

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

**Webinar**

**March 14, 2024**

**Approved April 30, 2024**

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1. **Approval of Agenda** by consent (Page 1).
2. **Move to approve Draft Addendum XXX for public comment as modified today** (Page 9). Motion by Cheri Patterson; second by Jason McNamee. Motion passes by unanimous consent (Page 10).
3. **Move to adjourn** by consent (Page 10).

**ATTENDANCE**

**Board Members**

Megan Ware, ME, proxy for P. Keliher (AA)	John Maniscalco, NY, proxy for M. Gary (AA)
Cheri Patterson, NH (AA)	Emerson Hasbrouck, NY (GA)
Doug Grout, NH (GA)	Amy Karlnosky, NY, proxy for Assy. Thiele (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Joe Cimino, NJ (AA)
Dan McKiernan, MA (AA)	Jeff Kaelin, NJ (GA)
Raymond Kane, MA (GA)	Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Mike Luisi, MD, proxy for L. Fegley (AA, Acting)
Jason McNamee, RI (AA)	Shanna Madsen, VA, proxy for J. Green (AA)
Colleen Bouffard, CT, proxy for J. Davis (AA)	Allison Murphy, NOAA

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

**Ex-Officio Members**

Corinne Truesdale, Technical Committee Chair	Tracy Pugh, Technical Committee Chair
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**Staff**

Bob Beal	Tina Berger	Kurt Blanchard
Toni Kerns	Caitlin Starks	

**Guests**

Joan Berko	Chip Lynch, NOAA	Hank Soule, Atlantic Offshore
Delayne Brown, NH FGD	Nichola Meserve, MA DMF	Lobstermen's Association
Erika Carlsen, NOAA	Lorraine Morris, ME DMR	Renee St. Amand, CT DEEP
Glen Fernandes	Christopher Scott, NYS DEC	Kristina Thorpe, NOAA
Jay Hermsen, NOAA	Burton Shank, NOAA	Craig Weedon, MD DNR
Jesse Hornstein, NYS DEC	Somers Smott, VMRC	Renee Zobel, NH FGD

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened via webinar; Thursday, March 14, 2024, and was called to order at 2:00 p.m. by Chair Robert E. Beal.

### **CALL TO ORDER**

CHAIR ROBERT E. BEAL: This is Bob Beal from the Atlantic States Marine Fisheries Commission. I would like to call to order the meeting of the American Lobster Management Board. The Board Chair is Pat Keliher, as noted on the agenda, but Pat has been triple booked today with some legislative issues; so, he is not going to be able to make this call.

Currently there is not a Vice-Chair to the Board, so under the Commission guidelines, the Commission staff can step in and chair the board meeting in the absence of the Chair and Vice-Chair, so that is what I'll be doing today.

### **APPROVAL OF AGENDA**

CHAIR BEAL: With that, it's a pretty straightforward agenda, and I think we can move through it fairly easily. Are there any additional changes or additions to the agenda, or anything else for the agenda?

All right, hearing none the agenda stands approved by Board consent.

### **PUBLIC COMMENT**

CHAIR BEAL: Is there any public comment for items that are not on the agenda? Not seeing any hands for public comment.

### **CONSIDER APPROVAL OF DRAFT ADDENDUM XXX ON THE MITCHELL PROVISION FOR PUBLIC COMMENT**

CHAIR BEAL: So, we'll go ahead and jump right into the meat of the agenda, which is considering Draft Addendum XXX for public comment. With that I'll ask Caitlin to run through a review of the Addendum and its contents, and then we'll have an opportunity for comments and questions, and then

consider Board action. With that, Caitlin, take it away, please.

MS. CAITLIN STARKS: Thank you, Mr. Substitute Chair. I'm going to go through a quick presentation on Draft Addendum XXX, and this should say XXX, not XXVII, sorry; on the Foreign Import Minimum Size Recommendation. This was discussed at the last Board meeting, and the Board initiated this Addendum to clarify its intention regarding this issue.

