

PROCEEDINGS
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN LOBSTER MANAGEMENT BOARD

Radisson Hotel
Alexandria, Virginia
May 9, 2005

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BOARD*

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Welcome and Call to Order

The meeting of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Radisson Hotel Old Towne, Alexandria, Virginia, on Monday, May 9, 2005, and was called to order at 3:50 o'clock, p.m., by Chairman Patten D. White.

CHAIRMAN PATTEN D. WHITE: I'd like to get started. With your permission I have a slight change in the agenda. We will take them 1, 2, 3, 6, 5, 4, moving the PRT report as there are some people from New York that need to leave early.

I would also like to ask for proceedings from the February 2005 meeting be approved. Any problem with that? Any objection? Okay, it's approved. Is there anybody that would like to make public comment at this time on a general sense.

We will have public comment specific to the issues being discussed as we go down through the agenda. But would anybody like to make public comment now? Okay, with that we will then go to --

MR. WILLIAM A. ADLER: Mr. Chairman.

CHAIRMAN WHITE: Yes, sir. Bill.

MR. ADLER: Thank you, Mr. Chairman. You ran by it real quick on the minutes. I know it was approved but on Page 16 of the minutes there was a comment that made, "You know in the addendum was talk about a TAL which the board really blinked on. They did not enact a TAL."

Now I don't know whether it was a target allowable landing or a target allowable catch but there was a TAL or a TAC that was adopted for Area 2. Anyway, it was 2.1 million or whatever. And I didn't know if that comment in the minutes was really accurate because the board did adopt a number and I don't know whether you want to call it a TAL or a TAC. I just wanted to make comment on that.

CHAIRMAN WHITE: And what do the minutes say, Bill? Is that something that needs to be corrected?

MR. ADLER: Well, maybe you could check over to see exactly what was said. It said, "You know in the addendum was talk about a TAL which the board really blinked on. They did not enact a TAL." Page 16. And I think we did because there was always that number 2.1 million for Area 2. Remember that? Okay and so just check that over. It's not a big deal. Thank you.

CHAIRMAN WHITE: Dan, can you enlighten us on that while Toni is looking it up.

MR. DAN MCKIERNAN: Bill is citing the minutes and it's my testimony and it was my impression that while the TAL was buried in the appendix of the addendum that it wasn't a formal part of the addendum and what I'm trying to say is I don't believe that there was any action that was going to be taken were the TAL to be exceeded under the

addendum.

CHAIRMAN WHITE: Okay, Bill, we've noted it. Any other comments from the board? Okay, Area 2, Mark, would you like to introduce the Area 2 discussion initially?

Area 2 Effort Control

MR. MARK GIBSON: Just a report for the board. And we've had a set of what I would characterize grueling meetings with Rhode Island industry and members of Massachusetts industry, the LCMT, on the effort control plan. And the board will recall there was a motion passed to redo the effort control plan.

And the key element to that motion was to develop a plan that caps effort at or near current levels with an ability to adjust to stock assessment advice that comes to the fore and that was the main charge to the LCMT and the industries.

They made a lot of progress. We made a lot of progress with them. We have I would characterize at this point "fragile" support for an Outer Cape type plan, a plan modeled after the Outer Cape Plan that Massachusetts developed.

It embodies historical participation, that is, pot allocations would be developed based on fishermen's reports, logbook data, VTR data, and so forth with different allocations going to individuals depending on their performance over a set of reference years.

It also embodies a transferability element to impart business flexibility to those who want to adjust their businesses one way or another given the initial allocations. Also the transferability can serve as a trap reduction vehicle over time with the appropriate transfer tax provisions so you can work trap

numbers down further.

Also in the plan and strongly supported by industry is a freeze on the gauge at 3-3/8 inches. Other important -- the plan recognizes a target allocation of pots that is an intended level of pots to get to as well as an initial allocation.

There is a gap between those two, the initial allocation being higher than the target, the long-term target allocation. So we've done an awful lot of work and the industry deserves an awful lot of credit for what they've done.

It's been, again, a grueling effort that has left some debris in the wake, both at the agency and you know in the business world. But we have support at the LCMT for a program of this type. Where we're at now, though, is we need some additional guidance from the board on this "at or near current levels."

You will recall when we passed that motion there wasn't really a specificity. This relates to the differential between how many pots are currently being deployed versus what would be allocated in the initial upfront allocation.

And, as again I noted earlier the plan right now embodies a target to get to and an initial allocation which would be received based on the logbook data for the reference years but we never really broached with the board at that time as to what we really meant by "at or near current levels." Industry's plan right now allocates a number of pots above, a significant percentage above, what we think is currently being fished.

What we're concerned about is coming forward with a plan in August that in our minds -- or Dan and I and the LCMT -- met

at or near current levels with an ability to reduce based on the stock assessment but find that the board doesn't concur with that, that they think that the gap is too high or we've been too liberal with the allocations.

So that's what we were hoping to come out with. Either Dan or I can take questions on where we've gotten to at this point but we were hoping for a discussion on that key element which is what we need to do to further configure the details of this plan.

CHAIRMAN WHITE: Thank you, Mark. Dan, would you like to add anything to that before we start discussion?

MR. McKIERNAN: Sure, thanks. I agree with Mark. The industry certainly deserves a lot of credit for having tackled this very difficult question and there has been some outside help, some facilitators from URI, who have also put in a lot of, countless hours.

One of the concerns that I have about the, I guess the progress to date is much of the negotiation of course has gone on really fisherman to fisherman. It has been very difficult for them to meet a goal that is essentially kind of a moving target.

"At or near current levels" can be whatever you want it to be. The original plan that we presented to them as sort of a straw man, an Outer Cape-like plan, would have allocated about 30 percent more traps than was fished in '03.

At this point the plan as drafted -- of course it's still in the discussion stage -- it's about 60 percent over that level. And I think it would be really valuable if we could figure out kind of a starting point or a ceiling of what that number should be.

But when I say "number" I mean not a numerical value but really a number in concept because what we really ought to be targeting is some percentage over that number in 2003. And what I mean by that is if we come up with a number then every fisherman whose data is appealed because the records somehow are incomplete, that number gets added to this total whereas it should have been the correct number in the first place.

So the best way to approach this is really on a conceptual basis and have the LCMT allocate no more than a percentage over the so-called "most recent level," say 2003.

CHAIRMAN WHITE: Okay, thank you, Dan. I think to help the board in some of this and I think Dan is absolutely correct, one of the numbers that has been talked about from the industry is to have a ceiling of 220,000 traps and that is about an 80 percent increase over current levels.

But as the appeals process and everything else goes through it's really hard to hit that because it's a moving target. And if the board could concentrate their discussion on, as Dan said, a percentage over the current level -- that is approximately 130,000 traps -- I think there would be a more constructive discussion. So I'll turn it over to the board. George.

MR. GEORGE LAPOINTE: Is 130 the, are you calling '03 current?

MR. GIBSON: More like 150, closer to 150,000. And just, again, yes, industry, where they've gotten to at this point is an allocation of 220,000. I mean obviously that's still well below the 300-plus-thousand that was allocated in the Addendum IV plan that was rejected. And it's certainly well below what was fished in the hey-day of the

fishery so I just want to make sure you understand the bounds of their talk.

Where they're at right now is sort of a middle of the road allocation, below what they have fished historically in the hey-day of the fishery, certainly less than they would have allocated in their original industry plan, but above you know what we think the current deployments are.

And those deployments have gotten to the point because of the economic circumstances of the fishery it's just not profitable for people to be out there deploying a lot of gear at this point.

MR. LAPOINTE: Right. But "current" from which we will discuss "at or near" is 150 for a good point of discussion?

MR. GIBSON: Yes.

CHAIRMAN WHITE: John Nelson.

MR. LAPOINTE: If I might, I kind of look at "at or near" as kind of hand grenade range kind of stuff. You know it has got to be kind of close to be effective. And if 220 is 80 percent, that's probably over the 130, but that strikes me as on the far side of near. I mean I'd be interested in other board members' perceptions but you know 20-25 percent sounds near to me and more doesn't. But that's just my thought at this moment.

CHAIRMAN WHITE: John Nelson.

MR. JOHN I. NELSON JR.: Thank you, Mr. Chairman. As far as I understand, the stock is not showing any further sign of improvement. Mark, have you seen anything that would indicate some increased biomass out there?

MR. GIBSON: Yes, at the point we

engaged the emergency action which was I think we had maybe in 2002 and that's when our fall trawl which is the preferred indicator from the technical committee had fallen to its lowest levels in perhaps 20 years.

The fall 2002 and spring 2003 surveys were very low. Both legs in 2004 and the first leg in 2005 are significantly above that. They have not returned to their former levels of abundance but I don't expect we're ever going to get back to that real huge burst of abundance that went through.

But they're certainly above the levels that had been used to justify the emergency actions. So I do see some improvement there in terms of the overall numbers as well as the, as I noted in an earlier board meeting, the effects of this North Cape v-notching program where there was 35 percent of the eggs being carried right now by females are carried by these v-notch females.

So yes there has been improvement. I think the emergency conditions, frankly, no longer exist. Certainly there are conditions that warrant management but I think we're out of that emergency situation that took place several years ago.

MR. NELSON: So to follow up, Mr. Chairman, if I could, if you are seeing some improvement I think probably George is on target then if there can be some increase. But I think I'm personally uncomfortable with a significant increase and I think that 80 percent or whatever up to the 220 was probably excessive.

And maybe it ought to be looked at around 20 percent for at least for the first couple of years after this to see if what you're seeing in the trawl survey actually materializes or is that not a trend that is going to continue.

So, from my point of view, Mr. Chairman, I think that if we're giving guidance back to the team that we ought to be telling them that a percentage that's probably around 20 percent is, in my mind anyways, what we should be talking about or what they should be talking about. Thank you.

CHAIRMAN WHITE: Yes, Eric.

MR. ERIC SMITH: I want to make sure I understand this, the 20 percent we're talking about is 20 percent above what they fished in the most recent year which was around 100 or 120,000 traps. Is that right?

MR. GIBSON: Probably 150,000 is where we'll end up with once all the you know data adjustments have been made for the 2003 logbook data, VTR data, and other states, you know Connecticut and New York being added in.

So what I'm hearing John Nelson say would be 20 percent of 150 which is what 30,000. You would be talking about 180,000 cap which again is below what industry has really ground itself up to get to.

I understand the board's concerns about over allocating but I just have to say that industry has really gone the extra mile to get to where they are. I have some concerns about continuing support from the LCMT and the Rhode Island industry if we don't have a reasonable gap between what they're fishing right now versus their going to allocations.

I think they see this as building the machinery for effort control, not necessarily pulling the trigger on it right now, building the machinery for effort control, a scaleable program that is getting people allocated in and then responding if and when this assessment comes to the fore and doing the

extra knob-turning when the time comes and it is warranted to do that.

CHAIRMAN WHITE: More questions from the board. Suggestions. Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. Mark, could you clarify that last statement a little bit. Did you mean that they're looking for an allocation but they wouldn't actually be fishing the traps? Is that what you meant?

MR. GIBSON: Well, no, they might choose not to. I mean every businessman is going to make his own decisions as to how many pots to deploy and how to fish them. Yes, I suspect they will not fish all of the allocation.

