

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN LOBSTER MANAGEMENT BOARD**

**Hotel Providence
Providence, Rhode Island
April 3, 2007**

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ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for G. Lapointe (AA)
Pat White, ME (GA)
John Nelson, NH (AA)
Dan McKiernan, MA, proxy for P. Diodati (AA)
William Adler, MA (GA)
Mark Gibson, RI (AA)
Eric Smith, CT (AA)

Dr. Lance Stewart, CT (GA)
Steve Heines, NY, proxy for G. Colvin (AA)
Pat Augustine, NY (GA)
Brian Culhane, NY Proxy for Sen. Johnson (LA)
Harry Mears, NMFS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

David Spencer
Penny Howell

Kurt Blanchard

Staff

Robert Beal
Toni Kerns

Guests

Chip Lynch, NOAA
Mark Alexander, CT DEP
Bob Ross, NMFS - NE
Bob Baines, LAP
John German, LISLA
Mike Theiler, CCLA
Brian Thibeault, RILA
Dennis Ingram, RILA

Larry Dellinger, RILA
Jody King, RI MFC
Jarrett Drake, MLA-LCMT A2
Bonnie Spinazzola, AOLA
Bob Glenn, MA DMF
Nick Crismale, CT LA
Art Glowka

The meeting of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened at the Hotel Providence, Providence, Rhode Island on Tuesday, April 3, 2007 and was called to order at 10:07 o'clock, a.m., by Chairman John Nelson.

CALL TO ORDER / APPROVAL OF AGENDA

BOARD CHAIR JOHN NELSON: I'd like to welcome everybody to the Lobster Management Board. Everyone has the agenda in front of them. Any changes that you'd like to make to the agenda?

(No response audible.)

BOARD CHAIR JOHN NELSON: All right. Seeing none -- well, actually, let me just alert everybody, it was part of your package, there is - - when we get into the Draft Addendum XI, the State of Mass. has another alternative that they'd like to have considered. Staff will go through that when it goes through the addendum, and then we will consider that, also. So, that is part of the Addendum XI discussion.

PUBLIC COMMENT

BOARD CHAIR JOHN NELSON: Any public comment at this particular time, keeping in mind that we may take public comment as necessary during the discussions?

(No response audible.)

BOARD CHAIR JOHN NELSON: If I could have folks in the back just sit down and, you know, settle down and relax, stop their conversations. Because if they don't -- because I'm going to recognize that they shouldn't be recognized. That still doesn't seem to work. Jody? Jody, want to sit down? We're ready to start. Thank you.

DISCUSSION OF PDT COMMENTS FOR DRAFT ADDENDUM XI

BOARD CHAIR JOHN NELSON: All right. Staff is going to start with the comments on the Draft Addendum. And I think everyone recognizes why we are here. The staff sent out the memo as far as why we were holding this

particular meeting. Let me just summarize it very briefly. We are holding it because the Board voted to move ahead with the draft addendum for public hearing. If there were editorial changes that needed to be made, they gave the OK to have the PDT and Board Chair move ahead and do that. If there were substantive changes, the Board Chair was given the OK to -- you know, deal with it.

Well, the Board Chair tried to deal with it through a fax poll and that seemed to create a certain amount of differences of opinion and we tried to see if we could reconcile those through other mechanisms. That really didn't seem to be a viable option. And so since the issues seem to be substantial enough, and the concern was that the Board ought to formally look at these changes, then we would hold another Board meeting.

The hearing process should still remain the same, and so the results of the hearings should be back for our May meeting.

TONI KERNS (No microphone): That's a decision that the Board needs to make.

BOARD CHAIR JOHN NELSON: Well, I'm planning on that happening. If the Board has other ways of doing it, then they can let me know. But otherwise, we're planning on that happening. So, in our discussions after the addendum, if anyone wants to raise that issue, feel free to do so. All right, Toni.

TONI KERNS: Thank you, Mr. Chairman. Bob Beal just passed out to the group the memo from the PDT that went through some of the issues that they -- or concerns that the plan development team had. This was the memo that was the fax poll vote, so we left out the fax poll part to not confuse anyone here today. But some of the major concerns that the plan development team had had with the addendum document, first was the output control section. The PDT felt like this did not -- this option did not give the public something that would be substantial enough to comment on. The PDT also wanted the Board to let them know if they felt like this was truly a viable option for lobster management at this time. And if it was not a viable option, something that the Board would consider, then

they recommended taking this option out of the document, for it could be confusing to the general public for comment.

Another issue that the plan development team had major issue was the delayed implementation section. The delayed implementation section at that time was not developed far enough and had several questions about how to implement with National Marine Fisheries Service, how to implement if an area has more than one state included or how a state that has multiple areas would put forth delayed implementation measures. So, they recommended that this section also be further developed.

So, with the response to that, then there were several concerns from Board members that went back and forth. So, staff tried to go through the document and address all of the concerns from the PDT and from different Board members in this new document, which does anyone not have a copy of the new addendum document before I start to go through it?

WILLIAM ADLER: Which one is that, the April one?

TONI KERNS: The April one that was in your meeting materials. Okay. Then I am going to go through the document as well as again go through the concerns that the Technical Committee had with some of the options that were proposed, just to give you guys a reminder of those issues. And Bob also passed out to you the same Technical Committee Report that you saw at the January meeting.

So, first is public comment period. Prior to this -- at the last meeting, we said that the public comment period would be February to March. Obviously that did not happen, and so we need to decide whether or not the public comment period would be just until the end of April so that you would have comment in time for the May 8th Board meeting; and if this is possible for all states, then we can go ahead and set that up. So, that will have to be decided before the end of the day.

Again the purpose of this document is threefold: It is there to explore establishing a rebuilding

period for the Southern New England stock. It looks at establishing a rebuilding program for the Southern New England stock, which needs to achieve its fishing mortality and abundance reference points targets. And it also explores the delayed implementation strategy.

The 2006 American Lobster Stock Assessment presented a mixed picture for the lobster stock, as we all know. The Gulf of Maine and Georges Bank stock are at their targets for the fishing mortality and for their abundance reference points. So, their stocks are considered to be in a healthy condition.

The Southern New England stock is not at its fishing mortality thresholds or targets. The Southern New England stock is relatively low compared to the 20-year time series for fishing, and fishing mortality is relatively high.

The assessment panel found that further management restrictions are warranted and the panel believes that the declining trend in the population abundance is well-established and warrants a reduction in fishing mortality.

Because the lack of the decline is not known or in fact what natural mortality was in recent years, how much of a reduction in fishing mortality that is needed for a stock recovery cannot be completely estimated.

In this section of the document, staff has made the background a little bit more detailed, specifically giving the exact fishing mortality targets and reference points and the text is also included in the table at the end of the document. And that differs from the previous document that you saw before where it was just the table and the Gulf of Maine and the Georges Bank stock definitions were not fully spelled out in the previous document.

This document also goes through and references the Terms of Reference and Advisory Report to -- from 2006, which gave recommendations for the Southern New England stock. And this document also details through the one or two-step process that the Board developed over the past year and working with the LCMTs to create

the options that are also included in this document, and that changed from before. This just gives a more detailed step-by-step process of how we went through. So, that's a difference in this new document.

Just to remind everyone what the Board had decided, on the memo from August 28th to the LCMTs, the Board said that each LCMT has the opportunity or each state has the option to address the reference point rebuilding for Southern New England in a one or a two-step process. That process is either to have all of the goals that you would need to follow to reach the fishing mortality and abundance reference points in one shot, so we would put together a management strategy in one addendum that would achieve -- that would hope to achieve your fishing mortality target as well as your abundance target.

If a state chose to do a two-step process, then first we would develop programs that would have that area achieve the fishing mortality target, go through the addendum process for those management measures and then we would go through a subsequent addendum and put together a management program that would help you reach your abundance targets. In each of those, we would need to increase abundance by 71 percent and decrease fishing mortality by ten percent. And so that's detailed out through in this addendum.

For the statement of the problem and the delays in implementation, delayed implementation management measures -- management measures have impacted the achievement of the FMP and its goals and objectives by states delaying implementation of different management measures such as gauge sizes or V-notching rules.

DELAYED IMPLEMENTATION

The Policy Board back in 2002 approved a series of changes to the ISFMP charter. Included in that was to put forward for each management board a Delayed Implementation Section. The Summer Flounder, Scup and Black Sea Bass Board was the first board to put in

delayed implementation management measures and in May of 2006 the Lobster Board concluded that delays in implementation have impacted the achievement of the goals and objectives of the plan, so we should move ahead and put in Delayed Implementation Management Program as indicated by the Policy Board.

So, if we move into Section 4.1 of the Addendum, we're looking at the rebuilding time frame for the Southern New England stock.

The first option is status quo. This option does not reflect the adoption of the new reference points because this is what is currently listed in Addendum II to Amendment 3 in the program, and that addendum was put together before -- it was when we had the egg production goals and not the fishing mortality and abundance reference points goals.

Option 1 says that we would restore egg production from the American lobster resource in each of the management areas to greater than the overfishing definition before the end of 2008. This option would not further reduce fishing mortality levels with the associated rebuilt stock abundance.

The second paragraph of this option is new. It just spells out clearer that this does not follow suit with our new reference points.

Option 2 is looking at a ten-year rebuilding program. The plan would seek to restore abundance in the American lobster resource in the Southern New England stock to greater than the abundance reference point before the end of 2017. The plan would also seek to decrease fishing mortality below the target reference point in the Southern New England stock to less than -- by the end of 2017. And this option does not require states to end overfishing until 2017.

The next option is Option 3, a 10-year rebuilding program which would look at ending overfishing immediately. This option is the same as Option 2, except for with the -- if there is an overfishing determination, which we are overfishing in the Southern New England stock currently, then the Commission would prepare and implement a

plan to immediately end overfishing. Immediate steps are necessary then to reduce fishing mortality below the fishing mortality threshold point under this option. And this option is designed around what has been put forth by the new Magnuson and ending fishing mortality immediately.

Option 4 is looking at a 15-year adaptive rebuilding program. The plan would seek to restore abundance in American lobster resource in the Southern New England stock to greater than the abundance target reference point before the end of 2022. The plan would also seek to decrease fishing mortality from the American lobster resource in the Southern New England stock to less than the fishing mortality reference point before the end of 2022.

The rebuilding progress and status would be evaluated in this program every two years. If no measurable progress had been made in rebuilding after five years, the rebuilding plan could be adjusted. The rebuilding plan can also be adjusted after ten years if no measurable progress has been met to reach the reference points. And if the rebuilding program were adjusted, the appropriate management measures would be taken to reach the rebuilding goals.

And then lastly, Option 5 is the 15-year adaptive rebuilding program that would end overfishing immediately. So, this option mirrors Option 4 except for it would -- within two years of an overfishing determination, the Commission would prepare and implement a plan to end overfishing immediately. Because the Southern New England stock is determined to be overfishing, immediate steps would be necessary to reduce the fishing mortality below the fishing mortality threshold under this option. So, something would have to take place immediately. And again this ending overfishing immediately is designed around the new Magnuson laws with overfishing.

So, for all of these options, I -- or staff has gone forward and said when each stock would be required to be rebuilt by and also tried to make it clear on what ending overfishing immediately

would mean, which differs from the previous addendum.

All right. So now we would go through Section 4.2, the rebuilding program. Some of the LCMA's have more than one recommended management strategy from the Lobster Technical Committee and that is because they put forward two strategies to recommend for those areas.

For LCMA Area 2, their proposal included the measures that they have already put in place to reach Southern New England -- or to reach rebuilding in Southern New England since 2003. They've put in place a V-notching program, as well have had several gauge increases, up to three and three-eighths.