The background on Addendum XXX relates back to the approval of Addendum XXVII, which established a series of management measures to protect the Gulf of Maine and Georges Bank spawning stock biomass. Measures are triggered by an observed decline in a combined recruit abundance index to a threshold, which was met in the fall of last year. Under Addendum XXVII and the implementation date that was set by the Board, this means the changes to the gauge and escape vent sizes in LCMA Areas 1, 3, and Outer Cape Cod will be initiated starting January 1st, 2025.

This schedule shows the changes in measures for Addendum XXVII, and the two yellow highlights are the increases in minimum size in 2025 and 2027 for LCMA 1. These two changes are relevant for this document, because they will be increasing the smallest minimum size for American lobster in the United States, and this change will have impacts to the size of live American lobster that will be allowed to be imported into the country. As we discussed at the January board meeting, the Magnuson-Stevens Act includes 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.

Given that, the 2025 and 2027 changes in minimum size for LCMA 1 will also change the minimum size for lobster entering the U.S. under the Mitchell Provision. The purpose of Draft Addendum XXX is just a way to clarify the Commission's intentions regarding recommendations to NOAA Fisheries on

how the gauge size changes in LCMA 1 would affect foreign import size restrictions under the Mitchell Provision.

The Draft Addendum clarifies that the Commission would recommend to NOAA Fisheries that when Addendum XXVII measures go into effect, imports from other countries would be restricted to the smallest LCMA minimum size in effect in any of the LCMAs which will be 3 and 5/16 of an inch in 2025, and then 3 and 3/8 of an inch in 2027.

This is consistent with the intent of the Mitchell Provision to limit live lobster imports into the U.S. to be no smaller than the smallest lobsters that can be legally landed by the U.S. industry. This is the timeline of development and next steps for Draft Addendum XXX. After the Board initiated the Addendum in January, the PDT developed the Addendum document, and that is what is in front of the Board today for consideration for public comment.

Then the next step would be to hold a public comment period, and then for the Board to review public comment, and consider the Addendum for final approval at its spring meeting. After that the Commission's recommendations would be forwarded to NOAA Fisheries. This is what the timeline would look like if we follow the typical process with a 30-Day comment period.

However, since the last Board meeting, we've had a request from NOAA to extend the comment period to 60 days. When I'm done with the presentation, I will go to Alli Murphy to speak to that. With that information, this is the Board action to be considered today, and that is whether there are any changes to the Draft Addendum needed, and then to consider approval of Draft Addendum XXX for public comment. That is the presentation, and I am happy to take questions.

CHAIR BEAL: Great, thanks, Caitlin. As you mentioned, you know we've heard from NOAA that there may be justification for longer than traditional public comment period. With that, Alli, I'll take the privilege and put you on the spot, if you want to

comment on that. I know Chip Lynch is on, it appears Chip Lynch is on this webinar as well. I'll go to Alli, and then we'll go back to the Board for questions and comments. Alli, go ahead when you're ready.

MS. ALLISON MURPHY: Thanks, Mr. Chair. As this action would have the potential to effect imports, me and other folks at NOAA Fisheries have been in touch with officials at the Office of the U.S. Trade Representative. We've had a number of conversations over the last few weeks. They've educated me and other NOAA Fisheries folks about how best to comply with the World Trade Organization's technical barriers to trade agreement, as well as the U.S., Mexico Canada Agreement or USMCA. Under these international agreements, the United States needs to provide 60 days for other nations to comment on measures that could impact trade. This is done through a process at the World Trade Organization. As Caitlin kind of outlined, the typical process is for 30 days, and we wanted to ask the Board to consider a similar 60-day comment period on this action, to align those two comment period processes.

CHAIR BEAL: Alli, question for you. Will NOAA need more than 60 days in order to notify World Trade Organization and the other folks that you've been talking to, for them to reach out to the other nations, and then still after those communications happen, still have a 60-day comment period, or will a total of 60 days at ASMFC be enough?