Were they to get the allocation they had talked about I would suspect they wouldn't fish that. The economic circumstances aren't there. But there would be nothing that would prohibit them, stop them from doing that.

What I'm suggesting is they view this as a first-step in developing the effort control machinery, that is identifying this floor or target level of deployment that in some way comports with the stock assessment, an allocation that's above that that can be worked down through transferability as well as active adjustments as needed.

They would like to see that machinery developed, implemented now. And if and when a stock assessment comes to the fore later this year that says more adjustments need to be made that the machinery, the scaleable machinery would be in place to do that.

But I'm very concerned about trying to force them to go the first all the way or very close

to where they match the allocations with the deployments. Again, there is a difference between what you allocate and what gets deployed. So does that help?

CHAIRMAN WHITE: Yes, Dan.

MR. McKIERNAN: Yes, one option could be that we could go off, work with the LCMT with a target of this 20 or 30 percent, whatever the number the board decides, and then if the LCMT wants to come up with a second option we can include that in the public hearing document. We don't need to make that decision today.

CHAIRMAN WHITE: No, I think what I was looking for from the board is if they wanted to include the percent cap on it and get support for that. Is there support around the room for that as one of the options to go out to the public? Yes, Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. It just seems like an arbitrary number just to pull a number out and say "20 is a good number" or "15 is a good number" or "80 is a good number."

How do you support that? And we've got to come up with something but it's questionable as to how you can go out to the public and just say, well, sounds good, looks good, we'll take that number.

If maybe the plan was to step it up, ramp it up over a period of years where maybe the first year as the stock rebuilds maybe you go 20 percent and then follow the second year with 20 or 25 percent up to 30 percent to a maximum of -- if it's 220 the number they're looking for.

It would seem to me that would be a little more logical but it's hard to support just pulling a number out of the air. So if

someone could help me with that I'd appreciate it.

CHAIRMAN WHITE: George has an answer for that.

MR. LAPOINTE: I don't know if I have an answer but I can get started. I think when this got started people said they wanted the number to be "at current levels." But "at" sounded absolute so they said "at or near." And so it's not a ramp-up proposal.

It's an idea of being "at or near" and working from that. And so the question is what is near? Is 20 percent near? Is 25 percent near? Is 30 percent near? We can argue that. Is 80 percent or 46.7 or 69.3 percent near? I would argue no.

And so it's trying again to give some clarification, because we used one of our vague terms "near," to how near is near. And so that's why I had said 20 to 25 percent. That's why John said 20, to just give clarification on future discussions.

CHAIRMAN WHITE: Everett.

MR. EVERETT PETRONIO JR.: As you all know I'm relatively new to the process but I would stress to all of you in discussing this and considering what we need to do here it may not be apparent but we come here every couple of months and discuss this.

I can tell you from literally the day we left here in February until now there have been meeting upon meeting. Teeth have been gnashed. Hair has been pulled. And I would stress to you to keep in mind when we're trying to make this decision that the fishermen really, strongly feel that they have given as much as they can give.

And I really believe that we need to reward the effort that has been put in by them to come and make really good faith efforts. Part of their concern is that you start talking about 2003 you're talking about a very depressed time in the fishery.

I know we have a mandate here to do that but I would strongly encourage the board to keep in mind the fact: a. the effort that has been put into this and the fact that we're working on the number that is not a robust fishery.

CHAIRMAN WHITE: Thank you, Gordon.

MR. GORDON C. COLVIN: I appreciate the level of effort that the LCMT and the sponsoring organizations have put into trying to come up with this plan. I had ample descriptions of the level of intensity and effort that has gone on and appreciate what they're trying to do.

Having said that I kind of have the same look on this that Pat expressed. It is difficult to sit here and offer guidance on this percent or that percent as consistent with the wording of that motion that we and direction we previously offered on this number of traps or that number of traps without any analysis or knowledge in front of us about the consequences or the impacts of the different numbers that we're throwing around here.

And personally this gets compounded in my mind when I think in terms of the history of how we got here with Area 2 which I've spoken to in the past which is more or less that I have been and continue to be reluctant to compel the states in the LCMT to action in this area considering that they voluntarily came forward and asked us to act as we did, to take action that went beyond that which

was originally required to implement the egg production rebuilding schedule that we previously adopted in light of what happened.

So, I put all this together and I frankly find myself reluctant to express an opinion on a number and feel more comfortable with expressing support and encouragement to those folks to continue what they've been doing and to not tell them that the board says it is going to be no more than 10 percent over the 2003 level but to continue their good efforts to try to come up with something that accomplishes something significant and recognizing that we're all going to have an assessment here in a couple of months that is perhaps going to provide further impetus.

I may not be helpful but it is kind of where I see us going because otherwise I think Pat's right. It's kind of an arbitrary exercise.

CHAIRMAN WHITE: Well, to that point, Gordon, as it is reflected in the minutes this "at our current levels" is an important part of the discussion and I guess I'm just looking for some way to reflect back to the LCMTs that the board is very concerned about the type of cap of 220, whatever it's percentage might be.

And so I think that's why I was looking for some sort of, something else to counter with so that they would be more inclined to continue the discussion to see if there was something else they could do to lower that. Anybody have any thoughts? I don't want to belabor this any more but we ought to have something to go forward with, to send back to the LCMTs. Dan.

MR. McKIERNAN: Yes, I think it would just be helpful to clarify the intent of the word "near," send us back. We can try to

accomplish a plan that accomplishes that goal. And if there are alternative proposals that come in higher the board can, is free to vote one or among a suite of options.

CHAIRMAN WHITE: Okay, well, I guess what I'd do then is just have everybody think back to what George said, "at or near." If we don't want to pick a number today, let's think about what "at or near" is, whether it's 20-25-30 percent or whatever, and if you could reflect that back to the LCMTs. Do you want any more than that? Yes.

MR. GIBSON: Yes, I realize that when I asked for that advice it was going to be very difficult for the board to render it. In order to -- and I think Gordon alluded to it -- answer that question clearly you'd need to have a target fishing mortality rate.

You'd have to know what current fishing mortality rates were. And we'd have to have a time history of fishing mortality rates which were related to trap deployments. Then we'd have all the mechanics to come forward and say, okay, we need to get to there. We were here. This is the relationship between the two.

So we don't have that so I understand it's difficult for you to render advice. I think the discussion has been helpful. Now when a stock assessment comes to the fore and the results are in hand and perhaps reference points to go along with that, we'll be in a much better position to do the knob-twisting that we need to to get to where we want to go.

So I think developing the mechanism, the machinery, for effort control is a valuable thing. This discussion has been valuable to us. And we can go back to the LCMTs and keep working with them.

I think it's clear there has been some concern raised by the board in the nature of the gap right now between the allocated levels and the current deployments. We've heard that. There's industry in the room. They've heard that. We can go back and talk about it and see where we need to go.

CHAIRMAN WHITE: Yes, because if memory serves me correctly the reason that we had "at our current levels" in there was to meet the objectives of the rebuilding schedule by 2008, that we couldn't have substantial increases in effort, so I would urge you to go back with that reflection if you could, Mark. Public comments. Yes.

MR. BRIAN THIBEAULT: Yes, Brian Thibeault, secretary for the Rhode Island Lobsterman's Association, alternate voting member on the LCMT 2 Area. I'll try and make it brief. I'd like to thank the acknowledgement from Mark and the rest of the board.

It has been a grueling process with industry trying to meet the task of "at or near current levels." Occasionally it has been a moving goalpost. And it has been difficult looking at, you know, trying to explain "current levels" to somebody who is not a participant in the fishery right now. And that has been a difficult situation. I just wanted to thank everybody's acknowledgement for that.

The whole initial allocation scheme of this, we were requesting higher numbers, high percentages over the current levels based -- let me organize my thoughts here -- based on we don't feel like there is ever going to be, like Mark had said, a full deployment of that initial allocation.

And it sort of soothed the industry a little bit to give everybody the allocation that was a

participant in the fishery at that time. That's why we were kind of hoping for a higher percentage over that initial whatever number we come up with in the initial allocation.

There has been a lot of attrition in the fishery. Some of the allocation initially and the way it needs to be written up in the final bill I'm not sure, but some of the allocation will never actually get used.

It needs to definitely have transferability mixed in there for a reduction in traps. The industry at this point in time is not looking for more pots in the future. We agree with the task that was given and we're trying to meet it the best we can. We're not looking for more pots in the future.

We're looking for an easier way for industry to look at industry and come up with an allocation process for ourselves. And I guess on another note we need to, at the LCMT level we really need to mix with the agencies, with the National Marine Fisheries, with the board, with the ASMFC, in coming up with what this final number needs to be.

We've had progress at meetings that has been taken away from us at another meeting because one plan does not meet with the one agency's request that another one makes. So that's basically it. Again I'd like to thank the acknowledgement that the industry is working hard. I appreciate your time.

CHAIRMAN WHITE: Thank you very much, Brian, and we appreciate your participation in it. We know it's not easy. I think many of us have been there. So does anyone else have anything to add to that that's new and different? Thank you. Make sure to give your name.

MR. LANNY DELLINGER: Lanny

Dellinger, vice president from RILA. Just to revert what Brian had just said, that the 220,000 initial allocation we didn't feel would ever be deployed because I think part of that allocation is going to people that are no longer in the fishery.

The target level was 145,000 on our plan. And through transfers and whatnot we didn't feel -- and the average age of the fishermen in our area -- it wouldn't take long to get down to that. Also, if we get down to 145,000 that's going to leave us somewhere around 19.5 pots per square mile for Area 2 so people can visualize how little gear that actually is going to be left in Area 2. We won't have the tools to catch every legal lobster any more. Thank you.

CHAIRMAN WHITE: Thank you. Any other comments? Yes, come on up.

MR. DAVID JORDAN: David Jordan. I was part of the industry, the working industry group, when this whole thing sort of started in 1992 and I'm sure Pat, you missed me. I would just like to, like I said I don't know where we are. I just walked in.

But I would just like to say that there is a lot of heartache going down there in Area 2. I mean for people to sit up here and say that we like this plan and to forward it is absolutely untrue.

There has been threats to people. People's gear have been threatened. So, I just, nobody has done more work for the lobsterman's association than I have, personally. And I quit the association over this issue this last election period because I feel it's so unfair to put this area through, after what we've been through with the shell disease, the oil spill.

We've got endless gauge increases. We've

got a 2-inch vent that's letting 25 percent of our catch go right through our traps. I'm not kidding you. We're losing 25 percent. A fellow came -- I was putting 2-inch vents in my pots and a fellow came in next to me.

He had moved some gear that day and he had caught 10 lobsters and just for the heck of it I took the 10 lobsters and I slid every one of them through that gauge -- through that vent I mean, sorry.

And there might even be more than 25 percent that we're leaving on the bottom. I don't know what the actual figure is. I think the actual figure, there was some studies done in Maine with the vent and I believe the figure that they arrived at was 25 percent.

It varied between 10 and 25 percent depending on who you talked to. So, I mean we are doing a lot down there. I know there is a supposed recovery in place. I'd like to know when it's going to happen. So, I don't know. We're doing this just in case there is a recovery.

I'd like to know when it's actually going to happen. So that's my only comment. If there is going to be more I'd like to reserve -- I wrote down a whole list but I'm not going to take up the committee's time. I know everybody is busy so thank you, Pat.

