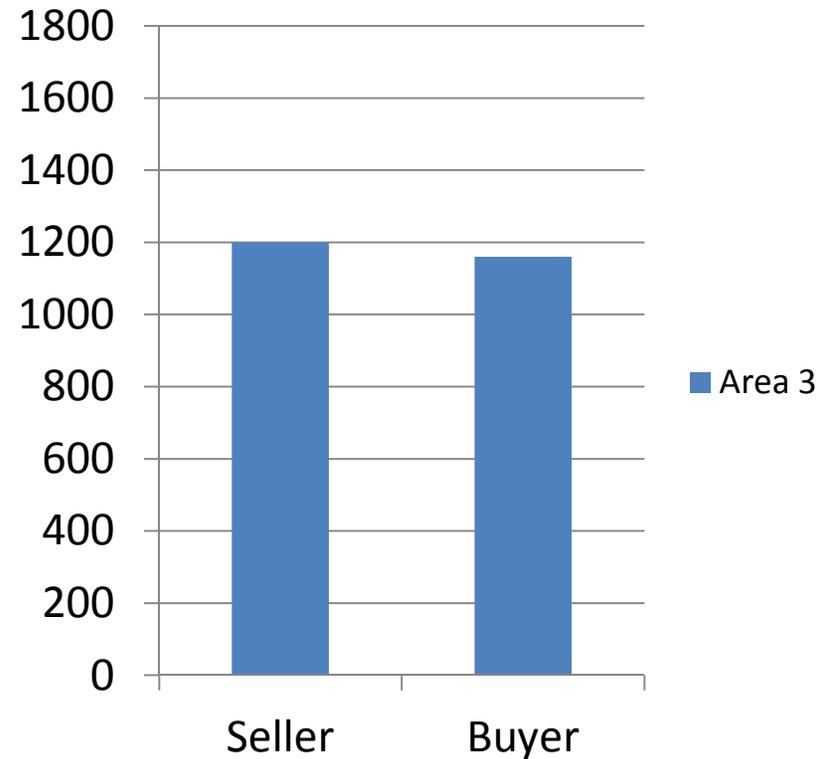
Simple Federal to Federal Transfer

Transfer of a single Area allocation

Pre-transfer



Post-transfer



Seller has an initial allocation of 1600 Area 3 traps.

Buyer has an initial allocation of 800 Area 3 traps.

400 Area 3 traps are bought resulting in 360 traps transferred to the Buyer.

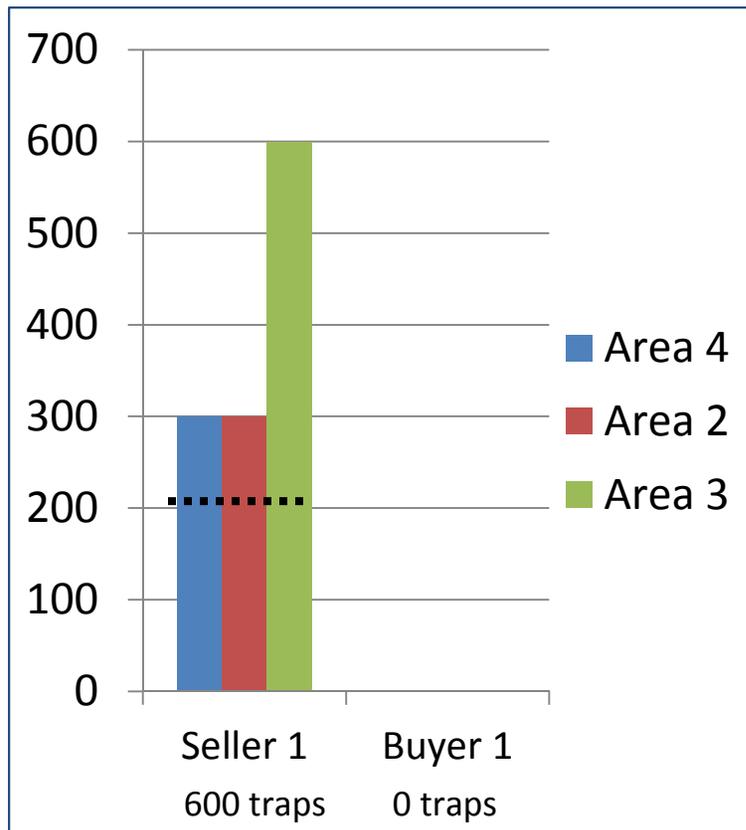
Post-transfer allocations: Seller now has 1200 Area 3 traps and Buyer has 1160 Area 3 traps.