There has been the effort control program, which has been put in place, and --

UNIDENTIFIED (No microphone): Excuse me. (Inaudible) you're missing some pages in this handout. (Inaudible) goes from five to seven --

BOARD CHAIR JOHN NELSON: Okay. We'll take a look and see what we can do. We'll run over and get some additional copies of those pages made. In the meantime I would just pay attention to the -- what Toni is presenting.

TONI KERNS: I go through the addendum fairly thoroughly in here, so I'm not saying that that will make it perfect, but I am going through the options very thoroughly. And Bob is going to go get some more copies. I apologize.

So, the Area 2 measures that have been put in place since 2003 to achieve the fishing mortality target, the effort control program that's being started now in 2007, as well as some vent increases to match the minimum size increases and a change in the V-notch possession definition to one-eighth, Area 2 feels that with all of these changes that they've had in their program that they would have achieved the F target.

The TC's review of the Area 2 LCMT proposal, they believe that Area 2 has put measures in that

appear to have decreased the F based on the evaluation in their report. They note that these results are based on changes in female F only and not as combined sexes, as done in the last assessment though.

They have concerns on the V-notching program. Because the V-notching program is no longer ongoing, any short-term effects will have no long-term gains in the future if V-notching does not continue.

The TC recommends to reduce the catch and harvest rate in each -- in the area as well as long-term mandatory sustainable V-notch program to continue to reap the gains of conservation from the V-notching program.

For Area 2's options that are identified in the addendum, Option 1 is status quo, not to make any changes in their current management program and all management measures that have been established through Addendum I through X will remain in effect.

Option 2 is the TC recommended output controls. To increase the likelihood of rebuilding the resource, LCMTs should consider programs to reduce catch and harvest rate. This option would require additional program development before implementation. Output controls directly limit the amount of fish that can be taken from the water.

The first step in implementing an output control management program is to set a total allowable catch for lobster. Once established, a total allowable catch can either be fished on a competitive basis or divided between participants in the fishery like an IFQ.

A TAC which is divided between the participants means that in any one year a commercial fisher is not able to catch more than that is allocated to that individual or to the whole fishery as a whole.

Output controls are generally regarded as an effective mechanism to control catch in a single species, high value fisheries that are targeted

using a single gear type. However, thorough monitoring schemes, such as daily catch logbooks are often required to ensure individual quotas are not exceeded.

I'm not going to go through the output controls for each one. Output controls are recommended in almost every LCMT strategy. So, I'm just going to leave it at that. I'm not going to thoroughly read through each LCMT for the next couple.

Option 3 is the TC recommended management strategy. These are primarily input controls, proposes a suite of iterative measures to reach the target reference points. These measures include gauge increases, maximum sizes, season closures and trap reductions.

And we'll go through this one time, because this option is also recommended throughout each LCMA, as well. The goal is to reach target abundance levels no later than 2015 in this original plan spelled out by the Technical Committee through a 30 to 40 percent decrease in F. The end point minimum size is three and a half inches. The end point or the maximum size is five inches. And trap levels would be 50 percent lower than the 2003 levels.

There would be trap reductions at five percent throughout the rebuilding time frame for each year, and the minimum size would slowly increase and by the ninth year of the rebuilding program would be at three and a half inches for all areas. And if an area is already at something greater than three and five-sixteenths, then they wouldn't have to increase their gauge until it's set in the plan.

There would be a closed season, and this would address water quality and lobster health issues. The closed season would be August 1st through October 1st. This is during the time period of high water temperatures, especially in Area 6. It's also a time of year when lobsters concentrate in isolated deep cool areas, which may make effort more effective on stressed animals more susceptible to disease or death. So, that is the primarily input controls recommended by the TC.

Next is the Area 3 proposal. The Area 3 proposal included a transfer tax, 20 percent on partial transfers and ten percent on full transfers. There would be the trap reductions, but for two and a half percent in each year for 2009 and 2010. The maximum gauge -- they would institute a maximum gauge that would start at seven inches and drop down to three and a quarter inches over several years -- over six and three-quarters, sorry. There have been minimum gauge increases since 2003 and will increase to three and a half in 2009? By 2008.

They will propose a change in their V-notch definition to one-eighth of an inch, consistent with Area 2. They also have a buyout program that they will propose and they would delay the vent increase until 2010.

The Technical Committee's review of the proposal. The TC notes that they do not have all of the data that they need to evaluate the Area 3 LCMT proposal at this time. For trap reductions, the TC noted that this met the recommended TC trap reductions, but they have concerns because there could be a potential shift in effort and the TC -- from the range of Area 3, so Gulf of Maine or Georges Bank has the potential to shift into the Southern New England stock. They can't predict how these changes in traps will impact fishing mortality if they were made.

For minimum gauge changes, the increases in the minimum gauge have been positive measures and then have had positive effects for lobster conservation. For the maximum gauge, in Southern New England there is less than one percent of the landings are larger than five-inch. So, a six and three-quarters inch maximum gauge would have very little effect for conservation. And the V-notch -- the change in the V-notch rule would have positive conservation effect. It protects lobsters from anywhere between one and two molts.

The TC's recommendation to the Lobster Board, the TC wanted to reiterate that the current mismatch in boundaries of Area 3 and the three lobster stock areas prevents the TC from being

able to provide meaningful advice on the efficacy of proposed management. This mismatch places all three stocks at risk because it prevents the ability to promulgate stock specific management measures within the Lobster Management Area 3, and also because it does not prevent the shift of fishing effort among stocks that fall within Area 3.

For the rebuilding program, Option 1 is status quo. Area 3 would continue to move forward with the management program that's currently been established in Addendum 1 through 10. And those measures would remain in effect.

Option 2 is the management strategy for output controls. This is programs to reduce catch and harvest like quotas and IFQs. Option 3 is the recommended input controls that I've already gone through.

And Option 4 is the LCMT proposal to have trap reductions of two and a half percent in 2009 and 10, to have a maximum gauge of seven inches that moves down to six and three quarters for -- and it reduces one-eighth per year for two years. Delay in the vent increase until 2010. Then also to have a conservation tax of 20 percent for partial transfers and ten percent for full transfers and a change in the V-notch possession rule to one-eighth of an inch. For Area 4, we have a mandatory V-notch program that is proposed to V-notch all egg-bearing female lobsters, change the V-notch possession rule to one-eighth of an inch. They would put a moratorium on licenses and that would be just for the New York landing licenses, because there already is a moratorium on all the other licenses in New York as well as licenses in New Jersey. And so the landing licenses is the only license that's open right now. And they also would have credit for the minimum gauge increases that they have put forward since 2003.

And the TC's review of the Area 4 proposal. For the V-notch program, mandatory V-notch program should reduce fishing mortality on mature females. Diligent enforcement would be required to ensure a compliance rate -- a high compliance rate that would measurably reduce F, though. The V-notch possession definition

would provide protection for one to two molts, which would be some positive conservation management tools.

In areas of concerns that the TC has, that -- sorry. The Technical Committee recommends further development of this proposal to increase the likelihood of rebuilding the resource, the LCMTs should consider programs that reduce catch and harvest rate. And if the proposal includes a V-notch program, the program should be a long-term, sustainable and mandatory sea sampling program, must be instituted in New Jersey and be expanded in New York to be able to measure what kind of conservation is being gained from the V-notch program.

So, for the options that are listed in the addendum, we have status quo to continue to move forward with the management measures that have been put in place through Addendum 1 through 10. We have the recommended output controls, like quotas and IFQs that we went through, as well as the TC recommended input controls that I went through before, they're primarily input controls.

With the V-notching program that's being -- or the LCMT program that is being recommended in Option 4 is a mandatory V-notching program to notch all egg-bearing females. The V-notch possession rule would change to one eighth of an inch, and lastly to have the moratorium on all licenses and so this would change to have a moratorium for the New York landing license.

For Area 5, the Area 5 LCMT proposal would like to have credit for the prior minimum gauge increases that they've seen. Area 5 proposed that there were insignificant landings compared to the rest of the coast for Areas 5 and any changes in their management measures would have no biological benefits on the stock itself because their landings are so insignificant in Southern New England.

The TC's review of the Area 5 LCMT proposal, the Area 5 program will have no effect on fishing mortality. The TC concurs with the Area 5 LCMT that landings in this area too small -- they're less than one percent of the coastwide

total and less than three percent of the New York south total in landings -- to have a significant effect on the Southern New England stock, fishing mortality and abundance targets. So, any program that Area 5 puts forward really isn't going to have any measurable impact.

For areas of concern that the TC has with the proposal is that all the de minimis states that are in Area 5 should have to monitor and report all lobster landings so that they can keep track of this insignificant effect that they think is going on to make sure that there aren't any changes in the landings.

The Technical Committee recommends that the LCMT have consistent measures with Area 4 so increasing their maximum gauge -- well, decreasing their maximum gauge to five and a quarter for females only as well as change their V-notch possession to be consistent, so that would be one eighth of an inch.

The options that are included in the program, Option 1 would be status quo, to have the same measures that have been put in place through Addendum I through X.

Option 2 -- sorry, that should say Option 2 -- is the recommended input controls by the Technical Committee. And then Option 3 is to have -- I'm sorry. Option 2 is recommended input controls and those input controls would be a maximum gauge of five and a quarter for females only and a V-notch possession rule of one-eighth of an inch.

For Area 6, the Area 6 proposal is putting forth a voluntary V-notch program that was set up through the State of Connecticut. That program the Board reviewed at the August -- the May and August meeting. They would also propose to change the V-notch possession rule to one-eighth of an inch, would take credit for the minimum gauge increases that they've had since 2003, as well as attrition in the fishery, so trap reductions.

The TC's review of the Area 6 LCMT proposal: The Area 6 program does not have the potential to meet the fishing mortality targets due to the

length of the V-notch program. Any short-term effects gained through the V-notch program will have no long-term effects. As the V-notch program proposal was put forward to the Board and the Technical Committee this summer, the program was for one to two years. The minimum gauge size increases have positive effect on fishing mortality and those are good conservation measures. And the change in the V-notch possession would increase conservation by protecting lobsters from one to two molts.

The TC recommends reducing catch and harvest rate and if a V-notch program is put in place that it be a long-term mandatory sustainable V-notch program to gain the effects for conservation.

For the options that are in the addendum itself for the Area 6 LCMT rebuilding program, Option 1 is status quo, to keep the measures that remain in effect from Addendum 1 through 10.

Option 2 is the TC-recommended output controls. So, reducing catch and harvest through management measures like quotas or IFQs.

Option 3 is the recommended input controls, which are outlined in the back, which had the minimum gauge size, the maximum size, season closures and trap reductions. And Option 4 is the LCMT recommended strategy, which is the V-notching program. We would -- I need to go back to my document, sorry, to make sure I get this correct.

The V-notch possession rule would change to one-eighth of an inch. And the V-notching program itself, the Area 6 fishermen would V-notch all mature female lobsters three inches and greater in carapace length. If the program goals seem to be covered adequately during the first year, consideration would be given to notching only legal-sized female lobsters in subsequent years. If the water temperature exceeds 20 degrees celsius, the V-notching of lobsters would stop until the water temperatures drop below 20 degrees celsius.

Okay. The next section of this document is Delayed Implementation. That's Section 4.3. Delays in implementation of the measures listed

here have impacted or may negatively impact the achievement of the goals and the objectives of the management program. Therefore, these are listed as measures to be included in the Delayed Implementation Program.

These are failure to adopt adjustments in the minimum gauge size, the maximum gauge size, failure to adopt the adjustments in the V-notch possession rules, failure to adopt the minimum vent size changes, or failure to adopt adjustments in the trap allocation program. Staff also included failure to adopt adjustments in quotas or trip limits. While these management measures are not currently in place in any lobster management program, they are included in this document as options, and so therefore included here in the Delayed Implementation section.

If the Board were to drop the output controls from this document, then staff would drop the failure to adopt adjustments in quotas or trip limits if that is the wish of the Board.