CHAIRMAN WHITE: Thank you for that, David, and if you have something written I would urge you to --

MR. JORDAN: I just hand wrote it on the train on the way down.

CHAIRMAN WHITE: That's fine.

MR. JORDAN: No, it's not legible. I'll mail something to the committee at some

point.

CHAIRMAN WHITE: Well, that's what I mean, if you could type it and get it to us we'd appreciate your further comments.

MR. JORDAN: Thank you, Pat.

CHAIRMAN WHITE: Brian and Lanny made some good comments before you came in and we do understand where you're coming from so thank you for your comments.

MR. JORDAN: I just want to give a different point of view.

CHAIRMAN WHITE: Yes, sir.

MR. DENNIS INGRAM: Hi, my name is Dennis Ingram. I'm an LCMT member from Area 2. Just to go over it one more time. We started out when we didn't have any plan. We had a possibility of 1.2 million traps being deployed.

The last plan that we came up with came in around 380,000 so we've worked our way down to what we feel is, 220 is getting to the nitty-gritty at 220. And we don't think, to agree with Mark and Brian, that we'll never see 100 percent deployment.

What we need is for the Atlantic States people, our people from the states of Mass and Rhode Island and Connecticut, to work with NMFS and to give us some advice. We need some tools to get to where we've got to go because we seem to be going -- we're at a point where we're going in circles. And we think that transferability should be a big part of this plan so we can adjust our businesses. Thank you.

CHAIRMAN WHITE: Thank you very much, Dennis. If that's it then we'll move

on. Thank you very much, all of you, for your comments. Going to the next item -- yes, Eric.

MR. SMITH: I've been waiting. I have a comment to offer on the Lobster Management 2 plan but it wasn't related to the cap. Now are you moving away from LMA 2's plan to the next?

CHAIRMAN WHITE: Yes.

MR. SMITH: Okay, if I may I'd like to make this comment.

CHAIRMAN WHITE: Go ahead.

MR. SMITH: And believe me I realize fully that people in the audience who are facing pot cuts are going to have a hard time hearing what I have to say but I think this board needs to hear it and mull it over as we look at the plan that comes forth or as it develops, we contribute to it.

I think this plan needs a very tight medical hardship provision in it. We had to confront this in Connecticut when we did our history-based pot system five years ago.

In fact the legislature would have done it for us but it was the right thing to do so we worked with them to put some very tight sideboards on those instances where a person had indisputable proof that he just could not have fished his pots in that three or four year qualifying period and we accommodated that.

It didn't qualify many more people in Connecticut's case. I think this plan has to have such a thing. And I think it would be nice if it came through the LCMT process. If not, I think the board has to schedule some time to figure out how to do it.

The design of it -- I would agree with all the people who have voiced concerns about these things in the past -- absolutely has to be so tight and based on documentation that cannot be manufactured after the fact so that you don't have people coming in and saying, you know, I stubbed my toe and I couldn't fish for three years.

I mean we've all either heard those horror stories or we're all afraid of them. And we need to be sure that in the design mode that those things don't happen. In our case we qualified people -- and it was only a few -- based on several previous years to the qualifying period.

And we made it, required it to be on undisputed medical proof. In my view this is a fairness issue. If someone has left the fishery but will get an allocation anyway according to the currently proposed plan I think we at least ought to ensure that historically active but temporarily incapacitated people who might not therefore qualify for any pots or for very few, I think we ought to accommodate them. So that's my pitch.

I know it's somewhat inconsistent with asking every active fisherman to take some kind of a cut but I view the people who might be left out, and in our case out of a four-year qualifying period and in this case it's a three-year qualifying period, it's the right thing to do to see if we can accommodate them without opening up the floodgates. Thank you.

CHAIRMAN WHITE: Mark and Dan will you just take that back, then. Okay, thank you. Moving on to Area 6. Eric, if I may, would you begin with your proposal.

Area 6 Effort Control Plan

MR. SMITH: Thank you. Area 6, a different notebook. In February if you will recall at the board meeting Connecticut and New York presented a plan of action to move towards adoption of a v-notch program that would substitute as a plan with equivalent conservation value for the two increases in carapace length, the 32nd of an inch this July and another one next July.

Our larger question or larger issue of course was we want to rebuild the lobster stock and it's horrendously depressed because of the die-off that happened three or four years ago.

The plan was to develop, the plan I set out in February was to develop the program, working with the LCMT, and gain their approval in March and April, get the technical committee review of the plan in April and May and then request the board at this meeting to approve it.

We developed the plan. The LCMT approved it in early April. The technical committee reviewed it and had a conference call last Friday to develop their views and here we are.

The plan in very brief form is to notch 100,000 female non-egg bearing lobsters of 3-inch or greater carapace length each year in the next two years and to change the definition of a v-notch to instead of the way it is now to make it a 1-inch mark regardless of the presence of setal hairs. In other words, it's half-way between where the definition in Southern New England is now and the so-called "zero tolerance."

MR. LAPOINTE: You said one inch.

MR. SMITH: One-eighth inch, pardon me.

There are many administrative details that are in this to make it quantifiable. There is also a bill in the Connecticut General Assembly that would allocate, appropriate a million dollars a year for two years to fund this program so that observer notchers could be out there on the water and verify that the lobsters are actually being notched.

That has passed our appropriations committee 50 to nothing. There is another month left in the legislative session but that, frankly, is very good news when they're otherwise facing a billion dollar deficit.

The administrative details of the program, a consultant would be hired to employ the notchers. It would be non-egg bearing lobsters 3-inch or greater in carapace length, female lobsters of course.

We would only do it in the cold water periods of the year, November through either the end of June or any time the water is below 20 degrees centigrade to avoid the possibility that -- some of our research shows that disease organisms and mortality increases when the water gets above 20 so we would avoid those periods.

We would compensate fishermen for the fair market value of the marketable lobsters notched but not the shorts. And I should point out the 3-inch, for people from Maine and elsewhere you might wonder why, most of the females that size in Long Island Sound are already mature when they are notched at that size and then they molt into legal size they're all mature.

So it would be in effect a free protection because you don't have to buy those lobsters but they contribute to your spawning stock so that's why we picked 3 inches. So they would be compensated for fair market value of marketable lobsters.

The notcher and the fisherman would have to certify the number of notched and the notcher would have to collect data to confirm things like the length of lobsters and so forth. The participation by Connecticut fishermen would be mandatory. If the contractor called and said, "We're going on your boat" the fisherman would have to take them. That's embodied in the law.

The proposed public act that is the driver of this and which the money is attached to has I think all of these administrative features or we would adopt them by regulation. But most of them, they're in the legislation.

So in a nutshell that's the plan itself. I don't want to go into a justification of it and what I think we ought to do because I would like, Mr. Chairman, with your permission, the technical committee had the conference call and I think we ought to hear their report and then I have some further comments I'd like to make about the plan itself. Thank you.

CHAIRMAN WHITE: Thank you, Eric, and I think that's a good plan. Bob, if you could go with the technical report.

MR. ROBERT GLENN: Thank you, Mr. Chair. Yes, last Friday the technical committee met to discuss the Area 2 conservation equivalency proposal. During the course of the call we developed the following consensus statement and there are three main points that we'd like to bring forward to the board.

The first is that we felt that the Area 6 v-notch program is not conservation equivalent to the gauge increases for Area 6 required in Addendum III to Amendment 3 due to the short timeframe of the proposed v-notching program at two years.

We also felt that if the v-notching program were a long-term program similar to Area 1's v-notch program it could possibly be conservation equivalent. The program would need to be tied to compliance objectives, be developed into regulations at a state basis, and that the actual numbers to be notched would need to be re-evaluated probably on an annual basis relative to how the stock responds.

And we also, the technical committee thought that the most important take-home message relative to this to make the board aware of was that we believe that neither the required gauge increases nor the proposed v-notch program will achieve the management goals in Amendment 3 by 2008 or be adequate to restore the Area 6 lobster population.

The Area 6 lobster population is at one of the lowest levels recorded as measured by harvest, the number of legal and recruit lobsters seen in the Connecticut DEP trawl survey and also as measured by the number of larva in the Connecticut DEP larval lobster survey.

The levels of natural mortality have increased in Area 6 and are reflected in the die-offs in 1999 and 2002. To rebuild the stock further management measures would be required.

CHAIRMAN WHITE: Thank you, Bob. Gordon, do you want to add to some of this or is Eric doing the lead on this or how do you want to work this?

MR. COLVIN: I think Eric's plan that he outlined of having him initially respond and then subsequent to his response and presumably the offering of a motion we'll comment at that point, Mr. Chairman.

CHAIRMAN WHITE: Okay, thank you, Gordon. Eric, would you like?

MR. SMITH: I haven't thought about this before but you may want to have people simply ask questions of the technical committee chairman to see if there are questions on the handout that was just handed out before I go back into this. I don't know if you want to do that or if you would like to take all questions at the end.

CHAIRMAN WHITE: It doesn't really matter. Does anybody have specific questions of Bob at this point and they can come back to them later, too, if they want. Otherwise we'll just direct the questions to Eric. It's all yours, Eric.

MR. SMITH: Okay, thank you. Having just said that I guess it's no surprise that in a bit I will be requesting the board approval of this v-notch plan, notwithstanding the technical committee's recommendation that it's not conservation equivalent.

I do not ask the board to do this lightly. But it is a question of the management board's prerogative after consideration of the technical committee views. The technical committee said three things and a couple of them I agree with.

I don't think they're inconsistent with the v-notch plan that was put out there. They're basically saying it's short-term. In other words, it's not permanent.

And in the management document that the board members got and unfortunately -- my fault -- the technical committee did not get that document, we were trying to narrow the field of things that were in front of them so they didn't have to read 15 or 20 pages, they only had to read the technical analysis.

In retrospect my hope was they were going to deal exactly with the technical details of the analysis but, you know, human beings are human beings and they had some questions that came through that would have been answered based on the management document so I'm going to try and address those as I go.

They're correct. It's not a permanent program. We acknowledged this in the management plan. It's two years of notching and one or two years of further protection by those lobsters being protected by virtue of having the notch.

In fact you can get more protection if you adopt a zero tolerance definition of v-notching. I will hasten to add the LCMT 6 by a fairly close vote voted not to do that. It's an issue that frankly I'm trying to honor.

In this plan we tried to honor what the LCMT voted for. If there was technical reluctance about the duration of the notch, then clearly that's a debatable point that people ought to talk about. But the plan itself is based on what the LCMT voted for.

They said if it was long-term it could be conservation equivalent. I'm assuming that meant if it was longer term either through using the zero tolerance definition or if it was funded or in some way done in perpetuity.

We also said in the plan that -- and if you want to refer to the plan it's on Page 5 of the plan document itself and it's Section C where it's basically a short-term strategy. I've characterized it as "jumpstarting" the population towards recovery with measures that frankly I think are more effective than a very small gauge increase.

So we've acknowledged that point but we

still think this plan is a more effective way of doing it and I'll say a little bit why in a minute. They said the numbers may need to be re-evaluated. And we're always open to that.

One of the things I have since heard from a phone call is I had asked Vic Crecco to analyze three things: the way the stock was evaluated in the last assessment with no frills, what was the equivalency between the two gauge increases versus how many lobsters you'd have to notch.

Then we used that same method from the assessment from five or six years ago and our best updated current estimates of F. F went very high because M was held as constant.