Multi-Area Trap Transfers

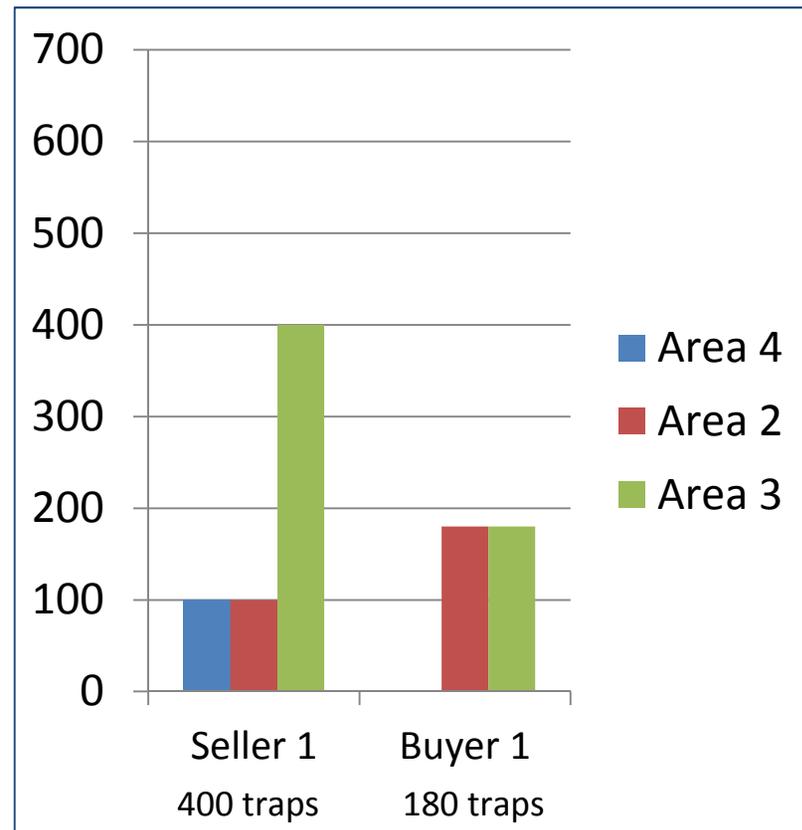
- All areas with an allocation will be debited from the Seller's permit, including areas which are not transferrable (Areas 1, 4, 5, and 6)
- If a Seller has allocation in multiple areas, all areas with an allocation will be debited from the bottom up
- Buyer of transferable allocations from multiple areas may choose not to fish an area on the permit, but that area's history is maintained for future use
- If a buyer purchases traps that include history from a non-transferrable area (A4, A5, A6) the allocations for those areas cannot be fished concurrently with a transferable area allocation.

Example 1: Transfer of 200 traps

200 multi-area trap transfer



Pre-transfer



Post-transfer

Seller has 300 multi-area traps (Areas 2, 3 and 4) and 300 Area 3 only traps.

Buyer has a Federal permit but no allocation .

