

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

**The Westin Crystal City
Arlington, Virginia
Hybrid Meeting**

January 23, 2024

Approved April 30, 2024

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INDEX OF MOTIONS

1. **Approval of Agenda** by consent (Page 1).
2. **Approval of Proceedings of October 16, 2023** by consent (Page 1).
3. **Main Motion**
Motion to initiate an addendum to clarify that Addendum XXVII shall include compliance with the Mitchel provision and signal to NMFS that the smallest implemented minimum size should apply to imports (Page 14). Motion by Dan McKiernan; second by Doug Grout. Motion amended.

Motion to Amend
Motion to amend to add consideration of a maximum size limit for imports (Page 17). Motion by Pat Keliher; second by Dan McKiernan. Motion passes by unanimous consent (Page 17).

Main Motion as Amended
Move to initiate an addendum to clarify that Addendum XXVII shall include compliance with the Mitchell provision, signal to NMFS that the smallest implemented minimum size should apply to imports, and also consideration of a maximum size limit for imports (Page 17). Motion passes by unanimous consent (Page 17).
4. **Approval of recommend to the ISFMP Policy Board that the Commission send a letter to NOAA Fisheries to withdraw the Commission’s recommendation to implement the measures of Sections 3 and 4, except Sections 3.1.1 and 3.2.1 – transfers of Multi-LCMA Trap Allocation of Addendum XXI and all of Addendum XXII** (Page 23). Motion by Dan McKiernan; second by David Borden. Motion passes with 1 null note (ME) and 1 abstention (NOAA Fisheries) (Page 27).
5. **Move to send states who have not implemented the electronic vessel tracking requirement for federal lobster permit holders a letter stating that the implementation deadline for this action was December 15, 2023 and states need to implement this requirement in a timely fashion to ensure compliance with the Lobster FMP** (Page 28). Motion by Pat Keliher; second by Doug Grout. Motion passes by unanimous consent (Page 28).
6. **Move to approve the nomination of Denny Colbert to the Jonah Crab Advisory Panel** (Page 29). Motion by Dan McKiernan; second by Dennis Abbott. Motion passes by unanimous consent (Page 29).
7. **Move to have the Plan Development Team review the conservation measures originally set in Addenda XXI and XXII and make recommendations for alternate measures to achieve those reductions inclusive of the Lobster Conservation Management Team recommendations by the ASMFC Spring Meeting** (Page 29). Motion by Cheri Patterson; second by Pat Keliher. Motion passes by unanimous consent (Page 29).
8. **Move to adjourn** by consent (Page 30).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)	John Maniscalco, NY, proxy for M. Gary (AA)
Rep. Allison Hepler, ME (LA)	Scott Curatolo-Wagemann, NY, proxy for E. Hasbrouck (GA)
Cheri Patterson, NH (AA)	Amy Karlnosky, NY, proxy for Assy. Thiele (LA)
Doug Grout, NH (GA)	Joe Cimino, NJ (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Jeff Kaelin, NJ (GA)
Dan McKiernan, MA (AA)	Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)
Raymond Kane, MA (GA)	John Clark, DE (AA)
Rep. Sarah Peake, MA (LA)	Roy Miller, DE (GA)
Jason McNamee, RI (AA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
David Borden, RI (GA)	Mike Luisi, MD, proxy for L. Fegley (AA, Acting)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Russel Dize, MD (GA)
Colleen Bouffard, CT, proxy for J. Davis (AA)	Shanna Madsen, VA, proxy for J. Green (AA)
William Hyatt, CT (GA)	John Cosgrove, VA, proxy for Sen. DeSteph (LA)
Rep. Joe Gresko, CT (LA)	Allison Murphy, NOAA

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

Ex-Officio Members

Corinne Truesdale, Technical Committee Chair	Rob Beal, Law Enforcement Committee Rep.
Tracy Pugh, Technical Committee Chair	

Staff

Bob Beal	Caitlin Starks	Kristen Anstead
Toni Kerns	Chelsea Tuohy	Katie Drew
Tina Berger	James Boyle	Jeff Kipp
Madeline Musante	Julie DeFilippi Simpson	Jainita Patel
Tracy Bauer	Mike Rinaldi	Lindsey Aubart
Emilie Franke	Anna-Mai Christmas-Svajdlenka	Kurt Blanchard

Guests

Debra Abercrombie, US FWS	Beth Casoni, MA Lobstermen's Assn.	Roman Dudus, Stellwagen Bank Charter Boat Assn.
Regina Asmutis-Silvia, Whale and Dolphin Conservation	Nicole Caudell, MD DNR	Sam Duggan, ME DMR
Michelle Bachman, NEFMC	Michael Celestino, NJ FW	Julie Evans
Alan Bianchi, NC DMF	Jessica Clawson, FL FWC	Paula Farnell, NC DMF
Jason Boucher, NOAA	Haley Clinton, NC DMF	Glen Fernandes
Colleen Bouffard, CT DEEP	Emily Coffin	Christine Ford, NOAA
Gib Brogan, Oceana	Colleen Coogan, NOAA	Sonja Fordham, Shark Advocates International
Jeffrey Brust, NJ DFW	Jennifer Couture, NEFMC	Crystal Franco, NOAA
Connor Buckley, NEFMC	Caitlin Craig, NYS DEC	Erica Fuller
Chris Campanale	Jason Didden, MAFMC	Pat Geer, VMRC
Joshua Carloni, NH FGD	Jacob Dorothy, MA DMF	

These minutes are draft and subject to approval by the American Lobster Management Board.

The Board will review the minutes during its next meeting.

Guest (continued)

Jennifer Goebel, NOAA
Melanie Griffin, MA DMF
Amalia Harrington, ME Sea Grant
Brendan Harrison, NJ DEP
Emerson Hasbrouck, NY (GA)
Heidi Henninger, NOAA
Jay Hermsen, NOAA
Harry Hornick, MD DNR
Jesse Hornstein, NYS DEC
Carrie Kennedy, MD DNR
Blaik Keppler, SC (AA)
Kris Kuhn, PA FBC
Jennifer Lander, NYS DEC
Julie Mackey, NOAA
Anthony Mastitski, Marine
Stewardship Council
Patrice McCarron, ME
Lobstermen's Assn.
Nichola Meserve, MA DMF

Steve Meyers, Stellwagen Bank
Charter Boat Assn.
John Moore
Lorraine Morris, ME DMR
Carol Morris-Scata, CT DEEP
Brandon Muffley, MAFMC
Jeffrey Nichols, ME DMR
Scott Olszewski, RI FW
Alexis Park, MD DNF
Justin Pellegrino, NYS DEC
Jonathon Peros, NEFMC
Derek Perry, MA DMF
Michael Pierdinock, Stellwagen
Bank Charter Boat Assn.
Bryan Plumlee, VA (GA)
Will Poston, Stellwagen Bank
Charter Boat Assn.
Marianne Randall, NOAA
Kathleen Reardon, ME DMR

Tajrian Sarwar, NYS DEC
Zachary Schuller, NYS DEC
Christopher Scott, NYS DEC
McLean Seward, NC DMF
Burton Shank, NEFSC
David Sikorski
Melissa Smith, ME DMR
Stephen Smith
Renee St. Amand, CT DEEP
Elizabeth Stratton, NOAA
Laura Tomlinson, MA DMF
Taylor Vavra, Stripers Forever
John Whiteside, WhitesideLaw
Kelly Whitmore, MA DMF
Angel Willey, MD DNR
Patrick Williamson, RI DEM
Chris Wright, NOAA
Jordan Zimmerman, DE DNREC
Renee Zobel, NH FGD

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia, via hybrid meeting, in-person and webinar; Tuesday, January 23, 2024, and was called to order at 12:30 p.m. by Chair Jason McNamee.

CALL TO ORDER

CHAIR JASON McNAMEE: Welcome, everybody. This is the January, 2024 edition of the Lobster Management Board. Welcome, everyone. A couple of things to get started here.

APPROVAL OF AGENDA

CHAIR McNAMEE: The first we will start with the agenda. Are there any additions, deletions, anything with the agenda that anybody wants to offer? Looking around the room here, not seeing anyone raising their hand, is there anyone online?

It does not seem like there is anyone online either. Great, are there any objections to approving the agenda as submitted, please raise your hand, either real hand or virtual. No hands at the table, no hands online. We will consider the agenda approved by consent.

APPROVAL OF PROCEEDINGS

CHAIR McNAMEE: Okay, next up is the approval of the proceedings from the October, 2023 meeting. Are there any corrections? I see Alli Murphy in the back. Go ahead, Alli.

MS. ALLISON MURPHY: I have a quick correction on Page 30 of the minutes from the annual meeting in 2023. I misspoke and said the date, the line that we drew in the sand for the date for allocations that would be considered over the Area 2 and 3 ownership caps. I misspoke and said that was May 1st, 2023, and in its place, it should be May 1st, 2022. I believe staff have that correction.

CHAIR McNAMEE: Great, thank you, Alli. Just folks in the room, make sure, it's pretty loud. We have that correction. Anyone else with any corrections?

Thank you, Alli for that. Anyone else with any corrections to the proceedings? Please, raise your hand. No seeing any in the room, nobody online. I'll look around the room. Are there any objections to approving the October, 2023 proceedings as modified today, please raise your hand. No hands in the room, and looking online no hands online. We'll consider the proceedings approved with the modification offered by Alli Murphy.

PUBLIC COMMENT

CHAIR McNAMEE: Next, we'll go to public comment. This is an opportunity to make a public comment on anything that is not on the agenda, so important distinction there. If it is on the agenda today, please hold your comment until we get to that part of the agenda. But if there is anything that isn't on the agenda, anyone in the public wishes to address, now is your opportunity. Is there anyone here in the room, looking for hands. Not seeing anyone in the room, we do have one hand online, so it's Stephen Smith, so we'll make sure we've got you unmuted, and you can go ahead and make your comment. You should be good to go, Stephen.

MR. STEPHEN SMITH: My comment and a question are a general question. The commercial lobster Gulf of Maine area between Cape Cod Bay and the Canadian Border has no effort control, aside from an 800 trap per license holder limit. The average in Massachusetts alone, is approximately 360 traps per license holder, which allows a greater than a double increase in effort any time in the future.

This is more than enough to counter any trap control in the Outer Cape Cod area and the EEZ area combined. It will also keep the minimum size increases at a first-time molt into the legal size. There is much too much effort that is able to be applied to the fishery in this particular area. The question would be then, will the ASMFC address this problem? Thank you.

CHAIR McNAMEE: Thank you for the comment. There was a question there. I don't know that anyone is ready to speak to that question, but Toni looks like she's going for her microphone, maybe?

Hang on one second, Sir. Sorry, we just did a little sidebar here. We have your comment, just kind of on the fly here. If your question was about effort control, there is no action right now for additional effort control. But we have your comment. We will try and digest that a little more after the meeting, but that is our comment for the time being.

Thank you for that. Okay, let's keep moving along here.

AMERICAN LOBSTER TECHNICAL COMMITTEE REPORT

CHAIR McNAMEE: Next up is a report from the Lobster Technical Committee. This was the request that the Board made about giving a little bit of information on the lobster resource in the fishery near the northern edge of Georges Bank. We have Tracy Pugh on the line, and so Tracy, whenever you are ready to go, please feel free to take it away.

MS. TRACY PUGH: Hello, thank you, Mr. Chair. I am going to sort of briefly review the key points in the memo that we provided. This again was the task for looking for information on the northern edge of Georges Bank. If we could click the slide, please. This is in response to the New England Fisheries Management Council's potential action. They are considering opening scallop access to a portion of Closed Area II.

Specifically, the area they are talking about is within a currently closed Habitat Management Area, and if you can go to the next slide, they have a map here to give you a little bit of orientation.

INFORMATION ON LOBSTER RESOURCE AND FISHERY NEAR THE NORTHERN EDGE OF GEORGES BANK

MS. PUGH: This is the northern edge of Georges Bank, and the gold box here is highlighting the Habitat Management Area in which they are considering opening scallop access. Essentially the task was for the TC to provide some information to help characterize any potential impacts that allowing scallop access to this area might have on

the lobster resource and the lobster fishery.