Option 1 is status quo. States would not implement any Delayed Implementation Management Program. We would continue to use the compliance procedures identified in the Commission Charter, which is a Board would find a state out of compliance and then send that recommendation to the Secretary and then we would proceed out from there.

Option 2 is looking at statewide season closures. For each day that a state does not implement any one or combination of the measures identified in the document, an equal number of days during the same or equivalent period would be closed the following lobster season. A closure is defined as no harvesting or landing of lobster for any fisherman in the state.

States that would allow a non-resident lobster permit holder to land in their state may not allow the landing of lobster from permit holders whose state waters are closed due to Delayed Implementation.

This is to make sure that if an Area 2 fisherman - - actually who is from Massachusetts and Mass.

has a closure because of Delayed Implementation, but that Area 2 guy also has the ability to land in Rhode Island from a non-resident landing permit, he wouldn't be able to fish in Mass. waters and then go land his lobsters in Rhode Island. It's to prevent that.

So, an example would be if -- let's say the State of New Hampshire doesn't implement the appropriate minimum gauge size for the first two weeks of the fishing season -- shame shame -- the following year the State of New Hampshire's season would be closed for the first two weeks of that season. And the New Hampshire fisherman would not be able to land lobsters in any state that were caught in New Hampshire waters.

Option 3 is a LCMA specific season closure. So, similar to the option before, but for each day that a state does not implement any one or the -- or a combination of the proposed measures, an equal number of days -- of measures for a specific Lobster Conservation Management Area, an equal number of days during that same or equivalent period would be closed the following fishing season for that specific Lobster Conservation Management Area.

The closure is defined the same as the previous option and again states that allow non-resident lobster permit holders to land would -- should not allow fishermen from a Lobster Conservation Management Area that is closed land lobsters in their state.

So, an example would be again if the State of Rhode Island does not implement the appropriate minimum gauge size for the first two weeks of the fishing season in LCMA 2, then that following year the state's -- Rhode Island's season would be closed for the first two weeks of the season in the Lobster Conservation Management Area 2. And Area 2 fishermen -- Rhode Island Area 2 fishermen would not be allowed to land lobsters in any state that were caught in Rhode Island's Area 2 waters.

Issue 2 is looking at a notification period for states to notify the Commission of regulatory changes. Option 1 is status quo. We would

continue to submit annual reports on March 1st, and notification of any other changes in management measures would be on a case by case basis. Option 2 would have a minimum notification period. States would have to notify Commission staff within seven calendar days of management changes in their state. And States would also submit -- continue to submit annual reports on March 1st.

Lastly, we would need to -- the Board would need to set forward a compliance schedule for this addendum, just determining a date for states to submit a plan to meet the reference points targets, a date for Management Board to review those plans, and a date for states to implement those regulations. And again, on March 1st, annually, we would continue to have the Plan Review Team review state compliance reports.

And lastly, we would recommend that National Marine Fisheries Service adopt all necessary regulations to implement the measures contained in the document.

And I'm going to quickly go through the memo that was given to the Board from staff based on the memo from the Commonwealth of Massachusetts, dated on March 13th with concerns from Addendum 11. And this memo is on the back table, if you would like it. The memo is dated -- sorry, lots of memos here -- the memo is dated March 28th. The memo to the Board from staff is dated March 28th. The memo from the Commonwealth of Massachusetts is dated March 13th. And all these materials are on the back table. And right now I'm focusing on the March 28th memo, which is derived from the other memo. Does everyone --

BOARD CHAIR JOHN NELSON: Everyone's got that? Okay.

TONI KERNS: These measures detailed are a suite of management measures that could be applied throughout the entire Southern New England stock area to address rebuilding requirements for the Southern New England stock. This was submitted by the Commonwealth of Massachusetts and today the

Board may consider including this comprehensive program in the Addendum 11 document.

These measures would include all Southern New England lobster fisheries, including commercial trap fishermen, non-trap fishermen, as well as recreational harvesters for Lobster Conservation Management Areas 2, 3, 4, 5 and 6, except where noted.

The proposal incorporates key aspects of the various LCMT proposals, as well as the Technical Committee concerns and improves the management plan by enacting measures that would contribute to a more effective assessment of the Southern New England stock of lobsters.

This comprehensive plan includes input controls. These input controls are a minimum size of three and three-eighths of an inch, except for Area 3 permit holders who should still be bound by the schedule of minimum size increases, which terminate at three and a half inches in 2008.

A maximum size for females of five and a quarter for all vessels fishing in Southern New England waters. This means all vessels authorized in 2, 4, 5 and 6. Vessels authorized to fish in Area 3 would only be subject to this rule if they are fishing west of 70 degrees latitude. This would be enforceable beginning in 2008 by the National Marine Fisheries Service upcoming mandatory reporting scheme.

The V-notch possession rule would be changed to one-eighth of an inch for any shape indentation or notch remnant in the base of the flipper. Would also introduce LCMA-specific trap reductions to be studied for future implementation with each of the LCMT's input. It also requests that the Plan Review Team and the Technical Committee examine the status and relative effectiveness of various effort control plans that have been put in place before future trap reductions should be considered.

Specifically, the PRT and the committee should examine the degree of latent effort that remains in fisheries as affected by the current effort

control plans in Areas 2, 3, 4, 5 and 6. While effort control plans have been accomplished throughout the Southern New England area, the most recent plan in Area 2 may be the most restrictive because the eligibility period did not include the period of peak activity, but rather the years of low fishing performance to capture attrition in the fishery.

And V-notching by fishermen of egg-bearing lobsters would be a voluntary measure, and notching of legal lobsters may be accomplished through paid-for mitigation programs.

This biological strategy is consistent with the advice given to the Board from the Lobster Stock Assessment Subcommittee Report, and specifically referencing the spatial scales of the assessment and the mismatch of management areas to biological stock areas.

BOARD CHAIR JOHN NELSON: Dan, do you have anything else you want to add to Toni's presentation on your alternative?

DAN MCKIERNAN: No.

TONI KERNS: Then I'll take any questions -- any questions on the document. I did not -- staff did not make many significant changes to the options themselves, except for the output controls option where language was included to help make it easier for the public to understand what the Board potentially would be doing with output controls and how output controls could be used in the lobster fishery. But besides that, the options themselves weren't significantly altered.

BOARD CHAIR JOHN NELSON: Okay. Any clarifications necessary for Toni? Yeah, go ahead, Harry.

HARRY MEARS: Mr. Chairman, are you taking questions now on the overall addendum or Dan's suggestion for another option?

BOARD CHAIR JOHN NELSON: Right now I'm just going to ask if there's any clarifications on the new material that was provided. That's really what the focus of this whole meeting is,

and then Dan's item is also a new item, so -- just to make sure --

HARRY MEARS: Okay. I have one question for clarification.

BOARD CHAIR JOHN NELSON: Go ahead.

HARRY MEARS: As I understand the addendum, there's three parts. One is addressing the rebuilding time frame. Then it moves into rebuilding programs and Part 3 deals with Delayed Implementation.

The one area that I guess I'm most confused about, and I think might be a disconnect, is in Part 1 where it talks about a rebuilding time frame under status quo. It explicitly indicates that it's not incorporating the revised reference points that were approved under Addendum 8, whereas if you look at the status quo descriptions under the management programs, the wording indicates it adopts and maintains everything that was approved under Addenda I to X.

So, I'm not sure you can have a rebuilding time frame that -- I don't know why it omits -- I don't see any wording that would justify that. But I guess generically I'll bring up the question. Is that because the two sections were written at different times, and is that in fact a disconnect? I guess that's my question.

BOARD CHAIR JOHN NELSON: Good, good question. Bob.

ROBERT BEAL: Thank you, Mr. Chairman. I'll give it a shot. I think, Harry, what's going on is the 2008 time line under status quo is related back to the egg rebuilding targets that were in place prior to Addendum VIII. So, we've kind of got -- we've got a time line right now that relates to egg rebuilding, but we've got new reference points that no longer are egg rebuilding. You know, the F target and the biomass targets. So, we've got -- when we adopted the new reference points, we did not modify the rebuilding time lines. So, we've kind of got an apples and oranges a little bit with our rebuilding time line. So we've modified the goal

of rebuilding through the new reference points, but we didn't modify the time line, which is the 2008 number.

So, the recognition under status quo is that the time line would stay at 2008, but new reference points would be in place. In other words, we would achieve the new reference points by 2008 if the status quo option is selected by the Board as far as the time line goes.

BOARD CHAIR JOHN NELSON: Thank you, Bob. Eric, you had your hand up.

ERIC SMITH: Thank you. I may have other comments as we get into actual comments and suggestions for improvement, but I did want to offer to the Board one point that came out of the LMA -- LCMT 6 meeting last week that's a clarification to what you see in the document.

Our strategy -- the Connecticut strategy had been to V-notch all mature female lobsters three inches and greater carapace length. The LCMT last week voted to start with doing only legal lobsters and if it comes to pass that we need more to buttress the number, then analytically we would show if that was necessary and how many we'd do. Then we would add shorts -- the large shorts to that.

So, it's simply a change at the bottom of page 10 as to what the LCMT recommends right now. The agency's at this time don't have any problem with it at all, a draft in the sense that we need to get to the Technical Committee and have them review our methods and our logic and all of this, and at such time as we do that, we may get good input and it may reinforce us to look at things differently.

In that first sentence under Number 1, V-notching program, I'll also add that there was a clarification made by one of the co-chairs of the group, because it was unclear to him until we realized what he was getting at.

The end of that sentence, if you add -- after the word length, if you add the words taken in monitored trips, then it clarifies the fact that we're not actually V-notching every possible female lobster out there. What we're really

doing is notching every female of a certain size that is taken on a monitored trip. In other words, that has an agent on board that cuts the V-notch, throws the lobster back. So -- enough said. I think -- I hope that's clear.

BOARD CHAIR JOHN NELSON: All right. Toni seems -- indicates that she understands that that modification would be taken care of. All right? Bill.

WILLIAM ADLER: Thank you, Mr. Chairman. First of all, back to Harry's question about the status quo in 2008, which I would think would be somewhat confusing at a public hearing, with regard to if you change the reference points with this thing, but you keep the 2008, the question then would be so, is that like faster than immediate that something has to be done? And I would -- can picture status quo comments at the public hearing basically saying that you're leaving the ten percent in or you're leaving everything the way it is, and I don't think that's what you mean. That was my first comment.

The second comment is back on the schedules. The idea -- you mentioned that it was in keeping -- do it immediately was in keeping with the Magnuson Act, and we're not -- we don't run this under the Magnuson Act; correct?

TONI KERNS: That's correct.

WILLIAM ADLER: Thank you.

BOARD CHAIR JOHN NELSON: Okay. Go ahead.

DAN MCKIERNAN: I have a concern similar to what Bill was talking about, about how we communicate to the fishing public about status quo and ending overfishing immediately. I think we need to reconcile the fact that the assessment is four years old at this point and I don't know when the next assessment is going to be put out, and then how long it takes to react to it.

But we're talking about a five-year lag between the -- probably the last assessment and when we're going to be taking these actions which we're describing as immediately. So, that's just

one feature of the document that I have -- I will have difficulty explaining to the fishing public what all that means.

And I agree with Harry that I think if we're going to have a new overfishing definition, which we have now under Addendum 8, which was just recently published on-line, this document should capture that, and it's not clear to me why it can't.

BOARD CHAIR JOHN NELSON: Okay. Let's see if it can.

TONI KERNS: Would it be less confusing if we put under that option considered but rejected due to the inability to reach any goals by 2008?

DAN MCKIERNAN: I don't think it should be in the document. I struggle with this document because I want to take the document in its detail and when it's approved at a future Board meeting walk home and write regulations. I don't -- putting something like that into an addendum is basically just capturing a lot of technical exchange between boards -- between committees and it really doesn't give the public a clear signal about what we're doing.