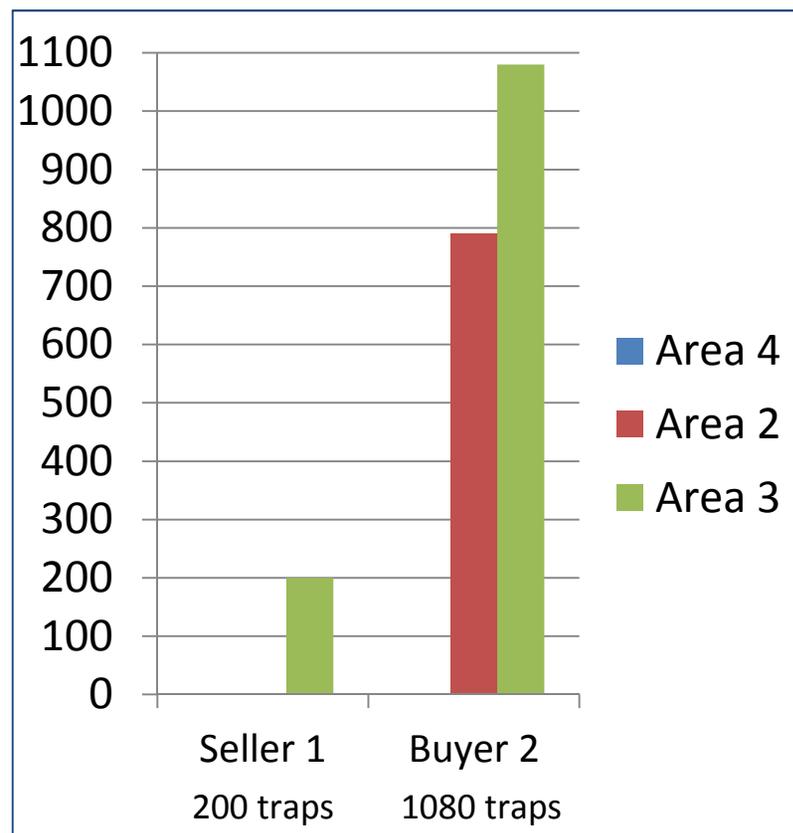
Buyer would like to purchase 200 traps. Based on the Seller's area allocation, traps will be debited from the multi-area stock first. After the 10% conservation tax, Buyer receives 180 multi-area traps for transferrable Areas 2 and 3. Seller is left with 100 multi-area traps (Areas 2, 3 and 4) and 300 Area 3 only traps.

Example 2: Transfer of 200 traps

100 multi-area + 100 single area trap transfer



Pre-transfer



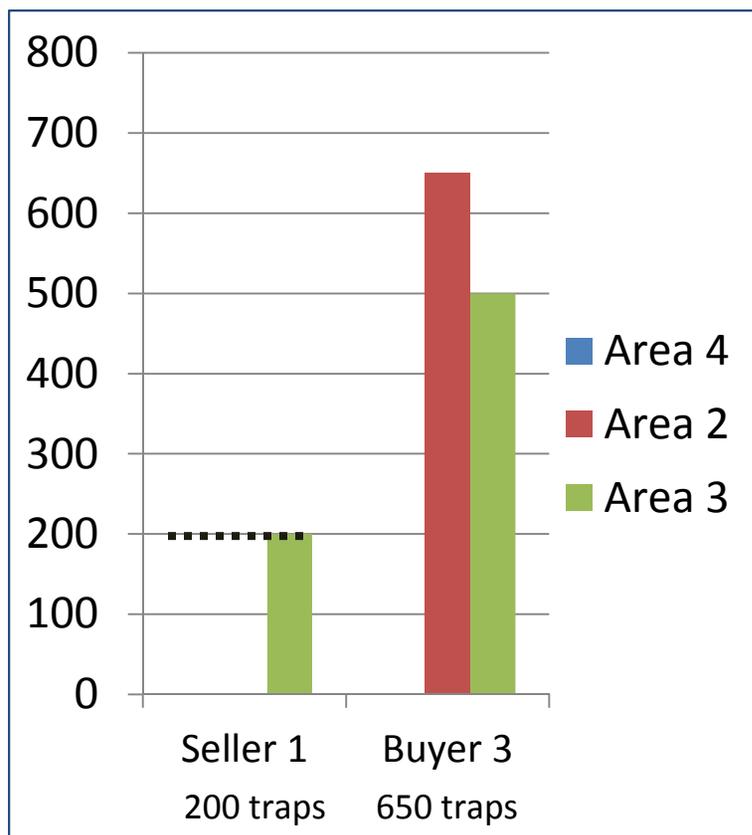
Post-transfer

Same post-transfer allocation from Seller 1; new buyer (Buyer 2) with 700 A2 traps and 900 A3 traps pre-transfer. Buyer would like to purchase 200 traps. Based on the Seller's area allocation, traps will be debited from the multi-area stock first, then area (3) only. After the 10% conservation tax, Buyer 2 receives 90 multi-area traps for transferrable Areas 2 and 3 and 90 Area 3 only traps.