Specifically, the Board gave us several topics to address with this. The topics were to provide information on the presence and abundance of lobsters, including ovigerous lobsters in and around the northern edge by month or season. To provide information on lobster fishery effort in and around the northern edge, again by month or season. To provide potential information on potential impacts of mobile gear on the lobster population in this area. To provide information on habitat type and depth preferences of lobsters, which could inform our understanding of the lobster resource in the northern edge if there are limitations in available data. To provide information on whether the current reporting by Area 3 vessels is representative, or if it is an underestimate of the effort in the northern edge area, and how future requirements might impact our data availability.

The TC met via webinar, and we discussed the data sources that we thought would be useful to address these points. But unfortunately, we did not have enough time, or in some cases we didn't actually have access to the data that we're going to need to conduct these analyses. What I'm going to do here is provide the review of the data sources that we identified, and cover a little bit of a couple preliminary results we were able to put together, and then what we think we can do in the future to provide you with additional information.

Data availability, specifically within the Habitat Management Area. We think we can look, there is going to be harvester reported data from the federal VTRs. There is going to be a little bit of tracker data. The Massachusetts fleet came online with tracker data about nine months ago, I think. We have a little bit of tracker data that might be informative.

There is a potential that there is federal observer data, although I think the most recent data is from 2015. There is the potential that the Commercial Fisheries Research Foundation, or CFRF, they have a study fleet, and we may be able to request data and have a look at those data, to inform effort and catch

characteristics.

There is a potential that we could look at tagging study data. There was a recent collaboration between Atlantic offshore lobster, New Hampshire Fish and Game, and Maine DMR. We can look at the tagging study data that came from that work, and of course we have the Science Center spring and fall trawl survey locations. They are going to be relatively limited, because only a couple of trawls will fall within the specific area.

For information that is not maybe exactly in the Habitat Management Area, but really nearby, everything that I previously mentioned. Then there is also a Coonamessett Farm Foundation seasonal scallop bycatch survey, and we think that this Coonamessett Farm survey data is going to be particularly useful for looking at seasonality of lobster in the scallop dredged gear, and understanding what that bycatch looks like, and then also, whether or not there is any damage induced by that particular gear type.

For some preliminary results, I mentioned that we took a brief look at the tracker data. A very preliminary analysis of the Massachusetts tracker data was available to us. Again, this is about nine months they activated in May of 2023. If you look at the map here, what we're looking at is the NMFS statistical areas in red. The gray boxes are the ten-minute squares, and in Area 561, the yellow box there is the Habitat Management Area that we're talking about.

Then those pink hatched boxes are the ten-minute squares in which we took a look at the tracker data. In that area, there is definitely some activity. We had at least five vessels with trips in that area, and it represented at least 34 trips. But we wanted to note here that Massachusetts boats represent only about 10 percent of the effort in Area 561, based on a preliminary look at our VTR data. Just to note, the memo said that we looked at eight ten-minute squares, it's actually 17 squares, as you can see in the map there. There is definitely activity in the area. We need to do a little bit more to understand a little bit better what that activity is. We could also

look at some previous work, and information indicates that lobsters in this region tend to be very large, and the sex ratio tends to be pretty female skewed.

We spent some time looking at this back in, I think 2012 and in 2015, and we're referencing a TC memo to the Board that was 2015, where we looked into impacts of opening Closed Area II to mobile gear. I think that memo was attached at the end of the memo we provided to you. The Coonamessett Farm data, there were a couple of final reports available, and we had a look at that. The lobsters that they are seeing retained in those scallop dredges are definitely vulnerable to significant damage.

They observed 783 lobsters, and 34 percent of those had lethal damage. Another 27 percent exhibited moderate but sublethal damage from that scallop gear. We do see damage to lobsters from scallop and other gear, it tends to be worse for recently molted lobsters. If they haven't fully hardened that shell yet, they are going to be more susceptible to damage from scallop or other mobile gear. Again, this is referencing our 2015 TC memo, along with an appendix that was provided in Addendum XX.

It's important to note here that any kind of seasonality of interactions with lobsters and mobile gear is going to be important to the level of impact on the resource itself. Finally, again from the Coonamessett Farm surveys. They did see higher bycatch in those scallop surveys that occurred near the Habitat Management Area during the summer and the fall season, and this was primarily driven by a large increase in the females in the catch.

The last topic question, I guess, was whether or not the data that we're getting, in terms of reporting data, is going to be representative of actual effort in the northern edge area. We wanted to point out that that while nearly all of the vessels that are active in the area have been reporting VTRs since 2013, there are definite limitations to using VTR data, in terms of the spatial resolution.

For the most part, vessels are reporting a single latitude/longitude instead of coordinates for each trawl that they fish. It does limit our ability to look at a trawl-by-trawl kind of effort and spatial footprint, and of course there are confidentiality challenges when it comes to presenting or displaying any of these data.

We think that the upcoming implementation of the federal EVTRs is going to improve the coverage, and possibly the data quality here. But we wanted to highlight that the implementation of the trackers on the federally permitted vessels is going to be a huge improvement in our ability to understand the spatial footprint and the timing of when and where effort is occurring.

Those confidentiality challenges will likely remain, in terms of how we can present or share the data. But the tracker data will be a big improvement once it gets all online. For next steps, the TC can examine the seasonal catch and effort in the vicinity of the area. We can do this by looking more in depth at the harvester reporting data for recent years at the ten-minute square level. This is going to require a data request to National Marine Fisheries Service, so that we can get the data to capture the seasonality and the spatial resolution. Again, there is likely going to be some confidentiality issues in what we can present, but we can certainly look at it in detail. We can also look at size composition and sex ratios for lobsters in the vicinity. We can use the CFRF Study Fleet data for this, the Federal Observer data, and we can also look at the Science Center's Trawl Survey information.

We think that some information is also likely going to be available from the Coonamessett Farm Foundation bycatch surveys. Both of these things are going to require additional data requests. We can do these things, but they clearly are going to take a little bit of time. We have to do data requests to National Marine Fisheries Service and the Coonamessett Farms, in order to get the data at the resolution we need. We are unclear what the turnaround time on that request would be, hopefully it would be relatively quick.

I did want to note that the TC members do have a fair amount of time and effort commitments in preparation for the stock assessment coming up. We have data workshops for the assessment that are going to be taking place in February. We will have a little bit of time conflict there. It is our understanding that the New England Fisheries Management Council is going to be meeting in April.

Ideally, we would be able to provide some input in time for this meeting. Depending on the turnaround time on getting these data, we think that we should be able to have information provided to the Board by late March. With that, again, this was just a brief overview of what is in the memo. I am happy to take any questions.

CHAIR McNAMEE: Good report from the Technical Committee. You did some nice work, collecting the available information that is out there, a little bit of preliminary analysis. I think the job here for the Board is to kind of figure out the priority of this work amongst all of the other priorities that the Technical Committee has, you know if we want them to kind of move forward.

There is kind of a date critical here, April, for the New England Council meeting to have anything we ask for, have it relevant for their deliberations. I just wanted to kind of summarize that so folks could have a sense of where we're driving at with this agenda item. Let's start with some questions for Tracy. I'll look around the table first, questions for Tracy. None at the table, any online, Caitlin? Okay, David.

MR. DAVID V. BORDEN: I don't have a question, but I just want to make a point that, first off, thank you very much, Tracy, for an excellent report, and thank the members of the Committee that participated in it. The last time I was involved in this issue was a number of years ago, when I worked for AOLA, and it came up at the New England Council.

We were opposed to it. I'm just stating history here. We were opposed to it because of the damage rate on lobsters, and as you can see from Tracy's report, damage rates can be as high as 60

percent, both moderate and lethal damage to lobsters. Of equal, if not greater concern to us, was the fact that 80 percent of the lobsters at certain times of year are ovigerous in this area. I think there are a lot of good reasons to be super cautious, and have the Commission go on record with a strong letter on the issue, when we eventually get to it. I guess a question to you, Mr. Chairman, or the staff, how will we formalize that recommendation? In other words, our meeting isn't until May, so what is going to be the process we're going to follow?

CHAIR McNAMEE: Good question, David. I don't think that one is for Tracy, maybe for Toni or Caitlin. Toni.

MS. TONI KERNS: I think what we can do is provide this preliminary report to the New England Council, and then have the TC work as quickly as possible, because I know that this is an agenda item that I believe is on their February meeting. Mr. Reid probably will correct me if I'm wrong. We want to make sure that we get our input at thorough fashion to the Council, so that they have all the information when they are considering their management document.

CHAIR McNAMEE: Thank you, Toni, what's that? Okay, got it, so a couple of hands around the table. Let's take care of the one online. Eric, go ahead, Eric Reid.

MR. ERIC REID: Thank you for your report. For our meeting next week, the northern edge is not on that agenda. But it will be for sure on our April agenda, that is the 16th through the 18th of April. But another milestone is the Habitat and Scallop Committee are meeting jointly on March 27th, and ideally it would be good to have as much information as possible for that meeting. That is March 27th. That is our schedule, so see what you can do. Thank you.

CHAIR McNAMEE: No, that is helpful to kind of understand the timeline a little bit more. I had a couple of hands, so Ray, I had you first, and I'll come to you, Pat.

MR. RAYMOND W. KANE: Maybe Tracy could answer this question, but a number of years ago we were sitting at this table, I believe Bill Adler was still a Commissioner from Massachusetts, and we had an issue with the Otter Trawlers wanting to tow out there. If my recollection serves me well, 70 percent of those lobsters on the northern edge are egg bearing females. Another question I would have.

I believe Bob Glenn gave us a presentation about with the wind and tidal shifts and all and currents, that those egg bearing lobsters, when they drop their eggs. You know there is this biological, where they are up on the surface and they drop down through the different depths, and all those eggs end up in the Gulf of Maine. You know we're pressed right now in the Gulf of Maine; we know what the young of the year stock looks like. I was wondering if Tracy could bring me up to speed on that.

CHAIR McNAMEE: Yes, thanks, Ray. Tracy, that definitely sounds like it's in your wheelhouse, so please feel free to offer Ray a response.

MS. PUGH: Yes, certainly. It's in the wheelhouse, but maybe a little rusty. I think that in both 2012 and 2015, our old memos that I found that the TC put together in response to the Council considering opening some mobile gear in that Closed Area II, I think in portions a little further south than what we're talking about here, but still in that Closed Area II. Those memos did certainly talk about the concentrations of large mature females up on top of the bank in the shallow water in the summer and the fall. Timing wise, yes, a lot of those would probably be egg bearing. I don't have the percentages right off, but we can certainly do some additional digging, and see if we can find information that would be a little bit informative there. In terms of the larval distribution, that one I am going to have to say that it is not fresh in my head, and I would have to do a little bit of digging, with the TCs help, and see if we can get a better answer for that. It is certainly plausible, but I don't want to answer right off.

CHAIR McNAMEE: Anything else, Ray? All right, next up is Pat.

MR. PATRICK C. KELIHER: Tracy, thanks for that update from the TC. It is clear that there is a lot more conversations the TC must have. I think some of the points that David and Ray Kane just brought up, with some of the resource issues, I think really highlights the fact that I think where your going is we need to prioritize what some of this work is going to look like. I appreciate the New England Council Chair giving us a little bit of clarity on that deadline, so March is coming up pretty quickly.

I think from my standpoint, I would like to highlight two areas that the TC needs to focus on for goals, and that is information on the presence and abundance of lobsters, including ovigerous lobsters in and around the northern edge by month and by season, and the lobster fishery efforts in and around the northern edge by month and by season. Those two things overlaid I think really give us a really good picture of potential impacts of allowing the scallop fleet in there, and the interaction with the lobster resource.

CHAIR McNAMEE: Excellent, thank you, Pat, and so yes, we've kind of transitioned into providing advice and recommendations here, so thanks for that, Pat. Let's see, Dan, I have you next.

MR. DANIEL McKIERNAN: I agree with Pat Keliher's request that the TC look at by month and by season the incidents of lobsters, and especially ovigerous lobsters in this area. But I have a process question as well. If the Council is going to make a decision before this Board meets again, would the comment period not be open, so that this Board could take a formal position on something at its next meeting, and submit that to the Regional Administrator for his consideration about whatever the Council would have approved?

CHAIR McNAMEE: Okay, the question is a good one. I'm not sure who to go to for an answer. Okay, let's start with the Chair of the New England Council, so Eric Reid, go ahead.