BOARD CHAIR JOHN NELSON: Okay. We'll come back to that when we have comments on the substance of this. This is again for clarification of the new material. I had Pat.

PATTEN WHITE: Well, following up on that question just a little bit, I had some confusion in the document as to when it said that there would be a review every two years to evaluate the outcome of some of the measures that were going to be implemented, does that mean we're going to have a full -- we are then mandating to ourselves we're going to have a full stock assessment every two years? And if not, how do we change regulations?

BOARD CHAIR JOHN NELSON: I know that's a problem for me, but other states are much more progressive.

PATTEN WHITE (No microphone): I understand that. (Inaudible) help us out a lot.

BOARD CHAIR JOHN NELSON: But let's see if we can address your question of how we're going to evaluate it every two years. My sense is they're not going to do a full-blown stock assessment. How's that? And Penny or Toni.

TONI KERNS: Right now the Commission is on a schedule of full-blown assessments being every five years, and I think that the Technical Committee has expressed that that is a schedule that they would like to stick with. And as for how we could potentially evaluate every two years, which is a potential, we would have to take this back to the whole TC. But I'll let Penny speak to that.

PENNY HOWELL: What could be done is exactly what I did last October, is review the trend in landings and the trend in the indices, get a relative F, a relative standing. It could be -- and yet to be seen -- if we can run that through some model output quickly, we could have a reference comparison added to that, which I couldn't do last fall, but not a full review of everything.

BOARD CHAIR JOHN NELSON: Okay. Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Mr. Mears has sent a memo in to Toni and we all got a copy on it questioning certain parts of the document, and I'm wondering if he asked the question on the record now relative to those concerns that you noted in this document or were you referring to the piece that Mr. McKiernan just presented?

You sent a lengthy, lengthy e-mail, and I wasn't sure whether you covered the full content. I know you questioned several parts of this, and the inability to clearly define what it was we're trying to accomplish.

HARRY MEARS: No, I feel the majority of the concerns that I recognized in the e-mail have been reconciled in the new document. The concern about the status quo was a new one that came to my mind just listening to the presentation.

PAT AUGUSTINE: Thank you.

BOARD CHAIR JOHN NELSON: Okay. Let me open it up to comments then about the addenda, which also includes the proposed inclusion of the Massachusetts one. And David, you had some comments? David is making his comments as a participant, but not as a Board -- not as the Advisory Chair.

DAVID SPENCER: Thank you, Mr. Chairman. David Spencer, Area 3 LCMT. And just to be clear these are the Area 3 concerns, not the AP. This is relative to the comprehensive Southern New England Management Option.

As it pertains to Area 3, if this were adopted, this would have Area 3 having the most restrictive measures of any area in the Southern New England rebuilding -- Southern New England stock unit. Since we will be at three and a half inches in 2008, the slot of lobsters that would be available to us if you adopted a maximum size of five and a quarter would be much more restrictive than any other area in the Southern New England unit. So, I do have a concern with that. And just to be clear, in no way am I advocating rolling back a three and a half inch gauge. I think it's actually been consistent in the Addendum XI document with the Technical Committee input recommendations.

So, I do have a concern. I guess I would ask -- well, I'll say this. I think in my unscientific mind, I think the bang for the buck in the Southern New England stock unit is a lot more from a three and a half inch minimum size than it would be for a five and a quarter inch maximum size female only. That's just my opinion, obviously, not scientific, so I would ask the Board if they would ask the Technical Committee what they think of this. But I have a concern for Area 3 that we will be held to a more restrictive standard. Thank you.

BOARD CHAIR JOHN NELSON: Thank you, David. Let me see if I can address the issue that several have brought up, and that is under the status quo Option 1 rebuilding time frame, 4.1.

Is there any objection to us dropping that out of the document, and understanding that if you don't approve anything as far as a new rebuilding time frame, you're dealing with status quo. So, is there any objection to dropping it?

Okay. Eric, go ahead. Well, let me -- no, before I do that, if there's going to be an objection, then I'd like to have a motion to deal with this.

So, is there a motion to drop status quo from this section? Dan. Thank you. And who's seconding that? Mark.

DAN MCKIERNAN: Motion to drop Option 1 from the rebuilding time frame.

BOARD CHAIR JOHN NELSON: Yeah, it's the Option 1 status quo, 4.1. Mark has seconded it. Okay. Discussion on it? Eric, go ahead.

ERIC SMITH: Thank you, Mr. Chairman. I appreciate the parliamentary procedure. I think that will be very efficient for the day. The reason I think it ought to stay in is, as Dan and Harry discussed this, to me the value of having it in there is exactly as you pointed out, but it's publicly known.

If we do nothing, we're supposed to rebuild by 2008. If it stays in the document, to me that's ample incentive for the public to realize that we really need to deal with one of those other options or that happens. So, that's why I would favor leaving it in.

BOARD CHAIR JOHN NELSON: Okay.

ERIC SMITH: And that would be how I would communicate it, because Dan -- you know, has got the dilemma of how to explain it. I would do it that way. Thank you.

BOARD CHAIR JOHN NELSON: All right. Thank you, Eric. Who is in favor of dropping it? Who wants to speak on that? Mark, go ahead.

MARK GIBSON: I think we touched on it earlier, but it links into an obsolete standard. It just seems to me that it adds confusion here. It

links into an egg production standard which is no longer viable in terms of where we're going in terms of our performance measures. So, that -- simple argument for that, for dropping it out.

BOARD CHAIR JOHN NELSON: Is it perhaps a compromise that under 4.1 there's merely a statement leading into these options. If you did not have Option 1 in there, you merely pointed out that these other options would replace the current rebuilding strategy, and that is with a time date of 2008. And failure to implement one of the new strategies would -- would revert back to the rebuilding time line of 2008? Is that a reasonable approach to this, rather than debating the whole thing? Let me just see if that -- Eric, does that address your issue?

ERIC SMITH: Yeah. Essentially discussing the time frame without all of this egg production. So, I do appreciate Mark's point. That's what confuses it, not that 2008 is the deadline, but it's referencing a goal that we no longer have.

So, if we clarify it without having it as an option, but everybody at the public hearing knows this is the consequence of doing nothing, then I'm satisfied with that.

BOARD CHAIR JOHN NELSON: So, I understand that the perfected motion -- friendly perfection that took place was that the Option 1 status quo would not be listed as an option, but that a brief description of the existing status quo and that if no other option is adopted under the addendum that that status quo would be in place and the date of implementation. So okay, that's the perfected and that's fine as far as the motioner and the seconder, and I'd like to call the question then unless there's really a question -- Pat, do you have a question on it?

PATTEN WHITE: Yeah, I guess it is more of a question than it is a statement on -- neither for nor against. Is it a realistic option that we would have that fall-back? I don't think much of any of that could even be implemented if it was an option. I have no problem with it, Mr. Chairman, but I just don't -- it's sort of like an unfunded mandate. I don't know if we could do it even if it happened.

BOARD CHAIR JOHN NELSON: Well, let's see if we can't adopt one of the other ones. All right. All in favor of the motion -- the perfected motion, please raise your right hand.

(Response.)

BOARD CHAIR JOHN NELSON: One, two, three, four, five. Any opposed?

(No response.)

BOARD CHAIR JOHN NELSON: None opposed. Nulls?

(No response.)

BOARD CHAIR JOHN NELSON: Abstentions?

(Response.)

BOARD CHAIR JOHN NELSON: One abstention. The motion carries. Thank you. All right. Yes, Bill, go ahead.

WILLIAM ADLER: Okay. Just so we don't have -- confused here, the motion on the screen there, is that exactly what we're doing? I know we talked about rewording it.

BOARD CHAIR JOHN NELSON: Yes.

WILLIAM ADLER: Okay, all right.

BOARD CHAIR JOHN NELSON: Yes, that's -

WILLIAM ADLER: That covers it?

BOARD CHAIR JOHN NELSON: It's probably more concise than my verbiage, but that's the intent and I'm sure the staff will take that guidance from all of us.

All right. What else on the document? Dan.

DAN MCKIERNAN: The other options with the rebuilding plan, I guess I'm trying to reconcile the Technical Committee's advice under their third bullet --

BOARD CHAIR JOHN NELSON: Which one are we --

DAN MCKIERNAN: The document -- the draft 2007 evaluations.

BOARD CHAIR JOHN NELSON: Whereabouts are we?

DAN MCKIERNAN: January 2007, there's a third bullet -- the third bulleted paragraph that starts with the current reference points. And in that paragraph it says --

BOARD CHAIR JOHN NELSON: Dan, Dan, wait a minute. You're way ahead of the poor chair. What page are we on?

UNIDENTIFIED (No microphone): It's not in the (inaudible).

BOARD CHAIR JOHN NELSON: Oh, it's not in the --

DAN MCKIERNAN: I'm looking at page 5 at the other options and I just want to make some comments and reconcile, I think, some problems that are going to come up. So, I'm on page 5 of the Draft Addendum XI, and I want to reference the TC's draft evaluation.

BOARD CHAIR JOHN NELSON: I am not with you yet, so bear with me. Okay, wait a minute. I've shared everything with my staff and so I am -- being a sharing person, I need my staff to help me un-share myself.

(Pause.)

BOARD CHAIR JOHN NELSON: This is Toni's memo to the Board or is it the Technical Committee's evaluation?

DAN MCKIERNAN: The Technical Committee's evaluation.

BOARD CHAIR JOHN NELSON: Okay, I have that now. Everyone got it now? They are caught up with me? All right. Let's try it again, Dan. Thank you.

DAN MCKIERNAN: Okay, thank you. My concern is that we will go out to the public and talk about reducing overfishing immediately, and that implies that there's going to be

prescriptions for how we accomplish that. The TC's memo says that the TC cannot determine the effects of input controls, such as gauge increases, but we can give advice on output controls. And so what I'm concerned about is if at the end of the discussion -- if this Board doesn't favor output controls, but are going to go with the more traditional input controls, which the industry seems to favor, how are we going to possibly reduce fishing mortality to the reference point immediately?

And so I want maybe Penny to weigh in on this, and maybe we tone down or make a comment in the document somehow to tell the fishermen and the managers how we're going to examine the progress on any of these rebuilding steps to accomplish the goals.

PENNY HOWELL: Right now the tools that the TC has available to us, we can give you what a short-term drop in landings can be and assume that equates to roughly the same drop in F. Mathematically and biologically, that's not quite kosher, but it is not a terrible assumption to make.

We're trying to play catch-up here getting the model out. We're hoping that -- well, we will be meeting tomorrow and starting to be able to model that on a full population level so that we can give you the mathematically correct answers that the rebuilding plan would require. So, we're looking at possibly a six-month time frame, or a year, longer. It depends on how long it takes us to get all the landings data and -- et cetera, together. So, that's -- there's a short-term answer and a better longer term answer, but the longer term should be within a year.

BOARD CHAIR JOHN NELSON: Okay. I'd like to have a consideration of the Massachusetts suggestion of that -- a new alternative to be included in the document. So, I need a motion to -- from the Board to include that and we can have the discussion on it.

PATTEN WHITE: So moved.

BOARD CHAIR JOHN NELSON: All right. Pat White has made the motion, and seconded

by -- Eric has seconded it? All right. All right. Now with enthusiasm, we'll discuss it.

ERIC SMITH (No microphone): I have a question.

BOARD CHAIR JOHN NELSON: Go ahead, Eric.

ERIC SMITH: Bob or Toni, does Amendment 3 allow conservation equivalency?

TONI KERNS: Yes, Amendment 3 allows conservation equivalency.

ERIC SMITH: Thank you.

BOARD CHAIR JOHN NELSON: Okay. Anyone opposed to including the Massachusetts option in the document? Harry.