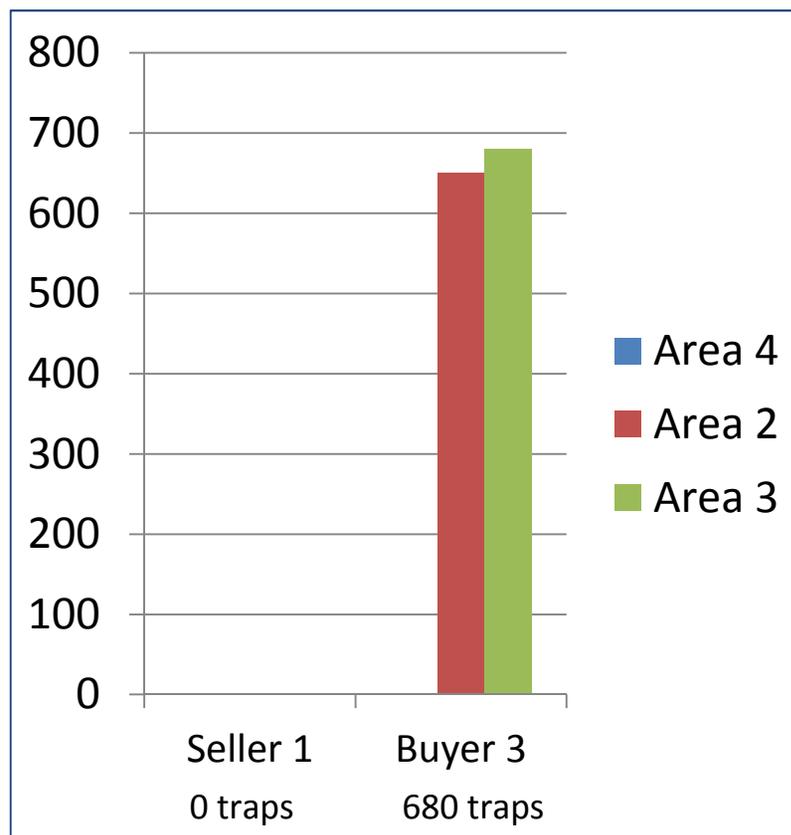
Upon transfer the Seller is left with 200 Area 3 only traps. Buyer's Area 4 allocation can't be fished.

Example 3: Transfer of 200 traps

Single Area Trap Transfer



Pre-transfer



Post-transfer

Same post-transfer allocation from Seller 1; new buyer (Buyer 3) with 650 A2 traps and 500 A3 traps pre-transfer. Buyer would like to purchase 200 traps. Based on the Seller's area allocation, 200 Area 3 only traps are available for transfer. After the 10% conservation tax, Buyer 2 receives 180 Area 3 only traps. Upon transfer the Seller is left with 0 traps for all areas but still maintains an eligible permit to purchase traps in Area(s) 2, 3 and/or AOC.