MR. REID: Thanks for the question, Mr. McKiernan. We're not taking final action in April; we're still developing alternatives at that point. But early and

often is what I would suggest on comments, but final action isn't going to be until much later in 2024, if that should actually happen then. That's the timeline.

CHAIR McNAMEE: Excellent, thank you, Eric. That sounds like there is some time there, great. Toni.

MS. KERNS: The rationale for putting this information together is so that the Council can weave some of this information into their document that they put out for public comment, so that everybody is informed of the full scope of the issue.

CHAIR McNAMEE: Okay, so we've provided some clear guidance to the Technical Committee on areas to focus. Oh, sorry, Tracy, go ahead.

MS. PUGH: I just wanted just to briefly expectation managing a little bit. For the VTR data. That is going to provide us with catch data, certainly, and effort with the ten-minute square resolution. Getting really good monthly or seasonal abundance estimates is a little bit more of a challenge, because we can certainly use the catch data to inform that.

But abundance is typically something we think of as being the fishery independent surveys, and the Science Centers trawl survey is just simply a spring and fall. We've used that in the past in addition to catch data, to sort of infer things, but that is kind of the best we can do with that. Additionally, in terms of getting really specific information, in terms of where and when the eggers are there. That will again be a little bit of a challenge.

That is obviously not going to be in the VTR data, because VTR data is catch. It doesn't take into account discards. For that we're going to be reliant on any kind of observer programs in the area, or if the CFRF or previous logbook program with, I think AOLA and New Hampshire Fish and Game. Those will be the data sources we will have to rely on for that. It might be a little bit sparse, but we will certainly do everything we can to get a good picture of what's going on out there.

CHAIR McNAMEE: That is excellent, Tracy, thank you for that clarification and yes, tempering the expectations on what the data can actually deliver, so appreciate that. But we also appreciate you thinking on it and doing the best you can with what is available. Okay, let's look around the table one more shot here. Dan, go ahead.

MR. McKIERNAN: Just a comment. If there was ever a reason for vessel trackers, and you needed an Exhibit A, this is it.

CHAIR McNAMEE: Good point, Dan, thank you for that. I think we are going to move on. Just one comment. I want to get through these two Technical Committee reports and then I will quickly go out to the public, but I want to keep things moving along. We're still close to being on time, and a lot to get through.

With that, next up we have a report, and Tracy, thank you very much, really appreciated the work the Technical Committee did, and excellent presentation there, thanks for that.

JONAH CRAB TECHNICAL COMMITTEE REPORT

CHAIR McNAMEE: Okay, so next we are going to turn to the Jonah Crab Technical Committee Report, and for that I'll look to Corinne Truesdale to walk us through that, so Corinne, whenever you're ready.

MS. CORINNE TRUESDALE: I am going to walk through; I'll try to keep this as brief as possible, a presentation just providing a little bit of stock assessment background that will contextualize the tasks that the Technical Committee was given by the Board in October. Then included in this review, I'll go over some feedback that we got from the Advisory Panel to assist us in this task. The first benchmark assessment for Jonah Crab was accepted by the Board in October of 2023. As part of that assessment, it established four stocks for Jonah crab. We have offshore and inshore Gulf of Maine, and offshore and inshore Southern New England.

The offshore Southern New England stock is one

where over 75 percent of the landings on average come from every year, so that is the stock where Jonah crab is targeted, and the others are largely bycatch fisheries. From reviewing the indicators available to the Stock Assessment Subcommittee, they found that the abundance for Jonah crab is above historical lows from the '80s and '90s for the Gulf of Maine and offshore Southern New England, but status was unknown for inshore Southern New England due to data limitations in that area in particular.

We don't have absolute estimates of abundance or biomass, and fishing mortality rates are unknown for the stock. Stock status does remain uncertain for all of the stocks for Jonah crab. The Peer Review Panel for the stock assessment had concerns over this decline in landings seen for offshore Southern New England in the more recent three years of the time series.

You can see that there is a time series high in landings in 2018, and after that a 51 percent decline in offshore Southern New England landings. The concern for the Peer Review Panel was that this mirrors, or it does resemble, a decline that occurred in the offshore Lobster Fishing Area 41 fishery in Canada.

There they had a fishery that was established in 1995 with pretty stable landings, and then experienced a rapid decline, starting in 2000 and leading to an almost complete diminishment of landings in 2008, 2009. Given that comparison, and the biological data that we have available of the data limitations that exist for Jonah crab, the Technical Committee was tasked with these five tasks.

The first was to gather current information on management and stock conditions for the Canadian stock. Specific to what has occurred since 2009, when the last assessment was conducted for that fishery, what is being done with regard to management, and what monitoring is occurring, and getting some context on fisheries characteristics there.

JONAH CRAB STOCK INDICATORS

MS. TRUESDALE: The second was to recommend additional indicators from existing data to monitor stocks for Jonah crab, so any additional indicators that we can use to monitor the fishery, and the resource itself, in addition to those recommended by the Stock Assessment Subcommittee. The third was to recommend the frequency of those indicator updates.

Fourth, recommend potential management measures for the Jonah crab fishery, in response to any changes in biomass that might be indicated with those indicators. Then fifth, to provide recommendations to improve monitoring in the short term for Jonah crab. To that end, the TC had meetings on November 16 and January 2nd, and then also requested additional feedback from the Advisory Panel.

They met on December 14, to provide some context related to the fishery characteristics, and some input on indicators that could be used for Jonah crab. I'll launch right into a review of the tasks that we have, starting with the review of the Canadian fishery. As I mentioned, the last assessment for that LFA 41 offshore fishery occurred in 2009. There has been no ongoing monitoring or assessments in that fishery, and they haven't had any substantial targeting of Jonah crab in that area. When they did have a fishery occurring, so from 1995 to 2009, it was with one sole license holder that owned several boats, so it was one enterprise that had a monopoly on the fishery at that time.

The fishery has been largely inactive since 2009, and the management measures have been largely stable with a minimum size of 130 millimeters, 8 millimeters larger than what we have in the United States, and a catch limit that has had a TAC in place since the beginning of the fishery that was 720 tons.

It was reduced after the assessment found that there could be impact, that there was likely impact of the fishery on the resource that reduced the TAC in 2009, and then they reduced it again in 2017, because it was indicated that there might be

interest in retaining Jonah crabs again in the fishery. Largely, the management measures have been stable. Monitoring has not continued.

I'm going to try to breeze through the indicators that we've had and reviewed as part of this task. First, we have Catch Per Unit Effort or Fishery Dependent Indicators, starting with the Rhode Island fishery. This was an indicator that was introduced during the peer review process with requests by the Peer Review Panel.

We have a subset of highliners or vessels that we know are landing and targeting Jonah crab in Rhode Island, looking at landings per trip over time. What was concerning here was that there was a decrease you can see at the end of the time series, in landings per trip among these five highliner vessels in Rhode Island.

We updated the time periods to go through 2022, and you can see when you zoom in on the plot that there really is a decrease in landings per trip that occurred in Rhode Island. From talking to industry, and we'll get into it later on in the presentation, there are market factors at play here. That has come out through the Advisory Panel meeting and discussions with industry members there.

For Massachusetts, we have not CPUE, but we have an effort time series. We're looking at number of trips that are actually landing Jonah crab from the offshore fishery statistical areas. We can see that there has been a decline since 2014, with time series lows in those most recent three years for the Massachusetts fishery.

We have a lower number of trips that are actually occurring and landing Jonah crab in Massachusetts; Rhode Island and Massachusetts comprising over 90 percent of the fishery, in terms of the landings. The Technical Committee recommends continuing to update these fishery dependent indicators for Rhode Island and Massachusetts.

In particular, for this offshore Southern New England stock in future years, to get an idea of whether things are continuing to change in the

fishery, or the conditions remain stable there. We also looked at price indicators, so looking at Jonah crab and lobster price per pound, with Jonah crab in orange and lobster in blue here, from 2010 to 2023. You can see the peak for the Jonah crab price per pound was in 2022, with a decrease thereafter, but is generally high compared to the rest of the time series. For lobster we had a peak in the price in 2021, and that coincides with when we saw this decline in Jonah crab landings per trip, and landings overall.

There is some interplay believed to be occurring, and we know that these two fisheries are linked, they occur in a crustacean fishery. With that the Technical Committee recommends including these price data in indicator updates in the future in looking at price data for lobster and Jonah crab.

We'll also note that we did look at a Canadian snow crab and Dungeness crab price per pound, and found that the relationship between those and Jonah crab wasn't readily apparent, and there needs to be more work to understand the linkages between those species and Jonah crab. Briefly we looked at sex-ratio data for just a few sampling data, and also for trawl survey data.

I won't get into this part, where it's less complicated than it looks. We're looking at sex ratios over time to report over a bunch of statistical areas. The takeaway being that there weren't any patterns or any intuitive patterns that you could see in the data here. We don't recommend looking at sex ratios for indicator updates in the future.

We also looked at a suite of length-based indicators as part of the stock assessment process, and then added examination of the 5 percent smallest crabs being landed in port samples, to look at whether there are changes driven by the market in the Jonah crabs that are selected to be landed. Data were too sparse to determine trends.

We don't have enough years of data available, so at this time we don't recommend using those in indicator updates in the future. A brief summary of the indicators that we are recommending for

updates in the future. We would like to continue to look at Rhode Island and Massachusetts catch per unit effort as effort data for Jonah crab, and then price data for Jonah crab and lobster in that offshore Southern New England stock in particular.

We recommend that from the offshore Southern New England stock, fishery dependent indicators be updated annually, and then fishery independent, the trawl survey indicators be updated biannually, and knowing that there are constraints on how quickly those data can be processed and reported.

For the other stocks, inshore Southern New England and then inshore and offshore Gulf of Maine, we recommend that the indicators for those stocks we recommend updated every five years. Those are largely a bycatch fishery. We could update more frequently if there are changes, if no fisheries indicate over the next few years. But for now, recommend that those indicators are updated every five years.

We also recommend the Advisory Panel be included in the update process every year, to provide some context with regards to the market and fishery dynamics, to be able to interpret the fishery dependent indices in particular, and to include dealer representation as well in that, to get some context in terms of market and competition, or interplay between different species market. We recommend that these updates be provided during the annual meeting every year in October, giving us some time to process the data from the previous calendar year and report back. As I mentioned, the Advisory Panel met in December, on December 14, and four advisors attended. They were asked to provide some context, and assist with this task that the Technical Committee was given.

As far as this meeting, they were asked to discuss the stock assessment itself, and then economic factors that affect the Jonah crab fishery. The topics included indicators from existing data, so examining the indicators that we had, handle the indicators that might be informative of stock or market conditions for Jonah crab, which might be reliable, and what should be considered in

interpreting them.

Any data that could be used to identify a trip target, so in the Jonah crab and lobster fishery, a big obstacle is being able to determine whether or not a vessel is targeting Jonah crab and to what extent, and using that to interpret catch per unit effort with those data. The Advisory Panel was asked to weigh in on that in particular. They were also asked to provide information on why landings have been trending down since the late 2010s, despite there being high prices for Jonah crab in the most recent years, and also to weigh in on what drives CPUE for Jonah crab.

Overall, the Jonah Crab Advisory Panel indicated that the decline in landings was related to fleet dynamics, so vessels actually leaving the fleet, not targeting Jonah crab to the same extent that they used to, and that they did indicate, some of them indicated that wind energy development is when catch per unit effort of Jonah crab, with observations of a decrease in catch during acoustic surveys that were being conducted before offshore windfarm construction.

It was noted that prices for Jonah crab were driven by Canadian snow crab and by dynamics in the processing availability in the United States. Noting that there is competition between Canadian snow crab and Jonah crab, if there is more Canadian snow crab available, Jonah crab demand goes down.

There are now fewer processes in New England than there used to be, and processors have been placing catch limits on those or trip limits on both, due to a decreased amount of demand for Jonah crab. The Advisory Panel notably said that CPUE is mostly driven by market factors for Jonah crab. Price and availability of other crab species, as I mentioned, really drives how much Jonah crab can be bought in the United States.