Before you answer, you know having a longer public comment period for the Commission may be okay. In other words, if we do anything more than about 45 days, we're not going to be able to consider final approval of this document by the Board at the spring meeting. If we push this back to the August meeting, we do have a cushion of a fair amount of time.

If you feel that NOAA Fisheries interacting with the international trade groups will actually need more than 60 days to sort of complete all the communications and notifications of a public comment opportunity to the other nations. Do you

have a perspective on 60 days or even a little bit longer?

MS. MURPHY: I think if the Board were willing to give us a little bit of additional wiggle room there, that would certainly be appreciated. But I don't think we're asking for several additional weeks. I think a couple of days might be helpful.

CHAIR BEAL: Great, great, thank you that is valuable. Where we are, let's go back to questions to Caitlin regarding the content of the Addendum, and then if there are questions relative to this international trade question and public comment time, we'll tackle those next. Questions to Caitlin. I see Dan McKiernan and then Jason McNamee. Go ahead, Dan, please.

MR. DANIEL MCKIERNAN: Thank you, Bob. I guess my question may be for Attorney Chip Lynch. I'm wondering if we could craft the legal outcomes for the Board decision here. I guess I would describe within the lobster producing states, we would be enacting possession rules, so possession of undersized lobsters would be banned.

But from those states from Vermont to California that don't have lobster fisheries, I guess I'm looking for clarification about how those rules actually get enforced, and what this vote means. Just as a follow up, does NOAA have to complete its own rulemaking in order for this to become a final rule at the federal level?

CHAIR BEAL: Thanks, Dan. Caitlin or Alli, or potentially even Chip Lynch, would any of you like to answer Dan's question? Chip has his hand up, let me go to Chip, and then I'll come to you, Jason McNamee. Go ahead, Chip.

MR. CHIP LYNCH: Dan's question is good. The preliminary issue here is the vote going out to public comment, and that so he doesn't impact anything, particularly if there is 60 days of public commentary with some wiggle room, you know a week or so on either end. The other question as to what would potentially happen after the Board vote.

Assume for the sake of argument that the Board approves Addendum XXX, we're in a little bit of a different place here from the typical lobster rulemaking. The typical lobster rulemaking historically has always been, for decades, have been under the Atlantic Coastal Act. We have here the so-called Mitchell Provision, which was an amendment to the Sustainable Fisheries Act., which was an amendment which was a reauthorization of the Magnuson-Stevens Act.

All of this is under the Magnuson-Stevens Act, so the way in which the federal government would proceed to a rule is a little bit murky and something that we're trying to, we're examining the congressional record from back in 1989 and '96 when these things were in place, to better decide that, to enact what kind of a rule we would need to enact. Dan, I don't have a hard and fast answer just yet, but I would like to think that we will very soon, and we would certainly be able to alert the Board at that time.

CHAIR BEAL: All right, great, thanks, Chip. There may be some follow up questions though, don't go far. Jason McNamee, go ahead, please.

DR. JASON McNAMEE: Kind of coming into this meeting a question of why status quo wasn't an option came up in some of the correspondence that I was having on this. Toni answered it, but I thought I would bring it up here, just to make sure the entire Board kind of heard the response to that. I'm just sort of offering the question of, you know we've got the one action proposed here, and there was just a question as to why status quo wasn't also an option. Just wondering if Caitlin or Toni could respond to that.

CHAIR BEAL: Toni, do you want to jump in?

MS. TONI KERNS: Sure. We tried to clarify that this was not your typical addendum process in the introduction of the document, just so that folks have that there. But this is more of a process type addendum versus a type of addendum that has different management options that we're taking forward to get people's opinions on. This is just

transparency to make it very clear to the public that we are asking NOAA to implement the rules of the Mitchell Provision, so that is status quo. There isn't another alternative to provide, so that was the rationale there.

CHAIR BEAL: Cheri, you have your hand up, please.

MS. CHERI PATTERSON: I just wanted to get some clarification, maybe clean this document up for the public process. Under the public comment process and proposed timeline, the second to the last sentence, is the second increase January 1, 2025 or 2027? The document that I have says 2025.