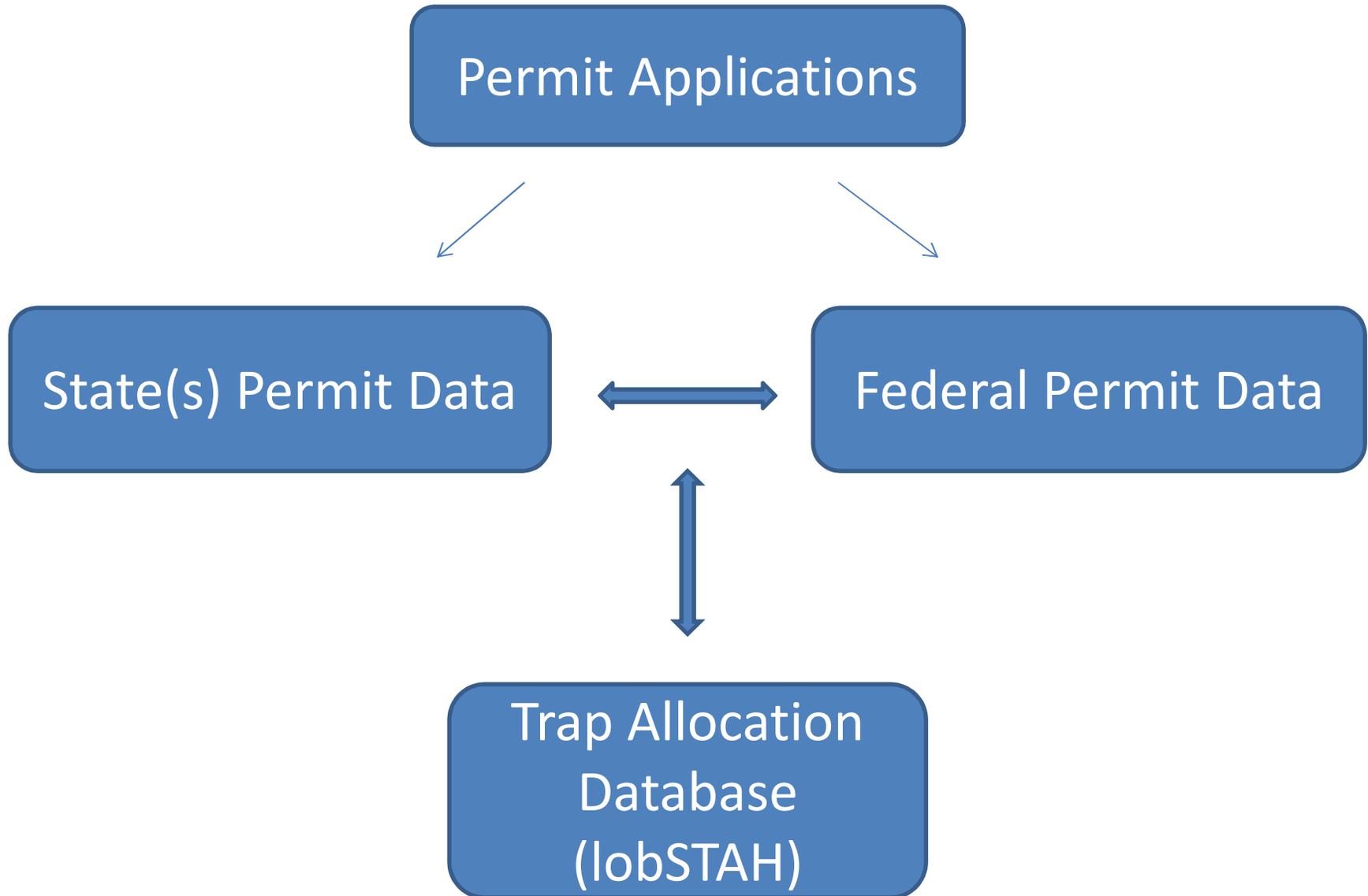
Trap Transfer Application Timeline and Process (tentative)

- January 2015: A2/A3 trap reductions rule published
- January 2015: Begin public outreach campaign
- February-March 2015: Inform permit holders of trap transfer rules, timing, transferrable allocations (depends on database availability)
- September 30, 2015: Federal Transfer application deadline
- November 30, 2015: RI State only application deadline
- October – December 2015: NMFS and states finalize transfer transactions
- Both the Buyer and Seller will be informed whether a trap transfer transaction is approved or denied
- Permit holders - **Don't exchange money until transaction is approved by NMFS and states**
- May 1, 2016: Revised allocations effective

Lobster Permit Data Reconciliation for Trap Allocation Transfer Database

- Trap Transfer Database (lobSTAH) relies on matching state and federal permit data
- Key fields include:
 - Permit holder first name, last name, middle initial and business name where applicable
 - Vessel name, Registration/Documentation #
 - Trap allocation information by area & jurisdiction

Flow Chart



Challenges

- Potential for state and federal permits to be in two different names (i.e. brothers), creating a lobSTAH participant record mismatch
- Slight differences in data fields because of abbreviations, spelling, and punctuation
- State permit records and lobSTAH participant records may need to be updated to accommodate single fishermen who own multiple corporations
- Keeping records updated - ***Make sure permit information changes are done with all jurisdictions (states and NMFS)***

Discussion/Comments Questions