Some of that leads to an intentional selectivity to catch larger crabs. The target species, they also noted might change on multiday trips. We knew this, but there is some spectrum, in terms of the target species that they have on a given trip. They

might be switching back and forth between Jonah crab and lobster, which complicates straightforward interpretation of trip level information, in terms of what they were targeting.

That is a quick summary of the Advisory Panel comments that we got at that December 14 meeting, providing some context for those fishery dependent indicators, and why the trends we're seeing might be occurring. Back to the fourth and fifth task for the Technical Committee.

DISCUSS FUTURE MANAGEMENT TOOLS

MS. TRUESDALE: The fourth was to recommend potential management measures for Jonah crab, in response to conditions for the stock. The Technical Committee considered several management measures, including seasonal closures, effort controls, which would be trap limits, circular vent size changes, and legal minimum size changes. We concluded that identifying the cause of a population change would be necessary to selecting any of those management measures for Jonah crab.

For example, sperm limitation might be one mechanism by which there would be a decline in Jonah crab if you're overharvesting males. There is less reproduction capacity in the stock, and we would recommend seasonal closures or effort controls be examined for their potential to improve stock condition.

Another mechanism might be increased mortality due to environmental conditions. In which case, they might be recommended to increase minimum size, or modify circular vents to release handling stress or to reduce handling stress on female crabs, and provide a reproductive buffer, in case environmental conditions were to improve in the future.

At this time, we note the Technical Committee does not believe management action is necessary. This is because of data limitations, and the biological condition of the stocks being uncertain at this time. We are not sure about the absolute abundance of Jonah crab and the impact of the fishery, and

further would not be able to evaluate the effectiveness of management measure changes in the near future.

This is also complemented by the fact that the demand is going down for Jonah crab. We have reports that the price has continued to decrease, and there is reduced effort in the fishery, and a decrease in demand that is continuing, so we don't expect that the fishery landings will be increasing rapidly anytime soon.

We recommend continued monitoring, so that would be observed if it were to occur. For monitoring recommendations moving forward, the Technical Committee emphasized the high priority research items that were in the stock assessment itself. Those included growth information for that offshore New England stock in particular.

Examining for exploration of video surveys, which may be a way forward to estimate abundance and fishery impact on the stock. Research of recruitment dynamics, including settlement dynamics, research of ecosystem and environmental drivers of population dynamics, including recruitment for Jonah crab.

Then finally, research in to the interpretation of fishery dependent data, to be able to interpret CPUE and effort data for Jonah crab. This includes interactions between fisheries response to abundance for Jonah crab and for lobster, economic drivers and then of course lobster fishery dynamics along with some crab fishery dynamics. With that I am happy to take any questions, and provide more information on indicators.

CHAIR McNAMEE: All right, Corinne, nice job. Thank you for that. Okay, why don't we start off with questions for Corinne. It just maybe another quick summary, so we offered a number of tasks to the Technical Committee. They went through those tasks, they indicated some indicators that they think would be good to supplement what we were already looking at, some that weren't that great. They've offered a couple of timelines, didn't recommend the need for management at this time,

so some really good feedback from the Technical Committee, also some good integration of the Advisory Panel feedback into that as well. Hopefully I've yammered enough to give you some time to think about any questions.

I'm looking around the table for hands for questions for Corinne. No hands at the table. Any virtual hands? No virtual hands either. Okay, so no questions, and that leaves us with we have a number of recommendations from the Technical Committee. We could accept those, we could adjust them, or we could not do anything at this time. What is the will of the Board? David.

MR. BORDEN: I agree with the recommendations, excellent report, Corinne. With the exception, when you get to a management recommendation, I'll be diplomatic and say there is a lot of paranoia in the industry about management recommendations. What I would hope is that the technical people are going to do, exploratory research on a different type of management recommendations, that they should keep it low key, it's not Board action that is generating it.

I know we could waste a lot of time, I think, dealing with this. There is no need in my view to get into management recommendations. I think this is primarily a marketing problem. I thought the recommendations that the Advisors gave us were well placed, and pointed out one of the things that I particularly noted was this issue of self-selectivity, which has been going on/

I personally know of boats that land 20 or 30,000 pounds of Jonah crabs on a trip, and now they are on a quota, and the dealers are basically telling him, land 2,500 pounds, or 3,000 pounds. They pick out the best and most beautiful crabs, all the rest go over the side alive. That has totally changed the behavior, and then there are also relationships between the lobster fishery and the crab fishery that are kind of playing out.

Scallopers aren't fishing in a particular area, and Georges Bank, as a result of that what is happening is there is more effort being placed in those areas

for targeting lobsters, and there is less effort being placed on crab. I wouldn't spend a huge amount of time on the management. I think the Committee has a really good list of items that they can improve, without getting into the management issue.

CHAIR McNAMEE: That aligns with the recommendations of the Technical Committee as well, so that is great. We had comments supporting the recommendations of the Technical Committee. Does anyone else wish to offer any? Just having that on the record is fine, we don't need a motion or anything for that. Anyone else on Jonah crabs? No hands in the room, any hands online? No hands online.

Great, I think I will take a quick check here with the public, and so we would be looking for any comments anyone in the public would like to make on either of the Technical Committee reports we just heard. I ask you to please keep your comments as concise as possible. We still have a way to go on our agenda here. Any public in the room wishing to comment or ask a question? No hands in the room, any hands online? All right, no hands online either, so with that, Tracy and Corinne, thank you both very much, great job with those reports, really informative, and hopefully we provided some good guidance back to the Technical Committees. Thank you both.

DISCUSS IMPLICATIONS OF 2025 SIZE LIMIT CHANGES ON IMPORTS

CHAIR McNAMEE: Moving on, on our agenda. The next item is to Discuss Implications of 2025 Sizes Limit Changes on Imports. For that I am going to turn to you, Caitlin, for that one.

MS. CAITLIN STARKS: For the background on this topic. Addendum XXVII, which was approved originally in May, 2023, established a trigger mechanism that would automatically implement the series of gauge and vent size changes when the trigger is reached, and the trigger is defined as a 35 percent decline in the recruit abundance indices from the reference level, which is equal to the three-year average from 2016 to 2018.

With the inclusion of the 2022 data in the timeseries last fall, the trigger index had declined by 39 percent, so passing that trigger point of 35 percent decline. Under Addendum XXVII, this would mean the changes to the gauge and escape vent sizes in the lobster population and management areas LCMAs 1, 3, and Outer Cape Cod would be initiated, starting in 2024.

However, because that trigger was tripped more quickly than anticipated, the Board decided to delay the implementation of the measures until January 1, 2025. This is a reminder of the implementation timeline for those measures since that trigger was reached. The first change is the LCMA 1 minimum size increase to 3-5/16 of an inch for January 1, 2025, and that would be followed by another increase to the Area 1 minimum size then its vent size, and finally a decrease to the maximum size for Outer Cape Cod and Area 3.

When the Commission implements management measures for state waters, it also makes recommendations to NOAA Fisheries to implement complementary measures in federal waters, and the issue we are specifically looking at today is the size limit of lobster imports. The Magnuson-Stevens Act includes some language, which is called the Mitchell Provision, which prohibits the import and sale of lobsters smaller than the minimum possession size in effect under the Commission's FMP.

This provision was intended to prevent smaller lobster than what the U.S. industry can catch from coming into the U.S. market. Staff has been hearing that there are two potential interpretations of this provision, and how it would impact the live-market size limits. We're looking for some clear guidance on this, so that we don't end up with different regulations for different jurisdictions or a patchwork.

Those two interpretations that we understand to be possible are first that when the lobster measures go into effect, because of Addendum XXVII, then the imports from other countries would be restricted to the smallest LCMA minimum size, which will be 3-5/16 of an inch, starting January 1, 2025.

This would be interpreting that the Mitchell Provision's intent is that the minimum size of live lobster coming into the U.S. could not be any smaller than the smallest effective size limit of any of the LCMAs. The second interpretation would mean that imports from other countries would be restricted to the coastwide minimum size in the Commission's FMP, which is 3-1/4 inches, and in this case the coastwide minimum size is the size limit that no conservation management area may go below, but it's not an active size limit for any of the LCMAs. After January 1, 2025, no LCMA will have an active minimum size that matches that coastwide minimum. Previously we got feedback from the Law Enforcement Committee about this issue that generally if imports were allowed to be smaller than the minimum age size in effect in the U.S., it could create additional challenges for enforcement.

In particular it would open up opportunities for the illegal sale of U.S. caught lobster that are below the legal minimum size. The LEC said enforcing the size difference when lobsters are coming into the U.S. from Canada at the border wouldn't be as much of an issue, but that once lobsters go to a dealer in the U.S. from another foreign country, they are usually comingled for sale with the U.S. caught lobster, and so it would be hard to maintain separation of those lobster of different origins.

In some states that you currently have a larger minimum size than what is in place in Maine, they have dealt with the trade issue by requiring their dealers to have special exemption permits, in order to possess lobsters from Maine or Canada that are under their space minimum legal size, and they have requirements for those dealers to report on shipments of smaller lobster, and keep records of all their transactions, and they are not allowed to sell those lobsters within the state.

That could be something to consider if imports were allowed to be smaller than the LMA1 minimum size. For the Board's discussion today, staff is looking for clarification as to the Board's intent for the size limit that would apply to foreign imports of lobster after January 1, 2025. I can take any questions.

CHAIR McNAMEE: Toni, go ahead.

MS. KERNS: Jason, depending on the Board's intent, we may need to initiate an addendum, not in the typical addendum fashion where it would be management options, but more to clarify to the public of what our intent is, in terms of recommending to NOAA Fisheries what will happen, but it will depend on how the Board gives us feedback.

CHAIR McNAMEE: Great, thank you, Toni. We'll kind of keep our eye on that as the discussion happens here. Let's go out first for questions for Caitlin from the Board. Anyone online with questions? Okay, so Dan, go ahead.

MR. McKIERNAN: Thirty-five years ago, was the last time the Area 1 gauge was raised, and the Mitchell Provision in the Magnuson-Act was enacted specifically to address the challenges of having live comingled lobsters from within a jurisdiction of one of the lobster jurisdictions and from outside, and the potential to undermine the enforcement and compliance. It really makes no sense to me, to assume that a 3-1/4-inch minimum size would be acceptable around the country.

If the Mitchell bill was very clear saying, no, the minimum size should be the smallest minimum size in place among all of the lobstermen jurisdictions in the United States. I would be in favor of the Commission imitating a very brief addendum, because my understanding of the dilemma that we're in, it had to do with conversations on the record, that even though the motion to pass this addendum may not have sent a clear signal about the applicability of the Mitchell Provision. I think conversations on the record and conversations by staff that might fail to maybe hear. I just came from Monkton, New Brunswick, at the International Lobster Town Meeting last week, and kind of give folks a heads up that I expected the Commission to deliberate on this issue today, and take an action to clarify this.

I don't know if you need a motion to initiate an addendum to clarify that Addendum XXVII shall

include compliance with the Mitchell Provision, or that we want to signal to the National Marine Fisheries Service that the Mitchell Provision should apply as written.

CHAIR McNAMEE: It looks like, so let me come back to you, Dan, on the need for a direct motion, but certainly a recommendation to initiate an addendum as suggested by Toni, as we started out here. Thanks for that. I'll look around the table, to see if anybody has any supports or anything different than what Dan has suggested here. Pat.

MR. KELIHER: This is certainly a difficult issue, and it's one that has taken a lot of time to work through back home in Maine. I think some clarity on where we're going here is needed. The Lobster Advisory Council for DMR did take this issue up. They have actually formed a working group. I think that working group certainly, from a harvester perspective, has been very specific about live lobster trade, and not wanting to see that live product coming into the U.S. to compete with ours. We call it the Colorado example, right?

If the federal government does something different than the primary states do, going forward, you could have potentially lobster business showing up in another state, right, disadvantaging the primary states if there is not some clarity. I appreciate the intent of what Dan is thinking about, it's a complicated issue, and would support this going out for a broader public conversation in the future here.

CHAIR McNAMEE: Doug, I saw your hand.

MR. DOUGLAS E. GROUT: I was just going to second Dan's motion.

CHAIR McNAMEE: Okay, I think we do want a motion here, and I think they are working on something based on what you said, so bear with us. We have a motion up on the board. I think we want to make sure there has been a little addition here, Dan, so just make sure that this is okay. Yes, go ahead, Dan. Thank you.

