

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

**Radisson Hotel Old Town
Alexandria, Virginia
May 8, 2007**

TABLE OF CONTENTS

Call to Order	1
Approval of Agenda.....	1
Approval of Proceedings.....	1
Public Comment.....	1
Amendment 5.....	2
PDT/Working Group Update	
Review of Trap Transfer White Paper	
Annual Compliance Review	8
Addendum XI Review	9
Review Public Comment on SNE Rebuilding Timeframe and Management Measures and Delayed Implementation for American Lobster	
Compliance Review/.....	38
Update on Addendum VII Implementation	38
2008 Lobster Stock Assessment	41
Approval of Terms of Reference	
Approval of Stock Assessment Subcommittee	
Other Business	45
Adjourn	45

INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1)
2. **Approval of proceedings of January and April 2007.** (Page 1) Motion by George Lapointe; Second by William A. Adler. Motion Carried. (Page 1)
3. **Motion to adopt Option 4, rebuilding timeframe for Addendum XI.** (Page 10) Motion by Eric Smith; Second by Daniel McKiernan. Motion Carried. (Page 14)
4. **Motion regarding Southern New England stock rebuilding.** (Page 14) Motion by Daniel McKiernan; Second by Mark Gibson. Motion to Amend. (Page 17) Motion by Eric Smith; Second by Patrick Augustine. Motion Failed. (Page 17) Motion to Amend. (Page 19). Motion by Vito Calomo; Second by Eric Smith. Motion Failed. (Page 25) Motion Carried. (Page 25)
5. **Motion regarding delayed implementation strategy.** (Page 25) Motion by Eric Smith Second by G. Ritchie White. Motion Carried. (Page 27)
6. **Motion to set compliance schedule.** (Page 29) Motion by Dennis Abbott; Second by William A. Adler. Motion Carried. (Page 29)
7. Motion to allow sport divers one lobster over maximum size. (Page 31) Motion by Peter Himchak; Second by Eric Smith. Motion Failed. (Page 32)
8. **Motion to exempt Area 3 from delayed implementation strategy.** (Page 32) Motion by Dennis Abbott; Second by Patrick Augustine. Motion Carried. (Page 33)
9. **Motion to approve addendum as modified.** (Page 33) Motion by Patton D. White; Second by William A. Adler. Motion Carried. (Page 33)
10. **Motion to clarify Section 4.1 of Addendum X.** (Page 38) Motion by Patton D. White; Second by Daniel McKiernan. Motion Carried. (Page 38)
11. **Motion to grant de minimis status to Delaware through North Carolina.** (Page 41) Motion by George Lapointe; Second by Dennis Abbott. Motion Carried. (Page 41)
12. **Motion to approve terms of reference as identified by the technical committee.** (Page 42) Motion by Gordon C. Colvin; Second by George Lapointe. Motion Carried. (Page 43)
13. **Adjourn by consent.** (Page 45).

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ATTENDANCE

Board Members

George Lapointe, ME (AA)	Gordon Colvin, NY DEC (AA)
Pat White, ME (GA)	Pat Augustine, NY (GA)
Rep. Dennis Damon, ME, (LA)	Brian Culhane, NY Chair/ Proxy for Sen. Johnson
G. Ritchie White, NH (GA)	Peter Himchak, NJ DFW, proxy for D. Chanda (AC)
John Nelson, NH (AA)	Erling Berg, NJ (GA)
Rep. Dennis Abbott, NH, (LA)	Dick Herb, NJ, proxy for Asm. Fisher (LA)
Dan McKiernan, MA, proxy for P. Diodati (AA)	Roy Miller, DE, proxy for Emory, (AA)
William Adler, MA (GA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Bruno Vasta, MD (GA)
Mark Gibson, RI (AA)	Howard King, MD, (AA)
Everett Petronio, RI (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Eric Smith, CT (AA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Dr. Lance Stewart, CT (GA)	Louis Daniel, NC (AA)
Sen. George Gunther, CT (LA)	Bob Ross, NMFS

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

Ex-Officio Members

David Spencer	Joe Fessenden
Penny Howell	

Staff

Vince O'Shea	Toni Kerns
Robert Beal	

Guests

Hank Soule, Portland Fish Exchange	Bonnie Spinazzola, AOLA
Mark Alexander, CT DEP	Chip Lynch, NOAA
Dave Simpson, CT DEP	John German, LISLA
Stephen Hines, NYS DEC	John Davi, LISLA
Molly Jacobs, Ofc. Of Rep. Allen, ME	Thomas Fletcher, NMFS
Arnold Leo	Anne Isham, NMFS
Najih Lazar, RI DFW	Roger Frate, Darien Seafood Market
Douglas Grout, NH F&G	Joan Frate, Darien Seafood Market
Janice Plante, Commercial Fishery News	

The meeting of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Radisson Hotel Old Towne, Alexandria, Virginia, on Tuesday, May 8, 2007, and was called to order at 1:15 o'clock, p.m., by Chairman John I. Nelson Jr.

CHAIRMAN JOHN I. NELSON, JR.: There are various copies of the addendas that we're going to be talking about on the back table. Also, just for the public, where we have our public comment section, if you want to talk about something that is not on the agenda, we have a sign-up sheet in the back that we're going to be using as the protocol for going through those topics so make sure that you've signed up for that, okay? Thank you very much. It's right over on that side.

CALL TO ORDER

Okay, let's get started. This is the Lobster Management Board. I'm John Nelson, chair.

APPROVAL OF AGENDA

The agenda that you have before you is pretty much similar to what we had before on the CD. We are proposing at least one modification and that is under compliance review, Number 7.

The annual compliance review will, that one bullet will move up to between four and five so I'm going to take that, the compliance review, right after we do Amendment 5. Anything else that, modifications to the agenda? All right, seeing none we will operate under that.

APPROVAL OF PROCEEDINGS

We have the proceedings, approval of proceedings from January and April '07.

MR. GEORGE LAPOINTE: **Motion to approve.**

PUBLIC COMMENT

CHAIRMAN NELSON: We have a motion by George and we have a second by Bill Adler. Any objections? Seeing none, they are approved. All right, we have the public comment for items that are not on the agenda. And I have two folks that have signed up. Roger, do you want to come up first? You've got to hit the button. The red light comes on.

MR. ROGER FRATE: I don't see no red light. Is it on? Okay. Roger Frate, President of the West End Long Island Sound, owner of Darien Seafood Market, lobster fisherman, commercial, 45 years or a little better. I want to talk about two things, our lobster industry that I believe we're losing in Long Island Sound and about the pesticides.

We are losing our lobster industry in Long Island Sound. We want to work with the state and we want to work with the Atlantic States Marine Fisheries. About 85 to 90 percent of the lobstermen are gone in Long Island Sound plus, especially at the Western End where 70 to 80 percent of the lobsters were caught.

The data is wrong. The information regarding population of lobsters in the Sound to me is wrong, and all the fishermen down here. The John Dempsey boat drag still drags where there is no lobsters. That is bad information. It goes to the commission. There are no fishermen on the commission. They vote on certain things that go back to here and the information if false.

I see the biologists going out to me with part-time fishermen. I have called DEP a number of times. My manager has called DEP a number of times. They've never got back to me. We're the most experienced lobstermen, we think, in the West End of Long Island Sound. My son is vice president. Twenty-two years he has been fishing.

It took Senator Gunther to call DEP, finally, when the run was just about over, to get us to go out two times. So the meta data is wrong. I mean, how do we change the rebuilding of a stock structure? You are making laws to stop us from fishing. They limit 800 traps on our area, 6A, which every fisherman had voted for, I believe are bankrupt. We're the only ones that didn't vote for it, me and my son. You can't make a living with 800 traps, especially now. They're all gone. We're still fighting for it. Money is out of our own pocket.

Talk about the pesticides. Everyone knows how I feel and I have all the proof from the seven years from here to the ocean. We're killing the environment with these pesticides. September 11th last year, this past summer, I guess it was the sixth year, the Joan E. F., my son comes back, Dad, in 200 foot of water I got 45 dead lobsters. Something is going on.

I thought someone put the lobsters in there, you know. John E. Couljan calls me up from Westport,

I've got weak and dead lobsters. Not knowing what's going on we've seen in the New Haven Regular, DEP sprayed scourge, which is the second worst pesticide to the lobster. They sprayed it in 200 acres near a pond that leads right into the New Haven Stream and then they sprayed in Guilford.

I've called everyone in the state. No one would say anything about using pesticides. I called Brian Backenton in New York, head of the Health Department. He has gotten to be a good friend trying to help us out with this. They had a helicopter last summer spraying scourge. And, I mean, that summer we had a large volume of lobsters.

I could not get the state there when the volume was there. When it was over they came. I mean I'm glad they came, at least. We're trying to help the state. This fall the amount of lobsters were not in the Western End of the Sound. They were from like Fairfield east. I just want to bring this all up.

One other thing I want to bring up is a friend of mine, John Dobson on long doctor, biggest long doctor in the United States, I talked to him before I came to this meeting. He said, "Roger, you're fighting a losing battle. Twenty-five years ago I was greedy; I just got out of college. I wanted to spray these chemicals. We knew it gave cancer. We knew it killed the whole environment, killed fish, killed lobster, polluted fish that were alive. We fought – and I went to see Joe Lieberman. I was so greedy I became a millionaire in 15 years."

He said, "You've got a battle that you are losing. We know it kills the environment." I just want to bring that up to you, you know. We're fighting it and I want to work with the state. We want to work. You know we're out of our own pocket down here. And we respect DEP. They don't have enough workers. I know that.

But when I see that John Dempsey boat still dragging in the West, lobsters are either on the shoreline or in the middle of the Sound in trenches where they can't drag. They say they can't drag in the East but yet the draggers could drag in the East where all the lobsters are. Thank you.

CHAIRMAN NELSON: Thank you, Roger. And, obviously, members of Connecticut's DEP are here so they've heard your comments and hopefully you will be able to work closely for this year. John.

MR. JOHN GERMANE: Thank you, Mr. Chairman. My name is John Germane. I'm an Area 6

fisherman. I'd rather be fishing today but after reading Fisheries Focus which is a publication of the ASMFC – I'm one of the few people I think that actually reads it – I see a new policy on here that curtails comment somewhat.

And I fly here to attend these meetings all the time. I fly on my own time. And I feel this new policy is a direct ploy to discourage fishermen to attend. It, many times what is said at a public hearing is not what is really translates to the managers.

The managers hear – what goes in one end and goes out here at the management meeting is not the same thing. The words do not really edit well and we will have an example of that today which will be brought up in the course of this meeting how there is a change from what the fishermen say at the public hearings and the LCMTs and what actually comes out at this meeting.

I was here at a meeting not too long ago when fishermen were not allowed to speak, as you all recall, yet the meeting ended one hour early and the fishermen were never allowed to talk at all. I was but I was the first one called. Others were not. I've also seen the opposite, to be fair.

The discussions, the decisions that are made here do not directly affect the board members but do directly affect the fishermen at the bottom, meaning me. I have attended these meetings for nearly 20 years and most of the managers that were here then are gone but I still suffer from their decisions; they do not.

I do not agree that comments should be limited. The fishermen's presence here at these meetings puts a human face in a system that basically deals with numbers and it is why Magnuson says that the social or the real people effect must be considered in decisions. I wish there was about 200 fishermen came to every one of these meetings but, as you see, there is probably usually only three or four or five at the most. And with this I will thank you all. Thank you.

CHAIRMAN NELSON: All right, thank you, John. That's all that we had listed as far as public comment so let's move on to the next agenda item which is the review of Amendment 5. Toni.

AMENDMENT 5

MS. TONI KERNS: Thank you, Mr. Chairman. At the last board meeting the board considered or the board developed a smaller subcommittee to the plan

development team for Amendment 5 to look into the issues of reducing effort or looking at effort in terms of permits, particularly to Area 1.

The committee got together and realized that the information that was in the PID may not be what the Area 1 LCMT was requesting when they asked for no more transfers into Area 1 because this would be a limited entry program. The group has pulled together information on how all the states do their permitting process as well as NMFS for Area 1 which we would like to go back and present to Area 1 LCMT to determine if in fact is they were requesting a limited entry program.

If so, then for Amendment 5 we could work together with National Marine Fisheries Service in developing criteria for a limited entry program for Area 1 over time. The timeframe that I think we would be able to work in is to, if in fact we do want to put together a limited entry program we would be able to pull something together for the board to review, a draft amendment, by the Annual Meeting.

We would go back in this summer, hopefully in June, and hold a meeting with the Area 1 LCMT to go through what is necessary for permitting requirements and what sort of limited entry programs we could set up to try to solve the issues of having permits transferred into Area 1 which was their concerns which was the reason why this issue was put into the amendment, because it was brought forward by the LCMT. Are there any questions on that issue?

CHAIRMAN NELSON: Any questions on that? Okay, seeing none, let's go through the White Paper. What we want to do as far as going through the White Paper, it's obviously still a work in progress. We want to get feedback to the staff as far as have they missed something or is there any enlightenment that, on other ideas of what could be included in the White Paper so that ultimately we'll be able to have a complete package for the board to deal with, probably by that Annual Meeting. So, Toni.

MS. KERNS: Thank you, Mr. Chairman. This White Paper was put together by the Lobster Transferability Committee and I thank them for their time and effort in putting this paper together. I realize that this is a very heavy issue and something that is not easy to soak in on the first read so, and with respect to that I will do my best to make this as simple as possible for everyone to understand and as quick as possible.

And, again, we're just looking to make sure that there isn't any additional solutions that board members have to the issues that we're facing through this White Paper. We have several history-based permit programs. These permit programs are ITT programs which allocate fishing privileges by traps.

These traps can be transferred or sold. And the success for these programs is determined by the consistencies that all of the agencies use in putting together their regulations. This is especially important for those fishermen that are dual state and federal permit holders. And I'm sorry I didn't – I left out the background information that this transferability paper was designed around the Area 2 trap transfer program that we've developed through the Area 2 effort control plan.

We promised or part of the plan it says that we will have trap transfers implemented as part of the plan and, therefore, we started to get into these issues. It's the hope of the transferability committee that what is outlined for the Area 2 plan can become the backbone for any other trap transfer programs in any of the other areas coastwide.

Some of the issues that the Transferability Committee determined stems from the stand-alone nature of each of the history-based programs. Each of the programs has a different year's allocation, qualifying years for allocation. They span for a total of a 12-year period.

So it's possible for someone who qualifies for multiple ITT programs that they would only have one fishing history behind all of that because the qualifying years for the different programs were a different set of years so the Area 2 plan followed 2001 to 2003 but the Area 4 program was 1991 through 1999. So there are different set of years allocation but it's still based on the same fishing history.

There are overlap zones in some of the areas between such as Areas 2 and 3 where you, we can't determine where you were actually fishing your traps – was it the Area 2 waters or was it the Area 3 waters? – so you can qualify for multiple allocations because of those overlap zones because we don't have defined enough data to determine which area you are actually fishing in so you end up getting out more traps than were actually historically fished.

We also have issues with permit splitting. Because we, because the states license people and the service license boats and their permits cannot be split from the history when someone tries to sell a license when

they are a dual permit holder it's possible for them to sell their federal permit and then, and the history follows that federal permit so all 800 traps goes with the federal permit, but then they apply for traps in just their state permit and are allocated 800 traps again. So all of a sudden we've doubled the effort that's in the water.

The solution to preventing this from happening is you would always have your history follow your federal permit and the state permit then, if you were a dual permit holder, would lose its history and it would go with the federal permit when sold.

Addendum VII also requires that there is one fishing entity which equals one history. It's pretty close to the issues that we have with permit ties. Because of precision of records we don't have information exactly where traps are fished. There is a possibility for an increased number of traps to be given out and, therefore, again, we say that the history will always follow your federal permit.

One of the major issues that we face in these trap transfer programs is regulatory consistency. We are seeing this with the trap transfer program in Area 2. When jurisdictions implement their regulations, they need to have consistent regulations that determine how their allocations are given.

If one state has a more liberal set of regulations then it's possible for a person to be allocated out a differing number of trap allocations from one state versus what maybe the federal government would give them because of the different rules that each of those jurisdictions has set up in their regulations.

This problem then increases when we start to transfer traps for, an individual decides he wants to sell his state-allocated 600 traps to somebody but the service has only allocated them 500 traps and when the person who has bought those 600 traps from the individual goes to the service and says, "Can I have my 600 trap tags" the service is going to say, "You only get 500 because that's all we've allocated to you." So, who is in the right and who is in the wrong?

And then there is also issues when we have multi-area splits as well because of the different qualifying periods. The assignment of the allocations in the multiple areas due to the lack of harvest-specific information become a problem, as I had explained before.

Another issue that we have with this is how do we

track the traps that are being bought and sold amongst users? Currently we have no mechanism to follow traps as they are transferred and sold and therefore we won't be able to keep track of where all the traps are going between the different agencies and states that are trying to keep these trap numbers under their belts.

So, some of the solutions that I'm going to outline for you – I'm not going to outline every solution exactly but just to try to give folks an idea of how we're trying to solve these problems. For those where we have a dual permitting split problem, if you have somebody that has both a state and a federal permit for Area 2 fishing, they qualified for 800 traps, they currently fish 800 traps, they decide to sell their federal permit, all 800 traps to that person, then they would have zero traps left to fish under their 800 traps. That's having all of your history follow your federal permit.

The next solution that we considered or that the Trap Transferability Committee is considering is applying the most restrictive rule to trap transfers. Say you have an individual that has both qualified for 800 traps in Area 2 and 400 traps in Area 3, he currently fishes 600 traps in Area 2 and 200 traps in Area 3 under the most restrictive rule of only being able to fish 800 traps. He decides that he is going to transfer 600 of his Area 2 traps and 200 of his Area 3 traps; he has zero traps left to fish under the most restrictive rule. I saw some funny faces so I just thought I'd pause to soak it in.

The next one is to give one allocation for transferred traps. Again, we have an Area 2 fisherman who qualified for 800 traps and that same fisherman also qualified for 400 Area 3 traps. He currently fishes 600 in Area 2 and 200 in Area 3. He decides that he is going to transfer only – he is allowed for transfers in Area 2.

He can't then transfer any of his Area 3 traps because you only have one of your allocations that are transferable. He has left to fish under this scenario 600 Area 2 traps and 200 Area 4 traps – Area 3 traps. He lost 200 of his Area 3 traps because you lose the same amount of your non-transferable traps with that, with each transfer so that we don't proliferate traps out.

Next is to assign fishing rights to each of your traps. The same qualification, 800 Area 2, 400 Area 3, currently fishes 600 of his Area 2 traps and 200 of his Area 3 traps. He decides that he wants to transfer 200 of his Area 2 traps and 200 of his Area 3 traps.

Through this program we try to follow the most restrictive rule so only 800 of the traps would be transferable and if you transferred more than that then you would lose the portion that you qualified for so, therefore, because he transferred the total of 400 traps he has 600 Area 2 traps left to fish and he has zero traps left to fish in Area 3.

Also, solutions would be to set a conservation tax on all transfers. The conservation tax would be high enough to not let traps proliferate because of the number of latent effort traps that are in the water due to multi-area allocations but high enough to allow to get some of those traps out but low enough so you wouldn't defer or deter people from actually transferring traps. You wouldn't want people to not transfer because they would lose too many.

The last solution would be to check the management area that you wanted to be able to transfer each year. And that could change throughout time and that was provided as part of that solution before where you would just check one area that would be allowed to be transferred. But in this scenario you would be able to change the area that you were allowed to transfer each year. And that's the end of my review of this paper.

It's a very simplified version of this, this paper. You go through and read, it has much more depth into it. And I suggest that everyone try to get into the heart of what this paper is trying to achieve and to give me any feedback that you would have on any other possible solutions or solutions that you think are dead and start because the Transferability Committee would like to meet sometime between now and the next meeting to come forward with one solution for each of the issues for the board to consider as a recommendation. Is there questions?