MS. STARKS: Yes, I'm looking at it, Cheri, and I think you are right, but it should say 2027.

MS. PATTERSON: Okay. Then again, of course we've got some of these Addendum XXVIIIs that should be Addendum XXX in the document, is that right?

MS. STARKS: I'll take a look. Some of them are referring to Addendum XXVII, but I'll make sure that each one is correct.

MS. PATTERSON: Okay and one more. Under the introduction, again the second to the last sentence, that first paragraph. In front of Table 1 you have LCMA T-O. That T-O just doesn't make sense to me there. Should that just be taken out?

MS. STARKS: The last sentence in the introduction?

MS. PATTERSON: Yes, the first paragraph under introduction, the second to the last sentence in that first paragraph. I think you just meant to end it with LCMA and then type 1. That was it for what I saw, other than that the document looked fine. Thank you.

CHAIR BEAL: Thanks, Cheri, any other questions or comments on Draft Addendum XXX? Jason has his hand back up, go ahead, Jason.

DR. McNAMEE: Yes, just one other thing that came up, and I'm just throwing this out there so other

folks can think about this as well. This may or may not interact with some of, so this is like imports, right from another country. But we have in Rhode Island, and I'm guessing some other states have this as well, because there are differing gauge sizes between states, or have been in the past.

We have a provision, and there are very few people that need it in Rhode Island, but we do issue like a couple of permits that allow a business to have some undersized lobsters that are coming in from Maine, for instance. I just wanted to flag that this may not matter, like what we're doing today, but it came up.

I just wanted to kind of put that out there as something that we're looking at. I don't have anything. We're trying to sort out whether it matters or not in Rhode Island, and it will probably depend on, you know what happens with this when it is finalized. But that is it. I just wanted to flag that in case other folks need to think about that as well, so thanks, Mr. Chair.

CHAIR BEAL: Anyone else with questions or comments? Alli Murphy, go ahead.

MS. KERNS: Bob, can I just really quickly say to Jason. Since the minimum size in Maine will increase, that the allowance for the undersize lobster in your state would still be equal to that of the smallest minimum size within the United States, so it would still be that same size limit. It wouldn't behave any differently than the rules are now. I don't think it would have any sort of negative consequences, if that makes sense.

DR. McNAMEE: It does, thank you, Toni. I appreciate that.

CHAIR BEAL: Alli, do you still have a comment?

MS. MURPHY: I guess I'm chewing a little bit on Dr. McNamee's comments about this action not having a no-action alternative. I guess from a process standpoint, taking this out to public comment without options in the document seems. I mean I know there is a point to having public comment, but without having options in the document, what is



the public supposed to comment on?

CHAIR BEAL: You know one of the options is that the public provides feedback and the Board did not want to move forward with final approval of the Draft Addendum, that almost defaults to a status quo option. However, as Toni has said, this is a very unique document in that it just really clarifying where the Board is on minimum sizes for imports, and it doesn't really create new policy.

You know it doesn't affect the ability for U.S. permit holders to harvest lobsters of any size. That has all been established through Addendum XXVII. This is just a clarification and an interpretation of the Mitchell Provision, relative to what has occurred in Addendum XXVII. Toni or Caitlin, do you have anything to add to that?

MS. KERNS: I guess, Bob, as I said before, this is status quo. There wouldn't be another alternative. The Mitchell Provision is as it stands, so we wouldn't have an alternative to provide, unless we were going to ask Congress to not enact the Mitchell Provision, which I think would be a very different document.

CHAIR BEAL: Chips hand just went up, and Alli yours is up, so maybe we'll go to Chip then I'll come back to you if you have a comment, Alli. Chip.

MR. LYNCH: Thank you for recognizing me. I have a question, and this really goes to the legal part of notice. I'm struggling a little bit here to understand what they are notifying. One of the aspects of the technical barriers the trade agreement is for the comment to be meaningful. If the interpretation was that this is just sort of giving notice of what has already been established in XXVII, then that would not necessarily be meaningful comment, because then that would suggest that the import question has been decided.