MR. McKIERNAN: Yes, that looks good, Mr.

Chairman, thank you. Just to clarify that consistent with NMFS interpretation of this, processed lobsters are not subject to this Mitchell bill, so a cooked lobster can enter the U.S. markets, you know something that is processed. It's really about the enforceability of the minimum size. I want that on the record.

CHAIR McNAMEE: How does this look?

MR. McKIERNAN: It looks fine, Mr. Chairman, thank you.

CHAIR McNAMEE: Okay, so we have a motion here made by Dan McKiernan, have the second. I would love it if you would read that, Dan.

MR. McKIERNAN: I would be happy to. **Motion to initiate an addendum to clarify that Addendum XXVII shall include compliance with the Mitchell Provision and signal to National Marine Fisheries Service that the smallest implemented minimum size should apply to imports.**

CHAIR McNAMEE: I have the motion made by Dan McKiernan, seconded by Doug Grout. Any further discussion on the motion from the Board? No hands around the table, any hands online? Okay, no further discussion. It looks like we have some public that would like to comment, so I will entertain that. I see one hand in the back. Sir, you can come up, there should be a public microphone over there.

MR. DUSTIN DELANO: Thank you, Dustin Delano, a commercial harvester for lobster from Maine. I also represent the New England Fishermen's Stewardship Association. We also would agree with this motion. There would be a major inequity here if we allowed the bare minimum to continue at 3-1/4 after the gauge is changed, and the enforcement issues would also be quite problematic. While many in the industry may not have agreed on the gauge increase itself, most of us wholeheartedly agree that this, the Mitchell bill needs to be made a part of Addendum XXVII. Thank you.

CHAIR McNAMEE: Thank you very much, appreciate the comment, so the Board can consider that. I'm going to go to Pat first, and then I've got a hand online as well.

MR. KELIHER: This may be for Toni. We continue to talk about the minimum size component here as it relates to the Mitchell Provision within Magnuson. In the near future we will have the maximum size on the Outer Cape. How do we deal with the provision of oversize going forward? I mean that is continually, that is another type of inequity, right, where oversized product is currently allowed to come in, because we had no maximum size associated with a portion of the Outer Cape Cod fishery. Now that that is closing, how do we want to handle that?

MS. KERNS: Mr. Chairman, if Beth could give here comment and then I will consider Pat's question and then come back to the Board, but if Beth Casoni could provide comment, she has her hand raised, so I can think while she comments.

CHAIR McNAMEE: Yes, go ahead, Toni.

MS. KERNS: I want a moment to think about it, so if you can let Beth go first before I reply to Pat.

CHAIR McNAMEE: I got you now, yes, thank you. Pat, we will come back to your question. Beth Casoni, please go ahead whenever you're ready.

MS. BETH CASONI: Thank you, Mr. Chairman, thank you for the opportunity to comment. Beth Casoni, Executive Director of the Massachusetts Lobstermen's Association. I really appreciate Dan's motion, and we would support this wholeheartedly. Massachusetts is limited in the number of months that they can fish. To have the Canadian lobsters come into the market when our fishermen are just getting back would even cause further economic harm. We would support this wholeheartedly, and I would like to thank Mr. Keliher for his comment on the oversight, because that is yet another inequity. We look forward to seeing this come out to the public for more input. Thank you very much.

CHAIR McNAMEE: Toni, kind of looking towards you, okay whenever you're ready.

MS. KERNS: Thank you, Mr. Chairman, for that moment to think. The Mitchell Provision language is very specific to minimum sizes only. I think we would have to consider what we could do for maximum sizes. I think we'll have to confer with our NOAA counterparts to see if there is anything that we could do within the realm of our FMP, and NOAAs FMP.

But I'm not sure. I don't want to say this. I don't have anything off the top of my head right now. Chip Lynch, the attorney for NOAA Fisheries is in the audience right now. If he has any ideas that would work immediately off the top of your head, Chip, you could come to the microphone. But if you don't have anything it's okay, you don't have to come to the microphone.

CHAIR McNAMEE: Chip, you are welcome to it if you don't mind being put on the spot.

MR. CHIP LYNCH: It's what I do, I guess. I'm going to expand your question, and say that as a lawyer I'm looking for some clarification on this particular motion. The Mitchell Provision is law, so we don't need a recommendation to comply with a law. The question, excuse me, you're free to recommend that by the way, I'm just saying that we're going to follow the law, period.

The question is, the Mitchell Act says that there is a prohibition on imports to below the minimum possession size in the Plan. Historically, the lowest in the Plan has always been the same as the lowest in whatever LCMA, which would include Area 1. I think, potentially, if the facts supported it, if the enforcement fact supported it, that could always be decoupled. You could have 3-1/4 be the lowest size in the plan, and 3 and 5/16 be the lowest size in the LCMA. Again, you would have to nuance it, it depends on the facts how you want to word it.

That is, I guess, the potential. As a lawyer I'm looking at this, and the real question I had for Addendum XXVII was, what was the intent of the

Board? Was the intent of the Board to restrict imports below the new lowest most restrictive 3-5/16, or was it to sort of bifurcate the two, and allow imports to continue as is, keeping 3-1/4 as the lowest size in the Plan, but increasing in Area 1? I think, Dan, that is what is intended by this Addendum to clear up.

But I just wanted to, this is what lawyers get paid to do is to parse language, and I know it's annoying, but just so you're aware of that. Now, the real reason you asked me to come up to the microphone was you were asking about a maximum size. Incidentally, the federal government does not have a separate fishery management plan.

The fishery management plan that we operate off of is the ISFMP that the Commission has. If the Commission chose to do something in a plan, and it was rationally related to the facts and to the best available science and all, and that could include restrictions, potentially, and hypothetically on a max. If the Commission went down that path, then made a recommendation to NOAA Fisheries, we would consider that recommendation, again, based upon the law and the facts as it existed at the time. It is hard for me to answer very specifically, because it is so hypothetical at this point. Hope that was helpful.

CHAIR McNAMEE: Appreciate that. Toni, did you still want me to come to you? Okay, so Dan had his hand up, so go ahead, Dan.

MR. McKIERNAN: To respond to Chip. That is my intent of the motion, and just for purpose of the conversation, I'm looking at the slide here of all the maximum sizes, and we have three different maximum sizes among all the management plans. I guess the least restrictive rule would be a 6-3/4-inch maximum size.

Of course, coming down, by virtue of Addendum XXVII to 6-1/2. Ultimately, it will be a 6-1/2-inch maximum size. I don't think it's quite the enforcement burden that a minimum size is, because those big lobsters aren't all that common. But it would be helpful if we could find a way to

have a similar Mitchell Provision on the maximum size as well, but I think that is for another day. This particular motion is trying to zero in on that which would be consistent with the law as enacted in 1989.

CHAIR McNAMEE: Pat, just kind of looking back to you. Anything further you want to do on this for now, I guess?

MR. KELIHER: Honestly, I'm a little bit, I hadn't really thought about bringing this up associated with this, but as we started talking about this, looking at some of my comments that have been made to me, thinking about some of the comments that have been made to me over the last several months. This oversize issue continues to come up.

It usually comes up associated with the gray zone. The gray zone issue for us is very specific, and this even on the minimum size doesn't take care of it. If lobster fishermen in the gray zone catches a lobster and throws it over, right now a Canadian harvester right beside him could still keep that. The same is true on the oversize, so those larger lobsters that they are throwing back over, the maximum are being kept.

The inequity of the issue is highlighted really clearly in those two cases in the gray zone. But from an enforcement side, to Dan's point, and the reason I started thinking about this again. We started to really go through the process of what happens from an enforcement standpoint if that small live lobster is allowed into the U.S., and what we would have to do to segregate, to deal with the chain of custody, to be able to enforce that issue?

Well, we do that now for oversize, and it's a lot less product, and it's an incredible burden to patrol and to the dealers that are dealing with it. I'm just wondering if this document shouldn't at the very least, just have an option to consider it. We take comment on it, and then make a determination at the time of making final decision, whether to do something or not.

CHAIR McNAMEE: I think the idea here is to

potentially add this into the current, at least the current idea of an addendum, not talking about the parliamentary way to get there yet. We think we have a plan here, so I am going to go to you, Pat.

MR. KELIHER: I would like to make a **motion to amend to add the consideration of a maximum size limit for imports.**

CHAIR McNAMEE: Thank you, Pat, is there a second? Dan McKiernan seconds the motion to amend. We've got a motion up on the board and it's been seconded. Pat, does this look okay, the language?

MR. KELIHER: Yes, I think it's fine, Mr. Chairman. I think this gives us the ability and the time to have some additional conversations with NOAA, in regards to this issue, make sure that from a legality standpoint that we're not straying here. But it also adds that consistency to address the inequity component within the addendum going forward. At least we could take comments on it, make a determination later whether we need to do something or not.

CHAIR McNAMEE: Dan, did you want to add anything?

MR. MCKIERNAN: No, Sir.

CHAIR McNAMEE: Now we have a motion to amend up on the board. Any discussion on this amended motion? Seeing no hands around the table, any hands online? No hands online. Why don't we take a minute here to caucus before we call the question, I don't know, maybe two minutes, one minute to caucus. Just in case people need to text or whatever with folks who aren't here. One minute, it's actually already running, so we'll be back in 48 seconds.

Okay, as the last seconds are ticking off the clock here. It looks like most folks here in the room are ready to go. I will look around the table and ask if there are **any objections to the amended motion. Seeing none in the room, any hands online? Okay, so there are no objections to the amended motion**

here.

The amendment passes by consent, unanimous consent, so now we're going to go to what is now the main motion here, read it. The motion is now; the motion is to initiate an addendum to clarify that Addendum XXVII shall include compliance with the Mitchell Provision, signal to the National Marine Fisheries Service that the smallest implanted minimum size shall apply to imports, and to also consider a maximum size limit for imports.

We have now a main motion. I will look around the room. Can anyone let me know if they need a minute to caucus? Not seeing any, okay. I will ask the question again. **Are there any objections to this motion? Please, raise your hand if you're in the room, anyone online with objections? No hands online. This motion also passes by unanimous consent.**

I think we've got it, thanks, everybody. Let's keep moving along here, and I think I'm up next.

CONSIDER PURSUING A MANAGEMENT STRATEGY EVALUATION FOR AMERICAN LOBSTER (DISMISSED)

CHAIR McNAMEE: The next item here is to Consider Pursuing a Management Strategy Evaluation. I'm going to go super, super fast, and I'll just give a high sign to flip the slides. We've talked about this a couple of times now; we've been sort of dragging this along with us through the process here. I've got a quick presentation to just kind of consider whether we want to implement the Management Strategy Evaluation for lobster. Pat, go ahead.

MR. KELIHER: I'm sorry, Mr. Chairman, I meant to catch your eye before this. Understanding our time constraints here, but also understanding the fact that we have a benchmark stock assessment coming up. I'm just wondering if we shouldn't bring this back up as soon as we have the finalized stock assessment for consideration. Just from a timing aspect, doing both of those things at the same time seemed highly problematic to me. I meant to catch

your eye before you started down this road, but just wanted to bring that to your attention, to see if we wanted to delay this for a bit.

CHAIR McNAMEE: I have an opinion on that, but I'm going to keep it to myself as Chair. I'll look around the table to see if anyone else agrees with Pat, which would basically just skip over this agenda item for today. Dan.

MR. MCKIERNAN: I agree with Pat.

CHAIR McNAMEE: Mike, did you want to make a comment? Just giving a thumbs up, okay. Okay, I guess that does that, if that is the will of the Board. Anyone with a different opinion? I guess I don't get to have that different opinion. Not seeing any. Okay, off we go then.

DISCUSS INCONSISTENCIES IN FEDERAL AND COMMISSION RULES FOR LOBSTER CONSERVATION MANAGEMENT AREAS 2 AND 3

CHAIR McNAMEE: Next on the agenda is to Discuss Inconsistencies in Federal and Commission Rules for Lobster Conservation Management Areas 2 and 3. I believe I go to you first, Caitlin.