CHAIRMAN NELSON: Any – again we are going to, before I take any questions or input, we're not going to be debating the merits of these options right now. What we are looking for is, is there another idea out there for the committee – which I wanted to thank the members for volunteering to participate on that committee. I think they are listed so you can thank them individually. But we are looking for other ideas to include in the White Paper. So, having said that, Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman, this is just a question on, if you went back to two of those things on the 600 and 200 and 400 and 900, whatever they are – who? Okay, go forward. Yes, there. What happened when the

person sold off the 200 Area 3, when he had a 400 allocation and then he sold off 200 state. Did the 200 from Area 3 that were left in his allocation move over into the state side? Is that how come he ends up with 600?

MS. KERNS: He lost the 200 Area 3 because we were following the most restrictive, how we follow the most restrictive where you're only fishing 800 traps. So, therefore, he can only sell or transfer a total of 800 traps in total and so then you wouldn't want these latent traps. So he has a total of – his 400 latent traps out there that aren't being fished right now.

And this is designed this way so that those 400 traps don't get back in the water to add additional effort that's not currently being fished. We're trying to control the number of traps to the levels that are being fished today. You could propose a scenario that would be different then that but sort of follows that principle if you would like.

MR. ADLER: Well, no, I mean where it says "fished now, Area 2," it was 600, okay?

MS. KERNS: Yes.

MR. ADLER: Then he transfers 200 of them out. Right?

MS. KERNS: Yes.

MR. ADLER: So he doesn't go down to 400, he goes back up to 600 or he keeps 600 at the bottom. Is that because he had 400 Area 3 and he got rid of 200 of them which still left him with an allocation of 200 in Area 3 and he moved them back into Area 2 so he ended up with still having 600, is that how worked?

MS. KERNS: No, those Area 3 traps went away because they were latent traps, those 200.

MR. ADLER: Okay, so why didn't, when he sold 200 Area 2 or he transferred 200 Area 2 out of his 600, how come he still ended up with 600? Unless he transferred – okay.

CHAIRMAN NELSON: Hang on. Who wants to volunteer to help Toni on this particular one? Well, let me work my way down to see who can help. Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Well, I'm guessing that it has something to do with the fact that you're starting out with the numbers in

the qualified is a total of 1,200 and you're butting up against an 800 total is what I'm thinking, why it wouldn't work. So, in other words he –

CHAIRMAN NELSON: Bill's question is what? I think Bill's question is why isn't he fishing 400, left to fish 400? But it seems like he was qualified to fish the 800 and he sold 200 of that in Area 2. Yes, does that help? You can see that it might get a little involved.

MS. KERNS: A little.

CHAIRMAN NELSON: Yes. All right, anyone else got any questions? Any ideas? Either one, I'm open to. David, go ahead.

MR. DAVID SPENCER: Thank you, Mr. Chairman. It's actually a question on this very issue and I just wanted to make sure I understand it right. Not getting into the numbers, but on this item it's my understanding that if he has an 800/400 allocation he has 400 Area 2 traps and 400 Area 2-3 traps. Is that the spirit of this? Is that kind of – or am I wrong?

MS. KERNS: He could have – he could. It depends on if he, if those Area 3 traps were, the 2-3s would have to be part of that qualification period. Some of your traps could be multiple, have multiple assignments but they would have to be from that, a multiple allocation. I just tried to do it simple here but under this individual fishing right that trap would always have to fish in one of the areas that it was designated for.

It could move between areas over time. If it had a fishing right tied to it as a 2-3 it could one year fish in three and then the next year fish in two but it could never fish in four. It could never fish in one. It could never fish in six. It has to fish in the area that it had been assigned to.

CHAIRMAN NELSON: Go ahead, David.

MR. SPENCER: I guess to be more specific my question is if under this option would those traps actually be reclassified and would that classification stay with them through transfers? In other words, he would have 400 Area 2 traps to transfer and/or 400 Area 2-3 traps so those are, the designation would always stay the same? I think, at least that was my understanding of the intent. Thank you.

MS. KERNS: Yes.

CHAIRMAN NELSON: We're going to allow

plenty of time for the White Paper in October or November, whenever we're in Maryland. Mark.

DR. MARK GIBSON: Thank you, Mr. Chairman. A suggested improvement, and I made this earlier but late in the process so it hasn't appeared in this, at least the version I'm looking at, I think in the problem statements the A problem ought to be stated, it ought to be stated right explicitly right up front.

“Activation of latent effort” ought to be identified as a specific problem. That's what we're talking about here in almost all these issues, transferability butts right against conservation and to some degree they're mutually exclusive.

You can't give fishermen maximum flexibility to upscale their businesses, downsize their businesses and at the same time meet your conservation goals because inevitably people are going to have allocations based on historical data that a portion of which they're not fishing currently.

And those are going to be transferred, even if it's a simple transfer within an area, they don't even have 800 pots. Within a fishing area they're going to transfer a portion that's not being fished. They're going to transfer it to somebody who is hungry and upcoming in the business and those are going to be fished.

There is no way around it. Transferability is going to butt against your conservation principles in terms of overall effort reduction so I think that needs to be stated right up front as a problem. It's the most important problem, I think. And then flesh that out around that, solutions around that concept. I don't mind if it's in addition to one of these but I think that needs to be right up front as a problem statement.

CHAIRMAN NELSON: Okay, you've got it. It will include that. Other ideas. Bruno.

MR. BRUNO VASTA: Thank you, Mr. Chairman. Toni, in your last slide you talked about a conservation tax. Is that going to be equivalent across the board?

MS. KERNS: It could be. It could be, it doesn't have to be, though. It could be set by area. Some areas already have conservation taxes like Addendum IX requires a 10 percent conservation tax for Area 2. So whenever any traps are sold or, you know, a whole permit is sold or partial traps are sold 10 percent of those are foregone by the buyer.

CHAIRMAN NELSON: Other comments, Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. On the Example 2 on possible solutions if I understand this right would another way to say this on Example 1 there or Possible Solutions 1 would be "no one fishes more than 800 traps; no one can transfer more than 800 traps; and all transfers count against one's limit of 800 fishable traps"? Is that what we're trying to do with that? And if that's the case is that a clearer way of stating it?

MS. KERNS: That is the case and the only other thing that the committee has brought up is whether or not traps should stay in the area that they were traditionally fished or if they should be allowed to move to different areas.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman.

CHAIRMAN NELSON: Okay, other comments, ideas? Anyone in the public? I'll come back, Mark. Anyone in the public have any ideas for this committee to continue to flesh out? Okay, coming back, Mark.

DR. GIBSON: I just wanted to point out that some of these, a good portion of these problems have, are created because we have declined to orient our management areas consistent with our stock areas as has been recommended by the technical committee several times as well as the peer review panel. Thank you.

CHAIRMAN NELSON: Thanks. I guess we're not going there again, though, Mark. All right, yes, Vito, go ahead.

MR. VITO CALOMO: I think my question is to maybe just help me. I'm not so sure, I thought I understood things but I don't.

CHAIRMAN NELSON: Nervous.

MR. CALOMO: I don't be nervous. I haven't been nervous since I was a little kid.

CHAIRMAN NELSON: I was talking about me.

MR. CALOMO: Oh. If a permit holder has an allotment of 800 traps which is the way we go at this point in time, I don't understand, I don't understand if he transfers 400 to someone else who has a permit to have 800 traps why he can't later on, say he is fishing 400 traps out of the 800 trap allotment and all

of a sudden his grandson gets interested in fishing and he is about 14-15 years old, like a lot of young fishermen start out, and all of a sudden he wants to increase because he has an 800 trap allotment under his permit that he increases back to 800.

I don't follow the thinking that he loses, don't have it any more. I mean, I don't understand that. He has a permit like everybody else has. He pays the same money as everybody else does. He has an allotment of 800 traps, legally 880 actually for replacement.

If he does not want to fish 800 for ten years and all of a sudden because his grandson reaches of age and now he wants to go back fishing and wants to teach his grandson and they want to put out the 800 that is allowed, what's the problem there? That's the question. The second part of it, if we're having a problem rebuilding lobsters like we have problems rebuilding fish, then all should pay for the reduction, just like people pay for reduction at days at sea.

If the problem consists that some people are fishing 800 and some people are fishing maybe more than 800, and if the rebuilding takes place by using 400 traps, why doesn't there be a reduction over the course of time where people fish 400 traps and not plant 1,200 traps in areas where they're not really fishing, they're planting.

They leave traps in areas that if they pass by. Years ago when we fished, lobstering, it was we fished lobster. We moved with the lobster. We didn't plant 1,600 traps here and 1,000 traps over here. We fished the traps. We moved the traps as the lobsters moved.

Now all of a sudden I feel that people will not be treated fair because they were fishing, say, 200 traps or 400 traps and they've got an 800 trap allotment. And all of a sudden because they didn't fish the whole 800 traps, they will not be allowed through the history permit. I was a bit windy, I guess.

CHAIRMAN NELSON: I didn't notice that.

MR. CALOMO: Yes, well, I did.

CHAIRMAN NELSON: Vito, I think in the, for this White Paper there was a problem that was identified – and I think Mark probably articulated it very well as far as the traps that are not used at this time. And if you're splitting a permit or something like that, you actually could increase the amount of activity out there which is not what we were looking to have happen.

If we do nothing, then the example that you have outlined as far as the fellow not transferring his traps out, somebody else will have to have a license. This guy is just going to fish his 400 and be eligible to increase to 800 whenever he feels like it or when his grandson or whoever comes along, if they want to fish together legally, then they can increase to the 800.

But if they, you don't want them to transfer 400 over to Dan and then still be able to go back up to 800. That's not what the intent of this paper is all about. That was the concern about having latent effort activated. And we were trying to look at how to avoid that but yet allow people to transfer as appropriate that helps them out if that's what we're looking to do is to help them out.

MR. CALOMO: And I promise not to be as windy. I understood Mark. I've listened to Bill Adler for years. I've listened to Dan McKiernan who sits beside me for years. I feel – excuse me. That don't usually happen to me. I feel that the direction that we may be going is the direction that I'm talking about.

And what I'm really setting up here, to be quite frank with you, John, is I don't want a change in policy down the road. I know what we're trying to do now. I was very much in tuned to what Toni was saying and what Mark was saying. But my fear is that after we pass this hurdle the next hurdle will be what I've just stated. That's my fear. Now, I've had this battle in my own state. So I appreciate the opportunity to spiel, anyhow. Thank you.

CHAIRMAN NELSON: Okay, thank you. Anyone else? Other comments? David.

MR. SPENCER: Thank you, Mr. Chairman. I just wanted to say briefly I am very pleased that the board and the Transferability Committee is looking at these issues that have been hanging out there for a long time. They're very important and it's very important to get this right.

At the same time, from an industry perspective I just want the board to realize that there are industry anxiously awaiting the ability to transfer, especially in Area 2 where they've just gone through a very severe allocation process and there are people that are looking for a transferable program as soon as possible. I still think it needs to be done right but I also want to emphasize I'd like to do it right as quickly as possible. Thank you.

CHAIRMAN NELSON: Okay, thank you, David.

All right, a timeline for as you think about this and come up with other ideas or our critiquing of the options that are, have been fleshed out to date by the committee, would you please try to get your comments to Toni by the beginning of June.

And when I say, "the beginning of June" I guess that's June 1st, give or take a day – but the beginning of June because, again, Toni, is trying to also have the team look at these other considerations and try to flesh that out and then also meet with the LCMT in Area 1, anyways, isn't it, to make sure we've addressed what the, as much as we could the issue that they have raised and then be able to continue to work on this paper and have something that is a product for us to decide on in the October – is it October that we're meeting in Maryland? October.

I keep saying that so I wanted to make sure I'm right. But the White Paper will be in August. I'm sorry. And then the, so it's a short timeframe for trying to get something before you again. So, please follow that timeline. Okay, the next item is the Annual Compliance Review, Toni.

ANNUAL COMPLIANCE REVIEW

MS. KERNS: John asked me just to go over this one section of the compliance review for now and then we can go over the rest at a, in its regular scheduled event. And as for the staff that's about to pass out all this information, you guys don't have to pass it out right now. You can wait. Yes.

The Addendum III to the Lobster Plan in Section 2.1.6.2 has a series of "if necessary" clauses for Area 6. They were two paths that Area 6 could consider to follow to help rebuild the Area 6 stock under the egg production goals.

The PRT suggests that in order to stay in compliance with all of our plans and to have everything flow correctly that the measures that are adopted in Addendum XI today replace this Section 2.1.6.2 so that we won't have any outstanding compliance measures for the Area 6 plan. Does anyone have any questions on that?

CHAIRMAN NELSON: Does anyone have any problems with that? No? I didn't think so. All right, Toni.

MS. KERNS: Then I will go through the public comment for Addendum XI and staff will now pass out the public comment for Addendum XI.

CHAIRMAN NELSON: Agenda Item 5.

ADDENDUM XI REVIEW

MS. KERNS: Yes. Addendum XI, just to remind everyone, was the addendum that has three issues inside of it. It explores establishing a rebuilding timeframe for the Southern New England stock. It explores establishing rebuilding goals to reach the target and abundance targets for the Southern New England stock. It also explores a delayed implementation strategy for the Southern New England stock.

We held public comment from April 4th through May 4th for this addendum. Comment closed last Friday. There was a total of 46 written comments. Five of those written comments were from groups and organizations. Those groups and organizations include RILA, Mass Lobstermen's Association, the Atlantic Offshore Lobstermen's Association, the New Jersey Council of Diving Clubs, and New Jersey's EAA.

One of the groups was a form letter from Area 6 lobster fishermen with 29 signatures. For comment on looking at the rebuilding timeframe, the measures, the options that were included in the document included a 10-year rebuilding timeframe, a 10-year rebuilding timeframe that ended overfishing immediately within 2 years of implementing the plan, a 15-year adaptive rebuilding program and a 15-year adaptive rebuilding program ending overfishing immediately.

There were two commenters that were in favor of 10 years from individuals and one of the groups was in favor of this. For the ending overfishing immediately within and then addressing the abundance and F target in 10 years there was commenters in favor of this. There was one commenter in favor of ending overfishing in a 15-year adaptive program and four of the groups were in favor of ending overfishing immediately and the rest of the Plan B, a 15-year adaptive program.

Some of the information outside of the options that was received is that the rebuilding programs don't identify how we will meet these timeframes and that we should be sure to consult the LCMTs when developing these measures. Other groups thought it was necessary to assess the stock every three years and then after we've assessed the stock for three years then we follow with management and then again wait three years to make any management changes, assess the stock and then follow with

management measures.

For the hearings with the rebuilding timeframe there was one. Of the people that spoke up in the hearings one person was in favor of 10-year rebuilding, four were in favor of 10-year ending overfishing immediately, three in favor of a 15-year adaptive program and two in favor of a 15-year adaptive ending overfishing now.

And, again, there were comments that we should consult with the LCMTs when developing the programs that would meet these overfishing timeframes. And again I'm going through this as thoroughly as possible since you guys have not seen this comment before today. Next is the rebuilding measures.

First, I'm going to look at the rebuilding measures for Area 3 for those were the first area we that received comment on. For the written comments there were five individuals and one group that supported Option 4 which is the LCMT proposal and one person that supported the LCMT's proposed gauge size and vent size but that was the only part of the proposal they supported.

For the hearings there were four people that were in favor of status quo, not making any changes, and four people that were in favor of the LCMT proposal. To remind everyone, the LCMT proposal included trap reductions of 2-1/2 percent for two years, a maximum gauge of 7 inches, dropping down 1/8th of an inch to 6-3/4, to delay the vent increase that goes along with the 3-1/2 inch minimum size which starts in 2008 to 2010, to have a 20 percent conservation tax on partial transfers and 10 percent conservation tax on full transfers when transferability is available in Area 3, and to change the v-notch possession rule to be consistent with Massachusetts and Rhode Island of 1/8th of an inch.

For rebuilding measures for Area 4, in the written comments there was one that would support a status quo; two groups supported the LCMT proposal; and one that supported an 800 trap limit, 3-1/4 inch minimum size and a 2 inch vent. For the hearings there were two that favored the LCMT option.

As a reminder, the LCMT option was mandatory v-notching, a change in the v-notch possession rule to 1/8th of an inch, and to put a moratorium on all lobster licenses. There was also a comment that the recreational divers had concern with the v-notching rules because of their inability to ID a v-notch and size it at depth.

For Area 6 from the written comment there were six individuals that supported an 800 trap limit for all of the Area 6. There was a myriad of those that supported that anybody that was below 800 would be held constant at their trap limit and would not be able to increase up to 800 over time.

There were two people that supported a maximum size for Area 6 and there was one person that supported a closed season starting June 1st for Area 6. And the June 1st closure would coincide with the start of the egg season for lobster. For the written comment, also for Area 6, there was one person that supported a TAC. There were 29 individuals that supported status quo which is not make any changes in their management.

And there was also 29, those same 29 individuals said they could support the LCMT proposed option if the v-notch definition changes so that it would not include the mutilation language, so it would just be 1/8th of an inch with or without setal hairs. And there was one individual that supported v-notching.

For the hearing of those people that spoke up there were six in favor of the status quo or four in favor of status quo to do nothing and three that were in favor of the LCMT proposal but to make sure that the v-notch definition only included the mutilation – did not include the mutilation language.

Some of the Area 6 fishermen at the hearings stated that the LCMT proposal was altered from when it went from the LCMT to the board because it should not have included any mutilation language according to the LCMT chairman of Area 6 in New York.

For the Southern New England measures, the comprehensive option, there were six people that supported the comprehensive option. This option was modified slightly from what was presented in the document. The modified comprehensive option includes a minimum size of 3-3/8, a maximum size for males and females at 5-1/4, a v-notch definition would be changed to 1/8th of an inch, and a v-notching by fishermen of legal bearing lobsters, egg-bearing lobsters, as well as LCMA trap-specific reductions.

The comment that was received from the recreational community, there was several comments received from divers, especially in the New Jersey area, that the recreational community is opposed to a change in the lobster management. They are concerned with being able to identify the sex and the v-notch at depth for lobsters.

They do not want to see a maximum size put on the recreational community. And if they had to compromise that they would hope the board would consider giving the recreational community one trophy lobster above the maximum size as is listed in the federal regulations.

For delayed implementation there were 17 individuals that favored status quo, not putting any measures in for delayed implementations. Six people supported the concept if they were area-specific closures but had concerns on whether or not the board had fully considered the implications of delayed implementation, especially with questions on how the service would be able to be tied with delayed implementation for Area 3.

And then just as a reminder, when the board is considering this document that we'll have to put together a compliance schedule for dates to submit plans for the board just to review those plans and then the implementation dates. Questions.

CHAIRMAN NELSON: Any questions on the public comment? Bill.

MR. ADLER: Thank you, Mr. Chairman. On the mutilation wording, the way that's in there now is that no matter what your v-notch definition is if the thing is missing or mutilated in a way that you can't see if it was v-notched, the way that is it's automatically a v-notch.

And if you had a v-notch definition and you didn't have the mutilation wording in it, then if somebody ripped off that particular flipper it could be legal. And that was the reason the mutilation wording is in there. And so I would think that the people that would want the mutilation wording taken out, that it would compromise the v-notch concept. Thank you.

CHAIRMAN NELSON: Okay, Bill. Thank you. Anyone else? Any other questions on the public comment? All right, then we are ready to move ahead with the approval of Addendum XI and whatever options you so desire. So, staff would like to deal with the rebuilding timeframe first. Any motions to that? Eric.

MR. ERIC SMITH: Mr. Chairman, this is Section 4.1 of the public hearing document. And I would **move that we adopt Option 4** which is to rebuild abundance in 15 years by using adaptive management and to end overfishing immediately and immediately, I think, is generally agreed to be one to two years but over a near-term horizon. Now if I get a second for

that I'd like the opportunity to give a bit of an explanation why.