HARRY MEARS: I'm not opposed to it, Mr. Chairman, but I do have some request for clarification of certain statements. Is that best now or wait?

BOARD CHAIR JOHN NELSON: Best now.

HARRY MEARS: Okay. I had two questions for Dan, and one was how was the value of the max size of five and a quarter inch derived in terms of a requirement in this option? And my second question is under the LCMA, I'm not sure whether or not that's really necessary for inclusion under the option. I think it's something we all recognize needs to be done in terms of determining degree of latent effort. I do think there should be a high priority of the Board. I don't know how you would do that other than having mandatory reporting and eventually looking at who reports and who doesn't report, but I'm not -- I think it doesn't substantively contribute toward the option, having that bullet identified LCMA; and like I said, my earlier question was how was the value of five and a quarter inch derived.

DAN MCKIERNAN: I simply looked at the --

BOARD CHAIR JOHN NELSON: To those points, Dan.

DAN MCKIERNAN: I looked at the matrix of all the regulations and just chose it as one of the measures that is in part of Southern New England to simply try to adopt it for the rest of Southern New England. It wasn't done with any technical analysis, but I'm trying to bring about uniformity so when the TC looks at the catch composition in trawl surveys or dealer surveys or shoreside sampling they can make sense of what's out there is out there and is not going to be compromised by another permitted fishermen potentially removing lobsters from that size class out of the fishery illegally. And so this should include the non-trap sector, as well. It should be all harvests from that stock unit ought to be bound by that measure -- or these measures.

And as far as the TC evaluation of effort control plans, it probably shouldn't be in the document as a separate bullet, because again this is -- kind of gets to my complaint about the document as it's written now -- not my memo, but the draft addendum, is that there seems to be a lot of communication between committees going on in the addendum. I'm just suggesting that this is something the Board should ask to be done, but it doesn't need to be presented to the public as a management measure, because it's not. It's really just a call for further study.

BOARD CHAIR JOHN NELSON: Okay. Other further clarifications or comments on that? Go ahead, Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Was that the point that David was trying to make about the five and a quarter inch in the Southern New England? Is that the point you were trying to make? Mr. Chairman, I don't know. Will you ask Dave, please?

BOARD CHAIR JOHN NELSON: I'll think about it.

PAT AUGUSTINE: Thank you.

BOARD CHAIR JOHN NELSON: I think, though, the -- I think that Dave's comments were reflective of evaluating this when it comes back

from public hearing and getting comments and deciding whether or not you want to do anything about that particular point. That's my understanding of it. David, I'm going to let you just clarify it quickly from this position right here where you're at.

DAVID SPENCER: The point that I was making was strictly from an Area 3 perspective that in every other LCMA in the Southern New England stock unit, the available size to catch a lobster would be between -- if you adopted this would be between three and three-eighths and five and a quarter inch males. Because we have an elevated minimum size in the year 2008, we will be at three and a half. Our available lobsters will be much more restricted than the other LCMAs in the Southern New England stock unit. That was my point. Thank you.

PAT AUGUSTINE: To that point, Mr. Chairman? I won't belabor it.

BOARD CHAIR JOHN NELSON: Go ahead.

PAT AUGUSTINE: It just seems to me, as Mr. McKiernan explained, he just pulled that number out of having looked at a lot of data. And to have this go out as a document, even though it's embedded, and later on we can come back and review that number, it just seems to me we're limiting the public's choice as to where we might go with that, whether five and a quarter is good, whether it's fixed, whatever that number is. And so I think I'm concerned about it even going in a document to the public, because that's the number that's there, that's the number they're going to talk about, that's the number they're going to think about.

So, I don't know whether we just take it out or what we do with it, but not being validated by technical review of information, I just hate like heck to have it pulled out of the number, Mr. Chairman.

BOARD CHAIR JOHN NELSON: Okay. We did get some advice from the Technical Committee on the size issue. And, Penny, if you don't mind providing some additional insight on

that, what protection and whatnot for five and a quarter.

PENNY HOWELL: The only comment that I feel qualified to make right at the moment is that greater than about four and a half inches and certainly five inches, you're talking about less than one percent of the Southern New England catch. So, debating between five, five and a quarter, six, six and three quarters is kind of irrelevant.

PAT AUGUSTINE: That's a good question and a good point, but the question is what is one percent equal to in terms of pounds? If Rhode Island's catching 60 million pounds and that's New England, so what does one percent mean of that amount?

PENNY HOWELL: From the TC's standpoint, the only thing it means to us is that will have no rebuilding effect. Or very little rebuilding effect.

PAT AUGUSTINE: Wrong question then. What effect would that have on the harvester, on the lobsterman, in terms of what are we talking about in terms of animals? I understand your point, but what effect will it have on -- to Dave's point. You know, as the minimum size goes up -- and again, I don't want to belabor it, but this could in two or three years hurt some lobstermen pretty badly in view of the fact that you're going to have a reduction in ten years of 37 percent of the traps. So, I'd just like clarification on it. I don't want to belabor it, Mr. Chairman.

BOARD CHAIR JOHN NELSON: Yeah, and I'm not sure that the staff has that information available at this particular time. However, once -- you know, if it's less than one percent, I think they could come up with the calculation for you. However, I think it's in there for public comment and I suspect that if some feel it's going to be greater than a one percent hit on them, they're certainly going to come forward and tell you that. And then I think -- then it's up to the Board to judge what they would like to do. All right, Dave.

DAVID SPENCER: Thank you, Mr. Chairman. And I think that -- I appreciate that information from the Technical Committee. I think what I also think I'd like to hear is the difference between three and three-eighths and three and a half in the Southern New England stock unit to see -- because okay, so now we know what -- you know, what the upper level is. How much is Area 3 contributing in their elevated minimum size? Thank you.

BOARD CHAIR JOHN NELSON: Is that doable? Penny, is that something that's doable?

PENNY HOWELL: Yeah. It's something along the lines of about 30 percent of the -- for Southern New England. The total Southern New England.

UNIDENTIFIED (No microphone): (Inaudible.)

PENNY HOWELL: That's a rough estimate.

BOARD CHAIR JOHN NELSON: Okay. Back to discussion of putting this into the document. Harry.

HARRY MEARS: Thank you, Mr. Chairman. For what I believe is -- will be considered as a friendly amendment should this go forward, under the second bullet where it does talk about maximum size, if the third sentence could be removed since it prejudices what federal regulations may or may not be, I think it would be appropriate to remove that third sentence. Where it begins vessels authorized to fish in Area 3, it indicates what eventually federal regulations would or -- you know, would require when in fact we have not gone to public comment for that yet.

BOARD CHAIR JOHN NELSON: How about, Harry, if this -- I think folks are -- would need to have something to comment -- and boundaries put in place as far as for comment. Why don't we say something along the lines that the recommendation is --

HARRY MEARS: That would be fine, Mr. Chairman.

BOARD CHAIR JOHN NELSON: Okay. So, staff will correct or modify that to reflect that comment. Eric.

ERIC SMITH: Thank you, Mr. Chairman. Over the dilemma of whether this hurts the document or helps by having actual numbers in there -- well, two points. The reason I ask about conservation equivalency is exactly to get at Dave Spencer's point. In acknowledgement of their larger minimum size may be they get a larger maximum size, and analytically maybe we show how that's done at some future time, so -- his concern doesn't necessarily make the approach undesirable from my point of view as long as we can do that.

My other point is whether to have it in or not. I think it's desirable from a public hearing point of view to have it in with a statement preamble introduction, preceding paragraph, call it what you will, that says it's desirable to have a common strategy to meet the concerns of the Technical Committee and the peer reviewers, to have common rules throughout a stock area. Therefore, the Board is looking for public comment on this approach and the numbers may be revised as we go through further analysis. That way people don't hang on to five and a quarter or three and three-eighths and say my God, that's what you're going to do. Instead, they say what they're trying to do is have the same rules throughout a stock area and further analysis is going to suggest what the limits ought to be.

BOARD CHAIR JOHN NELSON: All right. I don't think we have a -- does anyone object to having the language in there? Again, the only thing that you might run into, Eric, is folks feeling that -- well, what should they be commenting on, and that the Board indeed could do anything, which it can do anyways.

ERIC SMITH: Commonly, Boards do that anyway, and I think fishermen have come to learn that by now. If Dan's or the staff memo was in there verbatim, just the way it is, with the kind of sentences I just described, that tells you that okay, if there's not a good reason for it to be five and a quarter, that's going to come out

through further analysis. If there is no good reason to the contrary, it will probably be five and a quarter, if the Board decides to have common measures throughout the stock area. So, there's two levels of questions: Common rules and what are they?

BOARD CHAIR JOHN NELSON: Okay. Without objection, then, the staff will include that type of language in there for clarification. Any other comments from the Board?

PAT AUGUSTINE (No microphone): (Inaudible.)

BOARD CHAIR JOHN NELSON: I was just about to say that I'm going to go to the public for comments on the new material. It's good to have a shadow chair around, I guess. All right. Any comments on -- again on the -- we're looking at the new material that's being provided in the document, keeping in mind the Board has already taken action on most of this and most of it has been clarifications. And so Bonnie, what do you got?

BONNIE SPINAZZOLA: Bonnie Spinazzola, Atlantic Offshore Lobstermen's Association. I have no problem with what Dan is trying to accomplish here. I just have a problem with putting a document or attaching a document on an addendum to go out for public comment without it being technically reviewed first, because it's the perception of the public that it has been technically reviewed, it's something that the Board is planning to do, and that it will -- that's an option that will move forward. And then when it comes back, then the Technical Committee will look at it and perhaps it's not valid. Perhaps they're looking at something else. So therefore, I think it's a mistake to put something out to the public before the Board knows whether or not it's a valid option. Thank you.

BOARD CHAIR JOHN NELSON: Okay. Thanks, Bonnie. For a minute I had a shiver go up my back -- you know, because I thought I might be breaking one of my own rules that I instituted, but upon reflection, realize that I have not. Our rule -- our basic rule is that if something's being introduced for approval by the

Board that it should go through technical review first and then be considered by the Board. This is going out to public hearing and additional analysis by the Technical Committee. So, from that standpoint, it's an idea for the public to provide us back information. So, thank you, though. Yes, sir.

ART GLOWKA: Good morning to you all. My name is Art Glowka. Many of you people know me. I come from Stamford, Connecticut. I'm deeply involved in the western Long Island Sound's ecosystem. I apologize for being late. There was a big accident on I-95. I followed lobsters for a long, long time, especially in the western sound, which at one time was the lobster factory of all of Long Island Sound. And you all keep trying to manage these things only looking at the adults, by curbing the effort.

What I don't hear very much about are the juveniles, recruitment. I hear a lot about eggs. I don't hear anything about larvae. I don't know what your plans and ideas are except choking off adult lobsters. In Maine they had very careful surveys of juveniles. And one of the things that I'm seeing in the western sound is we're not going to have enough plankton to feed the larvae. Just give me some thoughts and idea on where juveniles, larvae, fit into this whole picture.

BOARD CHAIR JOHN NELSON: Penny, why don't you very briefly --

PENNY HOWELL: Art, you may know we have a larval survey that does western Long Island Sound from Stratford Shoals west, and we've been running that since 1983. The last four years of that annual index are at historic lows, and it's the first time since 1983 that we've had back-to-back consistent low years.

ART GLOWKA: That's right.

PENNY HOWELL: As you well know, larval indices can be a little squirrely and they're sawtooth, and they were sawtooth up until 2001 and since 2002 they have been nothing but historic lows, including through 2006.

ART GLOWKA: And what do you attribute that to, Penny?

PENNY HOWELL: Lack of production and/or lack of survival.

ART GLOWKA: Okay.

PENNY HOWELL: I could speculate, but I won't pass that -- why.