MS. STARKS: I'm going to just provide some background on these two Addenda XXI and XXII, which are the basis for the recent NOAA rulemaking for Area 2 and 3 trap and ownership cap. Addendum XXI and XXII were a part of a series of addenda that the Board initiated after the 2009 stock assessment, which found that the Southern New England lobster stock was depleted. In response to that the Board initiated these addenda to scale back the size of the SNE fishery to match the size of the lobster resource.

Before these two addenda, Addenda XVIII and XIX had already initiated trap allocation reductions in Area 2 and Area 3, and the conservation transfer tax in Area 3. In that context, Addendum XXI and XXII were meant to address trap transferability and trap caps in Area 2 and 3. Addendum XXI changed the transferability program for LCMA 2 and 3 and Addendum XXII changes the single and aggregate

ownership limits in Area 3.

These changes were designed to allow for some flexibility in the movement of traps, as the consolidation program for LMA 2 and 3 to address latent effort was implemented, and they were intended to provide a mechanism for the industry to maintain a profitable fishery during the period of trap reductions.

Specific to LCMA 2, Addendum XXI modified the transferability program such that when there was a transfer of a trap allocation with a history for multiple areas, the recipient of that transfer would be able to maintain that multi LCMA history, and at the start of each fishing year they would have to declare which area or areas were to be fished. It also established a single ownership trap cap for LCMA 2 of a maximum of 1,600 traps, 800 of which could be active and 800 banked. However, two years after the final year of trap reductions on LCMA 2, which was in 2022, the cap would return to an 800 maximum traps per entity. Then lastly, Addendum XXI established an aggregate ownership cap for LMA 2 of two permits and 1,600 traps.

There were a group of permit holders that had more than two permits as of December, 2003, and they were allowed to maintain those additional permits and traps. For LMA 3, Addendum XXI made the same change to the transferability program about the multi LCMA trap allocation transfers.

It also established active trap cap reductions for Area 3 that were recommended for implementation by NOAA, starting with a cap of 2,000 traps. That would then be reduced by 5 percent per year for five years, in conjunction with the LMA 3 trap allocation reduction from Addendum XVIII.

Addendum XXII focused only on Area 3, and it established a single and aggregate ownership cap. The single ownership cap for Area 3 would allow for an entity to accumulate more traps than the active trap cap. This assumed the 2000 active trap cap from Addendum XXI would be implemented by NOAA, and that would decrease by 5 percent per year.

This table shows the accepted single ownership cap that would be implemented each year. Then the aggregate ownership cap for Area 3 that was recommended in Addendum XXII limited a single entity's trap to five times the single ownership trap. This was based on the maximum number of permits being five permits per entity.

In this table each year the aggregate ownership cap would be five times the number that was in the previous table. Entities that had already accumulated more traps than the aggregate cap before the control date published by NOAA were exempt, and allowed to maintain those excess traps.

For a summary of all of the measures in Addendum XXII for LMA3, this table shows the active trap cap, individual permit cap, and aggregate permit cap for the first year, and each year following the implementation of the measures by NOAA. I'm going to pause here and pass the presentation to Alli Murphy, and then I'll come back for a few more slides.

CHAIR McNAMEE: Alli, whenever you're ready.

MS. MURPHY: We certainly recognize that over ten years have passed since these recommendations were made by the Lobster Board, and things could have changed in that timeframe. Following the publication of the proposed rule in the summer of 2022, we got some comments, including from the Commission, requesting additional time to consider these measures, and to understand them in the current context of the fishery.

We published an interim final rule this past October, implementing the measures in 2025 as a backstop, but also taking additional comments on these measures to be responsive to that request. While that comment period has closed, I think this is still a valuable discussion for the Board to have. These measures stem from your recommendations, and if they no longer make sense in the current context of the fishery, then the Board could alter their recommendations. I made a few terminology changes in the Rule, based on some public

comments. I removed permit from the cap, because traps were really the currency that we saw, and having permit in the title of these things cause confusion. The word active also caused a lot of confusion in the comments we received.

Folks were wondering if we were trying to regulate actively fished traps differently than traps that are not actively fished. We clarified that to the maximum trap cap. I just wanted to highlight that for everyone here, as I walk through the next few slides. Just a quick note on banking. I think there was some confusion that came up during the public input session a week or so ago.

As I understood it, the Commission would have allowed banking by stacking additional or inactive traps on a single permit, above the areas maximum trap cap, which could be actively fished. That's what we are not allowing. That is what we did not propose and ultimately did not implement in this action.

If an owner had a second vessel that they are essentially using, or second vessel with a second permit that they are essentially using as a bank, that this action would not affect that vessel permit and trap. For the Area 2 measures we implemented an ownership cap of 800 traps per person. We also allowed those who were over that cap as of May 1st, 2022 to retain those traps, but would prevent them from acquiring additional traps in the future. We will implement this cap on May 1st 2025, unless recommendations change and we take additional action.

The big difference, as I said, is we didn't implement the banking provisions that the Commission had considered and recommended. With the trap reductions having been completed, we saw those as no longer necessary. I just wanted to give a quick example here of how we're looking at the ownership caps.

Forgive my use of the Beatles, but it's kind of the best example I could come up with here. Please assume that everybody is alive, I know there are some deceased people, some deceased names on

this. But these are a few situations that were discussed during the input session that I felt might highlight how we're looking at ownership, and taking ownership back to the people behind all of the vessels and permits, and potentially corporations.

We have the three McCartney's; they are all part of a single corporation. They own three vessels. Those vessels each have Area 2 allocation that totals 1,550 traps. Each of those people would be capped at 1,550 traps going forward. The next example we have George Harrison, who has one vessel in ownership under his name.

The other vessel is in corporate ownership. Those two vessels combine for 1,800 traps. He has capped at 1,080 traps. He is capped at that level going forward. Finally, we have Ringo, who owns a single vessel under his name with 625 traps. He would be allowed to build up to 800 traps under this rule as it currently stands. My main objective here was just showing how we are taking trap allocations associated with the people behind the permits, behind the vessels and the permits, and implementing the caps on the people. I hope that is helpful. In our environmental assessment we assessed this as having fairly minimal impacts, because it capped the fishery as it currently exists. It's not going to take traps away from anybody, but you know yes, it certainly would prevent folks building up their businesses in the future above these caps. Since that analysis we looked at ownership data. You know there are 24 people who are capped at allocations above 800.

There is some overlapping ownership interest there like husbands and wives and siblings, like the examples I showed previously. We also note since that time one person, or since May 1, 2022, one person completed trap transfers, and that person stands to lose those traps, because they were made after that May 1, 2022 line in the sand. Jumping into the Area 3 measures. We implemented or will implement a reduction in the maximum trap cap from 1,945 traps to 1,548 traps.

We're doing that over three years, and that's the

big difference here. The Commission had recommended that over five years. We'll be jumping to Year 2, Year 4, and then Year 5 of the Commission's recommendations. This will be assessed against each permit. As you'll see in the next slide, some folks stand to lose some traps. Again, this will be implemented if nothing changes in 2025.

As I said moments ago, there are some impacts associated with this. We know in the first year, based on 2019 data there were 21 vessels who had allocations over 1,805 traps, and so those folks would stand to lose those traps. That totals a little over a thousand traps. By Year 3 we have 43 vessels who stand to lose some traps, and that total they are just under 10,000 traps.

Certainly, folks could take advantage of the trap transfer program, to either move allocations between their vessels if they own multiple, or sell them to try to recoup some of the costs. The specific impacts are a little bit unclear as we can't predict exactly what decisions will be made. Just in looking at more recent data, that looks pretty similar to this, so it wasn't worth noting changes here.

With regard to the Area 3 ownership cap, we are implementing a cap that is 5 times the maximum trap cap in a given year. The final aggregate ownership cap would be 7,740 traps per person. Again, this is assessed to each person, the same as the example with Area 2. Those who are over the cap as of May 1, 2022, again, would be allowed to retain those traps but not build up.

The big difference here is again, eliminating that banking provision there. In Caitlin's slide there was an intermediate step between the trap cap and the aggregate ownership cap that we did not propose or implement. Again, with the ownership caps, because this caps the fishery as it currently exists, we didn't assess any serious impacts here.

Two folks are over the cap of 7,740 traps, so those folks would be capped at their current levels, and wouldn't be allowed to build up any more. Nobody

made business decisions after May 1, 2022 that changes anything. I think this is my last slide, I have links to the proposed, the Interim Final Rule and then all of the comments we've received on this, and I'm happy to answer any questions on the Rule or anything else. Thank you.

CHAIR McNAMEE: Thank you, Alli, back to Caitlin.

MS. STARKS: As most of you know, we had a public meeting on January 10 to get some input on the NOAA Rules and how they would impact the fishery in its current context, since these Rules were intended to be implemented about ten years ago, and there have been lots of changes in the fishery since then.

We had about 58 people in attendance at this meeting, including LCMA 2 and 3 stakeholders as well as Commissioners, state and ASMFC staff. At this meeting the input received from Area 2 stakeholders included that they want to see a change to the sunset date of May 1, 2022 that is in the NOAA Rule to a future date, and they suggested different dates between now and 2030.

The argument there is that the date needs to be proactive, because they can't plan to respond to this if it's in the past. We also heard that they do not support the maximum ownership cap of 800 traps. Instead, they would like to maintain the two permits with 800 traps each, because this gives them more flexibility and allows families to keep their traps within the family if someone were to leave the fishery.

They also commented that the fishery is a lot different today than ten years ago. They noted increases in cost, new marine mammal and whale regulations, wind power development, and the development of the Jonah crab fishery. Regarding the Area 3 measures, the majority of the stakeholders that spoke on this in the meeting said they did not support the trap cap reductions and ownership cap.

Their reasoning behind this is that they said the ownership caps were really meant to prevent

consolidation in the fishery. But they noted that consolidation has already occurred, and now that the offshore fishery has a different makeup, these measures would disadvantage the larger fleets that are now there. They also commented that they don't think the measures would really reduce traps, but just spread them out across more vessels and permits.

Another reason they no longer support these caps is that they believe there will not be a biological benefit from it, and they referenced the Impact Analysis in the NOAA Rules. Then as I mentioned, the fishery has changed in the last ten years or so, and they specifically commented that it is no longer majority owner/operator as it was. The fleet does not support measures that are intended to keep it owner/operator.

Additionally, they also mentioned that increased business costs, marine mammal protections, wind farms and the increase in the Jonah crab fishery were not part of the equation when these rules were developed. There was one former Area 3 fisherman during the meeting that disagreed with those sentiments.

They instead thought that the trap caps would increase the efficiency of the fleet by lowering bait and that cost, and that these rules would reduce the fishing pressure on the lobster stock. They commented that in Southern New England the accessible bottom areas decreasing, due to wind farms, closed areas and other reasons, but the number of traps is not, and that is problematic. It was noted that the trap reductions in the NOAA Rule were counted towards the large whale risk reductions. Finally, they noted that they think more closed areas will likely open to mobile gear, and more lobsters will be displaced in the future. With that, that is the summary of input from the public meeting, and I can take any questions and Alli can take questions.

CHAIR McNAMEE: Great, thanks Alli and Caitlin very much. You got a good slug of background there, and then you got some information about the feedback that we got when we went out to the

industry. Before we kind of get into the discussion here, first any questions that anyone has for Caitlin or Alli? Not seeing any questions, we can get right into the discussion. Dan, go ahead.

MR. McKIERNAN: First, I want to thank NOAA for delaying the Final Rule, while we provide this input at the eleventh hour. Actually, I think it's ten past midnight. But I am grateful that they are considering this input. I also want to thank ASMFC staff for putting that great webinar together, and giving the industry, and also us managers, to kind of get refreshed and to hear first hand what their concerns were two weeks ago, and of course the public for their participation.

The goals of this addenda were good goals, but they were goals that were established 11 years ago, and since then so much has transpired, so many permits have been transferred, and many businesses have really altered their arrangements, as mentioned in one of the slides. It is no longer a predominantly owner/operator, single boat fishery.

We're seeing the proliferation of these fleets, which was one of the goals to avoid, but no, it's too late. That is one of the reasons that I think we should be pumping the brakes. Many trap allocations have been transferred as a means to mitigate against those trap cuts, including traps that might have to be lost as a result of these final actions, should NOAA take those.