CHAIRMAN NELSON: Okay, Dan, you were seconding? Okay. It is seconded by Dan McKiernan so Eric, go ahead.

MR. SMITH: Thanks. You know it's pretty clear we need to try and walk before we can run as we adopt things so the part of this that's very attractive is the adaptive management part where we adopt some things, see how they work and then act accordingly. What I can't support is what was in Option 3 which was to also take 15 years to end overfishing.

And I'd be very concerned about the credibility of the board and the commission if we were to adopt something that was so inconsistent with the way other laws dealing with fishing, like the Magnuson Act, deal with it. So, between those two I find Option 4 to be more supportable. Thanks.

CHAIRMAN NELSON: Thank you, Eric. Anyone wish to speak in opposition to the motion? Mark.

DR. GIBSON: I don't know if I'm going to oppose the motion yet but I have serious reservations about any rebuilding timelines and target abundances and thresholds. And I say that in recognition of all the work the technical committee has done in terms of bringing our assessment through the peer review process.

But what we have, that exercise notwithstanding are ad hoc reference points which are based just on medians of observed fishing, estimated fishing mortality rates and abundances. We have no projections of stock status under different fishing rate scenarios and under different assumptions about natural mortality rates, stock productivity and so on.

So I don't think we have any basis to set targets and thresholds for abundance. I don't think we have any basis to evaluate different timeframes. I do agree with Eric that fishing mortality, fishing mortality rates need to be lowered immediately throughout the region.

So I guess what I need is some understanding of what the adaptation process will be if and when an improved stock assessment comes out with analytically based reference points and projection exercises come forward we will be in a position to embrace those given this action, is that my understanding?

CHAIRMAN NELSON: Well, I think, yes, I think the intent is that you are going to have the stock rebuilding so that you will be in the position to say either we don't have to do anything because things are going along very nicely or, depending on what the stock assessment says, you act accordingly. I think that's what we have to deal with, with any of these stock assessments as they come along. Anyone else? Penny or Toni, do you want to add any other comments?

MS. PENNY HOWELL: Just to tell you where the TC is hoping to be, the model will be up and running. We've discussed timeframes and we feel fairly strongly that lobsters in general don't show very quick response time so anything shorter than a five-year time step is not very meaningful. So, 5-10-15 years is something in a reasonable timeframe. In terms of projections, the new model is certainly able to do projections.

I would have a fair amount of faith in its ability to put some sort of fishing mortality in a projection and have it be meaningful. As we move into relating non-fishing, call it "natural" if you want to, but non-fishing mortality in conjunction with fishing mortality which the new model is very capable of doing mathematically, obviously Mark has as much experience as I do how difficult that is. And you know when you're dealing with natural mortality projections are nebulous at best.

CHAIRMAN NELSON: All right, I neglected to have David provide the advisors' input on this particular section and so let me go to Dave and have him do that.

MR. SPENCER: Thank you, Mr. Chairman. The AP had a conference call May 2nd. We did not reach consensus on this issue. What we did was on the rebuilding timeframe broke it into two sections. The first section was to either end overfishing immediately or not. The second was the timeframe that would be needed to reach the targets.

Even though we didn't reach a consensus there was a clear preferred alternative, if you want to call it that. And that alternative was to support end overfishing immediately. We felt it was important to end overfishing right away to start making headway on rebuilding the abundance. And abundance cannot start to increase unless overfishing is not occurring. The concern from the opposing view was that these measures may prove to be too restrictive and fisherman have faced a lot of cuts recently and the stock needs time to respond.

The second issue was the rebuilding timeframe. The preferred alternative was a 15-year rebuilding time period. Given the history of, life history of the lobster and the fact that it takes seven to eight years for a lobster to grow from egg to legal size and unknown natural mortality, it may not be possible for a 10-year rebuilding timeframe, therefore, 15 years was felt to be more realistic.

And there was also concern that the benefits of regulatory changes may not be detectable in the assessment process in a shorter timeframe than 15 years. As long as fishing mortality was kept in check, people felt the stock abundance should increase. And the minority opinion for this issue was that we should set the bar high so fishermen can get the benefits from conservation measures during their fishing careers and the longer the rebuilding period the less opportunity there will be for current fishermen to see the benefits.

And two, it's a little off this issue but I think it's appropriate, there was a strong sentiment from the AP that a stock assessment be completed for all areas at least every three years and that way management measures in each LCMA could be adjusted following the conclusion of each new assessment. The people were very concerned that anything beyond that wouldn't give us time to adjust it and to rebuild the resource. Thank you.

CHAIRMAN NELSON: Okay, thank you, David. Okay, going back to comments on the motion. For the motion. George.

MR. LAPOINTE: I don't know if it's a comment for or against but I'll make it because you called on me, Mr. Chairman. First, a question to staff, how long have we been working on the Southern New England issue? Since?

CHAIRMAN NELSON: For a while.

MR. LAPOINTE: For a while, thank you. I'd be interested on the part of board members of the 10 versus 15 year discussion just because of that issue. I understand what David just said and that he provides some compelling reasons but just of the tension between the 10 and 15 years because if you add "for a while" and 15 years it's a human generation and that's a long time.

CHAIRMAN NELSON: Okay, back to the motion. We, you know, we put in different timeframes for the public comment and I think that that's what was in the document and so we've had that discussion,

George, I think. I think we've had the discussion. We put in two timeframes and people –

MR. LAPOINTE: And I was asking the board members and particularly those who supported it why they chose 15 versus 10? And if David's reason is, just, I mean it's pertinent to the motion because an alternative is 10 years and I was just a little interested in a bit more discussion before we make that decision.

CHAIRMAN NELSON: All right, I'll see what I can do. All right, does someone want to speak to that particular point?

MR. SMITH: Only because it's the chairman of the commission, Mr. Chairman of the board, but I will offer my point of view and maybe it will be helpful. Mark said it very well. Until we get the model which once we have that model up and running we can actually look every year and see how things work. We won't necessarily do a full-blown assessment but the model is a tool to be used.

That said, the things that we have talked about in Long Island Sound for – and it's been 2.5 years, by the way. It's been since October of '05 when we approved the assessment – things are at play in Long Island Sound that don't have anything to do with fishing. We've often said the fishermen didn't cause that die-off. I have often said – and here is where we part company – fishing at the same level that has been gone on in the past is going to undercut our rebuilding effort.

So the more lobsters we can leave in the water to replenish, the better off we'll be, and that's why we need to be acting on this addendum. That said, things like recruitment, reasons for natural mortality increases, all of those kind of things we really can't predict so if I'm looking at a difference between 10 years or 15 years to get towards meeting an abundance I'd rather adopt some measures that get me off in that right direction, take two or three or four years, and look at it again.

Or if the model works the way we hope it will, evaluate every year if it's that good a tool and that's useful. You know it doesn't mean five years from now we can't come back with another addendum and change things if all of a sudden it's apparent that: A., we either need to act or B., we have the tools to do the projections that Mark was talking about. We just don't know if we're going to have them right now. So, I'm being prudent on the timeline to meet the abundance but I want to be aggressive on the fishing,

effect of fishing. Thanks.

CHAIRMAN NELSON: All right, thank you, Eric. Just as far as timeline for the model and whatnot, let me kind of sum it up as best I can. My sense from the technical committee is they're obviously going to do the best they can. We'll see how it shakes out with the model. I mean anything new you're going to have some period of continued refinement. How is that for a nice, diplomatic way of saying we're not sure yet?

And I think in keeping with what we as a commission had adopted with our strategic plan, you want to have accountability during whatever time, whatever we adopt here you will have various accountability. And so before you do another stock assessment, no matter what time that is, whether it's three or five years, you would be having various updates provided to us so that we can see are we headed in the right direction or are there really panic problems out there.

And it's probably as refined as you're going to get, at least initially. But I think that everyone is anticipating that we will deal with accountability between passing of this and the next stock assessment so it's not going to be a five-year block that nothing is reported back. You're going to get information that hopefully will show some type of trend, hopefully a positive trend. Okay? David – I mean Bill.

MR. ADLER: Thank you, Mr. Chairman. I can support this motion, and Eric said it very well. The idea of frequently we get ourselves into rebuilding timeframes and then what happens where we're going through our process trying to do it and all of a sudden we're running up against the timeframe and then like a Chinese fire drill we have to try to put in an addendum to put this deadline off because.

This would give us the time and at the same time as Eric said it doesn't mean we're going to sit still for 15 years. It's just that it's there. It's set and then we can work and watch what happens. And so I can support this motion.

CHAIRMAN NELSON: Okay, George, I hope that helps. Anyone opposed to the motion? Opposed to the motion. Okay, I'll take one more in favor and then Pete we're going to caucus.

MR. PETER HIMCHAK: Mr. Chairman, I had a question more for Penny that pertains to this motion. And I mean we have a small fishery but not small enough so we're wrapped up into this, all these

reductions strategies and whatever. Am I correct in assuming that – I mean I see the reference points from the 2003 stock assessment that talks about the Southern New England stock needing rebuilding.

Am I correct in assuming that what we passed in Addendum VIII which is the monitoring requirements starting January of 2008 by statistical area and the biological sampling that we're encumbered with now will provide better output on the Southern New England stock as these updates are provided to us? Because, I mean, I'm a little fuzzy on that.

MS. HOWELL: Yes, my very short answer to that is yes because we have very little information from your end of the range. So any additional information we get will improve the assessment in your area.

CHAIRMAN NELSON: Okay, John, do you have a question?

MR. GERMANE: Yes, my name is John Germane, Area 6 fisherman and as I stated at the beginning of this meeting oftentimes things that are said at public hearings by the time they get to this board are not the same things that was said. One was just repeated by Ms. Kerns. They said the LCMTs in Area 6 were against the mutilation issue in the v-notch definition. That is completely not true.

They were for the mutilation. What they were against was what they have in here is lobsters' notch would be defined as any female lobster that bears a notch or indentation in the base of the flipper. The indentation was what the LCMTs voted against and were completely against, nothing to do with mutilation at all.

And I share Bill Adler's concerns that mutilation was not even a topic. That word was never even brought up. Now that's what was stated at the LCMTs and that was what was stated at the public hearing. And by the time it got here somehow it turns out to be the mutilation clause which had nothing to do with it. Indentation to us means zero tolerance. We were always against zero tolerance, 100 percent.

We want a definable, measurable v-notch that you can say it's a v-notch, I can say it's a v-notch and law enforcement can say it's a v-notch, not an indentation. An indentation is anything 1/8th of an inch off the contour of the flipper. That's all I want to qualify and that's what I was concerned about earlier. And I said that example would come up and indeed it did. Thank you very much.

CHAIRMAN NELSON: All right, thanks for the clarification, John. Let's go back to the board. Why don't you caucus for about 30 seconds then we will have a vote on the motion. Ready for the question? Joe, do you need it read? No? Okay, all those in favor of adopting Option 4 in Section 4.1 please raise your hand; opposed, likewise; abstentions; null. Okay, the motion passes 10 to 1. Yes, George.

MR. LAPOINTE: Just a comment and, again, it may be inherent with models and assessments and whatnot, that in fact we should work to have some benchmarks in the interim period in the 15 years so that we know that we're making progress. And if it was already said, I apologize.

CHAIRMAN NELSON: No, that's what I was trying to say and you probably said it much better using the word "benchmarks" but the accountability has to be in there for this document and any of the documents based on our strategic planning.

And I think that's what all the technical committees have been tasked with, to plan on doing that and all the boards should anticipate that whatever you pass has to be, it has to have accountability measures in there and that you're going to get feedback from the technical committees as how is the progress going, and hopefully it is progress, towards meeting your goals. And that's not just waiting for a stock assessment to do that. All right, the next item is – all right, we're on the rebuilding measures for the Southern New England. Dan.

MR. DANIEL McKIERNAN: Thank you, John. In the rebuilding measures in Addendum XI the document presented a number of options for each of the lobster conservation management areas. But then the comprehensive one was brought into the document toward the end of the process and that's the one that I'd like to support today with a motion. And I've given Toni the text of that motion that I'd like to put up on the board, if that would be acceptable at this time.

CHAIRMAN NELSON: Okay, we'll get it up in the big print so we can all see it.

MR. McKIERNAN: Shall I describe the motion?

CHAIRMAN NELSON: Yes, why don't you go through that while we're putting it up, Dan, so that we can, everyone can hear it.

MR. McKIERNAN: All right, there are a number of features to this motion and it's essentially an

amalgam of two things that are, that were presented to us today. The first is the actual comprehensive management strategies as well as some of the comments that were received from the public, specifically the Area 3 LCMT which I incorporated into this motion.

So the motion is made by me to **adopt the comprehensive Southern New England rebuilding plan with minor amendments. Note, all biological measures would apply to non-commercial fishermen and commercial vessels using trap as well as non-trap gears, all jurisdictions to be in compliance by 2008, after June 30th, 2008.**

The first bullet, a minimum size of 3-3/8 for all Southern New England areas except for all Area 3 permit holders who would still be bound by their schedule of minimum size increases, terminating at 3-1/2 in 2008. That paragraph is directly from the addendum.

The next bullet, a maximum size for males and females of 5-1/4 – now that has been changed to include females and males, both genders – for all Southern New England lobster conservation management areas, 2, 4, 5 and 6, and non-trap vessels fishing in this area.

This is the amendment from the document incorporating Area 3's comments. For vessels fishing in Area 3, trap and non-trap, the maximum size shall be 7 inches and shall be lowered 1/8th of an inch per year for the following two years, resulting in an eventual maximum gauge of 6-3/4 inches.

The next bullet is I have inserted the delayed vent increase. Toni, do you have that? Okay, I'll go on to -- the next one is the v-notch definition would be changed to 1/8th inch for all Southern New England lobster conservation management areas and all of LCMA 3.

Under this option a v-notched lobster is defined as any female lobster that bears a notch or indentation in the flipper at least an 1/8th in deep with or without setal hairs. V-notched female lobster also means any female that is mutilated in a manner that, which could hide, obscure, or obliterate such a mark.

The next bullet is the v-notching of, by fishermen of legal egg-bearing lobsters be a voluntary measure. Fishermen would be encouraged to notch egg-bearing legal sized females to contribute

to rebuilding. The next, LCMA-specific trap reductions, adopt essentially what Area 3 was suggesting which is a 2-1/2 percent per year reduction in '09 and '10 which is scheduled to follow the '07 and '08 reductions.

And then the remaining text is directly from the document describing the need to study each of the LCMA effort control plans to figure out where the latent effort is and the historical trap numbers that might be appropriate as targets for long-term management within those.

And then the one section which Toni has put up that wasn't in my written was the delay of the gauge, I'm sorry, delay of the vent increase until 2010 for the Area 3 fleet after they reach the 3-1/2 inches. So that's my proposal. Like I said, it is a combination of what was in the document and what was contributed to us from Area 3.

CHAIRMAN NELSON: Okay, thank you, Dan. Is there a second to that motion? Mark, thank you. Okay, -- okay, Joe, we'll get you a copy. All right, discussion on the motion. Pat.

MR. PATTON WHITE: A question on the first paragraph, "commercial vessels using trap as well as non-trap gears," based on the conversation we had a little bit earlier should there be non-trap fisheries? Would the regulation apply to recreational fisheries as well?

CHAIRMAN NELSON: Yes, well, I took that to where you had non-commercial fishermen that it applied to recreational.

MR. P. WHITE: All recreational?

CHAIRMAN NELSON: That's how I would read it. I think that's the intent. I see nodding, so that is the intent. Other questions, comments. Eric.

MR. SMITH: Thank you, Mr. Chairman. There has been a lot of discussion on trying to find the right way to do this. I can't, cannot support the motion unless there are four conditions that are very clearly spelled out, at least for the purposes of this board debate.

And I would be happy if on each one you simply asked if there was any disagreement. And if there was no disagreement then Joe would have it in the record and I'd be satisfied and then we don't have to belabor this with a series of motions.

The first point is that it has to be crystal clear to the board that the intention of the states in Lobster Management Area 6 is to use conservation equivalency to substitute our view based on v-notching of lobsters instead of the increase in the minimum length. That has to be agreeable or I know of one state that will be unanimous in opposing the motion.

CHAIRMAN NELSON: Do you want to take these individually, Eric?

MR. SMITH: If you like.

CHAIRMAN NELSON: I think it might -- you know, by the time you hit four I might have forgotten one. I think in answer to that we do have conservation equivalency in the document. I don't know of anything that has said you could not, a state could not come forward or a commonwealth could not come forward with a conservation equivalency total.

We have a process for evaluating those proposals that would have to be followed and obviously you have to have technical committee evaluation of it for the board to then move forward on it. So, does anyone disagree with that concept? I see nobody disagreeing with that, Eric.

MR. SMITH: Thank you, Mr. Chairman. Point 2 is a minor date exemption, if you will. In the first paragraph the note "all biological measures" when I thought about that after discussing it with Dan I would ask that the board agree with an exception to June 30th and it is this.

If it comes to pass that Area 6 needs to do gauge increases because our v-notch program crashes and burns or for whatever reason, it needs to be clear that we're not expected to go up to 3-3/8 by June of '08 because essentially that would mean we would have to do two of those gauge increases in six months.

Under that circumstance we would want to do the first one on January 1st of '08 and the second one on January 1st of '09. As long as that's understood as an exception in the record, then the language up there doesn't bother me because I'm confident we're going to have a v-notch program well underway and we will be able to show the merit of that.

CHAIRMAN NELSON: Okay, that will be interesting. Dan.

MR. McKIERNAN: Eric, would it make sense to change the compliance date, add one day to that? Is that what you're getting at?

MR. SMITH: No, it's actually –

MR. McKIERNAN: Oh, okay, six months?

MR. SMITH: What we want to be assured of is that if we have to do gauge increases we'll do the first one in '08 but we don't want to have to do both of them in '08, by June 30th of '08.

CHAIRMAN NELSON: Where are you now, Eric, as far as the gauge?

MR. SMITH: We're at 3-5/16ths.

CHAIRMAN NELSON: What do you need to do to get, if you were going to –

MR. SMITH: Two increases of 1/32nd of an inch each which, normally speaking, states adopt annually. It would double the impact. The immediate impact would be quite severe. So we're simply saying that the first of those increases would happen six months before this June 30th deadline and the second one would occur six months after.

CHAIRMAN NELSON: What's the pleasure of the board? Ritchie.

MR. G. RITCHIE WHITE: Just a question, why would you have to do two increases? Why couldn't you just do one right to 3-3/8ths?

MR. SMITH: Because the impacts are quite severe, on the order of, well, it's hard to say when you calculate it that way but it could be 15-18-20 percent impact in one shot which is why we tend to phase these things in a 32nd at a time. It's just to mitigate the impact so that the burden doesn't fall all at one time.

CHAIRMAN NELSON: Is, I guess you're asking if the board would be willing to entertain that language that says after '08 – and this is on the fly here –

MR. SMITH: I will read the exception again, if you want.

CHAIRMAN NELSON: The exception was that Connecticut would be in compliance by June 30th of '09 for the second.

MR. SMITH: Well, frankly, I don't want to say it

that way because I don't want to have to fight the delaying tactics that mean people resist doing anything until the bitter end. I have too many burn marks on my existence for that.

I would rather get going on this, just understanding that the gauge increase strategy has always been a 36th a year for however many years in a row – a 32nd, thank you, you know, a year. And the exception would be if the gauge increases are required in Area 6 they would occur on January 1st of '08 and January 1st of '09. Again, I'm satisfied if there is no disagreement with that in the record that's fine or I could offer it as a motion to amend.

CHAIRMAN NELSON: Well, let's find out. Anyone object to putting the language in? Pat, you object.

MR. P. WHITE: I have a concern.

CHAIRMAN NELSON: Do you object?

MR. P. WHITE: I think so.