ART GLOWKA: All right. Well, you and I will discuss that, but at least you're looking at it. You're seeing it's abysmally low. What used to be the lobster factory of all of Long Island Sound and it just could be there's not enough food for these creatures to feed on, because we're seeing the mirror image of this in bait fish and other such stuff in the western sound. Thank you.

BOARD CHAIR JOHN NELSON: Okay. Thank you very much, Art. Yes, sir.

JOHN GERMAN: My name is John German, an Area 6 fisherman and President of Long Island Sound Lobstermen's Association. We had a LCMT meeting last week, as Eric mentioned earlier, and we discussed this addendum quite a bit.

The major problem we -- that came up here today, fishermen did not like, was this delayed implementation, these options 2 and 3, whereas if measures are not implemented by a state at the time, say the first two weeks they delay implementation of some regulation the first two weeks in July. It doesn't come in until July 14th. The following year the fishery is closed for those first two weeks. There was major -- to put it mildly -- uproar about this, and we feel that the people who are implementing these regulations, the fishermen have no control over them, they're -- you know, regular civil servants and fishcrats, and the fishermen are being -- as they always are -- punished in the end. If the only way that people would -- they thought it should be stricken from the amendment altogether, should not even go out to public hearing. And unless it was changed to if there's a two-week delay in implementation, the two

weeks pay should come out of the people who were supposed to implement it, not the fishermen. I think that would probably speed up the process. And it certainly would not hurt the fishermen at all. Matter of fact, they would somewhat enjoy it.

And the second part of this, there are many -- this is my own personal observation -- there are many if necessary clauses in this addendum. It seems to me we've been had once by that. All if necessities -- there should be no statement in there that has an if necessary after it, because as soon as we conclude this process, it seems that the Technical Committee turns around and says all the if necessities are necessary.

So, we ought to just make them necessary or not necessary, not if necessary, because we -- like I said, in the past we've been had and we don't feel like doing it again. If necessary is not a specific thing. Thank you very much.

BOARD CHAIR JOHN NELSON: Thanks, John. Anyone else in the public want to make a comment? Yes, sir.

MIKE THEILER: Mike Theiler from the Connecticut Commercial Lobstermen's Association, also LCMT member from Area 6. Just a couple things I'd like to comment on. Effort in Area 6 continues to drop and landings continue to rise. It has been a slow and gradual rise, but nonetheless well-documented. We also are seeing a relative rise in abundance that isn't -- that hasn't been shown in the indices, that you guys -- that the state has been producing, and I'm just wondering why the disconnect. The larval surveys that you talk about, Penny, while I agree that there should be something to do with them, they basically -- even since Mark Blake was there and started them, there's no correlation between those and landings.

Now, if we have landings that keep on increasing, we have abundance that we see keeps on increasing, the lobsters are coming from somewhere. We had a precipitous die-off, it's well-documented, in '99 and it's taken quite a while to turn around things.

Now in my mind there is some sort of disconnect either between the surveys or the way -- I think -- personally I think it's the time frame. And I was speaking to Carl Wilson of Maine and he said that their run has been later and later the past few years, where I believe our surveys are done the same week every year. No?

The other issue I do have is with the document from Massachusetts. I'm glad that Eric brought up the issue of -- what did you call it there, Eric? Conservation equivalency, thank you. As you guys well know, we have a lower gauge increase and have been working very hard to keep with the lower gauge increase and use other measures. I just want to make sure that we're all on the same page. Eric's reasons were a little different than mine. We'd like to stay at three and five-sixteenths and implement other measures, including getting some credit for the reduction in effort.

BOARD CHAIR JOHN NELSON: Okay. Thank you. Anyone else in the audience want to make a comment? Yes, sir.

JARRETT DRAKE: Jarrett Drake, Mass. Lobstermen's Association and Area 2 LCMT. Sorry, I don't want to come across like an Adam Sandler speech here, but I'm never good at this. I'm going to try. But I want to address the whole board. I'm trying to look at your point of view as far as this emergency measure that's going on. And what we're seeing as fishermen out there. But an important note that, as Dan said, this assessment is four years old and yes, four years ago it was hurting and Massachusetts, which Dan can explain better and I hope he does, implemented a lot of rules to address the issue. But here we are now four years later looking for more, and I guess it's not realistic waiting for another stock assessment, because this one's officially labeled as 2006.

But as Penny was saying, look at the landings. We have the same fishermen in the water now -- actually, a little less -- than there were in 2003 with our regulations in Massachusetts Area 2. Look at the landings. They've gone up considerably.

I read a letter by Mark Gibson. He acknowledged that the -- what did you say in that letter, that the stocks have doubled in the last few years, '02 to '04?

BOARD CHAIR JOHN NELSON: Actually, you're just -- you're really just talking to me, and the others are listening.

JARRETT DRAKE: Okay, I'm sorry. I'm not privy to this whole --

BOARD CHAIR JOHN NELSON: That's all right.

JARRETT DRAKE: -- process. But I just wanted to basically put -- hope you all know that this emergency action is based on data that's four years old. I'd like to look at the current data, because we as fishermen are seeing a lot of lobster increase. It's increased -- I can't even describe how much. But you know, because we have escape vents to let the shorts out. So, if you go on a short set you -- like a few days, you're seeing a lot of lobsters like -- you know, 15, 20 a trap. If you let them sit longer, of course, the little ones get out, but the bottom line is there's a lot more volume out there.

And I think that's about it. Well, and Bob Glenn's here, too. He can explain the process of the whole stock assessment better than I can. But the point is that the information's old and I'd like -- personally, I'd like to see status quo on everything. We've been heavily medicated. I'd like to let it sit this way until the next stock assessment, or at least look at the -- at least look at the landings data and see what's going out there currently. Because it's looking good. It's looking real good out there.

BOARD CHAIR JOHN NELSON: Good, I hope it is. Let me -- yes, sir. And then I'm going to come back to the Board. We have a motion to deal with.

NICK CRISMALE: Good morning. My name is Nick Crismale. I'm President of Connecticut Lobstermen's Association and Chairperson of the LCMT Area 6 from Connecticut. I notice that the TC addresses the issue of our V-notch

program as a short-term -- as a short-term solution. That's an assumption. Right now the industry is working very aggressively to get more money to keep this program going. I think we have a unique situation in Connecticut where the school system -- education system is including this program. We hope to continue this program. We do hope that New York at some point will come on board to continue the program.

As there are studies indicating that the lobster population in Long Island Sound is in fact a resident population, we're hoping that what we do in Long Island Sound stays there. So, I'm kind of -- I'm remiss to agree with the Technical Committee that it is a short-term program. I mean nobody knows what's going to happen in two years. We lost our lobsters in one year. So, nobody knows what's going to happen as far as long-term.

I think that the Technical Committee or this Board needs to address the fact that we're trying to do something to bring back a resource that we don't really feel that we -- the problem we created. So, I think that we need time to assess this, maybe on a yearly basis or whatever, but to keep the perception that it's only a short-term issue. I mean what is short-term? We're here today and gone tomorrow. So, I just would like to have that consideration by the TC. Thank you.

BOARD CHAIR JOHN NELSON: Okay. Thank you very much. All right. Back to the Board, we have a motion before you to include the Mass. option into the Addendum XI document. Ready for the question?

UNIDENTIFIED (No microphone): With the additional (inaudible).

BOARD CHAIR JOHN NELSON: With the additional comments -- as modified, how's that? All right. I think we all remember the modifications that have been recommended and accepted, so -- all right. All in favor of that motion, please raise your right hand.

(Response)

BOARD CHAIR JOHN NELSON: One, two, three, four, five, six. Opposed?

(No response.)

BOARD CHAIR JOHN NELSON: Abstentions?

(No response.)

BOARD CHAIR JOHN NELSON: Null votes?

(No response.)

BOARD CHAIR JOHN NELSON: Okay. Unanimously accepted. And now I think we need the motion to move this forward to public hearing as -- the modified document forward to public hearing.

All right. Let me get my parliamentary folks squared away here. I recognize that we moved that forward at the last meeting, but we now have included other components in this, so my sense is just for clarification that we move the modified document forward to -- addendum -- Bob, do you want to correct me on that or reaffirm my interpretation?

ROBERT BEAL: Well, just to review how we got here -- you know, there was a document at the last meeting. The Board approved that for public hearings, noting that the PDT had to do some work. And if the work that the PDT completed -- if those are substantial changes, then I would go back to the Chairman for his discretion on how to act.

So, that's kind of where we are today. Your choice or your guidance was to come back to this meeting and act. I think it's, again, your discretion on how we go from here, John, as to -- you know, what the next step is.

BOARD CHAIR JOHN NELSON: Great. Then my discretion is thank you very much for your input. I'm going to move the document ahead to public hearing as modified.

All right. Now we need to talk about the time line for the hearings if we're going to keep this on the time frame for having input at the May meeting. My intention, and I think a lot of folks' were, that we would include this -- we would

schedule the hearings in April, the end of April, Toni is ready to go to every state and so do that, some of them simultaneously.

All right. Any objection to trying to get this scheduled by staff and coordinated with the states to have the hearings take place towards the end of this month? I think we need to obviously have enough public notice to allow people to attend these, and then have the comments available for the May meeting, which is the second week of May. All right. Bill, to that point?

WILLIAM ADLER: Yes, I have a problem. First of all, my first comment was I wanted to ask how this motion that just got passed, is that going to be a set-aside in the addendum, a separate section, or is it going to be --

BOARD CHAIR JOHN NELSON: It will be a stand-alone.

WILLIAM ADLER: Stand-alone. It will be a stand-alone?

BOARD CHAIR JOHN NELSON: It will be -- the Massachusetts option?

WILLIAM ADLER: Yeah.

BOARD CHAIR JOHN NELSON: It will be standing alone in its own little section.

WILLIAM ADLER: Okay. And the second thing is -- you know, I have a problem with moving this fast to the public hearings, given that we have these changes that the staff will make. And since we're only a month away from the other meeting, I'd like to see this document before it goes out to public hearing.

BOARD CHAIR JOHN NELSON: Staff is -- the Board has already voted to go to public hearing on this issue, and I just want to --

WILLIAM ADLER: But it's been changed, Mr. Chairman.

BOARD CHAIR JOHN NELSON: Only at the direction of the Board to allow the Chair to have the discretion, and this is why I did hold this

Board meeting to make sure that we all had a chance to review it. I think we've all seen the document. We've had minor modifications to it and unless there's really an objection to -- by the Board to move ahead with the public hearings in April, that's what I would -- that's how I would be planning on moving ahead, and the staff will coordinate this with the various states as to when the Board -- the hearings would take place. Staff, do you want to --

TONI KERNS: Because this is a very tight time frame, and I'm out of the office until Thursday, those states that haven't already established a date that they would like to have the hearing, go home and please work with your hearing coordinators to do that, if best you can tomorrow so that we can have the longest period of public notification as possible to have these hearings.

And just note to the Board that it is 99 percent probability that I will be handing out the public comment at the Board meeting, just as -- just to let you guys know ahead of time, due to I'm assuming the late hearings and at the end of the month, but to go ahead and schedule your hearings I'm -- or at least send me the date that you would like to propose for your hearings and then I can get back to you. And I'm pretty open for the end of April, so have at it. First come first serve for those states. I'm assuming that every state will want a hearing because of the Delayed Implementation section. All right.

BOARD CHAIR JOHN NELSON: You guys get back to Toni and let her know.

TONI KERNS: And the 17th is already taken.

BOARD CHAIR JOHN NELSON: All right. Now one of the -- that really does take care of the major item that we had on our agenda. We did have one other letter that came in from the Commonwealth of Massachusetts and that one is -- I'd like to just -- from the standpoint of just having an opportunity to get some clarifications on the memo, it's not an action item for us to deal with at this particular time. It may be on the agenda for the May meeting. I think since we are gathered here it might be helpful to staff and Massachusetts and others to provide a few

minutes to go over this and get some insight as far as what the concerns area, and then we might have a smoother operation in May.