That is not what NOAA Fisheries memory is of XXVII. I thought XXVII was, as Bob mentioned, XXVII made it clear that U.S. harvesters were restricted to the newer size. That is final action. But the lowest size in the plan was still at 3 and 1/4, I think NOAA

thought, and that Addendum XXX was to clarify that the 3 and 1/4 size would now apply to imports as well.

If Addendum XXX did not pass, then the Commission would, and I'm not saying what it is, I'm just telling you what NOAAs understanding is. If Addendum XXX did not pass, then the status of the plan would be U.S. harvesters restricted at 3 and 1/4, excuse me at the new lower size, or more restrictive size, but imports would be still allowed at 3 and 1/4, because that was the nature of XXVII. It is important to understand the legal status here.

Because we have the potential for, the last time the U.S. went up on the gauge, there was an international dispute, and we want to make sure that things are transparent and clear and comment is meaningful. Obviously, I don't think anybody would prefer that result here as well. My question is, is NOAAs understanding, correct?

MS. KERNS: It was our understanding that the Mitchell Provision says that it is the minimum size in effect, and 3 and 1/4 is not in effect anywhere in the United States after January 1, 2025, so 3 and 1/4 is no longer an option for a size limit in the FMP that is in effect, so we couldn't bring that to the table. We were under the understanding that it wasn't clear in the previous addendum of what we would be recommending to NOAA.

In terms of the Mitchell Provision, and that we needed to make sure that the public understood that we would be making this recommendation, and that it would be best to put an addendum forward to let the public know, that this is indeed what we would be recommending to you all for the Mitchell Provision, because it is the smallest minimum size in effect in the United States.

CHAIR BEAL: Caitlin, did you have anything to add to that?

MS. STARKS: I was just essentially going to say what Toni said. In my presentation at the January meeting, we posed a question to the Board of how to interpret the Addendum, because we weren't

clear on that. That is why the Board initiated this Addendum.

CHAIR BEAL: Chip, do you have any follow up, or are you okay with where we are?

MR. LYNCH: I'm just confused. The Mitchell Provision says the smallest size possession, it doesn't say the smallest size harvest. I think NOAA's memory for when Addendum XXVII was going out to public comment was that it was a decided point of going up on the gauge for harvest, but to specifically not go up on the gauge in the Plan, because that would implicate and trigger the Mitchell Provision.

You can go up in harvesting and still not trigger the Mitchell Provision, so long as the lowest in the Plan is still at 3 and 1/4. I thought there were discussions had at that time, and that was the direction of the Board. It is what it is, but it seems very unclear, and it could create a dicey situation, where NOAA is being asked to provide and allow for 60 days of comment on something that has already been decided, and that is not our memory of what happened, I don't think.

CHAIR BEAL: Chip, you're saying, in order for these international conversations, or in order for, we'll call it Canada in this example, to have a meaningful comment, they have to have the opportunity to comment on a decision point, essentially is what you're saying, rather than just have it a default position.

MR. LYNCH: Correct. The decision point Canada wants to comment upon is whether or not the minimum size pertains to imports. It was not notified on Addendum XXVII, but that was again, NOAA's thinking was that was because Addendum XXVII was increasing the gauge for U.S. waters, and that it was specifically intended not to trigger the Mitchell Provision. Now that Addendum XXX wants the Mitchell Provision triggered, it would be appropriate to notify Canada at this point, because Canada can meaningfully potentially provide information that the Board would deliberate upon when trying to make the decision, as to whether or

not this increase should pertain to imports as well.

CHAIR BEAL: Thanks, Chip, you are right. This is confusing, I think you said earlier. Addendum XXVII increased, or has a series of increases that are scheduled once a trigger is met. A trigger has been met and then all those increases take place. But Addendum XXVII, if I remember correctly, maintained the coastwide minimum of 3 and 1/4. Then we had a discrepancy between a coastwide minimum and the minimum size limit that would be in effect in all of the lobster management areas, between 3 and 1/4 and 3 and 5/16.