The third way I said to him was if we really wanted to jumpstart the population rebuilding what would the numbers look like if you increased the egg production by 50 percent above the plan standard of F10 percent. So, he used F15 percent as a 50 percent increase.

In retrospect the comments that came out of the technical committee phone message, Vic says, yes, they're right, I should have used a different number than the F15 and it would make those numbers higher.

But in fact that's not a requirement of the ASMFC plan. That's only an analytical tool I asked him to look at because of my view to jumpstart this population recovery in a big way. So in order to meet the 1/32nd inch increments the use of the incorrect F15 percent number is not relevant. It's not relevant to what the plan requires.

Finally, the third point -- and it's the third point on this handout -- it's likely given the condition of that stock that the scheduled

gauge increases or this v-notch proposal alone are likely not going to rebuild the stock.

I've had a number of public, very widely attended meetings with lobstermen over the last year and a half and I've said the same thing. I can't guarantee that anything we do -- and we've talked about a lot of options -- is going to actually recover the stock.

All I can say is you can enhance the prospects for a recovery if you, to be coarse about it for a minute, if you put those lobsters back in the stock to produce eggs instead of boiling them in water.

We need to keep as many mature female lobsters out in the population as possible and I think it's desirable from a biological point of view to do that on a wide range of females instead of only the ones that are in that small 32nd or 16th of an inch increment.

So I agree with that Point 3 in the document but that's not really what the challenge was. The challenge was is this equivalent to the two gauge increase, not will it recover the stock.

Now, that last point actually suggests that we wait for the assessment results which we hope we'll get in a month or two. Frankly I would rather not. We have momentum on this. I have pointed out the bill in our environment committee that was unanimously passed. And then it was unanimously passed in the appropriations committee for \$2 million over the next two years.

I don't want to lose that momentum. I also don't want to send a signal that the plan is not acceptable to the commission because I think that would cause the funding to evaporate and I think we'd squander a great

opportunity.

I'd also say candidly -- fishermen won't like to hear me say this but it's the truth -- it would be far simpler to do the gauge increases. There would be a whole lot less stress in my life. I don't look forward to a contract, monitoring and implementation process and going through all of this. But I think it's a better thing to do for lobsters.

I think it's better to put a wide range of females out there that are protected instead of just the ones in that small increment and also throwing the males back which don't do you any good in egg production.

So, beginning to conclude the merits of the v-notch program again, and I'll be candid, I want you to balance these against the advice that you got from the technical committee. I want you to consider both but I want you to balance them and ultimately decide which way you think we ought to go.

The gauge postpone fishing mortality and it only protects in that little sliver. The v-notch protects a wide range of females. Genetically and from a stock structure point of view, the size distribution, this is better for the resource.

Protecting a wide range of females is equivalent to a reduction on F on all sizes. It's consistent with what is going on in Rhode Island Sound. Actually I just repeated myself. I apologize.

It's consistent with the North Cape Restoration Program where they're also v-notching lobsters and putting them out in the stock so all of Southern New England would benefit from the same kind of conservation program.

The economic benefit of this is the

fishermen are not losing the value of the male lobsters that they throw over that don't do you any good in the calculation of egg production. So you get that wide range of females and you don't lose the value of the males.

And, finally, and the thing that actually -- I was reluctant on this last winter when I heard it. In fact I was resistant until I began to appreciate I had proposed things like a maximum size, the only state in Southern New England that would do it, a whopping big gauge increase.

If you want to jumpstart the stock, you know, maybe you do a 3-7/16ths inch gauge increase right away, a 50 percent loss in income but you'd start to get your lobsters back, a male only-fishery.

Those are the things that I had out in front of the public and went to public hearing on. And I didn't really like the v-notch program until I thought about the enforcement value of the plan that we have now which requires v-notched lobsters everywhere to be thrown back.

I don't have to worry about New York fishermen taking lobsters that Connecticut fishermen v-notched and the legislature paid for, throwing them back, having them walk across an imaginary line and get, you know, caught in somebody else's catch -- or Rhode Island, not to pick on New York.

The v-notch rule that we already have in effect protects all those lobsters wherever they walk. That, frankly, persuaded me that even though the contract and the whole hassle of this is going to be a headache it's probably more effective than doing other things and having a lot of inconsistent rules across the region.

My final point, two final points, I'm obviously going to be prepared to offer a motion but I don't want to, unless, Mr. Chairman, you want me to do it to get it on the table and then have debate. I will, but think about that for a minute.

My final point is to say that this initiative in our legislature was not an agency initiative. We're fully supportive of it but it really came about from the industry leaders stepping up and doing what frankly I challenged them to do.

I said if you can get the funding for a v-notch program, that becomes the most effective to do and we'll work with you on it. And that's what we're continuing to try and do. And they did that. They went out and got a sponsor. They got support.

They've done what they needed to do and unless the board feels that there is a huge disconnect with the technical review advice versus this plan as you see laid out in front of you I would hope that the board would let us continue with that momentum and try and conserve and rebuild lobsters in the way that we've decided to approach it.

Now having said all of that I'll offer a motion to **move that the board approve the Lobster Management Area 6 plan to substitute a v-notch program for a gauge increase program subject to funding being made available.**

That caveat is not to edge away from something. If the funding gets pulled in this last month of our legislative session then all bets are off. I've told the fishermen the v-notch program is dead them because if it's not funded, verifiable, it doesn't meet the obligation any more.

But that's the legislature's business. So my

motion, don't misconstrue that last statement but it should be clear that that's how we're going into this. That's the motion, move that the board approve the LMA 6 plan to substitute a v-notch program as defined here for a gauge increase program subject to funding being made available.

CHAIRMAN WHITE: Is that a second, Gordon?

MR. COLVIN: Yes.

CHAIRMAN WHITE: Seconded by Gordon Colvin. I have a question to the motion. Eric, you have the Connecticut Lobster Management Area 6.

MR. SMITH: Pardon me, strike Connecticut.

CHAIRMAN WHITE: A motion has been made and seconded. Open for comments from the board. Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. Eric, is it true that the lobsters down in Long Island Sound are mature, sexually mature at a smaller size than other places? That's my first question.

MR. SMITH: Almost all females are mature at 3 inches or about that size, 76 millimeters carapace length. The important point is if you v-notch them at that size -- they can't be taken anyway because they're shorts, but if you v-notch them at that size at the time they next molt into legal size which they all will at that size, they're all protected. They're all v-notched then and then when they extrude eggs they haven't been able to be harvested. So it is 100 percent protection.

MR. ADLER: Thank you. And the basis about raising the gauge has been to let them

be mature enough to have eggs. And you just said that most of them are already in that stage. The v-notch program I think as you had indicated, keeps them safe probably for a longer period of time whereas a gauge increase simply postpones the taking of them.

It's a short-term reprieve for them whereas v-notching them will not only protect them at that time but also will protect them in a size where otherwise if it was just a gauge increase they could be then taken.

So, I like your proposal and I also think that in the area where another area in your same stock area is doing v-notch work that adding Area 6 into that category could bring both area management areas into some of the rules that are closer to being the same in an area which is called "one stock" area. So, I do like your proposal.

CHAIRMAN WHITE: Thank you, Bill. John Nelson.

MR. NELSON: Thank you, Mr. Chairman. I think we're certainly sympathetic to looking at the v-notch program because I think in our area we do, the industry and I think the management, do look at a benefit associated with that.

I think one of the things that I'm concerned about and I need to have the technical committee provide some guidance to us, on their Number 3, they're saying that neither the gauge increases nor the v-notch program will achieve the management goals by 2008.

And I understand Eric's looking to, you know, jumpstart this so that they get more egg production out there. But could the technical committee, I mean neither one will do this so do they have a sense -- and I'm far enough away from Eric so he can't quite

get to me in time -- you know if you combine it will it work?

Is there any sense of what else might be needed? I mean there is no sense doing half-steps I guess if the management plan is not going to work. So what was the sense of the technical committee associated with the gauge and the v-notch? Did they look at it in combination at all?

MR. GLENN: We didn't look at it in combination but I think I should make a couple of things clear. I think one relative to the technical committee as far as what would achieve it, I think it's premature to comment on exactly what it would take because until the assessment is complete we won't know exactly where the Southern New England stock is.

Early signs are that things do not look very good down there but we don't have a good enough idea at this point and we're not confident to make a comment as to what level of management, what the mortality or the abundances are in that area. So I think that's important to note.

The other thing that I thought was important to note relative to that Statement Number 3 is that the gauge increases that were proposed in Amendment 3 to reach F10 percent by 2008 were predicated on mortality rates based on the 1995 through 1997 average.

Since that time period a very significant decline in the stock in Southern New England has occurred, specifically in Long Island Sound, largely related to an increase in natural mortality and also you know the effects of fishing mortality on top of that natural mortality.

A combination of those two things have

changed what the baseline is so given that total mortality rates in Long Island Sound are much greater than what they were back in the last assessment the committee feels that neither the gauge increase nor the v-notch program would achieve the 2008 objectives.

We wanted to make that clear to the board so if this is passed it didn't seem that come 2008 that the technical committee said, oh, sure, this was going to be an effective means to rebuild the stock according to Amendment 3.

Along those lines we wanted to make it abundantly clear to the lobster board that we didn't think that was the case because things have changed so drastically down there. And at this point, as I said, we haven't evaluated a combination of management plans as to what would achieve it at this point because we haven't finished the assessment.

MR. NELSON: If I could just follow up, Mr. Chairman, did the technical committee have any discussion or have a sense that the v-notch might be a better approach than that gauge increase because of the possibility, as Eric has pointed out, that there will be a higher, his sense is there is a higher level of egg production that might take place because of the v-notch. Did it compare it at all so that we could see that one might be better than the other?

MR. GLENN: I think there were opinions in both directions relative to which would be the most effective. And overall I think everyone on the committee would feel that both means are effective.

It's the details that the technical committee was most concerned about. It wasn't a debate as to whether v-notching was an

effective conservation tool. I think everyone on the technical committee feels that it is an effective conservation tool.

The problem related back to, the issue we had was it was relative to its timeframe and also to the total amount that would need to be notched because the analysis was based on mortality rates from that time, that reference point time period going back to '95 to '97. Knowing that things have changed drastically the amount to achieve F10 percent rebuilding would be greater based on the higher mortality rates.

CHAIRMAN WHITE: Thank you, Bob. George.

MR. LAPOINTE: Thank you, Mr. Chairman. I first have a question for Eric and then a couple comments. It talks about in your proposal on Page 4 the definition of a v-notch would be changed to an eighth of an inch or more in depth. Would the notching be done at quarter inch so you would get a couple molts out of them? That wasn't clear in the proposal.

MR. SMITH: It was the same strategy that's used elsewhere, a quarter-inch deep notch is the one that's put in the lobster.

MR. LAPOINTE: And they're protected to an eighth?

MR. SMITH: Right.

MR. LAPOINTE: Thank you. One of my first comments, Mr. Chairman, is -- and it's easy for me to say because in Northern New England we've been doing this a long time -- the idea of paying for conservation is something that we need to think about. You want in time to instill a culture of engaging in conservation and not paying for it and so that's just a philosophical comment.

I kind of like this proposal because if we look at where we are right now and having to put in a gauge increase in July, we're going to change the bar between you know, God willing, August when the assessment comes out and determining what we're going to do next.