CHAIRMAN NELSON: You're sure? Okay, then we'll have to have that motion to amend, Eric, but let me have Mark. He's been –

DR. GIBSON: Oh, no, I was just, to direct answer your question, yes, I have a problem with this and so proceed with the motion and it can be debated.

CHAIRMAN NELSON: Okay, so you want to amend that portion of the motion. Go ahead, Eric, with the language.

MR. SMITH: Thank you, Mr. Chairman. After the words "June 30th, 2008" I would add the words, "exception: if gauge increases are required in Lobster Management Area 6, they would occur on January 1st, 2008, and January 1st, 2009."

CHAIRMAN NELSON: Okay, I'm sorry. Who seconded that? Pat, Pat did. Okay, comments on the motion. We've already heard why. Anyone opposed, on the opposing side?

MR. SMITH: Mr. Chairman, Joe needs clarification.

CHAIRMAN NELSON: I have Mr. Secunder, Pat Augustine. Okay, well, we have heard that Mark is concerned about it. Mark, do you want to elaborate a little bit?

DR. GIBSON: Yes, thank you. I just have a

problem with continuing the delays in achieving consistency in minimum gauge sizes. There are other fishermen who have undergone this set of gauge schedules, have survived it to the benefit of your Southern New England stock area, at least in some portions of it.

And you know this reduces the incentive to produce a reliable v-notch program. So I don't, I don't see how it's consistent with our, with Eric's statement that we need to aggressively reduce fishing mortality but we would be more lenient on the rebuilding schedule. So, I don't support this at this time.

CHAIRMAN NELSON: Okay, we've heard from two proponents or for it. Anyone else on the board want to speak for it? All right, for it, Pete. Well, let me – all right, let me have your question.

MR. HIMCHAK: Okay, I just want to clarify that compliance of all biological measures then would eliminate any prospects for the scuba divers to be exempt from a maximum size limit? I mean this was a pretty important point in LCMTs 4 and 5, including the Maryland representatives that came up from the diving associations.

CHAIRMAN NELSON: Yes, I don't think we've gotten to that discussion yet. We're dealing strictly with the amended motion right now. You can always see if there is a friendly amendment that you want to put in afterwards. All right, let me go to the audience for any comment on the amendment, proposed amendment. Roger.

MR. FRATE: Thank you, Mr. Chairman. You know, I've been on the V-notch Committee representing the West End Long Island Sound. Everybody I talked in Maine, every market this is the thing that works. Gauge increase doesn't. Alls it does is make the market of lobsters too big, which they are too big in Connecticut and New York. I'm selling pound-and-a-halves.

Every wholesaler said that we've been v-notch, I guess, around 15-20 years in Maine. They have all the lobsters you could possibly want. Their gauge is 3-1/4. They're the smart ones. They care for the fishermen. If you ever upped it 1/8th at one time, there's 10 percent of the fishermen left around us that are trying to make a living, that have kids that want to go to college. I've got a three-year old grandson. I respect and back up Eric Smith 100 percent. Thank you. Excuse me. One thing I want to recommend back home was the 10 potters, at 10 pots is over 30,000 part-timers. We recommend five pots per

family, to take some reduction off of that, not the commercial fisherman. Thank you.

CHAIRMAN NELSON: Okay, and, again, Roger, just to the point, it would be 1/16th if they, this motion does not go forward.

MR. FRATE: Right.

CHAIRMAN NELSON: Okay, anyone else in the audience on the amended motion? Okay, coming back to the board, do you want any further discussion on the amendment? All right, why don't you caucus and we'll have a vote on it. Sorry, Eric, go ahead.

MR. SMITH: Mr. Chairman, I just would like to clarify a point. An eagle-eyed staff member of mine noted that there is no reference to 1/32nd of an inch increases in the motion. It's clear from the comments I was offering that that's how we do this thing in response to Mr. White's comment. I would just, I make that point so everybody is clear when we're talking about gauge increases we presume it's at 1/32nd of an inch increments and then this makes sense because it would be two steps to get to the 3-3/8. Thank you.

CHAIRMAN NELSON: Okay, thank you, Eric. All right, are you ready for the question? All those in favor of the amendment please raise your hand; opposed, likewise; any abstentions; and null votes; no null votes. I have 5-5. The motion to amend fails. All right, Eric, you had two other points.

MR. SMITH: Thank you, Mr. Chairman. The other two are, they're procedural points and I just, these are less necessary to have everybody, look everybody else in the eye and they agree but I wanted to point out what I view this procedure to be and hope that the chairman will simply ask for agreement.

I view this as a vote on this addendum to get us going. And I appreciate Dan's contribution of that motion on the ways we have accounted for it right now. The plan that we have completed and just not submitted yet for technical committee review, my expectation is we'll get it done and to the technical committee by the end of June, giving them a month or so to comment and provide their review of it, their evaluation to the board, so that we can approve that conservation equivalency approach at the August meeting.

And I just wanted people to understand the schedule that we've set out for ourselves and make sure that that's understood. But that's hardly a debatable

point. I just didn't want to leave without having it on the record.

The fourth point is, I feel a little more strongly about, we have this dynamic tension between our technical group – no offense, by the way, to the chairman who, of course, works for me, the long-suffering chairman of the technical committee. She suffers because she works for me. Yes, I know. The committee has a view on the conservation value of various management measures that on occasion I'm known to disagree with.

And therefore I think it's very important that when we're considering all the various tools that we can use to reduce what I call the effects of fishing on lobsters as opposed to a reduction in the fishing mortality rate which is a very scientific term, I would like the technical committee to be charged by the chairman to be as broad-minded as possible as they evaluate the equivalent conservation value of things like gauge increases, maximum sizes, quotas, v-notch programs.

We need for the technical committee to broadly look at things in an equivalent way in terms of what value they have to lobster conservation. Otherwise, we're going to be wasted – whatever that term is.

We will be tied by the ankles by our own use of the word "reduction in F" because we will have this argument that we can't solve about whether a maximum size or a minimum size reduces F or not and we will back ourselves into quota management as being the only thing that we can do. Clearly, in this motion all the tools that we'd normally use for lobster management are those tools we want to consider for the future, whether it's gauge increases or anything else.

An expression by the board chairman saying technical committee go back and make sure your members are very broad-minded in how they evaluate these things would satisfy me entirely, Mr. Chairman, and then it wouldn't be me talking to the chairman which I would argue is inappropriate for me to guide her so I try not to but it is appropriate for the board chairman to do that on behalf of the board. Thank you.

CHAIRMAN NELSON: Okay, thank you, Eric. I think that we always try to have the technical committee do the best they can to come up with some type of estimate, in this case for estimate the amount of reduction for fishing effort and that sort of thing. So I certainly don't mind reminding the technical

committee to try to do that. And I also recognize, though, the diversity of opinion on the technical committee and the ability to, you know, how difficult that is to do because of, you know, some of it is very subjective.

If you don't mind, Eric, what I would like, though, is for you to outline in a memo to me what do you consider as the, you know, define what you mean by the "effect of fishing" and let me pass that on to the technical committee so they have it in writing and then they can evaluate it accordingly. And I'm sure they always, as always, would be as broad-minded as possible. All right, we are still on this – Eric, are you all set now with your four items?

MR. SMITH: Those were my four points. Depending on how debate on other things come up I may have others. Thanks.

CHAIRMAN NELSON: Sure. I'll be happy to recognize you then. We are back on the main motion. Pete, you had a request and then Vito.

MR. HIMCHAK: Yes, Mr. Chairman, and be patient with me because I want to make sure I bring this up at the right time and not under maximum size limits, but I think it is here. And it does, this motion does refer specifically to all non-commercial lobster harvesters. And, again, I would just like to reiterate the importance of issues that were brought up by New Jersey's Dive Council and Maryland divers, if I could speak for Howard, about the exemption from the maximum size limit.

CHAIRMAN NELSON: Pete, the maximum size under this proposal is going to be, I think it's six --

MS. KERNS: The maximum size is 5-1/4 for males and females in all areas except for Area 3. Area 3's maximum size would start at 7 inches, drop down to 6-3/4 at, over a two-year period.

CHAIRMAN NELSON: So I think, of course 5-1/4 is a pretty good sized lobster. But I would suggest that you come up with – and I'll be happy to come back to you on this if you want to think for a few minutes but I think that this is where you would want to do an amendment that is, allows I guess one lobster beyond the maximum size of 5-1/4 for recreational harvest. How many are they allowed right now?

MR. HIMCHAK: The possession limit – well, we have a recreational lobster pots program that is allowed six lobsters and recreationally they're

allowed six as well, I believe.

CHAIRMAN NELSON: The scubas?

MR. HIMCHAK: But not for sale.

CHAIRMAN NELSON: Now, you're asking it for the scuba folks?

MR. HIMCHAK: Yes, yes.

CHAIRMAN NELSON: Okay, and so out of that six one would be beyond 5-1/4, is that what you're asking?

MR. HIMCHAK: That's the intent that they expressed, yes.

CHAIRMAN NELSON: Okay, why don't you come up with some language as far as amending it and let me, and I'll come back to you on that. Vito.

MR. CALOMO: Thank you, Mr. Chairman. Hold it right there. That's where I'm going to be, I guess. I'm caught a little by surprise and flat-footed here. I would say that I would like to make a motion to amend that the non-trap sector be eliminated by the size restrictions except for legal, minimum size, of course.

We took our penalty a long time ago, being allowed 100 a day and 500 per five days or more. We, the non-trap sector catches less than 1/2 of 1 percent. We passed in the state legislation an agreement that we would only take 100 lobsters per count per day up to 500, no matter how many days you fished beyond five. This is a, to me it's a restriction that is unwarranted for the non-trap sector.

CHAIRMAN NELSON: Okay, Vito, just to make sure, as I understand it the non-trap sector is under the restriction already of whatever zone they fish in.

MR. CALOMO: Only in Area 1.

CHAIRMAN NELSON: Area 1?

MR. CALOMO: Size-wise.

CHAIRMAN NELSON: And Area 3.

MR. CALOMO: Not on size.

CHAIRMAN NELSON: Yes, they have a maximum limit.

MR. CALOMO: Minimum size but not maximum.

CHAIRMAN NELSON: They have a maximum size in Area 3.

MR. CALOMO: For draggers and gillnetters? I don't believe so, sir. I don't believe so.

CHAIRMAN NELSON: Joe.

COLONEL JOSEPH FESSENDEN: Not yet. I don't believe they have it.

MR. CALOMO: If you pass this they will but this has not been an agreement for years that we made an agreement with the lobster –

CHAIRMAN NELSON: Okay, I am educated. You know I had it in my mind the exemption that we had to put in to allow an oversized to come in but you're right. That dealt with the one Area 1 which has the restriction and then the area. Okay, so, Vito, do you have language that you want to – is the language up there? Check that, Vito. See if that's what you want to move to amend, the last sentence.

MR. CALOMO: Excuse me, I'm sorry. That's simple. That's really what I want. And that's really what the commercial fishing industry or the non-trap sector agreed upon, Mr. Chairman. And I am –

CHAIRMAN NELSON: Okay, and that's specific to Areas 2, 4, 5 and 6?

MR. CALOMO: Correct.

CHAIRMAN NELSON: What about – and Area 3, also. Is that correct?

MR. CALOMO: Yes.

CHAIRMAN NELSON: So it's 2, 3, 4 5, and 6.

MR. CALOMO: The only one that would have a restriction is the inshore Area 1.

CHAIRMAN NELSON: Okay, all right, that's clarified – 2, 3, 4, 5, and 6. All right, comments on the motion to amend. Eric.

MR. SMITH: Thank you, Mr. Chairman. I will second it because I don't think you have one yet. And then I'd like to offer my comment. This one slipped by me, too, but I would suggest that with one word change hopefully as a friendly perfection, whatever we call that, if you take the word

“commercial” out you solve Pete Himchak’s problem, too.

MR. CALOMO: It’s non-trap sector.

MR. SMITH: Okay, if that’s a perfection that’s accepted to the mover. Okay, now my comment, frankly I agree entirely with Vito because of the bycatch nature of the trawl fishery limits which are 100 and up to 500 for the trip. And we had that debate six or eight months ago and frankly, as he did, it escaped me. As long as that fishery is regulated by a bycatch I’m not sure we should care so much about the maximum. Thank you.

CHAIRMAN NELSON: Okay, anyone – on the motion to amend we’ve done the friendly amendment. Pete, do you think that that addresses your concern also?

MR. HIMCHAK: Yes, Mr. Chairman, I think it does and in fact the federal regulations do allow for divers to possess one female lobster per fishing trip in excess of maximum carapace length per trip.

CHAIRMAN NELSON: Okay, yes. And so your state is – let me understand. Is New Jersey going to model their regulations after the federal regulations?

MR. HIMCHAK: To accommodate the divers with the one female per trip, yes, I would imagine so.

CHAIRMAN NELSON: All right, against the motion. Mark, go ahead.

DR. GIBSON: Yes, I’m against the motion. It’s not clear to me yet that this overall motion is going to address the, what the board has asked for which I heard is a consensus to reduce fishing mortality immediately. My support for the entire motion is still hanging in the balance.

I haven’t gotten to be able to ask the technical committee that but this is just another way to further erode the, what conservation benefits there may be in the plan so I oppose this particular amendment at this time and I am suspect about the overall motion in terms of addressing the immediate reduction in fishing mortality at this time.

CHAIRMAN NELSON: Okay, other comments on the motion. Anyone in the audience want to make a comment on the motion to amend? Okay, back to the board. We are trying to check on one thing because I think there is some issue about the recreational component right now so let me see if we can’t work

that out with Pete and staff.

Let me read it to you, Joe, while that final discussion is taking place. It’s, the amendment is the non-trap sector would be exempt from the maximum gauge size specific to LCMA 2, 3, 4, 5, and 6. Pete, are you still all set?

MR. HIMCHAK: I’ve been advised to offer a friendly amendment to the wording to restore the language, “the commercial non-trap sector” and then to add a sentence that reflects the existing federal regulations on allowing one female lobster over the maximum size limit per trip.

CHAIRMAN NELSON: For recreational?

MR. HIMCHAK: For recreational purposes.

CHAIRMAN NELSON: And recreational divers, right?

MR. HIMCHAK: Divers, yes.

CHAIRMAN NELSON: So we would add back in “commercial” and then after six we would – not one female but one lobster. Is it female? Well, I don’t think he meant just a female one. Is it the federal regs are a female?

MR. HIMCHAK: Yes, Mr. Chairman, they are. And I would be more specific in limiting, not saying the recreational sector but saying that the diving community or the diving –

CHAIRMAN NELSON: Scuba.

MR. HIMCHAK: Yes.

CHAIRMAN NELSON: The recreational scuba sector would be allowed one female lobster over the maximum size. All right, I think we’ve got it. Go ahead, Bob.

MR. ROBERT ROSS: This is Bob Ross, proxy for Harry Mears. The federal government just last year implemented measures that we took out of the commission’s Addendum II or III that required a 5-1/4 max size in Area 4 on all females and required a 5-1/2 inch maximum size in Area 5 on all females so I just wanted to highlight that currently all federal vessels fishing in Area 4 and 5 and recreational participants are bound by the federal regs for that maximum size. And it was specific only to females in Addendum II or III.

CHAIRMAN NELSON: Okay, and Eric, did you want to make a comment?

MR. SMITH: Did Bob Ross say that that was all fishermen or was it all commercial fishermen? Because if it's all fishermen –

CHAIRMAN NELSON: Federally permitted.

MR. SMITH: Divers not federally permitted, in other words? Okay, so that's why there is a federal exemption that allows one. Okay.

CHAIRMAN NELSON: Okay, go ahead. Yes, go ahead, Senator.

SENATOR DENNIS DAMON: Thank you. I'm curious as to why the federal regulations exempt females of the species. Can anybody tell me that?

CHAIRMAN NELSON: I see a hand of knowledge waiving. It's – do you have some knowledge of the federal side, Gordon?

MR. GORDON C. COLVIN: Oh, boy. My recollection is that when Area 4 and 5 put their last management programs together they were, the maximum gauge applied to females only so that's probably what then subsequently got – and actually I might comment that this is probably an ideal model where the states have made a decision on how to go and then the federal government follows just, you know, kind of for the record.

CHAIRMAN NELSON: Well, at least they're there. Yes.

MR. COLVIN: Yes, following, Mr. Chairman.

CHAIRMAN NELSON: All right, any other comments on this? Oh, David, come on up and speak on the amendment.

MR. SPENCER: Thank you, Mr. Chairman. David Spencer, Area 3 LCMT chairman. Just to be clear, these are not the views of the AP; these are – I'm going to speak for the Area 3 LCMT. A portion of this amend, motion to amend came directly from an Area 3 LCMT recommendation which was a maximum size of 7 inches, reducing over two years to 6-3/4. I would like to speak in opposition to this amendment.

We've been a big supporter of mobile gear. We worked diligently to not drop the daily possession limit in Amendment 5 but for my guys fishing out on

Georges I can't, it's going to be untenable for them to be fishing on a different size if it's just because you're a trap fisherman or a dragger. It's not the intent. If we're going to hold the trap guys to a 7 and reduce down to 6-3/4, my recommendation that we all should be. Thank you.

CHAIRMAN NELSON: Okay, thank you, David. Back to the board. Are you ready for the question? Most people are. Eric.

MR. SMITH: This is simply a clarification, that darn eagle-eyed staff member, again. If he does this to me one more time, I'm going to make him the board member. That will stop him. He makes a good point. In the first sentence we have an inconsistency with the second-to-last sentence. The first sentence we should end it after the Number 6 because by the second-to-last sentence we took out non-trap vessels fishing in that area. Okay?

CHAIRMAN NELSON: Say it again, Eric.

MR. SMITH: The first sentence should be “maximum size for males and females of 5-1/4 for all of Southern New England LCMAs, 2, 3, 4, 5, 6”, period.

CHAIRMAN NELSON: Okay.

MR. SMITH: Thank you.

CHAIRMAN NELSON: And so we have to remove in the parenthesis, staff, “and non-trap”. Okay, Joe, did you have a comment?

COLONEL FESSENDEN: As far as law enforcement I'd like to go on record to say we would oppose having the mobile gear be able to take over-sized and the trap fishery not be able to. It creates an enforcement problem.

CHAIRMAN NELSON: Okay, thanks. All right, is the motion clear, the motion to amend? Joe, do I need to read it? Good. Maximum size for males and females of 5-1/4 for all in Southern New England LCMAs 2, 4, 5 and 6. For vessels fishing in Area 3 the maximum size shall be 7 inches and shall be lowered 1/8th per year, 1/8th inch per year, for the following two years, resulting in an eventual maximum gauge of 6-3/4 inches.

The commercial non-trap sector would be exempt from the maximum gauge size specific to LCMA 2, 3, 4, 5, and 6. The recreational divers, i.e., scuba, would be allowed one female lobster over the

maximum size. Yes, Dennis.

REPRESENTATIVE DENNIS ABBOTT: Thank you. One of my constituents in the audience has been frantically trying to be recognized. I would appreciate it if she was given the opportunity.

CHAIRMAN NELSON: I did go to the public several times.

REPRESENTATIVE ABBOTT: Well, she has had her hand up I've noticed.

CHAIRMAN NELSON: Is it a small hand? Bonnie, why don't you come up, then. My apologizes, Bonnie, for some reason I did not see your hand.

MS. BONNIE SPINZZAOLA: That's okay. Thank you, John. Thank you, Dennis.

CHAIRMAN NELSON: It might have been the radiance down there.

MS. SPINAZZOLA: It must have been. Bonnie Spinazzola, Atlantic Offshore Lobstermen's Association. I just wanted to reiterate what David Spencer said. I just feel that it would be absolutely wrong to allow one sector, whether it's trap or non-trap, whatever, to fish on a different sized lobster than the other. They're all out there fishing and I think they should fish equally. Thank you.