I guess where I think we are, is this document is intending to clarify the difference between that 3 and 1/4 coastwide standard and the 3 and 5/16 that is in effect. I think that seems to be sort of the "decision point" here, is that clarification between the coastwide standard and what the minimum size limit will be on January 1, 2025. Does that help you out, Chip?

MR. LYNCH: We're getting there, Bob. You are brilliant at bringing everybody together and clarifying this. But I think you've hit the nub of the issue. I think it even said this in Draft Addendum XXX. The status quo is 3 and 1/4, as for in the Plan. Now all the areas have gone up beyond 3 and 1/4, but right now it is 3 and 1/4 in the Plan.

Addendum XXX would then also bring the 3 and 1/4 in the Plan up consistent with where it is in all the areas, specifically Area 1. That is the decision point. The point being that, and if I'm understanding you correctly. If you approve Addendum XXX as written, then the Mitchell Act is triggered, and there would be an increase restriction on imports. If you do not choose to do Addendum XXX, then you've got 3 and 5/16 of an inch in the areas, but still 3 and 1/4 is the lowest in the Plan which would allow imports.

That gets back to Jason's comment earlier about the no action or status quo alternative. Whether it is in the document or not, what I'm starting to hear and would agree with, is that if the Board chose not to do Addendum XXX, you would then have two minimum sizes in the Plan, the lowest for harvest,

which would be 3 and 5/16, and the lowest for imports, which would be 3 and 1/4. If you approve Addendum XXX, then the lowest for imports would then increase, and that is what you would be receiving public comment on, whether or not to increase that.

CHAIR BEAL: That is helpful, Chip. As you said, I think we're getting there. I think we need to maybe have a staff quick conversation on our end. Is everyone okay with about a five-minute pause, just so we can sort this out, to make sure that we all know where we're going and we can describe it clearly. We need to end up with a document that gives "meaningful opportunity for comment," from our international partners. If it is okay with everyone, we'll take about a five-minute break, and we will be right back, if that works.

(Whereupon a recess was taken.)

CHAIR BEAL: We are back. Sorry for the five-minute break taking about 15, my apologies. We were having some staff conversation, as well as some conversations with NOAA on how to interpret what is going on here. Where we've ended up is that the simple side of it is, if Addendum XXX passes, then the minimum size for imports will be 3 and 5/16, consistent with the minimum size that will be increasing in Area 1. If this document does not pass final vote at either the May or the August meeting, then there will be a lack of clarity on what the minimum size for imports is.

We'll have to get together with the Commission Board again, and NOAA, and sort out exactly how the Mitchell Provision will work, or be interpreted, and what the minimum size is in the fishery management plan, because there is a coastwide standard and there will be what the minimum size that is in effect, and those two will differ.

That seems to be where we are. Again, recapping. If Addendum XXX passes after public comment, then the minimum size is 3 and 5/16. If it doesn't, then we'll have to convene a meeting with NOAA Fisheries, ASMFC, and sort out exactly the interpretation of where we are. I figured that

would bring at least one hand up, and Dan McKiernan, go ahead, please.

MR. MCKIERNAN: Bob, for purposes of clarity, would I make sense for this Addendum to state clearly that the Addendum III minimum size language is being replaced, or is no longer valid? Because the Addendum II language says the minimum size shall be no smaller than 3 and 1/4 inches, no lower than 3 and 1/4 inches. Does it make sense for this document to point back to that Addendum III to nullify that?

CHAIR BEAL: Is that Addendum III or Amendment 3, Dan?

MS. KERNS: Amendment 3, Dan.

MR. MCKIERNAN: Amendment 3, you are right.

CHAIR BEAL: Yes, I think the difficulty there is we have to do an amendment to modify that is the problem we have. That may be part of the follow up conversation, if this document were not to pass. Are there any other questions on where we've landed? I know it is complicated and nuanced. I think the best thing to do potentially, or you guys' judge what is best, you're the Board.