And it allows people in the Long Island Sound area to try something beyond the gauge increases and traps we've traditionally worked on. And so it's got some appeal for me from that perspective, you know and just for again another management tool to be tried more extensively. And I think it merits some consideration.

I'm a little less concerned about not meeting the targets, you know the gauge increases, to go to 2008 again because we're going to change those in the next six months. It allows a significant measure to go forward now or to be started -- in July I assume?

MR. SMITH: We would not actually notch until November because of the warm water concern.

MR. LAPOINTE: Southern waters. But it would still allow a significant program to go forward over the course of the next couple of years. And if we're honest with ourselves when we get the assessment in August it's going to take all of us a longer amount of time than we care to think to figure out what we're going to do to get to whatever that assessment says.

I mean that's going to be an extensive and a very difficult process for this commission so I like it from that perspective. It does raise a question and probably now isn't the right time to talk about it.

There was a commissioner from Maine who talked about a kaleidoscope of management measures in regard to size at the last meeting and what that is doing to all of our different areas. And I don't, again, want to cloud this motion with that but that's something I think we need to discuss as a board in the future.

CHAIRMAN WHITE: Thank you, George. Dan.

MR. McKIERNAN: My questions are for Bob. Bob, the maturity schedule for the Southern New England lobsters, are they similar between Long Island and Narragansett Bay and Buzzard's Bay?

MR. GLENN: Yes, they're very similar.

MR. McKIERNAN: Is there any biological justification for having a different minimum size in Area 2 versus Area 6?

MR. GLENN: There is no biological justification, no.

MR. McKIERNAN: The model technical review that we got a few months ago calls for trying to unify regulations with stock units. Do you expect that the management advice from the TC will be to recommend common minimum sizes across the Southern New England LMAs?

MR. GLENN: At this point given that the discussion hasn't taken place at the TC I don't think I'm comfortable making a statement relative to what types of advice we would give.

I do know relative to trying to assess the impacts of different management plans it's very difficult for us to assess the impacts of multiple management areas with different management plans within a single stock unit. It's very difficult to determine what

the overall impact would be.

MR. McKIERNAN: Thank you.

CHAIRMAN WHITE: Lance Stewart.

DR. LANCE STEWART: I just want to emphasize a couple of points on lobster life history in Long Island Sound to somewhat counter the Area 2 biological reproductive state. First of all, lobsters in Long Island Sound have been extremely prolific through the years.

There have been two or three studies that have shown the size at maturity to be much smaller for Long Island Sound lobsters that are endemic. They're exposed to different environmental conditions, different water regimes, and by all tagging studies do not migrate and intermix anywhere near what the Rhode Island Sound and offshore lobster stocks are subject to. So we do have a unique population and it is prolific at a lower size of maturity.

Again I remind the board this was a, I consider, an extreme habitat event that jeopardized most of the stocks in Long Island Sound. It was not overfishing. We just would not like to see the mortality of the industry suffer as the lobsters have been.

I have been against v-notching in the past but for this measure we would very efficiently put a large number of larval lobsters into the water column which another factor in Long Island Sound is that they're entrained by the circulation patterns.

They are, again, endemic in a larval sense to repopulating that group of lobsters and would maintain some of the genetics which are important. And also the survival rate of larval lobsters in Long Island Sound, although it's not scientifically proven in my

work in lobsters for 30 years I believe is significantly higher, much fewer of the predator fish on the bottom.

They have you know a very good habitat source. And it's a different group of lobsters and all the ecological parameters that exist in the offshore waters, especially where thermo-climates affect a lot of the migration movements; our animals are retained.

So, you know, I strongly support this as the "biggest bang for the buck" type of start that we could possibly get. And as Eric said if we eventually have to go to the gauge increase at least we've accomplished a delay to allow the industry to somewhat adapt a little bit and have a buffer period.

CHAIRMAN WHITE: Thank you. Gordon, you were next.

MR. COLVIN: Thank you. I appreciate many of the comments that board members have made. And I wanted to particularly return to George Lapointe's observation because he said probably better than I can exactly how I think we need to think of this proposal in the context of the technical committee's first point and their reservation about the timeframe.

That's an important point and it's one that concerned many of us in the course of this and needs to be addressed, clearly. And George said it I think very succinctly. It is inevitable that in the course of the coming months that we will all address where we go from here.

That is an obligation and that will take us in directions that address the third point in the technical committee's commentary on this proposal. We recognize that we will need to reevaluate where we are and where we need

to go and that's fully contemplated.

It's understood by the states. It's understood by the LCMT. And we know this work is just beginning, hopefully with the implementation of this proposal. Thank you.

CHAIRMAN WHITE: Gordon, a question to you if I might, this is contingent upon funding being made available. As I understand it in New York it's halfway there but don't know if it will go through appropriations -- I mean in Connecticut. What happens in New York? Where is the funding situation with you guys?

MR. COLVIN: There is no funding contemplated for this phase of the proposal from New York for this two-year initial deployment of v-notching.

If we get to a point where we are implementing such a program and it is determined to be an appropriate mechanism to continue in the future of the management either as part of or all of our conservation program for the Sound, New York is going to seek funding and certainly our members of the LCMT are willing to pursue that with our legislature as well.

But this two-year initiative is generously being funded, hopefully, through the assistance of the Connecticut State Legislature.

CHAIRMAN WHITE: Then, Eric, if you would I would suggest some form of modification because you're self-defeating in your motion as it sits. And it might want to be contingent upon -- and I don't know how it does biologically -- contingent upon Connecticut's funding for a v-notch program and not the whole Area 6, if I'm reading that correctly. Think about that and I'll go to the

next speaker if you want.

MR. SMITH: I only have this thought. I don't know if it's self-defeating because the program is laid out in the document and it says 100,000 lobsters a year for two years. The funding, whether it's coming from Connecticut or New York or anywhere else, we've projected -- you know assuming we get a qualified contractor that gets us to do this the funding that is available from the Connecticut bill will be sufficient for that purpose.

CHAIRMAN WHITE: To do it in its entirety.

MR. SMITH: It doesn't need New York money. If you remember in the plan on Section C it said, you know, this is a two-year program plus one or two years of v-notch protection in the water.

If New York General Assembly funds it next year, they were behind the legislative cycle this year. It was too late for them to introduce a bill when this really generated in New York. They just couldn't do it.

In fact everybody was surprised they moved so quickly on the budget. So next year maybe the incentive is there to get funding which makes for a bigger pot in Year 2 or maybe it's Year 3, Year 4.

And that's why I said right now we can only guarantee if Connecticut legislation passes it's two years plus the protection of the notch. But maybe it will be more. And that's why it is a short-term program but if it's successful in the first year or two it's going to breed success is our hope.

CHAIRMAN WHITE: Thank you. In the interest of moving this along I would like to get people to speak either for or against on it

and not pick up on where we -- we're getting quite behind on our discussions but. Vince, do you have a procedural question?

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. It's not really a procedural question but you asked if there were any questions of the chairman of the technical committee and I didn't get my hand up quick enough.

There have been a couple of statements how the physiology of the lobsters in Long Island Sound is different than lobsters further up in New England in how they mature earlier and so forth. And if it was covered by the maker of the motion I missed it and I apologize but what happens to the v-notch of the sublegal lobsters when they go through that molt?

How much of that v-notch is going to survive in the new shell? And how does that compare to the way lobsters grow in other areas? We've been told that they grow different in Long Island Sound.

CHAIRMAN WHITE: I think the answer to that as I understand it is that they're doing a quarter-inch v so that it will take the 76, a 3-inch lobster. And after that first shed it will be a legal lobster with still having a notch. Is that how I understand it? Okay.

MR. SMITH: Yes, the notch should be protected for more than one molt, possibly two molts.

EXECUTIVE DIRECTOR O'SHEA: Fine, I apologize. Is that based on a study on Long Island Sound lobsters or Maine lobsters?

CHAIRMAN WHITE: As I understand it, it was in Long Island Sound lobsters.

MR. SMITH: No, actually that part, how long it retains a notch, was some work at

Rhode Island, in Rhode Island. Vic referenced that in his paper under the current, the way the notch definition is now as soon as that notch starts to grow setal hairs, which means the very next molt, it's no longer protected, it can be kept.

He calculated that that meant you know in some respects in seven months depending on when you notch them and when they molt again you could -- he cut his numbers down by 27 percent because of that.

Well, we said that's a big penalty to pay, how about if we change the definition. And we started by saying let's change it to zero tolerance and they'll be out there for two or three molts and maximally protected.

Well, LCMT didn't agree with that. They went with this, what I call half-way between. The eighth of an inch is more protective than the current regulated definition in Southern New England. It's less protective of the zero tolerance. Clearly if we want to get maximum protection you go with zero tolerance but that's inconsistent with what the LCMT voted for.

MR. GIBSON: Yes, you are still speaking in favor so that would be me. I think Connecticut's what I call a non-equilibrium, a short-term perspective of getting as much eggs into the water quickly is a better perspective than I think the technical committee which is taking a longer-term, equilibrium-type viewpoint of what gauge increases would do or not do relative to an equilibrium reference point, F10.

So I think the agency is on target in terms of getting more eggs into the water quickly. We have based that on a couple of arguments. We have examples from Rhode Island where independent sampling from my staff has shown that the v-notched lobsters

are contributing one-third of the eggs that are being carried right now. Old eggers are, you know, one-third of them are v-notchers so there is some empirical evidence that this kind of a program works in the short-term.

The other very compelling argument is or evidence is that a Connecticut survey of larvae which seems to have collapsed,-- it was a noisy survey but it was unprecedented for it to decline for a number of years in a row -- and it's tied directly in to the lack of abundance of spawners and a collapse in their trawl survey.

So this population needs eggs. It needs eggs quickly. I think this is the way to get there. I am concerned about the short-term based prospects of it for it being continued in the future.

And I also am concerned about this. It looks to me like we're going to have a gauge increase train wreck here for a number of areas and that we need to have that discussion somewhere and thrash that out, with some areas not going up, other areas continuing to go up and so on. But I'm in support of this in the short-term. We'll all have to address this when assessment information comes out.

CHAIRMAN WHITE: Thank you, Mark. Ritchie, are you speaking out for or against because I'd like to get -- we've got pretty good support for it. I'd like to find out if there is any opposition to it.

MR. WHITE: I'm going to make a motion to amend so I don't know where that puts me.

CHAIRMAN WHITE: Go for it.
(Laughter)

MR. WHITE: I'd like to first ask a question

and then I'll make a motion to amend. The question is, there is nothing in this motion that prohibits the continuation of the protection of v-notched lobsters beyond two years.

MR. SMITH: We already have the same regulation that everyone else does that v-notched lobsters have to be thrown back. What it doesn't do is show how after two years we'll notch more lobsters.

We need to, as I had alluded to on the last page of the document, we need to cross that bridge. I mean we're not trying to deny that point. We're just saying that for a two or three year horizon this is more effective, then we need to reevaluate.

And I understand the technical committee view that in the longer term, you know if the money all evaporates, there is no other effective way to do this, you may have a larger bite to make but that will depend on what the assessment says and where we are in two or three years.

MR. WHITE: Okay, I'd make a motion to amend to include the definition of zero tolerance v-notch in the existing motion.

CHAIRMAN WHITE: We have a motion to amend.