CHAIRMAN NELSON: Okay, thank you, Bonnie. All right, back to the board. Are you ready for your caucus? I'll give you 30 seconds. Are you ready for the motion? All those in favor of the motion to amend please raise your right hand, nice and high; opposed, likewise; abstentions; one abstention – two abstentions; null; no null. The motion fails. The motion to amend fails. Back on to the main motion. Any other comments? Gordon.

MR. COLVIN: I wanted to come back to this issue that got raised earlier about the v-notch definition and the question of whether the addition of the words "or indentation" is equivalent to the zero tolerance discussion that had been going on for some time. I was wondering if Joe or anybody else can help us understand the distinction there and what the effect of the words "or indentation" would be, you know, in or out of this definition.

CHAIRMAN NELSON: Okay, just for folks, in the document there is a number of areas where there is a v-notch rule or whatnot, Page 8 under Section 4.2.2, 4, you've got a v-notch possession rule and it does

have that type of definition in there that Gordon is mentioning so Page 8, Number 4 on that. That language shows up throughout. Well, it's also in the motion. Thank you very much. When your nose is in the paperwork it's not looking up at the screen. Let's give Joe a second to that. Dan, do you want to comment.

MR. McKIERNAN: Yes, if I could, I was the person who first prepared this language and I'd just like to say that the rationale behind the language is our understanding that when a v-shaped notch heals it's no longer v-shaped. It can be u-shaped.

It can take on all kinds of shapes that are not longer in a triangle so we're simply trying to accommodate the natural healing process where you know – the problem with zero tolerance it's like pornography, you know it when you see it. But in this case we wanted to put a clear definition which was 1/8th of an inch indentation, the remnant of a notch. So that's really the spirit of this language, the remnant of the old v-notch.

CHAIRMAN NELSON: Joe, did you want to make a comment?

COLONEL FESSENDEN: We have zero tolerance in Maine and we don't mention indentation. We just have a, you know, zero tolerance, no v, any sized v or mutilated in such a way to hide a v and I would recommend removing "indentation" because you really, you're allowing up to 1/8th of an inch indentation by having 1/8th of an inch tolerance. So, I would have it that keep your mutilation language at the end of the paragraph and then I think you're all set.

CHAIRMAN NELSON: You don't think that it should be defined as a female that bears a notch or indentation of at least 1/8th of an inch?

COLONEL FESSENDEN: We don't have it. We've never had it in our law, indentation. I don't believe we have it.

CHAIRMAN NELSON: I think – I'm trying to remember ours. And I think indentation is mentioned in those so that it's clear that it doesn't have to, as Dan pointed out, it doesn't have to be a very distinct v. It's a, as he points out, it heals at different rates and so it's an indentation versus a –

COLONEL FESSENDEN: Well, we actually enforce the word "distinct v-notch" is that we enforce. It's got to be a distinct v or mutilated in

such a way to hide a v. That's the way we, as far as enforcement goes. I don't recall the indentation. Now if somebody could look at the rule and see it in there, I don't recall that word in our statutes.

CHAIRMAN NELSON: All right, let's try Bill.

MR. ADLER: The last time I looked at the definition in the ASMFC no tolerance thing I thought it said a v-shaped notch of any size. I thought that was the way the word was. The v-shaped notch of any size was the no tolerance wording in the ASMFC.

CHAIRMAN NELSON: All right, so what are we suggesting, then? Gordon, were you suggesting that it should say a notch of any size?

MR. COLVIN: I haven't suggested anything yet. I wanted to hear some discussion on this and get a, you know, better sense of where it came from. And part of what is puzzling me is that I know we had a discussion at an early Area 6 LCMT meeting, you know, back some time ago and right after there had been some action by the Area 2 LCMT and there was a desire to get them lined up. And then what I'm trying to recall and I don't have the paperwork with me is exactly what came out of Area 2 that was in the first Area 6 motion.

And Toni is pointing at the board. Well, you know, I'm not sure how faithfully that got carried through from one meeting to the other and whether we debated it all. I'm just, you know, now we're at a point where we probably have to rethink it here and I'm not yet ready to make a proposal. I want to hear some more discussion.

CHAIRMAN NELSON: Okay, we did have, you know, as I recall pretty extensive discussion on the definition of what we would have for a v-notch. Staff is whispering in my ear that those are my regs. so obviously they're perfect. Anyways, all right, just a minute or two more on this. You know, either we're going to change it or we're going to leave it as it is so Eric and then Dan.

MR. SMITH: Thank you. You know this is all about making sure your v-notch program is effective. And if I was Maine and had zero tolerance, quite frankly I could say v-notch of any size because any kind of little mark that's even 1/32nd that looks like a v, that's very protective and that's what they strive for with zero tolerance.

When you start talking about 1/8th of an inch, and then you further erode it, if you will, by taking out

the word "or indentation" you're further limiting the effectiveness of the v-notching. And I would like the board to know first the public hearing document did have that language in there.

And John Germane is quite right, they had comments that they didn't like that language because it may or may not have reflected the LCMT view at the time. On the other hand, it's also important for the board to know that when Connecticut developed its v-notch program we had three lobstermen on there and we were in favor of zero tolerance as an 11-member committee.

We conceded the point to the New York view that we would back away and we would do 1/8th of an inch, even though in particular the Connecticut lobstermen but our whole committee was a little uncomfortable but we backed away and we adopted the 1/8th.

I'm not comfortable backing further away and taking out the word "indentation" because what that's going to mean from an enforcement point of view – and I would ask Joe to think about this and perhaps comment on it – you take out the words "or indentation" and an enforcement officer is always going to have someone pushing back at him on the water saying, "Well, it's not really shaped like a v. It's 1/8th inch deep but it's not really shaped like a v, it's more u-shaped, it's more something else."

I don't want to lose any more effectiveness of v-notch, particularly if we're paying good money to do it and we're accounting for it as a conservation measure in the plan. So I would argue against taking those words out. I would leave them in. I would also point out we already have a regulation on the books for 1/8th and it says v-shaped notch or a remnant of one which is the other way of looking at indentation. It doesn't have to be a perfect v, it just has to have started out that way. Thank you.

CHAIRMAN NELSON: Okay, I would prefer that if there is going to be a motion that that's what we have now; otherwise, we're going to move on. Lance, do you want to make a motion?

DR. LANCE STEWART: No.

CHAIRMAN NELSON: Okay, let's move on, then.

DR. STEWART: Just a suggestion, in the definition –

CHAIRMAN NELSON: No. No.

DR. STEWART: It may be clearer to have a designated –

CHAIRMAN NELSON: No, a motion. It's either – it's clear enough I think right now or if someone wants to change that, they can make a motion. Last chance. All right, we are back on the main motion. Anything else on the main motion? Mark.

DR. GIBSON: Thank you, Mr. Chairman. I am trying to reconcile a few things. I'm trying to reconcile the action, previous action we took on the rebuilding program which Option 4 endorsed enthusiastically by this board to end overfishing immediately, I'm trying to reconcile that with the measures that we have before us in this motion as well as the, in my view, mysterious guidance that Eric was seeking from the technical committee relative to broadening the interpretation of what fishing mortality is.

I don't see any ambiguity in what fishing mortality is in Option 4, how it's defined, how it's written and ending it immediately which the board enthusiastically asked for. So I don't understand that part of it, what the technical committee might or might not be looking for more broadly than that. But these measures, I guess my direct question to the technical committee chair is, is there any of these measures here to immediately reduce fishing mortality?

MS. HOWELL: Yes, the gauge increase for those that don't already have it and to some extent the maximum size and, of course, v-notching. I mean, all of them will.

DR. GIBSON: If I could follow up. So what areas would go to 3-3/8 immediately? What percentage of the lobsters being landed are above these maximum gauges? The v-notch program I can understand. I've done some work on that myself but the majority of the area doesn't have an ongoing or a completed v-notch program and the recommendation here is for voluntary measures in the future. And I'm also skeptical, where is our analysis that shows how fishing mortality is related to trap reductions? So, I'm having a hard time reconciling this suite of measures with our previous action.

MS. HOWELL: No, we have not done analysis. Dan put this forward without requesting TC review. These measures will make things uniform so that we can move forward from that but we, I can't answer your specific questions in terms of percent of the stock. We're in the midst of starting a stock

assessment so we're not ready to answer those kinds of questions at this point.

CHAIRMAN NELSON: It is what it is, Mark. Anything else on the amendment – I mean not the amendment, the motion? Okay, Eric, go ahead.

MR. SMITH: Thank you. I'm going to thank Mark for raising that point because he is a better technical guy at all of this than I am and I'm thanking him because he is making the point in a way that will create – it's obvious we're creating a lack of clarity by the motion we took on the rebuilding schedule.

And again, I even used the words once in the context of the first motion we took and I kind of regret that now because that's the words he keeps on picking at and he's right to, the rebuilding schedule, Option 4, the 15-year adaptive management to end overfishing immediately talks about decreasing the fishing mortality and less than the fishing mortality reference point.

My comments on the rebuilding measures, which is Section 4.2, was reducing the effect of fishing. Those are two different things. You can reduce the effect of fishing by an increase in the minimum length. You can't change the fishing mortality rate and push it below the reference point.

If you need to, I will offer a motion to reconsider with all of that gory detail to get that language to not have the inconsistency that Mark points out. And it will basically be changing things like fishing mortality or fishing mortality rate to the words "the effects of fishing on lobsters." That way things like gauge increases are inbounds. Otherwise, the technical view has been, you know, increasing the gauge doesn't change the fishing mortality rate. So how would you like to proceed, Mr. Chairman?

CHAIRMAN NELSON: I'd like to see who else wants this talk. You know, Eric, I, from a technical, trying to get everything technically "correct" is not what – I don't think that's what we necessarily have to do. I think we all understand that we want to do what we can to recover this stock.

This went out to public hearing. This is what people commented on. This is the motion we have in front of us. I already told him that. I told him it is what it is. And, therefore, I am moving on with any other amendments for this motion? Okay. Seeing none, please caucus. All right, are you ready for the question?

Okay, we're going to do two more seconds for one state. Ready for the question? All those in favor of the motion please raise your right hand; I'm sorry, raise your hands again nice and high; opposed, likewise; abstentions; two; and null votes; zero. The **motion passes**. All right, we are on this delayed implementation component. Do we have a motion for that? Eric.

MR. SMITH: Yes, we do, Mr. Chairman. Toni is going to have to find it because it has to be read on the screen because I don't happen to have – I guess I do have a copy. Okay, I'll read it. Yes, it's up there now. And this is simply an alternative language for what occurs on Page, either Page 12 or 13. It's a substitute for what is under Option 2 or Option 3 so take it, perhaps Option 3.

The motion would be for each day that a state does not implement any of the lobster management measures identified in Section 4.3 of Addendum XI of the Lobster Plan that state's resident lobstermen are prohibited from fishing for or landing lobsters for an equal number of days during the same or equivalent time period in the following year, regardless of the area in which they are authorized to fish or the state in which they are authorized to land.

CHAIRMAN NELSON: Okay, thank you, Eric. Do I have a second to that? Ritchie White seconds that. Okay, comments on the motion, for the motion. Eric, why don't you do it?

MR. SMITH: The point I'm trying to make in this is in the event that a state does not adopt something that it is required to adopt the penalty should fall on the people that it licenses as opposed to the places where they fish. And that will be incentive enough to make the state do what they have to do on time.

But I didn't want to have a circumstance where somebody who fishes in a state that is in compliance and has adopted everything that they were supposed to adopt is affected from fishing in other waters that it might otherwise be licensed to fish. So it's really put the heat to the state to make sure they do what they're supposed to do and then they'll do it. Thank you.

CHAIRMAN NELSON: Okay, thank you, Eric. Okay, opposed to the motion. Dan.

MR. McKIERNAN: I was under the impression that these measures were supposed to apply to all lobster measures, not just Addendum XI. I thought we were,

as we adopt this delayed implementation language it was going to apply to lobster management in its entirety, not just Addendum XI.

CHAIRMAN NELSON: Yes, you're right.

MR. SMITH: Well, it refers to the list of measures that are in Section 4.3. There are six of them. It's on Page 12.

CHAIRMAN NELSON: Let me have staff clarify that just to make sure.

MS. KERNS: It's the intention in the addendum it's not just for Southern New England. It's all lobster areas and it's the minimum gauge, the maximum gauge, the v-notch possession rule, the minimum vent size, trap allocation programs and adjustments in quotas or trap limits so it's including – those were the measures that the plan development team identified as measures that would have impacts on the conservation of the resource due to delays in implementation of regulations, specifically, for all areas.

CHAIRMAN NELSON: Let me have Dave make his comments for the AP first.

MR. SPENCER: Thank you, Mr. Chairman. The AP did reach a consensus on this issue. There was support for Option 3, LCMA-specific closures. There is general support for the concept of delayed implementation with LCMA-specific closures.

The AP feels this management strategy is not yet completely fleshed out and the board should consider how it would make recommendations in federal waters and also other issues that may arise such as if an area is closed for a month what does that mean? Do traps have to come out of the water or do you just not go out and tend them? Those are just a couple of issues that came up in a very brief discussion. Thank you.

CHAIRMAN NELSON: Okay, so it's clear that this is part of the policy, what the Policy Board had asked boards to implement. It is throughout the range. It's not specific to Southern New England. And under 4.3 it talks about items that are, that, as Toni mentioned, are, have been identified as what would be, this would apply to throughout the range. Okay, back to the motion. Those in favor of the motion. Do you have a question, Vince?

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. I was just wondering what the

meaning of “an equivalent time period” is? In one case it suggests – well, I just don’t know what that means.

CHAIRMAN NELSON: Did you want to leave that in or is it –

MR. SMITH: Well, that was in the original document so I did not change that. It struck me that I wondered myself but I wasn’t going to tinker with too many things. I guess the original drafting was, you know, perhaps, you know, you’re supposed to close July 1st for two weeks and you close from July 15th for two weeks. That’s an equivalent period. But if you try and close in February because of something you didn’t do in August, that would be substantial. That was my guess, so.

CHAIRMAN NELSON: Okay, maybe if you had a hurricane coming through at that time that’s not the, you can’t do it during the same period and therefore you do it some equivalent. Maybe there is some other – I think “or equivalent” is probably worthwhile leaving in there from that standpoint. A follow up?

EXECUTIVE DIRECTOR O’SHEA: Well, you know, let’s face it, the reason this is in here is because we end up, the reason we’re dealing with this issue is it becomes contentious when a state is having difficulty, for whatever reason, implementing. And I’m just, I can just see the sort of vagueness coming back to haunt the board in the future and you start into a trade-off thing. And in some cases when the run starts can become very important.

And I think it may have an impact on what we’re trying to achieve here. So just, if the issue was leap year or something and you know a minor thing, that would be one thing. But when we start saying, well, here we could trade this two weeks off for the next two weeks and then it’s at six weeks. I just see the board end up going down a road that you’re going to be revisiting this potentially.

CHAIRMAN NELSON: Well, and that’s possible. Let me have staff just check because I think this is the language that came out of what we already have in place for other delayed implementation programs and I think it was trying to be consistent. So whatever inconsistency we’re going to have in future, that will be consistent. George – no? Okay. Let’s see, where was I? I was against. I was against. Okay, and now I am for. Bill.

MR. ADLER: All right, it’s more information. First

of all, according to this it is that I don’t know how you handle the federal situation, whether the state can close it down. Secondly, according to this all the areas are shut down in a state if – even if it’s got four different areas and the only problem was in one of them, all of the other areas are shut down at the same time. And I’m not sure how this would work.

For instance, you get shut down. If Massachusetts doesn’t put the Area 4 rules in place, does Massachusetts get shut down? I mean you know how you always say you have to put, a state has to put all the rules for all the areas even though it’s nowhere near that area? So if it didn’t put Area 4 rules into its books, does Massachusetts get shut down?

CHAIRMAN NELSON: I personally would shut them down but let’s see what the staff suggests. You know, they might be much more sensitive than I.

MR. ADLER: Be quiet. We closed Pease Air Base. Remember last time?

CHAIRMAN NELSON: Now it’s an economic powerhouse. Let me continue and we’ll come back to Bill. Bill, as far as the federal zone, we do request the service to put in similar measures in this addendum so I think that’s trying to address that at that time.

MR. ADLER: Okay.

CHAIRMAN NELSON: Yes, and I’m sure they will be very prompt in putting theirs in so don’t worry about it.

MR. SMITH: Can I ask Mark Gibson to move his document, please? We can’t read the motion.

CHAIRMAN NELSON: You could ask him.

MR. SMITH: Thank you.

CHAIRMAN NELSON: Were you trying to change his motion by camouflaging it? All right, Pete, go ahead.

MR. HIMCHAK: Mr. Chairman, I just want to put something on the record that shares some of the concerns of the advisory panel in actually describing, you know, fishes for or lands, etc cetera, etc cetera. In Area 5 it is primarily first and foremost a black sea bass fishery that takes lobsters as a bycatch. So I’m reading this that the black sea bass fishery could continue but they would not be able to land lobsters.

CHAIRMAN NELSON: Do we have a clarification for Bill? Okay, in answer to your question, I would say yes. You know if you're not landing, then the other fishery would continue. This is certainly one species you could throw back and it's, unless it gets eaten by striped bass it probably is going to be doing all right by the time it hits the bottom – or a dogfish.

MS. KERNS: Bill, to answer – you had a couple of questions in there. The first one is would it apply to the other areas in the state if they had multiple areas and as this option reads, yes it would. And to your other question on if you didn't implement the Area 5 regulations, as the reading of this language is then, yes, it would but it's the discretion of the board to implement the measures in the addendum.

CHAIRMAN NELSON: Okay, anyone else on the board? Okay, let me go to the audience, then, Bonnie. Bonnie, last chance.

MS. SPINAZZOLA: Thank you, Mr. Chairman. I believe Mr. Ross was –

CHAIRMAN NELSON: This is your last chance, Bonnie.

MS. SPINAZZOLA: Mr. Ross was first.

CHAIRMAN NELSON: I don't think so. I recognized you.

MS. SPINAZZOLA: All right, thank you very much. I appreciate that.

CHAIRMAN NELSON: She's arguing with the chair. Wonderful approach.

MS. SPINAZZOLA: Thank you. I would like to point out that several rather large problems have already been pointed out with this plan right here regarding federal waters. Frankly, as you mentioned, yes, the federal or the federal management should follow what you people want to recommend.

Frankly, I have a real problem with that because as a know they work very hard to get their rules out, at this point we wait generally two-three-four years. And I think that members of the Offshore Lobstermen's Association would have a problem waiting that long and being penalized that long for not having their regulations put in place.

Furthermore, I think it penalizes multi-area users. I don't know, there is nothing here that really dictates how this is going to be put in place and I think it's

probably a good plan; however, I think a lot has to be done to be thought about how it's really going to be implemented. Thank you.

CHAIRMAN NELSON: Okay, thank you, Bonnie. Bob.

MR. ROSS: Thank you. I just wanted to note that NFMS did provide written comments but I believe they arrived late. But relative to the delayed implementation program we had provided comments previously when it was originally proposed for summer flounder and the concern relates to the Atlantic Coastal Act's requirements relative to non-compliance.

And the issue we identified was that if an action is taken as to be punitive rather than for the conservation of the resource in question it could create some difficulty for us in a non-compliance determination. That was one issue.

The other, as other speakers have indicated, would be the impact on multi-area fishermen. In situations where one area is closed there could potentially be the lack of ability to identify where the harvest, where the lobsters were harvested from relative to another area. One, another issue we had was relative to the non-removal of the trap gear.

We have enforcement concerns but also there are federal marine mammal regulations that require tending of gear at the outside every 30 days so if an action were to go beyond 30 days legally from a federal perspective the lobstermen would be expected to tend that gear within every 30 days. That's basically my comments.