One of the options moving forward is, take this document out for public comment, see what happens. See what we get from Canada and any other international partners that care to comment, and get back together after a longer than usual public comment period, and discuss our next steps as a Board. Are folks willing to go down that path? I don't see any hands, so I'm not sure what to make of that. Dan, thank you for raising your hand.

MR. MCKIERNAN: Yes, I would be willing to go along with that suggestion, Bob.

CHAIR BEAL: Thanks, Dan, I have Megan and then Jason McNamee. Megan, go ahead.

MS. MEGAN WARE: Just confirming that I am also willing to go along with that suggestion. I guess maybe a question to you, Bob, just to clarify. If this

Addendum is not passed, my understanding is that there is no clarity in the Commission's recommendation to NOAA on how to implement the gauge size increase in Area 1. Is that a fair assessment?

CHAIR BEAL: I think the gauge size increase for Area 1 will be, to me that is clear. That goes up to 3 and 5/16 on the first of January, 2025. But what happens with imports from Canada at the same time is where the lack of clarity is, if this does not pass.

MS. WARE: Yes, okay, thank you, I agree.

CHAIR BEAL: Does that work, okay. I have Jason and then Cheri. Jason, go ahead, please.

DR. McNAMEE: Just a quick supporting your suggestion, Bob, so I'm onboard.

MS. PATTERSON: Bob, I don't know if you're muted but I'm going up next. Yes, New Hampshire supports this moving forward, thank you.

CHAIR BEAL: Thanks, Cheri. Where we are is, I saw a couple more hands. I think we should have a formal motion by the Board. If anyone is willing to do that, I think Caitlin may have one drafted. But let me go to John Maniscalco, and then I think I saw Ray Kane's hand. But John, I know yours is up, so go ahead, please.

MR. JOHN MANISCALCO: Just a little confusing. Have we made it clear what the negative would be if we don't move forward in this way? I haven't heard a distinct negative, so I would like a little clarification on that, thank you.

CHAIR BEAL: John, are you asking what is a negative if we don't approve this for public comment, and see what the public has to say?

MR. MANISCALCO: Really what is the negative associated with moving forward and gathering public comment on this? Has this been raised?

CHAIR BEAL: I'm just a Board Chair here, it is up to

you, guys. But I don't see a downside to taking it out and hearing what the public has to say, including Canada during that time period, and then decide. You know should this be approved or do we need to go back to the drawing board, so to speak.

MS. STARKS: I may have a kind of answer to John's question.

MR. MANISCALCO: I would appreciate that from you, Caitlin, or any of the other Board members, thank you.

MS. STARKS: If I can speak to that, Mr. Chair.

CHAIR BEAL: Yes, please.

MS. STARKS: I believe at the last Board meeting what I heard was that there is an interest from the Board in clarifying that it is their intention to recommend that imports from other countries be restricted to the smallest LCMA minimum size in effect. That is why this Addendum was initiated. If you don't approve this Addendum, then the Commission wouldn't be making that recommendation, and so we wouldn't be putting forward to NOAA what the Commission's intent and desire is. I guess that is kind of how I understood it.

CHAIR BEAL: Great, that is helpful, Caitlin. John, do you have a follow up to that?

MR. MANISCALCO: Yes, again, I guess I am wondering what negative there is to moving forward with putting this out to public comment. Is there something I'm missing, some hidden negative that if we put this out to public comment, we could trigger something? We need the international response, so why not move forward? Has something been said, or is someone else thinking of a negative that hasn't been mentioned, because I haven't heard one?

CHAIR BEAL: Thanks, John, I have not heard of one either. Ray Kane.

MR. RAYMOND W. KANE: I would like to thank Chip and Alli for being on this call, so I have a comment

and a question. My comment is I would support this to go out to the public to hear back from international concern, but in layman's terms, I'm going to have to go out and explain this to the harvesters.

Once this kicks in January 1, the harvesters, their possession size will be 3 and 5/16, yet corporate America will be able to import products from other nations under that size, which would be detrimental to our harvesters. As a layman, I think that is the best way to acknowledge and to get this across to harvesters. My question is, will this have to go before Congress, being how we're talking about the Mitchell Bill, and if so, will ASMFC, you know will Alex put together a group to go talk to our Congressional people?