If we enact the rules as outlined in NOAAs Proposed Rule, or in the original language enacted 11 years ago, there could be serious unintended consequences, especially with the activation of traps that currently aren't even being fished. Also, we would be retorquing some of the scales of the Area 3 fleet, which is probably inappropriate and unnecessary for the reasons that were mentioned on the slide, such as offshore wind development, which is going to displace vessels all around the Gulf of Maine, as well as the Jonah crab situation and marine mammals.

I'm going to confess that we've been remiss, me personally and others, of keeping an active set of

LCMTs. The current rosters are peppered with the names of permit holders who are no longer in the fishery. My request and my recommendation are to reconstitute those LCMTs, convene them, and then return back to this Board with some new goals and new objectives to manage effort in the two LCMAs, Area 2 and Area 3. I have a motion once you are done taking comments from the rest of the Board.

CHAIR McNAMEE: Before we go to Dan for the motion, anybody else want to jump in? Not seeing any. David, go ahead.

MR. BORDEN: Dan made a lot of the points that I intended to make. But I think we find ourselves in a position where we really need a do over, in spite of all the good intentions. They are over 10-years-old, and the factual situation has almost totally changed. Dan spoke quite eloquently about the Area 3 circumstances.

But in the case of the Area 2 circumstances, they used to be a really prominent lobster fishery similar to the Maine coast fishery, where everyone was dedicated to lobstering. They did it 100 percent of the time. The Rhode Island and Mass Fishery, and about 98 percent of the permits are now contained in those two states.

That fishery only exists because it has transitioned into a multispecies fishery that now needs to have different vessel capacities and different crewing, and all sorts of different changes. What started out as kind of a desire to have a continuation of that owner/operator fishery in small boats is transitioning as we speak.

I think we've got to kind of reflect on that, and take a step back and reconsider what we put in there, look at the Proposed Rule. While I'm on the Proposed Rule, I would just like to take the time to comment on the Rule itself and not on the language in the Rule, but more the individuals that crafted it.

I really thought they did an excellent job of putting together a Rule that was almost 12 years late. I mean they were incredibly creative, in terms of how they handled some of the disconnects that were

created by the time lapse. I realize that is a little bit of a backhanded compliment, but they really deserve praise, because I think they did an excellent job. I'm happy to second that motion, Mr. Chairman, when you get around to it.

CHAIR McNAMEE: Great, thank you, David. Okay, let's get to it then. Dan, I'll come to you for the motion that is also up on the board here.

MR. MCKIERNAN: Okay, **move to recommend to the ISFMP Policy Board that the Commission send a letter to NOAA Fisheries to withdraw the Commission's recommendation to implement the measures of Sections 3 and 4, except Sections 3.1.1 and 3.2.1 – transfers of Multi-LCMA Trap Allocation of Addendum XXI and all of Addendum XXII.**

I'm not sure that the way that is worded is easy to follow, but essentially, we are asking to withdraw our endorsement of XXI and XXII, except those two sections in XXI, which is 3.1.1 and 3.2.1 that has to do with the transfers of multi LCMA trap allocations.

CHAIR McNAMEE: Motion made, seconded by David Borden. Any further discussion? Pat.

MR. KELIHER: I'm going to support the motion, but just for the record, I think there needs to be a little bit of due diligence done. If you all recall, a year ago December Congress passed a Consolidated Appropriations Act, which gave a six-year reprieve, or it put us in compliance for six years with both the Endangered Species Act and the Marine Mammal Protection Act, which is a critical step in helping us have the time we need to deal with the data deficiencies going forward, so we can have some better tools, better data to make some decisions going forward. I talked to Chip Lynch before this meeting, knowing this was coming up. This was not in place when Congress initiated or passed that law. However, I would just encourage us to make sure that the data associated with this was not something that was considered in the risk reductions, just to make sure that we are not inadvertently finding ourselves either slightly out of

compliance, with the intent of the statute in Congress.

But we also have some decisions coming up from Judge Boasberg that are related to these cases. We certainly don't want to signal that we are trying to weaken any efforts. For the record, I don't think this is weakening anything. I just want to make sure that we're doing our due diligence that pertains to the risk reductions that were done associated with the rules that were implemented in 2021.

CHAIR McNAMEE: Cheri.

MS. CHERI PATTERSON: I can support this motion. My question would be, we're asking to withdraw the Commission's recommendation for these items. I presume that we'll be moving forward with further recommendations in the near future, as opposed to the far future. That would be my only concern. I think that the conservation measures still need to move forward, they just might need to move forward in a different manner, I understand that. But I just don't want to lose that momentum of conservation measures.

CHAIR McNAMEE: David.

MR. BORDEN: I'm glad both Pat and Cheri have raised this, because I think we need some dialogue on the record, relative to what the intent is. I think Dan said it, but he probably didn't emphasize it enough. At least my intent is to do exactly what Cheri characterized. Looking forward, I think what we have to do is kind of extract ourselves from the proposed rule process, and this will do that.

Then at the next meeting, basically, get to work on what we're going to take for action. Dan and I have discussed this before, and I think what is needed here is, as we go forward, we basically task the LCMTs to go back, review the rules in a broad context, where they would have great flexibility to look at the rules and come up with alternatives that still meet the original objective of what we were trying to get at.

I would add to that, I think they have to factor in

some kind of discussion on protected species issues as part of that. The reason I say that is, because I was heavily involved in that aspect of it when I worked for AOLA. The offshore industry got 12 risk reduction points for their actions with the trap cuts.

If they back away from the trap cuts, then they are going to lose that risk reduction. They've already gone on record saying they can't lift with weak ropes. They are going to find themselves in an unenviable position of having nothing that is practical. I think the industry really needs to look at that, look at all the alternatives like consolidation, the way the Canadians did it on fewer boats and cut traps that way, or some other alternative, and come up with alternatives that still meet the original objective.

CHAIR McNAMEE: Okay, a quick last look around the table for any additional comments on the motion. I'm not seeing any. What I would like to do is take a few public comments. I ask that any public commenters, if you made public comments at the workshop we had, please don't repeat those. The Board has that information already.

If you have something new you would like to offer, please, be very concise. We would like to keep it to a minute. We're already over time here by four minutes. With that, I am going to look for some public hands, and the first one we have is Erica Fuller, so Erica, whenever you are ready feel free to unmute and give us your comment.

MS. ERICA FULLER: Thank you, Mr. Chair, and thank you, Allison and Caitlin for the presentations. I want to follow up on the comments that Mr. Keliher and Mr. Borden made. This is really problematic from a conservation perspective, and we do understand the rationales and perhaps these two actions need to be reconsidered. But if the Commission does back away from these measures, and this question may be for NOAA General Counsel.

Does the Agency plan to develop or implement some other comparable measures that achieve the same risk reduction, or does it plan to convene the

team that advised on the recommendations, because in our view Congress absolutely relied on these trap cap reductions going into place when the Commission said it was going to, and we would like to see something in place sooner rather than later.

CHAIR McNAMEE: Thank you, Erica, any other hands online? Okay, no other hands online, back to the table. Pat.

MR. KELIHER: Sorry, Mr. Chairman, but David's comments made me just a little bit more uneasy, associated with that referencing the 12 Risk Reduction Points associated with this. It may be better, and I don't think this necessarily changes the intent with the motion as it's been made. But as we're going forward, it may be better to consider what we're replacing this with, from a risk equivalency standpoint, understanding what the interaction is.

We certainly don't want to jeopardize what we have in place, so we need to really think critically about how that is going to play out, while trying to deal with the time lag and how the fishery has evolved over time. Dan eloquently talked about the challenges that we have in place and how the fishery has changed.

Again, Maine's perspective, we don't have a dog in this fight, with the exception of how the Consolidated Appropriations Act played out. I just want to make sure, again, for the record, that we're taking all of these things into consideration before we're making any final decisions about how this may play out.

CHAIR McNAMEE: Doug, go ahead.

MR. GROUT: Just a follow up of Pat's comment. Is there some benefit to already have an idea of what is going to be replacing those 12 conservation credits, before we withdraw our support for this addendum? Because sitting here and saying, okay we're going to pull this apart, and we're going to convene the LCMTs, give us some ideas of a better way to do this, and then initiate another addendum, assuming it can be done with an addendum, and

also implement this. That is going to take a little bit of time, and is that going to be enough time to have something in place to still get those conservation credits. Be careful for what Area 3 and Area 2 wishes for here, they could end up with something a lot worse, if you don't have something in mind in how you're going to replace it.

CHAIR McNAMEE: John Maniscalco.

MR. JOHN MANISCALCO: I have to agree with Doug Grout that the implications of this are not entirely clear, and I think we need to think about that before we kind of take what seems to me to be hasty action. I do think you have to consider right whale conservation.

CHAIR McNAMEE: I've got a couple, so I'll go to first Andy, go ahead. Adam, I always do that. Adam, go ahead.

MR. ADAM NOWALSKY: I've been called far worse on the boat, Mr. Chairman, so okay. Does the Service have any input here they could offer in terms of their process for rulemaking that might give us some more time to figure out what exactly we should be saying, and when we need to say it?

CHAIR McNAMEE: Alli, if you want.

MS. MURPHY: Thank you very much for the question, and Chip, if I get this wrong if you could jump in and correct me. But I think you do have some time here. I think if we were to, let me start over. I don't think we could easily change, just swap out what was included in the Interim Final Rule with the new recommendation. I don't think we could do that easily in a single follow up rule here.

I think a more logical process would be, if this recommendation were to go through, for us to withdraw those measures and start a new rulemaking to consider whatever the Lobster Board's new recommendations are. As we know, NOAA Fisheries is not super-fast in getting new regulations in place. I do think the Board has a little bit of time to contemplate what it might want to do

next. Chip, do you have anything else?

MR. LYNCH: To clarify one point that Alli made, maybe it was clear. There is a present Interim Final Rule. It is based upon the Commission process and the Commission recommendation that we previously received. We would be interested in knowing whether the Commission wants to stick with its recommendation, or withdraw their recommendation, or withdraw part of their recommendation.

It would be extraordinarily difficult and potentially not legal to add and amend that recommendation, so that we would be amending this Rule in this Rule. Now if the Commission wanted to do a follow-on addendum, and then make a later recommendation, of course we would treat that as a regular rulemaking. I would further note, just for the sake of clarity that this particular rule was about lobster, and it was promulgated under the Atlantic Coastal Fisheries Cooperative Management Act, that is the Atlantic Coastal Act. It has ancillary benefit to whales; the number was 12 to 14 percent in Area 3. I imagine that would translate to some lower number coastwide. I don't know what the numbers are now, it's fluid, it's dynamic, so those numbers may be different. We just don't know what those numbers are right now. But the Rule wasn't made for whales, so it would be difficult getting a recommendation on this Rule for whales, because the Administrative Record for this Rule was about lobster.

The Commission may want to, or folks may want to consider that the numbers for whale risk reduction are whatever they are. The conversation that Pat referred to earlier, I indicated that depending on the numbers, whether it be now or later, if there was a gap in the numbers at some point in time, people are going to have to pay the piper.

I just want to make that clear on the record that that was part of the conversation, depending on the numbers. I am not sure where that goes here, and how people are considering it, but again, one thing that I want people to be aware of is that this Rule, these Addenda work for lobster, and the record for

them was about lobster. While I think it's good to have follow-on measures consider other things, if we're looking to the past, and lawyers like to look at the administrative record. The administrative record here on this particular one was about lobsters.

MR. NOWALSKY: Out of that I hear that the rulemaking process is slow, that is no surprise to any of us. I'm not sure when the Interim Final Rule becomes a final-Final Rule. I don't know if the process working slow would mean there is room for us to table this for a meeting until we get some more information, but I wouldn't want that to happen at the cost of the Rule becoming final-Final, and then putting us in a position we as the Commission didn't want to be in.

I would be willing to make a motion to table this until the spring meeting, but only if I had assurances that we weren't putting ourselves in a position we don't want to be in, and I'm not sure how to get that assurance. I'm just not sure. I understand that the intent here is to do what is more reflective of the current state of management than what these Addenda set forth. I'm crystal clear on that, I'm just not clear that this motion gets us to where we want to be in considering all of the other moving parts, as we sit here today.

MS. KERNS: Alli, if we did not give a recommendation to NOAA until May, what would happen?