So, I will lend my copy to staff again and we will have that discussion. Toni will go it very briefly, then Dan will come up with any additional comments on it.

TONI KERNS: I'm actually going to let Dan kind of go through the memo. I just wanted to let the Board know how we arrived at this discussion. The Transferability Committee has been meeting to try to come up with a skeleton for transferability from the Area 2 Effort Control Plan, and through that we've identified a series of issues that we think that the Board will need to address, and I'm working on putting together a white paper for the May meeting to try to get at these issues that look at pregnant boat syndrome, looking at some trap transfers, and so I think that this memo that Dan has written starts to look at that issue.

And so in order to help the Board wrap their arms around these issues, I'm going to ask Dan to discuss his memo a little bit, just to give everyone some time to start thinking about these before the white paper comes in your meeting materials for the May Board meeting.

Dan's letter is also in the back of the room, it's dated March 5th, and it was also included in the materials to the Board for this meeting.

BOARD CHAIR JOHN NELSON: All right, Dan.

DAN MCKIERNAN: Thank you, John. I think what we have here is kind of a mismatch or a disconnect between the federal jurisdictions and the state jurisdictions, and -- you know, not faulting anyone obviously that the federal jurisdiction went first with its implementation of the history based allocation scheme for Area 3. And since then -- or Area 3, 4 and 5. And since then we've had two new allocation schemes by the states for the nearshore areas, that's Outer Cape and Area 2. So, those are being done with the states as the lead and with NMFS -- you know, because of their rulemaking process being

longer and more involved, lagging behind us, but we've done everything we can to always communicate with NMFS about the acceptability of what we're doing so that it increases the chances of NMFS being able to adopt complementary measures.

But because the eligibility periods were different, we have vessels or permit holders, depending on your state or federal perspective, that now have multiple allocations across areas. For example, I point out in the back of the document at least five cases that I've been able to put together where a boat that never fished more than about 800 traps now has that 800 trap allocation in both areas. And that's not a big problem under the most restrictive rule currently, because as according to the most restrictive rule, they're only allowed 800 traps and what most -- what the vessels do is they choose Area 3 or Area 2 on their permit, depending on which area they prefer to fish. Obviously the smaller vessels are more likely to fish in the nearshore zone, such as Area 2 or the Outer Cape.

But when transferability gets added into the mix and I think the -- what you're seeing in this buyback program that's being discussed by some of the Area 3 fishermen is that there's the potential for the proliferation of traps because the -- in the case that I just described where one vessel or one permit holder has two allocations, they can flip or sell one allocation and continue to fish the other one and essentially the business never changes. In other words, they never fished 1600 traps, but they will soon sell that allocation which is what I would argue latent and this will only result in a net increase in effort in this -- in this LMA and therefore in the stock unit.

So, in the case of Area 2, which where you have Area 2 and Area 3 both lying in Southern New England, on the Southern New England stock, transfers could conceivably result in trap proliferation. It's been called the pregnant boat syndrome where a boat has two permits and splits them. This one's recently been described as the pregnant trap syndrome -- Pat, no offense intended. I know you didn't like the pregnant boat syndrome terminology.

But anyway, so this -- I know that Harry and Bob -- you know, raised issues about this when the Area 2 programs were being talked about, but the fact is -- you know, Area 3's allocation -- I'm sorry, Area 3, 4 and 5's allocation were accomplished first. Ours came second, and so now we've got this disconnect.

I think it's critical to look at this, not today, but to be thinking about this, to prevent trap proliferation. Now we're not here to talk about Area 3's buyback program, but I know that -- and it's not an Area 3 program, but it's a buyback program being crafted and thought about by some of the leading members of the -- in Area 3. And what I discovered studying that is that there's a potential for this displacement of effort into all of the inshore areas, including Area 1. So, if a fisherman has an Area 3 allocation and when NMFS will soon adopt their transferability rules, every one of those Area 3 permit holders could conceivably sell their allocation and fish in Area 1 -- you know, with 800 traps, because Area 1 doesn't have the performance-based trap allocation scheme that the other areas have.

So, this is messy. This has the potential to undermine, at least in the short term, a lot of the constraints that we think we've accomplished in terms of trap allocation. And so I came up with an idea on the fly, so to speak, which was to simply come up with the most restrictive rule in the case of someone who's going to transfer their traps. So, in other words, if that same fisherman had 800 traps in Area 3 and 800 traps in Area 2 and he sold his 800 traps in Area 2, I suggest his Area 3 allocation ought to go away, because they're both being fished in Southern New England on the same stock we're trying to protect. To not adopt a strategy like that would allow up to 800 traps, or that number of traps less some transfer tax, to come about in addition to what's already being fished there now.

So, I will concede that -- you know, we all should have thought about this sooner -- you know, been real clear about it, but sometimes -- you know, we all learn by doing. And when you get -- when you're involved with licensing as I am, and with the trap allocations as I am, and the

trap tag issuance as I am, and as NMFS is with these multiple areas, it becomes really -- you know, very confusing, complicated and kind of scary.

And then of course once this new allocation scheme in Area 2 has been adopted, the tip-off is when we get all the phone calls and the interested permit holders who seek to sell one of those allocations and you look at their records and you try to look for a motive and then you realize that this is a great deal, if you can do it, to basically flip these free traps. Not to mention the fact that an 800-trap allocation is probably worth around 80 grand. So, it's an enormous windfall, not to mention the fact that it's not going to result in the conservation that we had intended.

So, I think that the Board should consider this. I'd be happy to come back at the May meeting with some better language, some smarter language, if I'm missing something, but I think it's critical if any of the jurisdictions are allowing transfers now, mine is one of them, I believe Rhode Island may be soon, to maybe put a hold on these things and also to ask the applicants if they have a federal permit with that second allocation to determine if this proliferation is going to occur.

Having said all that, and I think Harry and Bob will probably comment on this, we are in a really, really complicated and chaotic time period as we try to manage these allocations with the vessel having a permit, the permit holder having a permit, and it's very difficult to stay in sufficient communication between the agencies to know where those allocations are.

And naturally when a permit holder goes and sells the federal permit, or transfers the permit, it's hard to keep track of that. And what we're doing -- what we're engaged in right now is the administration of a trap allocation and there isn't a single authority that trumps another. So, we have to always be in contact between our two officers, and it's going to get harder before it gets better.

Bob and Harry have been begging for us to come up with a way to track these allocations between boats, between permits, and I'm reporting today that we haven't done this yet and it's -- we have to do it soon and we have to do it right, because it's -- to not do this is going to create not only enormous amount of chaos and not only increases in traps, but potentially some transactions that have to be -- have to be taken away.

In other words, it would be like -- you know, buying a piece of property and having the title be bogus. You know, it's that kind of -- that kind of transaction, that kind of business arrangement that the industry needs to be confident that what they're engaging in is sound and is sustainable, and I'm particularly nervous about it; but this particular one that I'm discussing today and in this memo, I just want to make people aware of that. I don't think it was the Board's intent or even any of the LCMT members' intent, nor any fishermen's intent, that if they have a history attributable to one or more areas that they'd be able to double up their trap allocations.

So, I'd ask the Board to -- you know, maybe read over this memo and if people have questions, maybe they could work through John or Toni or contact me, and of course the feds, as well, about how to resolve these issues.

BOARD CHAIR JOHN NELSON: Okay, thanks, Dan. I would ask Toni just to give an update on also where we're at as far as on staff level of how this is being addressed.

TONI KERNS: Thank you, John. Like I said before, staff is working on a white paper looking at several options to address these issues, to try to come up with ways that we can prevent these things from happening and to figure out ways to have solid history following the permit or the boat.

And so at the May meeting I will have that white paper to the Board to address some of these issues. And if you have any additional ideas of ways to address them, then please give me those ideas specific to what Dan has brought forward.

And the intention was to have the Board start thinking about this because it is something that is a little bit difficult to wrap your hands around, and so it's a start today and then we can more conclusively discuss this at the May meeting with the addition of the memo.

BOARD CHAIR JOHN NELSON: Okay. Just a brief comment. It's always interesting to see what other terminologies we're going to come up with. I think only about two years did we realize that boats could get pregnant, but I guess that permits can, too.

DAN MCKIERNAN: Traps can now.

BOARD CHAIR JOHN NELSON: And traps now, yeah, geez. All right, Harry. And again, we're not trying to solve anything here today. We're just trying to bring up the issue as far as think about it and here's what's happening and --

HARRY MEARS: Thank you, Mr. Chairman.

BOARD CHAIR JOHN NELSON: -- if you've got any further insights on it, that would be great.

HARRY MEARS: I agree with Dan and the severity of the issue. It's here. It's not something that's coming. I mean we, as well, are being flooded by phone calls daily about decisions that are literally impacting the livelihoods of permit holders that are facing these issues now. Whether or not the answer is an immediate halt to further allocations or transfers, which I tend to think it might be -- I realize that needs to be resolved, but we as well have several concerns that we've tried to distill on paper.

And assuming that Toni's open to receiving these issues, perhaps they may be helpful in developing this white paper, but I can't overemphasize the severity of the issue. The key one in my mind, Mr. Chairman, is when that was discussed like three years ago, the administrative umbrella of who's going to track the transfers and sales across state and federal jurisdictions, we have not dealt with that issue

and it's way too late and we should do that now, obviously. Thank you.

BOARD CHAIR JOHN NELSON: Thank you. Pat.

PATTEN WHITE: I don't want to keep us from our schedule, but I had a question I guess to many Board members. I thought I understood this most restrictive rule pretty well until I read the law that we got this month.

If -- as an example, if I am a fisherman in the State of Maine fishing 700 traps, 300 of which I have documented fishing in Area 3, under my new impression of this allotment I could be restricted to 300 traps because that's the most restrictive rule because that's what I'm qualified for in Area 3? I didn't think that was our intent, but is that scenario -

BOARD CHAIR JOHN NELSON: Can I come back to that in a minute and deal with the transferability and all that sort of stuff first? And we'll come back to that. Anyone -- Eric.

ERIC SMITH: I guess I have a question for Bob and Harry and Dan. When we did Addendum VII, a feature of Addendum VII was we're going to consolidate the histories of vessel versus license versus permit and we're going to make one allocation for each entity. Did that strategy solve the problem for Area 2 alone in terms of pregnancies or -- so, is the issue now the fact that you could have an Area 5 allocation or an Area 3 allocation or an Area 1 allocation plus 2 or 6 or whatever and it's because the other areas don't have that same strategy that we have this problem?

BOARD CHAIR JOHN NELSON: Go ahead, Dan.

DAN MCKIERNAN: To answer, yes, we've worked with NMFS staff to prevent -- regarding Area 2, prevent a single vessel or permit holder from getting an allocation of traps attributable to a state as well as his federal landings. So, we've prevented that.

UNIDENTIFIED (No microphone): (Inaudible.)

DAN MCKIERNAN: Right, in Area 2. But what we've discovered -- and this is subtle -- what we've discovered is under the most restrictive rule, most fishermen -- you know, they want to maximize their traps, they want to maximize their harvest, so if they have an insufficient allocation in another area, like Area 3, there are plenty of boats in the system. Among the 130 Area 3 vessels, there are some boats that have a few hundred Area 3 traps because when NMFS allocated those they had to -- they would only allocate a number of traps based on what appeared to be the fishing history out in Area 3.

So, there are many records of vessels that have an Area 3 allocation that isn't enough to make a living on. That permit holder opts not to put Area 3 on their permit. Therefore, they're not bound by their Area 3 rules, such as the three and a half inch minimum size.