CHAIRMAN NELSON: Thank you, Bob. Okay, back to the board as far as pro and con here. Anyone else want to speak? All right, why don't you take 30-seconds to caucus. Okay, are you ready for the question? Okay, ten seconds more. Okay, ready? All right, ready?

All those in favor of the motion please raise your right hand; all right, keep them up, please; let me do it again, sorry; thank you; okay, opposed; abstentions; and null votes; no null votes. Okay, the motion passes. All right, we've got dates that we need to put in here for the compliance schedule. Staff will go through those and then I will deal with any other issues that we have coming before this, on this.

MR. ADLER: If I may, Mr. Chairman, just a

question, they shut down, if they shut down Massachusetts fishing, can our people land their Massachusetts-caught lobsters in another state?

CHAIRMAN NELSON: No.

MR. ADLER: It didn't say licensed, it just said resident.

CHAIRMAN NELSON: It says "fish for"; they're not authorized to fish.

MR. ADLER: No, I was looking at resident lobster fishermen other than licensed for that state so people that aren't licensed, aren't residents of the state but have landing permits there but they're not residents, can they bring the lobsters in to that state?

CHAIRMAN NELSON: Well, the intent of non-compliance from the policy standpoint is that it is anybody who is fishing for that product is dealing with, the state will deal with that and they will not allow them to fish. The state waters would be closed. So even though your point is well taken that that says resident, the intent of the policy that was passed by the Policy Board, by you all, said it is everybody, the state waters are closed – closed. Okay, here is dates for compliance.

MR. SMITH: A point of clarification, Mr. Chairman. That's not what that motion said. What that motion said was the resident fishermen can't fish wherever they are authorized to fish and they can't land wherever they're authorized to land. The change is that it doesn't say anything about the waters being closed. If Connecticut is penalized, the New York guy who has got a non-resident fishing license to fish in Connecticut waters can fish in Connecticut waters.

CHAIRMAN NELSON: Yes, but we're talking about the resident or someone who is – oh, Bill, so you were. I took it that Bill was saying that somebody comes and lives in Massachusetts for the summer, there is a, they get a non-resident license and want to fish in those waters, they cannot do that. That's what the intent for the policy was. The residents can't and the non-residents can't.

MR. SMITH: The resident of a state that has not adopted what it's supposed to do can't fish for lobsters in Kansas. He can't fish anywhere where he is authorized to fish.

CHAIRMAN NELSON: I don't think that is the question.

MR. SMITH: Okay.

CHAIRMAN NELSON: If someone from New York wanted to fish in Connecticut waters because Connecticut didn't fulfill it's responsibility, they could.

MR. SMITH: They could.

CHAIRMAN NELSON: That's clear. But Bill's point was a summer resident – maybe, and that's probably how we probably can cover it.

MR. ADLER: Well, no, you're right. I mean that would be another "for instance." But let's see, let's say Massachusetts closed, had it's resident fishermen closed down because of whatever. Okay, but there are non-resident fishermen that are licensed from another state that have a landing license in Massachusetts, but they're not residents, so can they still provide lobsters into the port where the local fishermen are closed?

MR. SMITH: Yes, they can.

CHAIRMAN NELSON: Not in that state.

MR. SMITH: Yes. The motion, Mr. Chairman, that I put up there –

CHAIRMAN NELSON: Eric, Eric, please.

MR. SMITH: Okay.

CHAIRMAN NELSON: It says that state's resident fishermen, lobstermen, are prohibited from fishing for or landing lobsters. All right, we're going to have staff check on what the policy is. If we need to revisit this we will deal with it accordingly. Bob, please check. What does the policy call for? And let's deal with the dates.

MS. KERNS: Under Section 4 –

CHAIRMAN NELSON: Quiet down for a minute, please.

MS. KERNS: Under Section 4.4 on Page 13 of the document there are dates in which we need to set some deadlines for this plan. Staff suggests that states submit plans to meet the reference targets by November 1st, 2007.

The board can review those plans at the winter meeting and then all the states must implement the regulations in, as identified in the motion by June 30,

2008. These are just timeframes for – the management board review is just a review. It doesn't necessarily mean that there has to be approval unless a state is submitting a conservation equivalency program.

CHAIRMAN NELSON: All right, so we need a motion to, that the under Page 13 4.4 compliance schedule – someone wants to make a **motion that says states shall submit a plan to meet reference point targets on November 1st, 2007, that management plans, that board reviews plans in the winter meeting 2008, the first one, and that** – I don't think you need a date on that just the winter meeting, yes, so it wouldn't be a date – **and then they implement regulations, it was June 30, 2008.** So who made that motion? Everyone is on Page 13? Somebody wants to make the motion. Thank you, Dennis. Somebody wants to second the motion. Thank you, Bill.

Everyone is on that, Page 13, 4.4? So submitting plans for the reference point targets, November 1st of this year, in the winter meeting we would be reviewing the plans, actually it's the winter of '08, and the implementation of regulations would be June 30th which is consistent with what we already had passed. Comments on the motion. Are you ready? Oh, Dan, go ahead.

MR. McKIERNAN: When you say “state implements regulations” do the regulations have to be effective by June 30th? In other words, you don't have a regulation that's enacted that says six months from now it's in effect? I mean we have regulations like that.

CHAIRMAN NELSON: Yes, Dan, the intent was for it to be effective July 1st. All right, any further comments on this? Do you need five seconds to caucus on this one? I'll give you the five seconds. Okay, are you ready for the motion? Joe, do you need it read? Okay, the motion is on the board.

All those in favor of that motion please raise your right hand; opposed, likewise; abstentions; null votes. Okay, the motion passes. Let me go back, then, to clarifying the delayed implementation. See if we can put that back up, the delayed implementation language. Okay, let me – okay.

As I recall, the delayed implementation was to try to encourage states and commonwealths to implement management plan measures and that the delays would have an impact upon the mortality targets or reaching mortality targets and that it wasn't fair for one entity

to not put something in place that all the others were putting in place.

People were very resentful, actually, of that, gaining six months or longer for their folks to fish while the others were all closed. We've had long discussions associated with that. Now, that, the specific guidance – I'll ask Bob if there is specific guidance which I suspect is there is probably not very specific guidance associated with it and so if that's the case and we want this to stand as exactly as it is and it deals with the residents of a state, or a commonwealth, then so be it. That's what we move ahead with and that will be it. But if there is some need to modify that, then this is obviously the time that we would do the modification. So, having said that, Bob.

MR. ROBERT E. BEAL: Thank you, Mr. Chairman. I looked back through the ISFMP charter at the language that the, obviously, the Policy Board approved to initiate these amendments or addenda to deal with delayed implementation and the guidance in there is actually fairly general.

It just says, you know, as you said, if there is a determination by the management board that delayed implementation is affecting the goals of the management plan an amendment or an addendum should be developed to address delayed implementation. The amendment or addendum should, at a minimum, include any penalties and repayments for delays in implementation. So it's pretty general. I don't think it helps you out here.

CHAIRMAN NELSON: Okay. It probably does. I mean that language is pretty specific to the resident, so a state or a commonwealth's residents. And if that's what we want to just leave it at, that's perfectly fine with me. I was reading it perhaps broader than what I should have and I apologize for that. Stop waiving your hand, Bonnie, because I'm talking to the board. Go ahead George.

MR. LAPOINTE: Bonnie raises a question so I'll ask because it's worth posing. What about Area 3 fishermen who are federal, Area 3-only fishermen and what would the impact of this be on them? I don't know the answer but I think it's a legitimate question. And I understand what the intent is here. We could have staff go back and, you know, look for some, give us some guidance at the next meeting or something like that but I think it's worth the board's consideration.

CHAIRMAN NELSON: Well, I would answer that

this way and see if I'm wrong on it, there are measures that we wanted to have in place for Area 3 now that the feds, because of their process, aren't going to be able to put in place, we have size limits that are in place now that are not in federal waters, we have restrictions on traps that are fished there now, so all the states have put this in place because that's what the plan calls for, that's all that this is saying we should do.

They, therefore, well, I'm sorry, that's what this calls for. So the states are supposed to put it in place and they're supposed to enforce it. So enforcement of a maximum size, a minimum size and the other measures that were here should be able to be done through landing.

You know who is fishing in Area 3. I do in our state. And we go down and we check and if they're saying, well, the federal folks haven't put in that increased minimum size but we have, then they have to abide by what we have in place. And that's how it has been done. And I don't see that there is much of a problem.

MR. LAPOINTE: I understand that and I may not understand the issue entirely, but, I think the question is if State X doesn't put something in place in the near shore, and you go into this delayed implementation trigger, is it your intention to shut down the fishermen from that state who fish only Area 3?

CHAIRMAN NELSON: I'd say that the, according to this the answer would be yes. If they are not abiding by maximum gauge, minimum gauge, and the other points that are listed here then they cannot land in your state, period. Most of them have a big enough operation that that will be quite a handicap, I would think. Other board comments, Pete.

MR. HIMCHAK: Mr. Chairman, you've got to be patient with me on this issue but I mean I guess that the next step on this agenda is the final action on approving Addendum XI.

CHAIRMAN NELSON: That's correct.

MR. HIMCHAK: And I don't see in there – I'm looking at the comprehensive, under management measures I don't see other than under LCMT recommendations the allowance for the divers to keep the one fish over the maximum size limit. So, I mean if I have to make that as a separate motion, I'm willing to do so. I don't see where they're accommodated on Page 11 under minimum and

maximum size limits.

CHAIRMAN NELSON: They're not. They're not. And the motion was voted down to allow that to happen.

MR. HIMCHAK: Well, but the motion was voted down I think because it was in combination with other facets, with particularly the commercial non-trap sector. And I would like to offer it as a stand-alone motion.

CHAIRMAN NELSON: Okay, let me think about that because I just want to make sure that it's, that would be in order, Pete, and not something that we've already just voted down and voting again. Bonnie, did you have something you wanted to say?

MS. SPINAZZOLA: Yes, Mr. Chairman, thank you. My first question would be, well, rather than a question the first thing I would like to let you know or tell everyone at the board here, this year when Area 3 had a gauge increase I actually had to contact ASMFC and each individual state to ask them to please put our gauge increase in.

And it was actually probably a week-long flurry of motions to try and get this done. Now, had I not done that, it would not have taken place. I will probably or possibly have to do that again next year to be able to get our gauge increase implemented. That may happen with the maximum gauge as well because, frankly, I don't expect the states to be paying attention to what Area 3's needs are because they expect the federal government to be doing that.

And while they're working on it they haven't been able to accomplish the final feat yet because of their rule-making process. So that's a real concern to me because if we're penalized because we need to put something in but we've been trying to get the states to do it or the states aren't paying attention, that's a problem to me.

The second thing is if the states should be delinquent in putting something in for Area 3, does that mean you're going to close down your state fishery because you didn't implement our regulations? And, finally, I would just say while I don't necessarily like the idea of exemptions, at this point I would ask for an exemption for Area 3 until –

I understand what you're trying to do. I don't want to put a wrench in that, in gears. But until you can figure out what to do with Area 3, I think it would really be improper to keep fishermen from landing in

a state when they've done nothing wrong. Thank you.

CHAIRMAN NELSON: Thank you, Bonnie. Do we have a sense of Pete's motion can stand alone? Pete, go ahead and make your motion.

MR. HIMCHAK: Thank you, Mr. Chairman. I would just like to make the motion that the sport divers be allowed to keep one lobster per trip or per day in excess – this is one female lobster in excess of the maximum size limit in any LCMA.

CHAIRMAN NELSON: Okay, the motion is made by Peter. Is there a second to this motion? Second for the motion for the sport divers to keep one female – Eric, go ahead. Okay, you second it? Okay. For the motion, I think we've heard that for but I had to see if someone had a different point to say. There wasn't. Against, Ritchie.

MR. G. WHITE: A question, any LCMA?

CHAIRMAN NELSON: Pete, what was the LCMA? Be specific as far as which ones.

MR. HIMCHAK: Mr. Chairman, I'd like to make two clarifications. It was to pertain to the Southern New England area only and the other point is that to keep one female lobster per day in addition to their other legal components that was not in excess of the maximum size limit. So they're allowed six, they're allowed six lobsters per day, only one of those can be a female over the maximum size limit.

CHAIRMAN NELSON: Okay, so of what they're allowed only one, not an extra beyond what they're allowed now.

MR. HIMCHAK: Yes.

CHAIRMAN NELSON: Okay. And the LCMA's will come up with a nice, I suspect – well, I don't know. Let me see which ones we come up with. I've got 2, 3, 4, 5, 6. Do you intend to have them in 2, 3, 4, 5, 6?

MR. HIMCHAK: I only heard this expressed in Areas 4 and 5.

CHAIRMAN NELSON: Four and five. All right, the clarification is, Pete, your intent is that it's LCMA's 4 and 5. Okay, 4 and 5. Okay, thank you. Gordon.

MR. COLVIN: I need another clarification on this

and hopefully Toni can provide it. You know prior to this addendum we already have maximum gauges in four and I believe – do we have it in five also on females only? – that are a result of past recommendation of planning of the LCMT's for those areas and I don't recall there being exceptions either in the LCMT's recommendations and the measures adopted by the board and the measures subsequently adopted by the state for divers or anybody else. Am I right?

MS. KERNS: You are correct for state waters. NMFS implemented an exception to the rule and last year for one female above the maximum size.

MR. COLVIN: Well, given that's where we are in state waters and given that's what flowed out of the LCMT process I can't support the motion.

CHAIRMAN NELSON: Okay, thank you, Gordon. Pat.

MR. P. WHITE: I had a bit of a facetious question but are they also allowed to take egg-bearing females and v-notch females because everything in that size range is sexually mature and capable of producing?

CHAIRMAN NELSON: No? The answer was no. Anyone else on the question? All right, are you ready for the question? Wait a minute. Let me get the audience since this is a, it is something. Anyone in the audience want to speak on it? Yes, sir.

MR. GERMANE: Yes, basically this is – hi, John, New York – this is basically going to penalize the fishermen and if it's a management problem I don't understand how anybody here at this table could vote for something that's going to penalize the fishermen for doing, if he's following all the rules and doing what he's supposed to do.

I don't understand that. And I'm sitting back there puzzled about how I'm going to lose days because maybe somebody didn't put paperwork in quick enough or whatever it is or if one state I'm working one state and another state. Maybe I'm off. Am I missing something?

CHAIRMAN NELSON: Yes, you're on the wrong motion. This is on the sport diving.

MR. GERMANE: Well, I was trying to get something going on the one before this and I apologize but I raised my hand before and I didn't get called on. And maybe it's late on this but in any event you guys go do your thing because whatever I

say isn't –

CHAIRMAN NELSON: All right, back to the board. Yes, go ahead, Dan.

MR. McKIERNAN: Would it be possible to reinstate what the feds allow now instead of coming to the beach with this rule which is what this motion would do?

CHAIRMAN NELSON: Well, the feds allow it now.

MR. McKIERNAN: But only in federal waters.

CHAIRMAN NELSON: It's three miles or, you know, state waters. That's it. Pat, go ahead.

MR. AUGUSTINE: Thank you, Mr. Chairman. I've been diving since 1952 and I've got a digital camera now. Before I used to put it in a plastic bag so for the life of me I cannot imagine killing an animal that big when you already have an allowance of six. And if it's important to have a trophy on the wall, then go find a shell that was shed. That's how I feel about divers killing lobsters that are that size. We're protecting them in certain areas right now and why should any group have any access to those females? So, I cannot support this motion.

CHAIRMAN NELSON: Okay, anyone else want to speak on it? All right, take ten seconds to caucus – do you want me to read it, Joe? Motion to allow sport divers to keep one female lobster per day or trip in excess of the maximum size limit in LCMAs 4 and 5.

Do the caucus then we'll be right back. Are you ready for the question? All those in favor of the motion please raise your right hand; one; okay, those opposed, likewise; abstentions; null votes. The motion fails. All right, we need a motion to pass – yes, go ahead.

REPRESENTATIVE ABBOTT: I'd like to make a further motion.

CHAIRMAN NELSON: A further motion?

REPRESENTATIVE ABBOTT: **The motion that I would like to make would be to exempt Area 3 from the delayed implementation measures until the board has determined how this measure can be properly implemented for that area.**

CHAIRMAN NELSON: Okay, is there a second to that motion?

MR. AUGUSTINE: Second.

CHAIRMAN NELSON: Okay, discussion on the motion.

MR. CALOMO: Vito Calomo.

CHAIRMAN NELSON: Vito. All right, let's move ahead on this.

REPRESENTATIVE ABBOTT: Can I speak to the motion, John?

CHAIRMAN NELSON: Yes, Dennis, go ahead and speak to it.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. The questions that were raised earlier with the federal, involving the feds regarding this, and it's mentioned in 5.0, it seems to me that with those issues being raised and the effects this could have on Area 3 that it would be wise to delay implementation in Area 3. It really wouldn't cause us any grief in that so happening and I would appreciate the board's agreement on that matter.

CHAIRMAN NELSON: Okay, opposed to the motion. Okay, anyone in the audience? Okay, back to the board. Any further comment on the motion. Okay, are you ready for the question? Joe, do you want it read? Let me just write it down. Time certain on that? All right, so it's working with the feds to determine how that could be properly implemented, is that the intent of what you're looking at? Okay, just for that clarity.

All right, all ready for the motion? All right, all those in favor please raise your right hand; opposed, likewise; abstaining – I'm sorry, was that two; Pete, did you have your hand up for opposed; abstentions; two; and null votes, any null votes. All right, any other motions on this?

MR. SMITH: Mr. Chairman, no, but I do have a question.

CHAIRMAN NELSON: Sorry, the motion carries. Eric.

MR. SMITH: Just a question and I may have just missed this, on the issue of the schedules, did we do that by motion and did it pass? We did. Thank you. Sorry.

CHAIRMAN NELSON: That was eight to nothing.

We are now ready for a motion to approve the addendum as modified. Vince.

EXECUTIVE DIRECTOR O'SHEA: Sorry, Mr. Chairman, real quick on that issue on the equivalent time period, you had asked, the comment was made that it was consistent with what we had done in another species and that was summer flounder, scup and black sea bass where sometimes those species are managed by a season from year-to-year.

And I think, and looking around the table there are some people here that worked on that working group, and I think the intent was from one year to the next year that the season might open on a different date and it would be to sit out the first two weeks or the three weeks of the season as opposed to a calendar date.

Since we don't manage lobsters that way, I don't think that would necessarily be an issue but that was an answer to your question as to why it was different. I don't think there is a need to amend what we've done here but I think that explanation is important to have on the record with the vote.

CHAIRMAN NELSON: Okay, that's clear for everybody. All right, so we need a motion to approve the addendum as modified.

MR. P. WHITE: **So moved.**

CHAIRMAN NELSON: Pat White and then Bill Adler has seconded it. Ready for the question? All those in favor please say aye; is it getting late or is it; let's have a big aye for those that approve this motion; opposed; is that two votes over there from the same state? The ayes have it. Were there any abstentions and any null votes? One abstention. The motion carries on a voice vote.

All right, we are ready for our next agenda item. We are a little bit behind. I was going to take a little break but, no, we're not so take your own breaks as necessary. We are doing the review of the data reporting addendum, Toni.

MS. KERNS: Before Penny goes into the technical committee's report I just want to go through and remind the board what the differences are between Addendum VIII and Addendum X. At the last meeting we passed Addendum X which was coastwide monitoring and reporting requirements.

The Commonwealth of Massachusetts requested that the TC review the Addendum X to Addendum VIII to

make sure that we did not take any steps backwards in terms of reporting requirements for assessment purposes. The major differences between the two addendums, first in the harvester reporting sections, in Addendum VIII there is a monthly summary of catch and effort reported on an annual basis. Addendum X does not have this.