MR. LYNCH: This is sort of crystal ball stuff. But the final-Final Rule or these regulations would not be, the regulations are intended to become affective in May, 2025. We are in this interim period; it would be helpful to get a sense of where the Commission were going. But if we didn't hear until the May meeting, the world isn't going to stop spinning.

Again, there are reasons why we need to have an understanding of things going forward. We're in general election coming up. Getting things through becomes more complicated the later we go, she just said there were changes, et cetera. I think that is a factor. But again, the Rule isn't going to be

implemented until May of 2025. That is more than a year away.

MS. KERNS: Dan, I'm going to go to you, and then Adam, I'll come back to you if you want to make a motion. I have Dan and then David on the list, and then I'll come back to you.

MR. McKIERNAN: Thank you, Toni. Maybe I overemphasized this when I talked about the need for new goals. I'm not trying to avoid the actions because the goals have changed. I'm actually identifying serious flaws in the Rules as written that would attempt to accomplish those goals. What I'm getting at is, when you dial down, especially in Area 3.

If you dial down the trap limits, I can envision a scenario where the vessel owner doesn't have to surrender the traps, they just move those traps to another Area 3 permit that they purchased on the market. I don't think that the net effect, especially regarding whale conservation. The benefits of this plan are not what you think it is.

That is why I really wanted to let this, or send a signal to NOAA not to adopt this, and to reconvene these teams to come up with some new objectives and new goals. I hope, and I guess this is a question for Chip. I hope that the mandatory reporting part of the Proposed Rule wouldn't be also put off, because we need the mandatory reporting part of the Proposed Rule to be in effect as quickly as possible.

CHAIR McNAMEE: David.

MR. BORDEN: Just a quick point, Mr. Chairman, that I still support going forward with the motion, with the provision that I think it's important for us to commit ourselves today to between now and the next meeting, basically flesh out what our expectations are for the industry going forward. This could be as simple as doing a tasking memo for the LCMTs.

In other words, we do what Dan advocated as reconstitute the LCMTs and then basically give them

a tasking that addresses a lot of the concerns that have been brought up here today, that would be kind of a multi-faceted tasking. Then vote on that at the May meeting, and then start that process.

I think the important point for everybody here is the point that Chip Lynch made. NOAA put this date of May 1, 2025 in the Rule, so nothing is going to happen, nothing is going to be implemented between now and then is my understanding. Chip, correct that if it's wrong. But what that means is we have time to flesh out what we actually intend, and then NOAA will know exactly what we intend to do, and that we intend to pursue an addendum to correct some of the flaws that we've seen in the document.

CHAIR McNAMEE: Had some discussion around the table. I think maybe, just kind of looking for any additional hands. We've got a motion up on the board, I think it's time to dispense with that motion at this point. Kind of looking, making sure nobody flags me down. Okay, I think I'm on the right track. Are there any objections to the motion that is up on the board? Time for a caucus, sorry. Hang on a second. Two minutes for a caucus. One minute for a caucus.

All right, folks, we hit the minute there. Let's bring it back to the table. Okay, Alli, did you want to make a comment? Okay, I think I know where you're at, good. I will now ask the question again. **Are there any objections to the motion? Seeing no objections, I see Alli with her hand up, maybe to abstain.**

MS. MURPHY: Yes, that is correct, Mr. Chair, as this is a recommendation to NOAA Fisheries, I'll abstain on the motion. Thank you.

CHAIR McNAMEE: There are no objections, we have one abstention from NOAA, and with that the motion passes. Cheri.

MS. PATTERSON: Could we take a little break so I could put together a motion for tasking, so that we have something on the board to be doing before the May meeting, unless Toni, do you have? Okay,

sounds good, thanks.

CHAIR McNAMEE: Got it, thank you, Cheri, we'll come back to you.

CHAIR McNAMEE: We are up to Item 9; this is a Progress Update of State Implementation of Addendum XXIX on Federal Vessel Trackers. I am on here, but I'm going to pass it right to.

MR. KELIHER: Just **to clarify the record, Maine is a null.**

PROGRESS UPDATE ON STATE IMPLEMENTATION OF ADDENDUM XXIX ON FEDERAL VESSEL TRACKERS

MS. KERNS: Thank you, Mr. Chairman, I will give the Board a very quick update on trackers. Up on the screen in a hot second you will see a list of projected implementation dates for states that are putting the vessel tracker regulations of Addendum XXVII in place. As a reminder for compliance, all states were to put measures in place by December 15. We have a wide variety of implementation dates as of right now for the states.

They vary from the state of Massachusetts implementing these measures in May of this year, to some states not implementing until July. Sorry, May of '23, and some states not implementing until July of 2024. As we've noted, these tracker data are very important. We've already begun to use the information, as Caitlin reported out today, for the measures in the closed area, the northern edge. It is vitally important for these states to get these regulations in place in a timely fashion. Mr. Keliher, please go away, no.

CHAIR McNAMEE: Was I supposed to go to you?

MR. KELIHER: I guess I have a motion that was prepared for me, I'm sorry for my stepping away from the table.

CHAIR McNAMEE: Going to you, Pat, for this one?

MR. KELIHER: Evidently.

CHAIR McNAMEE: Take it away.

MR. KELIHER: **Move to send states who have not implemented electronic vessel tracking requirements for federal lobster permit holders a letter stating that the implementation deadline for this action was December 15, 2023, and states need to implement this requirement in a timely fashion to ensure compliance with the Lobster FMP.**

CHAIR McNAMEE: Okay, motion by Pat Keliher, is there a second to that? Doug Grout, second. Any discussion, Pat or Doug, do you want to say anything further? Heads shaking no. Does anyone else have anything to say on this motion? Mike.

MR. MICHAEL LUISI: I'll just clarify for the record that on the table that Toni had just covered a minute ago, it had implementation for the state of Maryland in March of this year. That would be when we would start to work on our rulemaking, which could take six months. But we have every intention to work with the industry. There are only a few federal permit holders, to begin using the trackers, but it won't be enforceable probably until the fall of next year, late summer, fall. I just wanted to make sure that is clear.

CHAIR McNAMEE: Maybe I'll just offer a quick comment for Rhode Island. While we didn't get the regulatory piece going yet, we have it planned and there are actually trackers on vessels in Rhode Island, so we maybe should have done it in reverse order, but lots of trackers on boats in Rhode Island. Was there a hand? Joe, go ahead.

MR. JOE CIMINIO: For New Jersey there are some vessels are ready with trackers. I'm actually hopeful that we'll have our regulations in place by end of February, but I left it at end of March just to be safe.

CHAIR McNAMEE: Colleen, go ahead.

MS. COLLEEN BOUFFARD: I just wanted to point out that the July implementation date we have for our regulations I think would be the latest case scenario

for us. We are working on these measures as part of a bigger regulation package. Coupled with that, we don't have a lot of federal permit holders to begin with, and the one individual who has fished there indicated to me last fall that he is likely going to be putting his permit into TH, so we may not have any federal permit holders who will need a tracker.

CHAIR McNAMEE: Okay, we have a motion on the table here, any further discussion? Any hands online? Okay, I'm going to assume nobody wants to caucus on this, so why don't I go ahead and call the question. **Are there any objections to the motion that is up on the board? Not seeing anyone raising their hand here, any hands online? No hands online, so we will consider that motion passed by unanimous consent.** Okay, Toni, anything else?

MS. KERNS: There is one other, not on trackers, so we'll do the AP. Actually, we'll do the AP stuff and then come back to Cheri, and then I have one issue pertaining to a motion the Board passed.

PROGRESS UPDATE ON AMERICAN LOBSTER BENCHMARK STOCK ASSESSMENT (DISMISSED)

CHAIR McNAMEE: Before we go over to Tina for the AP, I'll just note we are skipping the update on the benchmark stock assessment. We'll try and squeeze it into the ISFMP if there is time, but if not, we'll send something out by e-mail.

REVIEW AND POPULATE JONAH CRAB ADVISORY PANEL MEMBERSHIP

CHAIR McNAMEE: Tina is ready to go, so Tina, whenever you're ready, take it away.

MS. TINA L. BERGER: I offer for your consideration and approval the nomination of Denny Colbert, offshore commercial trapper from Massachusetts. He replaces Mark Colombo, who is no longer active in the fishery.

CHAIR McNAMEE: Okay, go ahead, Dan.

MR. MCKIERNAN: Can I second that, oh, is that my

motion? I make the **motion to approve Denny Colbert to the Jonah Crab Advisory Panel.**

CHAIR McNAMEE: Is there a second? I see a second from Dennis. We've got a motion, it's been seconded. I'm going to assume you don't need to caucus, so are there **any objections to the motion up on the board? Seeing none here in the room, I am going to assume no hands online, so that motion passes by unanimous consent,** congratulations to your appointment. Okay, so I think that completes everything on the agenda, and so I'm going to come back now to Cheri, so Cheri, whenever you're ready.

MS. PATTERSON: I will try and speak slowly. I would like to **move to have the PDT review the conservation measures originally set in Addenda XXI and XXII and make recommendations for alternate measures to achieve those reductions inclusive of the LCMTs recommendations by the ASMFC Spring Meeting.**

The justification, while they are typing. The justification is to make sure that there is movement forward, and that it is not stalled between now and the spring meeting to assure that we are going to reach the conservation measures initially intended on, and be inclusive of the LCMTs input during this process of adjusting these thoughts that we have heard around the table today.

CHAIR McNAMEE: We've got a motion up on the board made by Cheri Patterson. Is there a second to that motion? Seconded by Pat Keliher. Okay, we've already had justification by Cheri. Pat, do you want to add anything? No, any discussion on the motion from the Board? Joe.

MR. CIMINO: Just a question, and apologies for not knowing this, but do we need to establish a PDT, because I know kind of, they expire.

CHAIR McNAMEE: Question for Toni.

MS. KERNS: We'll create one.

CHAIR McNAMEE: All right, there you go. Thank

you, Joe. Okay, we've got a motion, it's been seconded. Does anybody need time to caucus, please raise your hand. I've got two people online. Colleen, go ahead.

MS. BOUFFARD: Just a question for our northern neighbors. Does this give them enough time to reconstitute the LCMTs, convene them, and provide comment to the PDT?

MS. PATTERSON: I have all the confidence that we have that time.

CHAIR McNAMEE: It looks like the answer is yes, okay. Let's go ahead and call the question. **Are there any objections to the motion that is up on the board, please raise your hand. Seeing none around the table, any online? Okay, no objections to the motion, the motion passes by unanimous consent.** That was one follow up, and lucky us, we've got one more follow up, so go ahead, Toni.

MS. KERNS: I'm sorry to add complications, but the Board previously approved through an addendum to consider a maximum size of imports. The lobster FMP is very specific about what can and cannot be done through an amendment or an addendum. Addendums do not have a lot of flexibility in the fishery management plan, so imports would have to be adjusted through an amendment.

It is my recommendation that you decouple those two issues and do an addendum for the minimum size and an amendment for the maximum size. It may be that you may want to hold off on the maximum size amendment, to hear what the LCMTs come forward with in their shift. It may be that a recommendation that comes forward for that could be something that might need to be done through an amendment or not. We could separate those two issues, but in order to address imports it has to be done through an amendment.

CHAIR McNAMEE: We passed the motion, I'm not clear on what we need to do at this point with regard to that.

MS. KERNS: I think we could, just clarifying it for

the Board, Caitlin in her meeting summary will make sure it's very clear that those two issues have to be done through two different processes, and that it's just more direction to staff whether or not we need a scoping document for May, or if you want us to wait to see if any issues that come out of the action on the Board right now would be added to that document or not.

CHAIR McNAMEE: Go ahead, Pat.

MR. KELIHER: Instead of doing this on the fly, could we take time between now and the Policy Board for the states to figure out what is the best approach, and then resolve this at the Policy Board?

MS. KERNS: That works, Pat.

CHAIR McNAMEE: Okay, I saw nodding this way, everyone okay on the other side, nodding over there as well.

ADJOURNMENT

CHAIR McNAMEE: Great, I think that is it, so that completes the agenda, is there a motion to adjourn this Board? Yes, a couple people made it over there, is there a second, by Jeff. I'm going to assume there is no objections to that motion. Not seeing any around the table, we are adjourned.

(Whereupon the meeting adjourned at 3:00 p.m. on Tuesday, January 23, 2024)