So, hidden in the database is -- or up at NMFS or even on our computer is the fact that an individual vessel has an Area 3 allocation kind of in the top drawer, but they're not -- they're not choosing Area 3 on their permit because they don't want to fish a lower number of traps or fish on a higher gauge. But the allocation is there.

So, when you go to the database you say oh, well, this is an Area 2 boat. Well, in fact it's got a few hundred Area 3 traps in its portfolio, but it's not fishing them. So, when Area 3 transferability rules -- when those come into play, that vessel would -- or permit holder would be able to sell or transfer those Area 3 traps and just continue to fish in Area 2, and that's the part that I'm fearful of.

So, it's really about the fact that first you had the Area 3 allocations and then the next step in the process is fishermen over the last few years have opted whether or not to exercise their right for Area 3, many cases they've not because they didn't get enough Area 3 traps, but those allocations are still in the system. They're hardly apparent to many of the state agencies. You know what I mean? They're kind of tucked away.

BOARD CHAIR JOHN NELSON: Okay. Again we're just talking about the big issue here and just -- you know, we're not trying to solve it. And so to that point, Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Not trying to solve the problem, but address it in a different way. Toni, you said you'd have the white paper available for our May meeting -- at the May meeting.

TONI KERNS: Uh-huh.

PAT AUGUSTINE: In view of the fact that it sounds like it's a pretty critical issue, and I hate to put you against the wall, could we get it sent to us?

TONI KERNS: I intend to have it for you on a CD. That was my intent.

PAT AUGUSTINE: Oh, it would be on a CD. That's wonderful. So, I guess we could probably -- if so desired, we could take action in the May meeting to move forward with an addendum.

BOARD CHAIR JOHN NELSON: Well, we'll have it on the agenda for the May meeting for discussion and see what -- where it goes from there.

PAT AUGUSTINE: That's all I needed, Mr. Chairman. Thank you very much.

BOARD CHAIR JOHN NELSON: Thanks. I mean Pat. All right. Bill.

WILLIAM ADLER: Yes. What Dan brought up is on -- with regard to the transferring of, but I think we just have to -- we need to remember that back when they first put this -- the idea that you could have an Area 2 and an Area 3 allocation in place, and the most restrictive rule that was at that time, it did not refer to traps. It referred to the other rules, whatever they were. And this was brought back to the ASMFC and I believe we fixed it.

Now, this didn't have to do with the transfer stuff, but it was like if you had 800-pot limit in the inshore area and you happened to get a 300-

trap limit to the Area 3, the way it was announced was that okay, you can fish three in Area 3, but only five in the inshore area, or you can fish all eight in the inshore area. And it was divided up that way. And that was the way it went.

Now this had nothing, as I said, to do with transfers, but we came back to that because I believed the National Marine Fisheries Service had jumped into well, wait a minute, if you've got a three and an eighth you can only fish three, no matter where you are. And that was not the intent. So, we could look it back up in the ASMFC, but -- and I don't remember at what point and how we -- addendums or whatever we did to adjust the rationale there, but that was the original -- the original thing. And now what Dan brings up is the transfer part problem, but I think we ought to remember that we did set it up as when you're -- you're not transferring, you're just fishing, that that was the way it was worded or worked. Thank you.

BOARD CHAIR JOHN NELSON: Okay. Well, now that that's taken care of Pat's question, because that is accurate, as we would expect from Bill, let me go back to the transferability and let me get some -- any public comments on -- or ideas. David.

DAVID SPENCER: Thank you, Mr. Chairman. David Spencer, Area 3 LCMT. I think behind or possibly intertwined with rebuilding of the Southern New England stock unit. This is the biggest -- this is the biggest issue that's hanging out there, and I can't emphasize enough from an Area 3 standpoint and even other areas that this needs to be rectified as quickly as possible. And I think that the memo along with a Transferability Committee meeting were good first steps.

Beyond that, I would encourage Massachusetts and NMFS to continue to meet, even while we're waiting for a white paper because --

I mean this is a very difficult issue, it needs a lot of dissection and discussion and I think even when the white paper does get presented to the Board there will be outstanding issues that are going to have to be hashed through. So, the

more answers that can accompany that white paper, I think the quicker this will get resolved and the more answers that will be available at the May Board meeting.

One other thing I'd like to say, and with the full understanding this is not a discussion on an area-funded buyback, Area 3 is putting a buyback program together, and I just want to emphasize that we're very sensitive to this issue. We've invited NMFS, we've invited the State of Massachusetts to take part of this, and just so there's no misunderstanding, we are -- our intent, and we are working very diligently to create an effort and trap reduction program, not an effort and trap proliferation program. So, I just wanted to make sure that -- you know, that understanding was clear. Thank you.

BOARD CHAIR JOHN NELSON: Okay, David, thank you. Anyone else want to make a comment on the transferability from the audience? Yes, sir.

DENNIS INGRAM: My name is Dennis Ingram. I'm on the Area 2 LCMT. It just seems to me that somewhere along the line during this process, we had the choose it or lose it, where they would say if you didn't want that on your permit, you could drop it. So, guys -- what's happened in Area 2 are guys that qualified into multiple areas, like 800 in 2, 400 in 3, they dropped their 400 -- their Area 3 allocation, so they're not being held to the gauges and to whatever, so it seems to me if we just went back and looked at this and said okay, you don't have the option to drop that, if you want to hold that on your permit that you're going to be held to the more restrictive gauge sizes and whatever else they come up with, I think that's one way we could solve this with one clean little swipe.

I think it might help with Maine, too, because the problem we have is Maine hasn't gone through an allocation, so there's nothing to stop this guy from selling his 300 Area 3 permits or whatever, like the example that Pat White gave. There's no way for him -- I mean in Area 2 you could put it in there that if you sell 400 Area 2/3 pots, you end up with a 400-pot permit for Area

2, if you had an 800-pot overall size. But they don't have that in Maine.

So, it's just my suggestion to go back and take a look at that and choose it or lose it. Thank you.

BOARD CHAIR JOHN NELSON: Okay, thank you. Anyone else? Bonnie.

BONNIE SPINAZZOLA: Bonnie Spinazzola. Two things. I just want to make it clear, and Dan, again, I agree with what you say and what David said earlier, this definitely has to be taken care of and looked at and settled. However, as far as -- and I know this isn't an Area 3 buyback plan, but as far as this proliferation and ability to go into Area 1 for any traps that may be sold. Truth of the matter is that's status quo. Right now anybody can do that now. Anybody can take a boat and go right into Area 1. Anybody can sell a permit from anywhere and go into Area 1 -- you know, with a federal permit. So, that's not a proliferation of traps at all, and I think that's really important. And yes, I agree. I think something should be done about these things.

The other thing is I would like to ask NMFS, and I don't know if it's still under rulemaking or what, whatever did happen to choose and use that the Commission did approve? Can you discuss that? Sorry.

BOARD CHAIR JOHN NELSON: Only if the Chair asks them.

BONNIE SPINAZZOLA: Sorry. Yes, I wonder if you could ask them, Mr. Chairman, please. Thank you.

BOARD CHAIR JOHN NELSON: I'll think about it. Any other public comment? Yes, sir.

BRIAN THIBEAULT: Thank you, Mr. Chairman. Brian Thibeault, Area 2 lobster fisherman. Through the years we've been trying to push Addendum 7 through. I've been a big proponent of it. It was very important -- unfortunately, part of the sales point was having transferability included in that addendum, it got taken out at the last minute by the Board. It

needs to -- the urgency -- I'm just sitting here trying to express the urgency of the matter. A lot of people were -- their businesses were hurt with the lack of transferability coming through with the adoption of Addendum 7.

Sitting in the audience, I mean it seems to be a pretty cut and dry easy way to do it when you order your trap tags, whether you have multiple - - multiple allocations for Area 2 or Area 3, you only receive 800 trap tags. I do not -- you know, if I choose to fish all 800 of my pots in Area 2, I don't get 800 Area 2 and then 300 Area 3's to stick in the shelf. You know, I only get 800 tags. So, if it's possible to work it out through the ordering system -- you know, hopefully that makes it easier. But we definitely -- there is an urgency with the Area 2 fishery that we need this resolved. Thank you.

BOARD CHAIR JOHN NELSON: All right. Thanks very much. Anyone else?

(No response audible.)

BOARD CHAIR JOHN NELSON: All right. Back to the Board. Any other comments? Harry, did you -- could you answer Bonnie's comment, question?

HARRY MEARS: Well, that, as well as some previous comments, are relative to most restrictive that ties in with choose or lose. Just to clarify some comments that have been made by the Board members, Amendment 3 when it was approved back in 1997 when it talked about most restrictive was very much centered on the most restrictive of trap numbers between management areas. And there was a subsequent addendum, I believe it was Number 4, whereby that removed that interpretation, the degree to which that may or may not have been implemented by various states. I'm not really aware of what that extent may be. From a federal perspective, the initial regulations for most restrictive do remain in place. In fact, we have an MOU with states for trap tag administration, and that's very much a requirement that that regulation be essentially mirrored by the states we have MOUs with. So, I just wanted to make that clarification.

The second point, in terms of choose or lose and where we are, that will be part of a larger overall Environmental Impact Statement that we're currently working on, and that is under current rulemaking along with the inter-transferability issue. Thank you.

BOARD CHAIR JOHN NELSON: So, the answer to Bonnie was sometime -- someday. All right. Any other comments on the transferability?

(No response audible.)

BOARD CHAIR JOHN NELSON: All right. I guess obviously we have a little issue that I guess we -- hopefully we have enough time at the Board meeting to tackle, although the white paper probably will be so concise and accurate that we will not need to do much discussion. Anything else to come before the Board? Yes, Dan.

DAN MCKIERNAN: Would there be an opportunity for me to inquire about the status of the Rhode Island appeals for Area 2? At the last Board meeting, the Board voted to endorse the Plan Review Team's view of the appeal standards and it was felt that the State of Rhode Island's appeal standards had the potential to be very -- more liberal than the other states, especially Massachusetts.

BOARD CHAIR JOHN NELSON: Yes, we can -- yes, we can certainly ask, but as far as dealing with the issue, if it's -- that really should be an agenda item to see if there's anything that has to be done as far as a compliance issue associated with that. Mark, you want to just give a brief update?

MARK GIBSON: Thank you Mr. Chairman. We have gone through the initial allocation and are in the resolved -- I think all of the data disputes -- that is, those issues where individuals came forward and said we had their logbook data wrong or something like that, VTR reports, resolved those.

Right now we are heavily -- heavily involved in the administrative adjudication process. We have, last count, probably 60 appeals to our

Administrative Adjudication Division on various grounds, medical issues, military hardships, just dissatisfaction with the initial allocation that was not resolved via a data dispute. I have not received any decisions from the adjudication officer or the director at this time. They're all in the process of being worked through.

It's a back-breaking effort on the part of myself and staff to attend all of these things, provide the documentation for every citizen on an individual basis who is aggrieved of a decision, so --

But the direct answer to Dan's question is they are being adjudicated right now on the regulations that we have on the books, which were provided to the Plan Review Team and which the Board commented on, including their more liberal interpretation of the medical leave provisions. That's what's going on right now. And as I said, I do not have any final decisions from the adjudication officer or director which would cause me to change my initial allocations.

BOARD CHAIR JOHN NELSON: I think the point of the Board for this particular point for the -- whether it's on the next meeting or not is the Board had understood that there were certain -- there was language in the rules -- state rules that the Board had expressed certain recommendations of changing to make it consistent with what the plan was calling for. And I think it would be helpful for us to have those updated to us at the next Board meeting, Mark. Thank you.

OTHER BUSINESS

Anything else before the Board?

(No response audible.)

ADJOURN

BOARD CHAIR JOHN NELSON: All right. Move to adjourn. We are adjourned. Thank you very much for your speedy and timely conversation.

WHEREUPON:

The meeting was concluded at 12.:34 p.m.