SENATOR DENNIS DAMON: Second.

CHAIRMAN WHITE: Second by Dennis Damon. Discussion to that motion. Dan.

MR. McKIERNAN: Yes, it's our experience in Massachusetts that zero tolerance is a disaster in terms of the compliance, the questions fishermen have. What happens is, you know, when in doubt notch or re-notch. But it creates a huge amount of dissension in the industry. I think

it's a terrible rule.

CHAIRMAN WHITE: Thank you. Harry, you're next.

MR. HARRY MEARS: Thank you, Mr. Chairman. I like and dislike this motion at the same time. It involves industry, obviously. It has bubbled up from industry as an alternative for gauge increases.

CHAIRMAN WHITE: Excuse me, Harry, but are you talking to the motion to amend or the main motion?

MR. MEARS: I'm sorry, Mr. Chairman. I'll withhold my comments.

CHAIRMAN WHITE: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I would vote against this addition to this and I think my friend across the hall there hit it right on target. This is going to complicate the issue even more than it is right now.

We're going through a terrible time and we've gone through a terrible time in Long Island Sound. This is the first daylight we've seen and a possibility of bringing this stock back in any way, shape, form or manner.

If we have another disaster with a combination of events as we did, the "perfect storm," the last couple-three years, we might just as well have the boys pile their pots on the dock and burn them. So I think this is a train wreck and I don't know how we can possibly support this amendment. Thank you.

CHAIRMAN WHITE: Thank you, Pat.

COLONEL JOSEPH FESSENDEN: I just

want to go on record for law enforcement. We looked at the v-notch issue and presented a report at the last board meeting I believe. And as far as enforcement was concerned, unanimous, the zero tolerance was easier to enforce than an eight of an inch v-notch.

Massachusetts brought it forward earlier. And law enforcement, not just Maine but all, the whole committee looked at this issue seriously. And for enforcement it's easier to go to zero tolerance. So I take exception to people saying that this is not enforceable.

CHAIRMAN WHITE: Vito, you were next. Are you speaking to the amendment?

MR. VITO CALOMO: That's all right, I'll pass. Thank you.

CHAIRMAN WHITE: John.

MR. NELSON: Thank you, Mr. Chairman. I would support the amendment. I think that it is correct as far as it's easier to enforce the no tolerance. Our industry are the ones that actually asked for that years ago and we get questions periodically but, you know, it sorts itself out pretty quickly.

I think you get more questions if you have to define exactly what it is. The other thing that, why I would support the amendment is that the technical committee has said that the motion itself is not conservation equivalent to the gauge increase.

And I think we need to pay attention, continue as we have. We need to pay attention to what the technical committee is saying and see if we can try to make something conservation equivalent.

So I think this actually is an effort to do that and I would quite frankly suggest that the

states involved would be doing an education program in addition to this to encourage their industry to v-notch, and without getting paid for it.

CHAIRMAN WHITE: Thank you, John. So that's it for around the -- Gordon.

MR. COLVIN: Well, just responding to one of the comments that John just made, yes, the technical committee made a point that the proposal is not conservation equivalent to the gauge increases but not because of the definition, because of the timeframe.

I don't see anything in the technical committee's report that calls attention to the need from a technical perspective or an evaluation of equivalency perspective to address the additional protection that a zero tolerance would give.

I don't see that in there at all. I think the proposal as developed and its basis for its conclusion of equivalency is not challenged by this finding of the technical committee as I read it.

CHAIRMAN WHITE: Thank you. Eric, to add to that?

MR. SMITH: Could I ask Bob Glenn, this was a brief report and I know you guys were under the gun and it all happened very quickly. Was there discussion in the conference call about this issue, whether it made it -- was there a view expressed but not ending up on paper about the relative value of these two ways of measuring?

MR. GLENN: I'll comment on this and Toni Kerns can correct me if I'm wrong just in case I'm not summarizing quite adequately what was the discussion. There were I believe a few committee members who expressed that they believed that a zero

tolerance would have been a better alternative. I can't say that there was a consensus statement or a consensus opinion from the committee coming forward that that would have been a better alternative.

CHAIRMAN WHITE: Thank you, Bob.

MR. SMITH: If I may, then, my comment on this -- and I hope I don't fracture a delicate relationship. I've been trying to be responsive to the LCMT vote. One point I want to make is it was a fairly close vote, well, like 10 to 7, 10 to 8, something like that, you know, as I recall it.

Just to be instructive that even in that area there was a debate, just like in the technical committee. And I guess my view, I'll tell you my personal view but I'm taking some advice from Dan's comment because I've heard that from Long Island Sound fishermen, too, the concern that it might be that any old little gauge in the lobster from inter-specific competition might be viewed as a notch.

And, frankly, I have a lot more faith in our law enforcement people not to worry about those little things. But having said that I also think to have a good relationship on this when you're starting out from scratch that maybe it's not a bad idea to start where there's a wider consensus and that's from the LCMT position and try it out and see.

And after a year if it looks like people are warming to the whole v-notch program approach maybe what you do is in Year 2 come back and say this is a pretty good program, we're really happy with it, we want to get more mileage out of those lobsters.

So if we start with the definition as proposed by the lobster conservation team it doesn't

preclude us from going with the more protective one a year out. So I guess I kind of agree with Joe's comment.

And that was my personal feeling now because after I've been honest with the LCMT approach I felt zero tolerance, if we're paying \$2 million for them, protect them as long as you can. But if it's going to undercut the support for the program I'd be concerned about that. So maybe we start slowly and see how it goes after a year. Thank you.

CHAIRMAN WHITE: Okay, Everett. That will be the last comment from the board and then I'd like to get public comment on this. This is to the amendment, Everett?

MR. PETRONIO: I'd like to echo what Eric said relative to the necessity of support of the LCMT. A lot of what we do here is criticized, is debated ad nauseam by industry. And I think it's important, especially when we're at an initial program, that we take great care to listen carefully to what the LCMT tells us.

I certainly understand that the vote was not unanimous as far as zero tolerance or not. But I think that as an initial matter we should be supporting the cooperation of the LCMTs and value their input and that we should -- for those reasons I'm going to oppose the amendment.

CHAIRMAN WHITE: Thank you. I'd like to go to public comment now but would you remember that this is to the amendment itself. You still can comment on the main motion. Yes, George.

MR. GEORGE DAHL: George Dahl, the New York Co-chairman of Area 6 LCMT. We did discuss zero tolerance. First of all

we wanted to go with the ASMFC definition of v-notch because it's a clear-cut definition.

Then during the discussion we realized that we would get more benefit if we lowered it to one-eighth with or without setal hairs. And that would, because we were under the impression that Rhode Island was aiming toward that definition also, would make the two areas more consistent so that's why we went with that.

We are leery of the zero tolerance. But we kept it on the side so that if in the future we could go to it, we would go to it. But there is no going back in this game. Once you accept something you don't ever go backwards here so we can always go to that in the future.

CHAIRMAN WHITE: Thank you, George. John.

MR. JOHN GERMAN: Yes, my name is John German, I'm a fisherman in Area 6. I'm also president of the Long Island Sound Lobsterman's Association. I attend all the LCMT meetings. There are a lot of fishermen that probably don't have the extreme faith that some of you do in law enforcement and we want a definite definition of what a v-notch is.

We don't want it open to the interpretation of some young officer on the dock who is under extreme pressure in our state to give out tickets. We want it to be definable and this is a v-notch or this is not a v-notch, not something that is up to the discretion of an officer. Thank you very much.

CHAIRMAN WHITE: Thank you. One more in the back.

MR. MIKE TYLER: Yes, Mike Tyler. I'm vice president of the Connecticut

Commercial Lobsterman's Association, also a member of LCMT, Area 6 LCMT. Specific to the zero tolerance definition, one of the issues we had was with the shell rot in the eastern end of the Sound and again with the, going with the main definition of zero tolerance any nick or cut or blemish, I mean that is as far as we were concerned a lobster that had to be taken out.

We have a lot of lobsters that are, for a lack of a better word semi-beat up. There is a lot of lobsters in a small area. So that was one of the reasons why we chose to go with just as the two previous gentlemen said something that was a definition that was measurable, we could put a gauge on it and know right from the get-go that it's good or it's not good. That was pretty much our basis. To comment on the other, the first motion, I'd like to --

CHAIRMAN WHITE: No, this is just to the amended motion for now.

MR. TYLER: That's it. Thanks.

CHAIRMAN WHITE: Jim.

MR. JIM KING: Yes, my name is Jim King. I fish out of Mattituck, Long Island. I've been fishing in the Sound for about 40 years now. I've always very strongly supported v-notching.

I think the fishermen should do it themselves on a voluntary basis, much to the dismay of some people. I've been v-notching lobsters in Long Island Sound since they've been protected on a coast-wide basis.

In the last two years I've done between 5,000 and 10,000 animals. Unfortunately they all seem to have disappeared. I would like to ask what's wrong with the gauge

increase along with the v-notch program. I think we need the gauge increase. What's the harm in going up with the gauge?

CHAIRMAN WHITE: Jim, this is to the amended motion, to deal with the zero tolerance at this point. You can come back to the main motion.

MR. KING: Okay, on the amendment, the LCMT 2, they bashed it around with the zero tolerance and nobody seemed to really want to go with zero tolerance. They were under the modified version. Thank you.

CHAIRMAN WHITE: Thank you. Okay, coming back to the board on the amended motion. We'll take a vote. Want to caucus? Are you all set? Is everybody all set or do you need another ten seconds?

Okay, all those in favor of the amended motion please raise their right hand -- amendment to the motion, excuse me; all those opposed; null votes; any abstentions? The motion fails. Back to the main motion. Any need to caucus on the main motion? Bob.

MR. ROBERT E. BEAL: Yes, just a real quick question for Eric, the motion isn't clear on, it says for a gauge increase program. I assume that means the 2005 and 2006 scheduled increases?

MR. SMITH: Yes, for the program as it's required by Amendment 3 now which is a 32nd this July and a 32nd next July.

MR. BEAL: Okay, and the second process question I had is once, and I think I picked up on it from the conversation, but after the two-year v-notching program has sunset if it does sunset in two years, what will the gauge size be after that? Or is it to be determined based on the new stock

assessment? This will be in place two years and we'll deliberate on that in the future?

MR. SMITH: It needs to be evaluated at that time. And I would say it's really after three years. You know that next year of the v-notch lobsters still being out there in the water protected but in that year rightly we need to evaluate it because with no other language we stay at 3-1/4. But that may not be sufficient based on the assessment advice. By that time, though, we'll know for sure what that is supposed to be and have to act accordingly.

CHAIRMAN WHITE: Okay, before we vote, again, now this is on the main motion, I would entertain public comment if it can be -- Vince.

EXECUTIVE DIRECTOR O'SHEA: Does this -- thank you, Mr. Chairman, does this freeze subsequent actions based on the stock assessment when it comes out during the period of this program?

CHAIRMAN WHITE: I see everybody shaking their heads no.

MR. SMITH: No. The funny thing is, the other way, backing into this, is to just simply say wait until August and see what the assessment says. But, as I said before, I don't want to lose that momentum. I'm afraid I'll lose \$2 million for conserving lobsters.