For Addendum VIII harvesters are required to report trip level reporting at 10 percent until the TC has determined a statistically-valid sample so then that percentage would be changed by the TC if they felt necessary because it would be to make sure it was a statistically-valid sample. Addendum X just requires it to be straight 10 percent, there is no TC review of what a statistically-valid sample would be.

For effort data on the information to be collected Addendum VIII requires set-over days; Addendum X does not. On the number of trips, technically it's not in Addendum X but it is for the trip level reporting requirements because that's part of trip level reporting requirement standards.

For average number of traps fished, again, it's listed in Addendum VIII, not listed in X but it's part of the trip level reporting requirements. For dealer reporting, Addendum VIII does not require the state port landings; Addendum X does. Addendum VIII does not require the market grade and category; Addendum X does.

Those two things are normal pieces of information that are collected by dealers regularly but it wasn't required by this addendum. Addendum VIII does not require the statistical area, National Marine Fisheries Service Statistical Area fished, and Addendum X does. And the price per pound is not required by Addendum VIII but Addendum X does require this.

For dependent data, under sea sampling Addendum X is just a little bit more specific for it requires information to be listed by National Marine Fisheries Service Statistical Area, and in Addendum X sufficient port sampling cannot replace sea sampling. And, lastly, Addendum X requires all National Marine Fisheries Service Statistical Areas to be sampled by an independent fishery survey and Addendum VIII does not. And now I'm going to have Penny go through the TC's report.

MS. HOWELL: What I'm going to address is our review. We were asked to evaluate the level of sub-sampling required for satisfactory accuracy and precision for reporting. In order to do this we looked at the Connecticut logbook data which represents 100

percent reporting rate. Of course it was all stripped of any names to make it all so nobody's individual landings were included.

And what I'm going to do is step through just an example so that it, when I come to the conclusions that it makes it a little clearer for you. I made up some imaginary data just to show you the distribution.

In an ideal situation if you graft annual landings of all license holders it would be really nice to see the large majority of fishermen report moderate landings, right in the middle and those that would report a low level of landings and those that report a high level of landings to be much less common, in other words, a normal, what we would call a normal distribution or a bell curve.

If you took a random sub-sample of that entire population of fishermen you would most likely get the mean right in the middle and it would be very similar to the entire group if you took 100 percent of them. So if you expanded the sub-set, even a very small sub-set of that group, group's mean you would get a very accurate estimate of the total landings or total effort.

However, what we found was that was not the case for the Connecticut data and for a sub-set that we had available to us from Maine, that the two extremes of the fishery in the size of the fishery – Connecticut being a very small fishery and Maine being relatively a very large one – showed the distribution of license holders to be skewed to the left with many more people reporting lower landings than moderate or high landings.

A sub-set, sub-setting that group the mean of the landings is going to represent the average, the most common fishermen out there which is going to be a relatively low mean. And if you took that mean and expanded it you would get a very low total estimate and it often was 60-70-80 percent below the actual mean.

So, what you have to do is take a sub-set of this skewed distribution that is large enough to capture the high liners which are relatively rare in order to expand, have that sub-set expand and come up with an accurate mean for the total. And that's why we came to the conclusion based on our analysis that you would have to take a sub-set of at least 30 percent of all of those fishermen in order to capture the rare high liners and in order to get some sort of an accurate total landings or total effort, it made no

difference.

Additionally, it would be very nice if you could come up with a stratification of the fishermen where you would sample the, those that reported low landings, those that reported moderate landings, and those that reported high liners and get average, averages for each one of those strata and then expand based on the representation of each one of those sub-sets of the total.

So, just in summary our analysis showed that we needed to sample at least 30 percent of all license holders at random and that stratifying by landings history and sampling all identified tiers or strata equally would give you a much more accurate total. Just in passing that total can be cross checked against the total for dealer reports which of course can't be broken down by individual harvesters. So I think that covers it.

CHAIRMAN NELSON: So the, I think, Toni, you had mentioned this but just to, one of the issues that the board was concerned about that the Addendum VIII was not as ASMFC-compliant as they would like and Addendum X is more ACCSP friendly, right? Wrong terms, I'm sure I'm using but I can't think of anything else right now.

MS. KERNS: The Addendum X for the percentages, the trip level reporting is ACCSP-compliant in terms of the components that are within the trip level reporting. ACCSP compliance would be 100 percent of all, all individual fishermen would be reporting, though, to be in full compliance.

CHAIRMAN NELSON: I'm sure we're all striving for that, anyways. Ritchie.

MR. G. WHITE: A question, Penny, did I understand you, did I understand that if we're sampling less than, substantially less than 30 percent that that's going to give us data that we, that's not useable?

MS. HOWELL: Yes.

CHAIRMAN NELSON: Other comments on the review of the two addendum? George.

MR. LAPOINTE: Would that data be not useable or less useable?

MS. HOWELL: Well, it depends on what the data actually looks like. I can't answer that specifically.

MR. LAPOINTE: Thank you.

CHAIRMAN NELSON: I guess for the time being we could certainly look at tiering – and I don't mean for the eyes, stratified tiers. Well, we still have a play on words there. Dan.

MR. McKIERNAN: I'm not going to say "I told you so" but what do we do? I mean this is obviously a dog? You know asking fishermen to fill out this detailed catch report and getting back data that isn't useful, it sounds to me like it's just bad public policy. I'm sympathetic to George's memo that he wrote that he can't afford to do more reporting. Is it possible for us to change Addendum X at this stage to go to 30 percent?

CHAIRMAN NELSON: No, since you guys already passed it a meeting or so ago. This was to review, you know, make a comparison between the two. It's, to me there is positives that have been put in place with Addendum X. States can do more than what the addendum calls for, obviously.

States could use their finances on, to do more. That doesn't mean they have to only do a 10 percent amount, you know. And for example I'll just pick on, oh, let's see, New Hampshire. New Hampshire has been, used to use a stratified tiered approach and I always thought that worked out pretty well.

I wish I had that presentation earlier, before we had to move on to a much more heavily reporting like 100 percent. But we've been working that through the system and we did get a grant from ACCSP to do that. That grant is ending. We are going to use ACFACMA money to continue it. There are sources of funds available.

We choose to use those funds to do that because we think that's important. Other states have to make that determination on what they think is important. I think that it is important to get good information. There may be ways using the stratified approach that states can still do that within their budget to provide the information on the volume that they are generating as far as lobster landings.

So, one minute, I've got a note here. The note that was sent to me is to remind me of you can initiate a new addendum which you can do at any time. Or you can rescind an addendum with a two-thirds vote because that was a final action when you adopted it. So I'll leave it at that. Pat – Bill.

MR. ADLER: I can't remember does Addendum X

have conservation equivalency in there?

MS. KERNS: There is not conservation equivalency in monitoring and reporting for the plan.

CHAIRMAN NELSON: Again, you can do more. All right, other comments. All right, seeing none we're going to move – Ritchie.

MR. G. WHITE: Well, I don't know, I'm not sure what direction we should go. But I'm not satisfied with staying where we are because it makes no sense to spend a lot of effort to collect data that's not going to be used. So, I think we have to go to the 30 percent in some fashion. And it sounds like we have two choices to do that and I think we should do one of the two so I guess I'd like to hear some input from some other board members to which direction we should go.

CHAIRMAN NELSON: Okay, it's ten of five. We have a number of items still to go here and we have – I guess we can, you know, stretch this out until six because we have the awards activity at six o'clock. So I don't have a problem. So, having said that, George.

MR. LAPOINTE: I think it's a mistake to say we're going to gather data we aren't going to use. And you know we are after this meeting committed to putting in the 10 percent through regulations. And my staff has talked about, you know, the stratified sampling and whatnot and we haven't gotten into those specifics.

And that's, frankly, something they need to tell us how to do best. And for us it's not a question, I mean I will tell you, I'm in a better position than we've ever been to try to put in the 10 percent. We had a session at the Forum that was way more amenable to the 10 percent than I ever thought we would get.

But, it's – so for us it's not a function at this point of 10 percent or 30 percent, it's 10 percent or zero. You know I don't like to be stark about it but that's where we are. We are in a tough spot and I ask the board's forbearance in allowing us to move forward in getting this started because that will allow us to move ahead. If we go out to another addendum we won't put a regulation in place because we'll be in limbo again and so I think this is the best way to move this board forward and lobster management forward.

CHAIRMAN NELSON: Thanks, George. Dennis.

REPRESENTATIVE ABBOTT: Thank you, Mr.

Chairman. I, too, agree that we should probably be going to 30 percent but I do have a sympathy for the commissioner from Maine's position because I understand that you have to crawl before you can walk and, like a lobster, I guess.

And there are many, being in the legislature there are always many social issues involved and I think that the problem to be overcome in the State of Maine probably is a social issue more than anything else and to that extent I think that we should allow the State of Maine to get the program off the ground but with the awareness, not an awareness but with an understanding that we are standing over their shoulder as this happens and we'll have an expectation I think as we did when we adopted the addendum that they would be doing further data collection.

And I think that we should maybe at some point talk about the timeframe but I think as the Commonwealth said we should be hopefully not looking to do an addendum but if, doing whatever it takes to get them to 30 percent as soon as practically possible because I do feel that, you know, George, we read the newspapers and he has I think a big social issue amongst the lobstermen to overcome. And it's not easy for me to agree with Maine on this issue but I think that's the correct personal thing for us to do and it eventually will yield great returns in the future. Thank you.

CHAIRMAN NELSON: Thanks, Dennis. Mark.

DR. GIBSON: Thank you, Mr. Chairman. I agree with what George said about the data not being used. I think it will be used. I think what will happen is you will be potentially faced with the same sort of peer review criticism that you had before that you don't know how many lobsters are being landed and the data stinks for a fishery that's worth hundreds of millions of dollars so that's a possible outcome.

I agree with what Penny has shown. That's the same distribution we have in Rhode Island landings. I'm not sure that you can do any stratification if you don't know what the universe of sampling is for Maine because you don't have any reports and you can't stratify. So I don't know what's going to come out of this.

You're going to have bad data again or incomplete data, an assessment review that's going to be, you know, damming, potentially damming depending on how this comes out. I would say in Rhode Island that it's essential to have these at least end-of-the-year

reports. We routinely are showing that there are more lobsters being landed in the fishermen's catch reports than are being reported from the dealers, the SAFIS dealer system.

And there are a number of reasons for that but that's routinely the bias, that there are more lobsters being caught and landed than the dealer reports will show, regardless of how good your dealer reporting system is. So it needs to be done. I don't know how to get this fixed in a timely fashion. But that's my take on it.

CHAIRMAN NELSON: Thank you, Mark. George, to try to help with your issue, social issue, there is 10 percent trip reporting is what is being required so obviously your staff would look at that and I would think not try to do it on the low end. Obviously, you would try to spread it out so they could get some of the high enders, end users.

I would think, though, that even without getting, trying to get a number of them to do it on a voluntary basis – don't laugh before I finish it. We ran into that same scenario years ago and we actually had folks that were the high enders that volunteered to report on a monthly basis. So I suspect that there are some folks in your constituency that would be, recognize the value of reporting and would be interested in doing that and don't have to be part of that 10 percent is what I'm getting at so that your percentage actually is going to be up higher.

And once you get the 10 percent you can extrapolate out and, hey, that's the way life goes as far as you know, if they lose because of that extrapolation, that's what happens. So that's what I would, I would just look from that standpoint, too, and doing the tiered approach. I think we were fairly accurate on ours over the years. And they were fairly accurate as far as their reporting. So, maybe that is helpful to you at this particular point. Pat – maybe Pat could be one of the high end reporters.

MR. P. WHITE: Well, I certainly wouldn't be one of the high end reporters and I agree with where you're headed with this, Mr. Chairman, but I was one of the people that did volunteer to do the reporting with the electronic logbook that a number of us did and I think at some point we were up to 45 people. But I don't think it's fair to put that burden on those 45 people year after year after year which is why I agreed with the 10 percent, so that we did get some sort of random sampling in it.

To back up what George is saying as opposed to what

people are saying, that it is a social issue, I was surprised at the Forum, also, of how I think the people that believed in the resource stood up and supported the 10 percent and were willing to give that a try. And I think to most of that at this point if we once get it up and running and they can see the advantage of it, I think that's a real positive.

I, as a commissioner, am very concerned and we've talked at length, the three of us, about the finances of the State of Maine to be able to do some of this. And it's an entirely different situation than it is in any other state because even 10 percent we're reporting as much as any other state is. It's a major, major expense for the DMR at this point that just can't, as I understand it can't be done.

And I think it would, it really behooves us to take what data we can at this point and see if we can stratify it – I don't understand all those things but – and build on it as George's intention was in the motion to start at 10 percent and do the best we can. I forget exactly what the motion was but the intent was not to stay at 10 percent but that's the best that can be done at this point.

CHAIRMAN NELSON: Any other comments on it? All right, any – yes, okay, sure, public comment.

MR. FRATE: Roger Frate, again. You know this is what I'm saying about the data we have in the State of Connecticut. It's the same thing with the fishermen. And this is what I don't understand how they're making these laws to restrict us. You can't get the data from the logbook, right? I just don't understand how laws are being made restricting lobster pots, restricting catch, whatever you want to do, upping the gauge when the data is all wrong.

Ninety percent of the commercial fishermen are bankrupt around us. We had the richest state there was with lobster in it. I mean these lobsters, they don't just jump in your boat. You know, you go by and you've got 800 traps. I mean I'd like to see – you know, I couldn't do your job, but I'd like to see you take 1,000 traps and I'll take 1,000 traps and I've been out there 45 years.

And the way you're restricting the commercial men that have been there all their lives. We have homes, Fairfield County, Westchester is the richest county in the United States. I mean I can't believe that you could make these laws. I was the first one to take Congressman Shays out to get the federal money and call the Sound a disaster.

And the way I see Maine and Connecticut, they can't tell really what's going on right together in this place here with the wholesalers, never mind the lobster fishermen. And that's why I keep saying is there any way of restructuring the rebuilding status to the commercial fishermen. That is totally wrong on Long Island Sound. Thank you.

CHAIRMAN NELSON: Okay, thank you.

MR. FRATE: I'm not making fun of you, I mean, thank you. I've just been out there all my life with all these fishermen and thank you.

CHAIRMAN NELSON: No, I understood that you were thanking us. All right, there is a clarification on that addendum, though, that I just want to make sure that we're, for the record, and that's the fishery independent data – and then that's on Page 4 if folks have the addendum in front of them – and that was dealing with the all statistical areas should be sampled by at least one of the following: annual trawl survey, seasonally standardized ventless trap survey, or young of the year survey.

And that was, you know, obviously the intent of that was to try to get as much information as we could independent. We do have the federal survey do to most of the, much of the offshore area. The language on this was, when it was brought out it was, seemed to indicate that we were responsible for making sure we did all of the statistical areas and I don't think that was the intent for the states to, you know, start taking over the trawl survey for the feds and whatnot. And so, Dan, do you have some language that addresses this?

MR. McKIERNAN: Yes, John. The language as shown, it says "all statistical areas" and then the expression is inserted "within each state's jurisdiction" should be sampled so that's a new phrase "within each state's jurisdiction". And then, finally, the reference to NMFS towards the end where it says, "these surveys should be based on cooperative work between states" and new language "sites and NMFS" so those are the two changes.

CHAIRMAN NELSON: I think that was the intent of what the motion, this work was before and so I think it's merely a technical correction. I don't think we need to have a motion. I just wanted to – we can insert that language through the, doing it as a technical modification. Does anyone object to that? All right, seeing that we will -- do we need a motion to do the technical correction?

MR. BEAL: If the record is clear on the intent of Section 4.1 which is to sample, you know, the statistical areas within your state jurisdiction, then, you know, that's a clarification of the language and the board can just do that through a motion and we can then, we can reflect that. But if this is really changing the substance and the intent of Section 4.1, then it's amending or rescinding a previous action and a two-thirds vote and those sorts of, that process.

CHAIRMAN NELSON: My interpretation is it is not changing the substance, it is merely clarifying what we, our intent was. It might be a little more words in there but I don't see it as a modification, changing the substance of what we intended because the other statistical areas will continue to be sampled so we are getting all statistical areas just clarifying who is doing what. So let's do it as a motion for a clarification and so the motion is to move to clarify the action taken in Addendum X in Section 4.1, fishery independent data.

The updated section would read: "Fisheries Independent Data. All statistical areas within each state's jurisdiction should be sampled by at least one of the following: annual trawl survey; seasonally standardized – assuming the money keeps rolling in for that; ventless trap survey and the young of the year survey." So, it's any one of those. And these surveys should be based on cooperative work between the states and National Marine Fisheries Service for inshore and offshore characterization of stock units.

MR. P. WHITE: **So moved.**

CHAIRMAN NELSON: Thank you, Pat. Dan has seconded it, Dan, McKiernan. Pat White. The other one is missing. All right, any comment on this? All right, all those in favor please raise your right hand; all right, seven in favor; opposed, zero; abstentions; one abstentions, two-three abstentions; null votes; no null votes. All right, the motion passes. All right, anything else on that? Okay, we're going to the compliance report, the review and that is the update on Addendum VII.

COMPLIANCE REVIEW/ UPDATE ON ADDENDUM VII IMPLEMENTATION

MS. KERNS: If staff could pass out those documents that we were going to pass out earlier but now, yes, now is a good time.

CHAIRMAN NELSON: Now is a good time.

MS. KERNS: I will quickly go through the compliance report. The PRT met via conference call on Thursday, May 4th to review compliance reports. The document that is being passed out reflects that Delaware had not submitted their compliance report. I did get a copy of Delaware's compliance report this morning and it is being passed out. And there is one correction to that report in that their vent size is 2 inches now.

For Addendum VII there is differences in the language between the states of Rhode Island, Connecticut and Massachusetts under the material incapacitation section of the addendum. This language has the potential to be more liberal than those that were intended by the addendum. Under the addendum document material incapacitation means that there was, that a person did not qualify.

And if a person did not qualify then one assumes that that person did not fish under the PRT's consideration so, therefore, that person would not have gotten a trap allocation. Therefore, the PRT recommends that the states of Rhode Island and Connecticut strike from their regulatory language "adversely affected his or her fishing performance" and replace it with "prevented the permit holder from fishing." The PRT also recommends to strike the "or had reduced" from the Connecticut and Rhode Island language.

Secondly, and this should read just Rhode Island, I apologize, the PRT recommends that Rhode Island strike the words "the applicant's family member, i.e., parent, spouse, child, mother-in-law or father-in-law" from their regulation. This, the PRT felt that the intent of the medical provision was for the fisherman, the user themselves, and not the extended family.

There is also – can you go back to those slides. For Area 3 there was a reminder that Area 3's gauge increase, Area 3 has a gauge increase to 3.5 inches for 2008. That vent increase has now been delayed until 2010 so we don't need to worry about that. And, also, a reminder to states that the Area 3 trap reductions of 2.5 percent in this year and next year are in place and to make sure that those are in your regulations.

MR. McKIERNAN: You mean 5 percent?

MS. KERNS: I mean 5 percent. I'm sorry. That was from before. For Area 6 we've already gone through this page and we can skip to the next one. For de minimis status in the lobster fishery it's required that

a state has averaged less than 40,000 pounds for the past two years. All states that have requested de minimis status meet those requirements. And those are the states from Delaware to North Carolina are requesting de minimis status for the 2007 fishery. And that is all. Does anyone have any questions?

CHAIRMAN NELSON: All right, Mark, and Connecticut, Eric, I think the, unless you guys have really some serious objections the, we had asked for the PRT to take a look at this and make sure that the language was compatible amongst all three states. We have received a letter from the feds that, saying it's very, very, very, very, very difficult with the difference in the language among states for certain things and that they are requesting that that language be changed.

The PRT has provided us with the language that they are requesting it be changed. I would propose that I send you a letter officially requesting that and stating the reasons why and that you could come back to us at the next board meeting and telling us that you are moving ahead to change the language to agree with my letter. Any problem with that scenario?