CHAIR BEAL: I may ask Chip to answer that question on Congressional involvement. Go ahead, Chip.

MR. LYNCH: I can't really answer that. I mean if Addendum XXX passes, then Ray's hypothetical here kind of goes away. If it doesn't pass, there are just so many variables it's hard to answer. It's just hard to answer. Ultimately what ASMFC wants to do would really be up to you all what you wanted to do. NOAA can't advise you to lobby Congress.

It just seems as though there are so many permutations here in the variables that while I think it's good to have forethought, and to really think about things, where things are moving in the future. What I'm hearing around the Board is almost a consensus to move this out to public comment, and at least at that stage that seems to be somewhat of a no brainer. Depending on what is heard thereafter, some of your decision points may become more obvious to you all.

CHAIR BEAL: Another way to look at it. If the size is increased to 3 and 5/16 for imports through this Addendum, and then subsequent action by NOAA, there is no need for Congressional action to change the import size. But if Congress wanted to get involved and do something different, then obviously they have every ability to do that. There is no obligation for Congressional action to increase the

import size if that is what comes out of the Commission and NOAAs processes. Chip, do you still have your hand up, or is that from before?

MR. KANE: Thank you for that, Bob and thank you for that, Chip. I was thinking ahead here. I can go out in layman's terms and explain it to the harvesters, as such, 3 and 5/16, and hopefully the international size will be raised in Addendum XXX, because NOAA and both ASMFC agreed to it.

CHAIR BEAL: Yes, that sound good. Caitlin, do you mind **putting up the draft motion that you have, and then I'll ask for someone to raise their hand if they are willing to make that motion. I think you probably want to add, as modified today**, since Cheri had a couple of fixes that she suggested that were good. Is anyone willing to make the motion? I see Cheri's hand is raised to make the motion. Is that correct, Cheri?

MS. PATTERSON: Yes, Sir.

CHAIR BEAL: Thank you, is there a second? We've got a few. I saw Jason McNamee first, so Dr. McNamee seconds the motion. Cheri or Jason, would you like to provide any additional comment justifying approving this for public comment?

MS. PATTERSON: No, I think we have discussed it for all the justification that we need to move this forward and increase the length as needed under national and international rules.

DR. McNAMEE: Nothing additional for me either, Bob.

CHAIR BEAL: Great, thank you. Let me try something with this. Are there any other comments on the motion from the Board members, sorry. Not seeing any hands. Not hearing any comments and you know I feel we've talked about this for a bit now. I'll try this. **Is there any opposition to approving Addendum XXX for public comment as modified today, please raise your hand.**

**Seeing no hands; are there any abstentions for the motion on the board? Seeing no abstentions; any**

**null votes? No null votes, so the motion that is on the board passes by unanimous consent.** That brings us to the end of our agenda. I guess the other remaining question is public comment period time. Is everyone okay, and I think we are, based on the comments that have gone around the Board saying we want to hear from our international partners here.

Everyone is okay on extending the public comment period to 60 or 70 days to accommodate NOAAs notification, et cetera. Is there anyone who wants to comment on that or anyone has concern with extending that? What that would mean ultimately is this would come back before the management board at the August meeting rather than the spring meeting, which is April/May.

Please, raise your hand if you have any concerns with that timeline moving forward. I see no hands, so I think we are all set here.

#### **ADJOURNMENT**

CHAIR BEAL: That brings us to Other Business. Is there anything else anyone wants to discuss relative to the American lobster fishery? I see no hands. We are a few minutes past three o'clock, and I thank you all for your time, and appreciate everyone's willingness to work through this somewhat complicated and nuanced issue. We will see what we get from the public, and we will be back in touch at the August meeting. Thank you all for your time, and the Board is adjourned.

(Whereupon the meeting adjourned at 3:03 p.m. on March 14, 2024)