But your point is a valid out. The assessment clears the slate and who knows where the numbers are going to come out. We need to respond to what those new numbers are at the time. And that debate will probably start either in August or November. And we're prepared to talk about it, what we need to do in the context of the best new assessment.

CHAIRMAN WHITE: Harry.

MR. MEARS: I'll be brief, Mr. Chairman. I do like the motion in some respects. What I don't like about it, two parts, one is it holds a management measure hostage to funding and I think that's a bad precedent whenever we're faced with that sort of situation.

Secondly, there is a sentence in the original proposal as well as the letter that came with the proposal before us that, yes, it's talking about an exchange of v-notching for the gauge increase but the principal purposes is to rebuild female spawning stock biomass and restore the fishery in Long Island Sound.

Clearly what we heard from the technical committee is the principal purpose of why we're even considering this is not going to even be achieved. In fact I've only been aware of considering conservation equivalent proposals when they achieve the objectives of the plan.

With this vote it seems we're going in the opposite direction. We're taking protected management off the books rather than moving forward to restore the resource. Thank you.

CHAIRMAN WHITE: Eric, correct me if I'm wrong but if this does not pass or the funding did not come about you would automatically go back to your gauge increases?

MR. SMITH: That's correct.

CHAIRMAN WHITE: They're not regressing, Harry, as I understand it. The gauge increases would then replace this not happening.

MR. MEARS: As I understand the vote if this is approved gauge increases are not in place as they are now.

CHAIRMAN WHITE: Correct.

MR. MEARS: We've heard from the technical committee that gauge increases and v-notching will not achieve moving toward rebuilding the stock so in my mind this vote being passed will remove some of the protection we've taken three years to put on the books to help restore the resource. Thank you.

CHAIRMAN WHITE: Gordon, do you want to address that?

MR. COLVIN: Well, just, I mean it seemed obvious to me, maybe it's not, this proposal substitutes for the gauge increases that were part of Addendum III. I think it was back in the day, subject to the last assessment and the egg production rebuilding schedule thereto.

It's equivalency is not based on some new reference point, some new assessment of where we are in Area 6 versus that new reference point. It's based on equivalency with what was in place under that earlier addendum. That's all.

And we've acknowledged from the get-go and the paper acknowledges very clearly the need to take the next steps as soon as we know what they are and what the board is going to establish as the schedule for implementing them.

CHAIRMAN WHITE: Thank you. Vito.

MR. CALOMO: Just a quick question so I can vote properly on this. In other words, we're paying the farmers not to harvest. Is that correct?

CHAIRMAN WHITE: Eric.

MR. SMITH: Could I briefly? That's the third time that issue has come up and I really wanted to jump on it when George said it but I refrained and then I refrained again with Harry and now let me just briefly answer that.

I don't like paying for conservation either. If I thought the fishermen were responsible for this I would be saying to the legislature we need to adopt fishery management measures and, you know, there should be no compensation program.

This is a response to a natural mortality event and that changes the rules a little bit in my view. It's not only paying the farmers not to catch, it's actually paying the farmers to throw back perfectly good lobsters because it's a better measure than increasing the gauge by a tiny little bit.

And Harry's point was it holds the management action hostage to funding. I thought I tried to, I must have miscommunicated on why I had that part of the sentence in there. That wasn't the intention of it. The intention is if the funding evaporates, so does the plan, so we're back to the gauge increases that are already in Addendum III. Thank you.

CHAIRMAN WHITE: Okay, I'm going to the public now. Just try and cover something that you think any one of your delegates may have missed because we're really short on time.

MR. TYLER: Mike Tyler from Connecticut again. I'll be real brief, just to address one of the funding concerns. This is not something new. There has been roe buy-back programs that were funded through

environmental groups and the like.

And one of the things that I want to stress is we as citizens took this upon ourselves, with some advice and impetus from, you know, we went to the legislature ourselves and lobbied for this public funding.

We are also currently lobbying with some private organizations for funding as well. So once the process is in place there will be a repository for additional funding should we get it from other entities that have different interests. So this is, hopefully, something that will not just be a two-year plan, that possibly could be you know four or five years at least with considerable funding from private sources.

CHAIRMAN WHITE: Thank you, Mike. John, something to add?

MR. GERMAN: My name is John German. I'm still president of the Long Island Sound Lobsterman's Association. I was fishing yesterday and I'll be fishing tomorrow. And I was always against v-notching in the past.

However, and I don't know if I'm 100 percent for it now but we've been raising the gauge forever. That's all I've hear is "Raise the gauge. Raise the gauge. Raise the gauge." And apparently it's not working because we're still trying to raise it so I think it's about time we start something a little bit different and try a different approach than raising the gauge.

Maine has been satisfied with their plan and it's v-notch plan and their other measures that have — and they've stayed at the same gauge size and they seem to be doing fine. As a matter of fact, I'm quite envious of them.

And as all of you do, I know all you have to

crawl up the legislators every now and then and beg for money and you know right then and there if you don't take the money then it's going to go away.

It's twice as hard to come back or three times as hard to come back the second time and try to get money after you said, well, we can't use the money now. So with that in mind I thank you gentlemen.

CHAIRMAN WHITE: Thank you. George.

MR. DAHL: Yes, George Dahl. As far as the money goes, we have not even approached New York state yet because we were too late, as Gordon said, but we intend to. We also have all these gas companies and electric companies and everything else putting cables, wires, pipes, everything through the sound, and these people have these mitigation fees or monies that they are looking for something to do with them.

And we intend to try to direct them towards it so this plan may end up, the actual v-notching may end up going on for four years, six years, eight years, you know, who knows. It's just that at the moment we only have a commitment I would like to say for money for two years.

But we intend to pursue more money. And, like John said, if the gauge increase, even in the technical committee's Paragraph 3 they said the gauge increase is not going to do it. So, at this time we are, we'd like the opportunity to try something different.

CHAIRMAN WHITE: Thank you. One more.

MR. TED COBURN: I'm Ted Coburn, project manager for the North Cape Lobster Restoration Program. I think that the estimated period of protection is

underestimated from what I have heard so far.

The North Cape used two years as projected protection. I think that's high. But with the new definition I think that your protection is going to be a lot more than you initially expected by what I've heard so far. Other things I could pass but that's the most important one.

CHAIRMAN WHITE: Thank you, Ted. I appreciate that. Jim, have you got a comment?

MR. KING: Yes, Jim King from Mattituck, just a quick one. I still think the gauge increase should be tied into this program. And the other point I'd like to make is you're going to have to do some kind of a public outreach or notify people because I've talked to dealers. They don't even know what a v-notch is. You've got to do a real good education program here or you're going to have lousy compliance with this plan.

CHAIRMAN WHITE: Thank you, Jim. I'm going to bring this back to the board now. Any need to caucus? We've beat it to death. Okay, all those in favor raise their right hand — the main motion, Fred; all those opposed; null votes; abstentions. The motion passes. Next on the agenda. Okay, Bob Glenn, technical report.

MR. NELSON: Mr. Chairman, now because of this vote when would we know if that type of gauge increase has been delayed? Is Connecticut going to notify us at some point? And the reason I ask that is because we have a, you know most of us have gone through the regulatory process and we have our regulatory measures in place for gauge increases associated with Area 6, for example.

I've got to go through the expense of changing that if indeed you know this is changed. So, I need to know in a timely manner so that we can spend the money to change it. Thank you, Mr. Chairman.

MR. SMITH: Quickly, we'll know by the first week of June whether the funding is there and then we'll notify the commission right away. We can adopt our regulations in 30 days if it's a compliance criteria and with a commission plan. So from our perspective we would be able to adopt on July 1st if the v-notch program dropped through.

What I think, by August, though, if the funding falls through and if we have to go with the gauges then in August we have to talk about when to impose this on both states in the region because I would not want to have to impose something on a 30-days notice on Connecticut fishermen and have New York say, sorry, it will be next year before we can do it. So that's a real important discussion but we won't know if we need to have it until June.

CHAIRMAN WHITE: Okay, so you and Gordon will work that out and we'll be notified before the July 1st implementation date. Does that address? It's not what you wanted but is that the answer?

MR. NELSON: Well, no, that's what I was looking for, Mr. Chairman, is an answer to that question because as I think everyone is aware we had a compliance timeline for, you know, putting in complementary measures and I suspect most of us have put those in place as far as being effective July 1st. So if we've got to undo them, we've got to undo them. But I just need to know in a timely enough fashion. Thank you.

CHAIRMAN WHITE: Okay, Toni.

Technical Report

MS. TONI KERNS: Thank you, Mr. Chairman. As I believe most of the board knows we are not going to make it to the June SARC as scheduled for the assessment but we are still working, the TC is working very hard in moving forward with the assessment and we're going to schedule an external peer review that we are hoping for August but there is no date finalized. And Bob is going to go over where we are and what got us to where we are now.

MR. GLENN: Yes, what I'd like to do is just give the board a brief update as to where we are with the assessment and also give you some explanations as to why we are not going to meet the June SARC deadline.

As it stands right now the technical committee has just finished pretty much completing the catch matrices. One of the largest issues that we've faced relative to getting this assessment complete was completing the catch matrices in the new ASMFC database.

The largest difficulty with that, in having a new database, is there are a lot of nuances that I think the TC was not familiar with, the new database, and as a result we suffered for some quality control issues and from people largely being not familiar with some of the aspects of the database.

Other problems that we had is we had problems with the quality control with the catch data and the biological data. There was a lot of landings information that there were issues with that had to be re-input, imported into the database at a late timeframe that made it impossible for us to complete all the necessary data that we needed to complete the model runs.

Other issues that we had difficulty were that because of the incredible workload that many of the technical committee members have we had a lot of issues with TC members keeping up with proposed deadlines for assignments for the stock assessment.

And one other final aspect that we've had difficulties in is we've had many debates concerning some key biological parameters like natural mortality. And as a result we've still not come to consensus on many of those issues, and as such are not, that contributed to us being behind on many of the assessment deadlines.

So in a nutshell it is positive that we just as of this week I think completed the catch matrices. Now we have the data we needed to start running the models. From that point on I'm hoping that things will proceed in a quick fashion.

Over the next week or so I'm going to be working with Toni to complete an updated timeline for the completion of the assessment. That will likely, as Toni said, be somewhere near the end of July/the beginning of August would be the proposed completion date but we don't have that hard date set at this point.

CHAIRMAN WHITE: Thank you, Bob. Any brief questions of Bob or Toni? Yes, Eric.

MR. SMITH: I understand all the difficulties. I guess I was a little concerned that we might not have the peer review before our August board meeting?

MR. GLENN: Yes, because we are missing the SARC, the June SARC, the peer review would be contingent upon whenever the

timeframe would be that ASMFC could arrange an external peer review process similar to the model review that we've recently had this past winter.

Along those lines I'd have to I guess defer to Toni or to other ASMFC staff to comment relative to what they think the timeframe or the likelihood would be to put together a peer review panel.

MR. SMITH: I have been privy to some of those conversation so I know it's laborious to try and get busy, very highly competent people down. And I know you know this but just let me put a fine point on it.

If there is any way possible, even going back to the peer reviewers we had in December because at least they know the subject now, to get this thing done so we have the benefit of that advice at our next board meeting that would be monumentally helpful. Just try, that's all I'm asking. I don't need --

CHAIRMAN WHITE: Vince, go ahead.