DR. GIBSON: I don't have any problem with you doing that. I was prepared to report on what has been done in Rhode Island and it's my understanding that, letter or not, it's been completed.

CHAIRMAN NELSON: That language has been completed already?

DR. GIBSON: No. One of the committees, one of the plan review team's recommendations was – you have before you a letter from a member, from Director Sullivan, the cabinet level environmental official to me, which is what is known as a decision memo where he notes among other things – the lobster issues are on Page 4 of it so don't bother going through all the other thing.

But any time there is a regulatory process it goes through its, all of its iterations he has to finally issue the decision memo and then the regulations are prepared for promulgation. That has happened. He declined to adopt the changes in the materials incapacitation provisions that were recommended.

He has, in consultation with his executive council, articulated why he declined to do that. That's there for the record in the decision memo under lobster effort control plan. So that's what he has done. The regulations are in effect. All of the allocations that are being done, I'll just back up a little bit, 554

applications were received.

Of those we made initial allocations, 297 were non-zero, 237 were zero allocations. They're there. No performance data. And of the 554 applicants, initial allocations that were made, zero or non-zero, 74 are in administrative adjudication so 480 have been resolved. Either they didn't challenge their initial allocations or we resolved them through a data dispute process.

But 74 are in AAD for various reasons, medical issues, military, some just don't like what we did and they're having their day in court. And all of those are being resolved under the provisions that we have adopted which are the broadened medical standards. So that process is ongoing. It's already promulgated in our regulations. My director has articulated the reasons in consultation with his executive council and that's where we stand.

CHAIRMAN NELSON: Well, Mark, you know, my sense is that there is still some areas that the PRT and therefore the commission are not in agreement with your regulations. And I think that what I would like to do is just make sure that if there are some that have been answered by this letter, which I don't think the PRT had, we'd certainly address those.

But I suspect that what we need to do is to move ahead with that letter to bring to the, Dr. Sullivan's attention that there is substantial problems with not having this uniformity between the states. And, Toni, did you want to add something?

MS. KERNS: The PRT suggested that if the states could not come to consistency with their regulations that to prevent further issues with any allocations or trap transfers that could proliferate out from this that all transfers be halted until all agencies had allocated their traps and all agencies had agreed to those allocations. And that would include the National Marine Fisheries Service.

DR. GIBSON: I'm glad to have that recommendation on the record because we have taken public comment on transferability regulations and they are making their way to his desk at this time because there is intense pressure from some segments of industry, as you heard in public testimony, that they need transferability provisions in place to avail themselves of reconstructing businesses that have been downsized by this action. So it's good to know that, have that advice.

CHAIRMAN NELSON: Okay, we'll try to get that

out timely so that you can have that to consider before you start getting into transferability. Eric, same scenario with you? Is there anything that, you know, needs to be modified before we send that type of request out to you?

MR. SMITH: No.

CHAIRMAN NELSON: Okay, then we'll send it out to you. All right, anything else on this? Dan, I'm sorry, go ahead.

MR. McKIERNAN: Yes, I don't want to belabor this point but it just struck me that the board was able to clarify the intent of Addendum X by having a discussion and making a statement and then making a motion. What Dr. Sullivan is telling us is that the rules as Massachusetts wrote them were not within the intent of Addendum VII. Now, I disagree with that.

At some point you've got to bring this to closure. Either Massachusetts' reading of Addendum VII's appeal process is accurate or it's not. Our allocations have been made. We've said no to a whole bunch of folks. It's been a year, almost, since we've pulled this off. I think it's the board's role – or tell me if I'm wrong, the board's role to make this call as soon as possible because I'm, I mean NMFS hasn't gone on record on this but I think this plan will unravel if we can't come to closure on this quickly.

CHAIRMAN NELSON: Well, and I think that was the recommendation on the PRT that, you know, if this is not resolved that the transferability ends. Gordon.

MR. COLVIN: And so I'm looking at this April 23rd letter from Pat Kurkul which seems to be ready to throw the whole thing under the bus unless it can get sorted out, too, and that clearly if the federal waters in Area 2 don't get incorporated into this program it can't work. I mean, you know, it's not just two states.

There is three major partners. And as a little trivial piece of Connecticut's fishery and an even more trivial piece of New York's but we're not important here, the other three are so it seems to me that we ought to do something. You know I don't think that the board can sit here certainly today and probably not in August either unless we set something in motion that decides this issue.

But maybe it would be a useful course of action to contemplate something else such as, for instance, a

suggestion or a request that the board seek to have a process put in place where perhaps the board chair and executive director can sit down with Director Diodati, Director Sullivan and see if we can't sort this out and perhaps have a representative or the regional administrator or a representative in the room, too, and try to put, you know, five wise people in a room, you know, with or without a large bottle of bourbon and a locked door.

But, you know, go in and come out with a solution. I mean it's worth a try I think rather than having to, for the board to kind of unilaterally take action under the circumstances which are, you know, which I think Mark alluded to.

It's not, you know these decisions have not been reached I think arbitrarily on either side. So I think there is substance to them and it needs to be talked through and some kind of a solution found. So that's my suggestion, Mr. Chairman, for what it's worth. I think it's worth at least giving it a shot.

CHAIRMAN NELSON: Yes, thank you, Gordon. And we would include that scenario in the letter. I think we need to highlight to the states and maybe the feds where the problems are based on what the PRT sees but we certainly would, I think that's a good suggestion that we would ask to have a meeting and deal with that accordingly. And we could certainly hold it on a nice, neutral ground like Rhode Island or something like that. Eric, you would certainly be a party to all of that and I know you'd love to be.

MR. SMITH: I answered no before because I was really trying to be brief at one point in this meeting but I realize it didn't work very well because I don't want to be devious, either. If you send us a letter explaining this then we'll send you a letter back explaining our view but – and we're going to strive to try and be as accommodating as possible but here is the problem I have.

It sounds like Rhode Island and I know in Connecticut we've already adopted regulations that track the words that were in the addendum. We can't change that by the board simply saying, hey, the PRT thinks we ought to do something different. I'm almost wondering that you either need an emergency action or an addendum to change the words of the addendum, of Addendum VII.

I hate to say it because I don't want to bog us down in more process but I need a real clear reason to go back through rule making to do something different when the first time I went through tracked what the

language said. So, that's my dilemma. But that aside, I'm going to try and be as accommodating as I can within our rules.

CHAIRMAN NELSON: Okay, well, it sounds to me like we would send that letter to the various parties and also in part of that we would be suggesting that a meeting be set up in the near-term to go over this in great detail and see what we can hammer out for uniformity here. Okay? Anyone else on this particular subject? Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. I'm sorry that Harry Mears isn't here for this but I think it's really important that we look at this as two steps. Number 1, what is it that has to be done and then the second is getting the commitment to do it. And just reading the regional administrator's letter, that's not entirely clear to some people what needs to be done so they need to be a, our federal partners need to be a key part of this initiative.

CHAIRMAN NELSON: They already are and they will be. Is that what you're saying? Bob.

MR. ROSS: A couple of things, first, I think relative to some of these issues we have gone on record several times in the past. And I think that the medical exemption is a symptom of some of the concerns that we have identified through various comments on initially Addendum IV, later Addendum VII and lastly through this letter from the regional administrator.

I strongly support efforts to get the decision makers together to identify not only the specific medical issue but other potential impediments to a seamless first Area 2 plan and then, second, these same issues that will surface in other areas that are contemplating either limited entry or, more specifically, transferability.

We worked extensively with commission staff and involved states in this White Paper and I think although the regional administrator's letter touches some of the issues the White Paper delves into those issues in much more detail. And, again, I believe that the outcome of the efforts for Area 2 will potentially ripple into other areas.

And a major concern NMFS has at this point is to move forward with any form of transferability prior to consensus on some of these key issues that were identified in the White Paper. Ultimately, without that kind of consensus disparate allocations may

result between the state and federal government.

And I think we have dealt with that issue cooperatively with the commission and the states in the past but the next step here is transferability. We have dealt with it on allocations only but allowing the transfer of traps prior to final determinations by all involved agencies would seriously complicate a seamless plan. Thank you.

CHAIRMAN NELSON: Thank you, Bob. Anything else? Dan.

MR. McKIERNAN: It seems to me you do need an addendum because I don't, I'm skeptical that these four parties are going to sit down in a room and come to closure.

CHAIRMAN NELSON: Let's try it.

MR. McKIERNAN: I think this board has to come to closure on it.

CHAIRMAN NELSON: Let's try it. If we have to come to closure on it in August, we'll come to closure on it. Okay? All right, anything else? All right, stock assessment, Penny. Oh, okay, let me go back to the compliance report. I'm sorry. We had – who had requested de minimis?

MS. KERNS: Delaware through North Carolina.

CHAIRMAN NELSON: Delaware through North Carolina had requested de minimis. Could we have a motion approving that?

MR. LAPOINTE: **So moved.**

CHAIRMAN NELSON: Okay, I have one. You were overruled by your George who made the motion and Dennis has seconded it. Okay, any comments on the motion? Ready for the motion? All those in favor say aye; that was pretty hearty; opposed; abstentions; null votes. The motion carries. Okay, now we are on to the stock assessment, Penny.

2008 LOBSTER STOCK ASSESSMENT

MS. HOWELL: Okay, the Lobster Technical Committee makes the following recommendations to the board for terms of reference for the 2008 Lobster Stock Assessment. I just numbered them. There are six altogether. The first three are kind of boilerplate: compile data needed for stock assessment purposes, including commercial, recreational, discard and fishery independent data; update the lobster database

to include the most recent information available.

Number 2, for each stock assessment area, actually that should be for each stock, estimate the current levels and historic trends of factors such as biomass, abundance and natural and fishing mortality rates. And I'll go into how in the next few terms of reference. And in a new step we're going to try to characterize the uncertainty in each one of those estimates. Number 3 is to address and incorporate as applicable the recommendations from the 2006 American Lobster Peer Review.

Number 4 is broken down into a couple of pieces, to use what we're now calling the – I can't even pronounce it – the Chen-Kanaiwa-Wilson Model, the CKWM, to develop estimates of fishing mortality and abundance for all three stocks – that shouldn't say stock areas, it should be just stocks; and, additionally, to use the Collie-Sissenwine Model that was used in the 2005 or the last assessment to compare current stock status to the prior assessment so that's "turn of the crank." And in doing that we're going to compare the performance of the new model and the old model.

Number 5 and 6 is to update the current fishing mortality and abundance biological reference points. We're going to try to investigate additional biological reference points with the use of the new model and, again, characterize the uncertainty of stock status by looking at these differing reference points. And also we're going to attempt to use the new model to evaluate stock status projections. And, lastly, identify recommendations to improve future assessments and update status and the progress of previous research recommendations. And that's it.

CHAIRMAN NELSON: Any questions? Yes, sir, Gordon.

MR. COLVIN: **Move approval of the terms of reference as recommended by the technical committee.**

CHAIRMAN NELSON: Thank you. Mark.

DR. GIBSON: I would like to see a term of reference added, if that can be done via a friendly amendment. There is a large body of information on v-notch lobsters present now. I think I showed the technical committee, admittedly in a crude way, that estimations of population size and fishing mortality rates are possible from known numbers of marked animals being released into a population.

I would suggest that a term of reference be added that involves estimation or a view of the v-notching databases and evaluate the feasibility of estimating fishing mortality and stock size from v-notch, you know, recapture data.

CHAIRMAN NELSON: Just as a poor administrator, do we know how many have been v-notched?

DR. GIBSON: Yes, in the case of the North Cape Oil Spill Mediation Program there are known numbers of notchers, animals that have been v-notched because there are observers on the vessels, independent observers tallying the numbers of animals released.

CHAIRMAN NELSON: And would they, are those the little black lobsters so you can identify which ones were v-notched? How do you know it's not v-notches from some other location?

DR. GIBSON: Well, I can't exclude the possibility that there were people v-notching that weren't participants in the North Cape Program. But I wouldn't set at the table now and say that nullifies the benefit of examining that database.

CHAIRMAN NELSON: Penny, go ahead.

MS. HOWELL: Could I ask a question of you because I don't want to commit to something that I don't understand? Rhode Island is the only one that has this kind of information, correct? So this exercise would only be for Statistical Area 539 or, you know, Rhode Island's population. Where would you draw the line in this exercise?

DR. GIBSON: Well, I mean you have to go through a blending process right now with the CSM model so that would be the starting point in terms of where you would merge these. You have a CSM component which is driven off the Rhode Island State Trawl Survey as well as the landings that are associated with that I think survey area. That would be the over.

MS. HOWELL: So this would be a way of comparing our estimates using the survey for that one particular area? It would be like a second estimate for that one area?

DR. GIBSON: That's my suggestion because there may, as these additional v-notching programs come online, for example if Connecticut's comes online with a substantive one with documented known numbers going into Long Island Sound, you may present it with the same sort of information.

DR. HOWELL: Okay.

CHAIRMAN NELSON: Okay, anyone object to adding Mark's suggestion of using the v-notching as a second way of calculation of population? And I don't see any from the technical committee so they can work out the details. Okay, that's agreed upon. What? The motion to approve the terms of reference was made by Mr. Colvin and seconded by Mr. Lapointe. And now we have Dan.

MR. McKIERNAN: A question for Penny, today we passed a motion to have the plan review team and the technical committee examine the status and relative effectiveness of the effort control plans which translates into how much latent effort is in the system. Is that a TC assignment that could be put here or should that be put off for another time or in a separate venue?

MS. HOWELL: That's, I would suggest that would be separate. A lot of the people that would look into latent effort aren't the people that are TC members. We're going to have to be taxing other state staff members, not always, not for every state but in many of them so I would suggest that would be something separate.

CHAIRMAN NELSON: Anything else on the terms of reference? Any objections to approving the terms of reference? Wait a minute. I have one last comment.

MS. HOWELL: The only comment I have to make is that if the board wishes additional work to be done, it's going to take additional time. So I'm not sure what kind of time to add on. I don't think Mark's request is huge but it's not trivial either so just to let you know that the TC's ability to get everything done quickly will be slowed up.

CHAIRMAN NELSON: That's the shot across the bow for the TC telling you don't give them any more things to do, they've got enough to do already? Is that fairly clear for everybody? Vince.

EXECUTIVE DIRECTOR O'SHEA: Well, thanks, Mr. Chairman. As I understand it Mark's request was to have them at least look at it and I'm wondering if it would make sense for them to do the work they're supposed to do and then if they've got time leftover look at it.

DR. GIBSON: Yes, I understand that this is going to be the last and if it falls off the table, it falls off the table of the timeliness. But I just believe personally

that there is a significant amount of information in marked lobsters, whether they be v-notched, whether they be tagging studies from Millstone Station, prospective v-notching in Long Island Sound that is going to be auxiliary information for stock assessments. They ought to be thinking about that.

CHAIRMAN NELSON: Okay, any – Eric.

MR. SMITH: I do want to respond very briefly to the, you know, "give us more work and it takes more time" thing. The reason I had gone over and asked Penny a question to remind myself and I need to just get it on the record. I have a staff member who has worked on lobster who feels strongly that a different model ought to be pursued, an additional model.

We have had that question asked of the technical committee and my understanding is that they evaluated what it would take to use that other model and it was it would take us some real time and it would delay the assessments and for that and I'm getting the nod that I thought.

I wanted to make sure I understood that and didn't miss an opportunity to comment. That different model would tie them in a knot for a while and delay things and that's the reason I'm not suggesting we add a term for that. Thank you.

CHAIRMAN NELSON: Okay, thank you, Eric. Any objection to approving the terms of reference as discussed? Okay, seeing none they are approved. The next item is the stock assessment subcommittee.

MS. KERNS: I just need to have the board approve a stock assessment subcommittee. The previous stock assessment subcommittee consisted of Bob Glenn who is the chair of the committee – okay, hold on – from the Commonwealth of Massachusetts, Penny Howell, Carl Wilson, Dr. Larry Jacobson, and Steve Correia.

The current subcommittee as it stands, but the board has not fully looked at this in a while, there was just some staff changes that were made and responsibility changes that were made and through states notification this is, the changes were made and the rest were just the leftovers from the previous year's subcommittee.

Kim McKown comes in because she is the incoming TC chair and the TC chair is always the ex-officio member to the subcommittee. But Kim has also volunteered to be the stock assessment chair and I don't get a lot of volunteers for such committees so

keep that in mind. Bob Glenn would be carried over and Penny actually should not be listed here, sorry. Carl Wilson and Dr. Larry Jacobson and Vic Crecco replaced Penny Howell.

Members that staff feels that should be subject for consideration as well are Dr. Jenny Nesslage who is the new commission staff member who works on stock assessments. And Jenny also is the lobster database manager so she is the one that's completing all of the length matrices to be put into the model. And Dr. Young Chen is also from the University of Maine who created this model.

Another person that I don't know his name yet and I'm trying to figure this out is Young Chen has a PhD candidate that also helps Carl and Young – Kanaiwa, I just don't know his first name, nor do I know his interest in being on the assessment subcommittee but his availability might be a little bit easier than Dr. Chen since he is still teaching classes and has family restrictions for travel. So those are three other potential members.

The commission likes to, through their procedures likes to have the stock assessment subcommittee at maximum of five members. And so right now we have five as it stands. Is there any questions or discussion on?

CHAIRMAN NELSON: Are you asking us should any of the existing members be – should somebody else substitute for existing members? Is that? Okay, does anyone have a strong preference to have one of the subs put on the stock assessment?

I don't get the sense that the board wants to make that decision. I guess the sense is that you have a subcommittee and if you need to draw upon other folks to be affiliated with that one way or another is that we will leave it up to the subcommittee to do that?

MS. KERNS: Well, we would rather not draw upon folks and bring them in and take them out because in traditional process of the commission you have six members on that subcommittee. That subcommittee is the one that does all the work for the model and then takes the model to the TC for the TC approval.

It's much easier to work in that group as a small group of six. When you start to add more factors into that coming to agreement on parameters and such can be very, can become very difficult as we saw during the last assessment when we tried to agree on parameters and that's where the subcommittee got

stuck for almost a year.

CHAIRMAN NELSON: Okay, do you want –

MS. KERNS: So I also need to make sure that these people have availability as from their staff work perspective as well that are listed.

CHAIRMAN NELSON: So, do you want one more person on the subcommittee? You have five on there right now.

MS. KERNS: If it's the prerogative of the board to have one additional person, then that would –

CHAIRMAN NELSON: You normally have six, right?

MS. KERNS: Up to six members.

CHAIRMAN NELSON: Okay. All right, Gordon.

MR. COLVIN: Mr. Chairman, the suggestion has been made that a couple additional members should be added to the current committee that would make the committee a little larger than is ideal. I agree that that would make the committee a little larger than is ideal but I think that those two members should be added based on what I heard.

And I would like to suggest that the board defer to the chairman the responsibility of comprising the membership of the stock assessment subcommittee from a subset of its current members plus the suggested additions. I think it would be, I would be perfectly confident in the board chairman's ability to make that judgment and I don't think it can be made here this afternoon.

CHAIRMAN NELSON: The chairman is which one, the chairman of the stock assessment?

MR. COLVIN: I have little doubt but that the chairman of the board would consult with the chairpersons, current and pending, of the technical committee in arriving at that decision along with the FMP coordinator. But I would certainly, for one, be comfortable with whatever decision you made, Mr. Chairman, as a result of that consultation.

CHAIRMAN NELSON: Thank you, Gordon. I'm sorry we're going to be missing you in the future. Any other comments on this one? Okay, then, fine, I'll be happy to confer with everybody on who should be on the subcommittee.

OTHER BUSINESS

Anything of other business? No other business?
We've got a few minutes.

ADJOURN

All right, thank you all for your help. We are
adjourned.

(Whereupon, the American Lobster Management
Board meeting adjourned on Tuesday, May 8, 2007,
at 5:40 o'clock, p.m.)

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