EXECUTIVE DIRECTOR O'SHEA: I appreciate that very much, Mr. Chairman. And the first thing we need is a stock assessment completed and if we have a date for that; we've gone back to the modelers and we've lined up four people and I've got an eight-week window for those guys.

But as we get closer to that window, their windows are going to compress so I guess we need to have a date that we're confident when we'll have an assessment ready to give those guys. And that's sort of the conundrum that we're in. Thanks.

CHAIRMAN WHITE: Peter. We're going to do a compliance report. Take a break for a second, Peter. Sorry.

PRT Report

MS. KERNS: Thank you, Mr. Chairman. We're going to go through the 2005 compliance reports. I am happy to report that the states of Maine, New Hampshire, Rhode Island, Massachusetts, Connecticut and New Jersey have no compliance issues this year.

And the one, lone compliance report issue is in the state of New York and it deals with the most restrictive rule and that most restrictive rule has not been fully implemented for the areas of 1, 5 and the Outer Cape Cod. And those measures need to be put in place.

And, lastly, the states of Delaware, Maryland, Virginia and North Carolina all have requested and qualify for the de minimis status. Inside your PRT document that was handed out to you I'd like to point out on the Page 3 that there are upcoming regulatory changes that deal through Addendum III, IV and VI.

Some of these changes are now not correct for Area 6 due to the last motion. But to make it easier for the states in terms of their compliance setting process we went ahead and gave you a heads up on all the changes that each state will be needing to make. In the interest of time that is the end of this report.

CHAIRMAN WHITE: Thank you, Toni. I need a motion -- George, do you have a comment?

MR. LAPOINTE: I wanted to make a **motion that we approve the de minimis status for Delaware, Maryland, Virginia, and North Carolina.**

CHAIRMAN WHITE: Do I have a second for that?

MR. AUGUSTINE: Second.

CHAIRMAN WHITE: Pat Augustine. Any comments to the motion? Any opposition to the motion? The motion is passed unanimously. Gordon, do you have any comments?

MR. COLVIN: Well, I'm not sure you know how much time to spend on this, Mr. Chairman. There's a finding in here that New York is not in compliance. I'm certainly not going to make a motion to find New York in non-compliance and I'll certainly oppose one vehemently if it is made.

I've given Toni some background information on this issue. And I know you're in a time situation so I'm not going to sit here and filibuster for a half an hour unless somebody makes that motion.

But I'd suffice to say that New York has no landings in those three areas and hasn't had in many, many years so this may be an area where there is no foul, if you will. If anybody wants to discuss it in depth then I'll be happy to do it but in the interest of time I won't say anything unless there is a motion.

CHAIRMAN WHITE: Well, and to reiterate what Gordon just said, as I've seen, there are no landings for those areas that were in question and so it seems to me just to be an administrative thing unless somebody has a problem with it.

MR. COLVIN: I think the other point I'd make is that we acknowledge that we need to make these changes to our regs and we can't do it by reference. Legally we have to adopt detailed regulations that include this

whole mess from this cheat-sheet right into our regs.

And we're just not going to do that until we have a package together of necessary regulations that include substantive stuff as well which we're working on and we acknowledge in our annual report that we will be submitting such a package in the near future.

More importantly we need to update the details of our most restrictive rule regs for Area 2 and 3. And, frankly, we've been holding this whole thing off to see where Area 2 goes. So, I think we have a sense of that now and you know we're going to be putting that package together.

But we're not going to engage the agency's rulemaking machinery which is formidable, write to the commissioner, general counsel, the legislative and the regulatory coordinator, just for these three things where there are no landings. We have to bundle our regs. That's agency guidance.

CHAIRMAN WHITE: John.

MR. NELSON: Mr. Chairman, I'm certainly sympathetic to my comrade from New York. But having just gone through this with our state and feeling you know funny standing up before a bunch of guys and saying, "Well, I'm putting in these regulations for New York and, you know, or Area 6 and 2. I know you guys don't know where those are and I know we don't get any lobsters from them but those are the regulations we're putting into effect," because I thought that was a compliance issue.

I'm perfectly content if we have some timeline from New York to understand when they would be putting these in -- unless we

want to not make them compliance issues because it was a bother for me to do it and I'm sure for the other states.

But you know we did it under the understanding that we had to do it. So, if New York has a timeline that they can take care of tidying up all of these loose ends I'm certainly open to you know having it done in that timeline.

CHAIRMAN WHITE: Gordon, do you have anything that you could tell us at this time?

MR. COLVIN: Well, as indicated in our compliance report, the plan is to have them in place before the end of the year.

CHAIRMAN WHITE: Are you comfortable with that, John?

MR. NELSON: Well, I just said I was, Mr. Chairman, so I'm not going to go back on that. But do you need a motion then to have that official or how is our procedure usually done to deal with that type of issue, just to make sure that it's clear that they're not out of compliance because they haven't met the July 1st date.

CHAIRMAN WHITE: Bob or Vince. If we don't have a finding then how?

MR. BEAL: If the board is comfortable with the timeline that New York has presented and is interested in revisiting this at the first meeting in 2006 to determine if New York has implemented the most restrictive rules, then that's consistent with this being a compliance issue.

But you know realizing the situation that New York is in with very little to no landings coming from these areas, that's the prerogative of the board. So if there is no

objection to that approach then I think that's the course you're on.

CHAIRMAN WHITE: Is there any objection to that? Good, then we'll leave it be. Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. Just a real quick thing, the previous action that the board took regarding the v-notch program, will New York -- I can't remember, will New York have to change its regulations to respond to the v-notch program?

CHAIRMAN WHITE: Gordon.

MR. COLVIN: Yes, and that's going to be the most substantive part of this bundled rulemaking. Thank you, Vince, for making my point.

EXECUTIVE DIRECTOR O'SHEA: And that won't happen until next January?

MR. COLVIN: It will happen before January 1st. We've got to get it in place in time for when we start v-notching the lobsters is the bottom line. We need to change our definition, as does Connecticut. So the plan will be to have that definition in place in order to make sure that the lobsters are protected once we start to notch them.

CHAIRMAN WHITE: Okay, because otherwise we're going to go through the procedure. If we find them out of compliance, they're still going to get this fixed long before that we could react to the out of compliance issue anyway.

EXECUTIVE DIRECTOR O'SHEA: Well, now I'm maybe really confused. We have a gauge increase that was going to happen by 1 July and the v-notch is going to go in place on or about 1 July to substitute?

MR. SMITH: The v-notch program, because it was approved today, as far as I'm concerned now is the plan of the commission instead of the gauge increases so I can go through my 30-day rulemaking to adopt regulations to comply with it.

So, I can have these things in effect about, well, you know 35 days or so after today, because I won't be home for four or five days. Having said that we do not intend to start notching lobsters until November 1st because we don't want to do it in warm water periods when there is an elevated disease rate.

The implementing regulations, though -- and I, frankly I understood in New York that the v-notch definition if it was required by the commission plan could be done as some kind of an expedited rulemaking.

That's what we had heard at one of the LCMT meetings so I'm hoping they can do it relatively quickly. If they do it by November, that's good enough for me because that's the first time, you know.

CHAIRMAN WHITE: Okay, enough on that. Toni, you have another comment?

MS. KERNS: A cheat-sheet for the gauge and vent sizes was also handed out to the table. And that will need to be amended to the new gauges for Area 6 so you can throw that in the garbage and one will be coming to you in the mail. (Laughter)

CHAIRMAN WHITE: You're opening yourself up, Gordon.

MR. COLVIN: Well, I want to agree with one thing that John Nelson said today. (Laughter) I think that you know we have so much to do in this lobster management

program and we're always rushed for time and a lot of it is really important stuff.

So certain things like a discussion of whether or not we need to maybe simplify, streamline or somehow pare this most restrictive stuff down to what really counts, we never seem to really have time for it.

But, I think there ought to come a time here when we do make a little time for that or ask the, perhaps ask the plan review team to look into this and come back to us with some recommendations because you know John is right.

It is difficult to stand before your fishermen -- and believe me it's difficult to stand before your agency commissioner or your governor's office of regulatory reform -- and justify adopting regulations to regulate fishermen who haven't landed any fish from those areas in 13 years or more, which is the case in New York.

It is difficult. And maybe we don't really need to be doing that. So I would just ask that the board consider bookmarking this issue and coming back to it and maybe trying to fix it up a little bit so that we're getting a bang for the buck we put into rulemaking.

CHAIRMAN WHITE: Peter, you're all set.

NOAA Fisheries Report

MR. PETER BURNS: Thank you, Mr. Chairman. In the interest of time I'm make this presentation very brief. Thank you very much. For the record my name is Peter Burns. I'm with the National Marine Fisheries Service Northeast Regional Office in Gloucester, Massachusetts. And I'd like to talk today about the federal lobster trap area eligibility program.

In 2003 the National Marine Fisheries Service implemented the lobster area eligibility program in response to the commission's recommendations in Addendum I to Amendment 3 of the fishery management plan.

The objective of the program is to cap and control lobster trap fishing effort in Areas 3, 4, and 5. And I think everybody is probably familiar with Area 3 as the far offshore area and Areas 4 and 5 are the southern near-shore areas south of Long Island, down to Cape Hatteras and out to about 50 fathom.

This program was open to all federal lobster permit holders and essentially if anyone with a federal permit was interested in securing access to the Area 3, 4, and 5 lobster trap fishery in the future they needed to submit an application to the fisheries service during 2003.

There were several things that they had to prove in that application, generally a limited number of traps that they fished in the areas that they were applying for during a 1991 through 1999 qualification period, documentary proof of the total number of traps fished that they were claiming in the application as their historical allocation, and in the case of Area 3 as an additional requirement they had to show that at least 25,000 pounds of lobster was landed during the qualifying year.

You could see at the bottom of this slide, we received about 300 applications. And we're about 91 percent complete with the eligibility review in this program.

You could see that the left-hand columns show the number of permits that were approved for Area 3, 4 and 5 based on that 91 percent review. And they're listed by

state. And the number denied is on the right-hand side.

There are some nice relationships here with respect to how the numbers fell into place. You can look at New Jersey and you could see that there are vessels that qualified in all three areas.

And that's something that would be expected considering the known offshore fishery operating out of New Jersey and also the proximity of that state to Areas 4 and 5. Similarly in Delaware you've got most of your qualifiers are in Area 5 which is the southern end of the range.

I'll just focus right now with respect to time on the far-right column in this slide. This shows the total number of traps, the maximum ceiling, that has been established now with the vessels that have qualified into this program.

The numbers on the far right show the Area 3 trap reduction schedule and trap caps and also the Area 4 and 5 1,440 trap cap which we incorporated into this program. So essentially all the vessels that qualify into this program will not be able to fish any more than 165,000 traps in Area 3, 77,000 approximately in Area 4 and 30,000 in Area 5.

Keep in mind we're at 91 percent completion and we had 133 vessels that qualified in Area 3 so far. It was 75 in Area 4 and 38 in Area 5. Can we skip right to the next slide after this, please.

Okay, so how did we do? The whole point of this was to cap and control lobster fishing effort and to reduce Area 3 allocations over time. So let's look at it in terms of numbers of boats and then we'll look at it again in numbers of traps.

This slide shows a significant reduction in the number of vessels that are now authorized to fish in Areas 3, 4, and 5. If you look along the Y axis, it shows the number of permits or vessels and below shows the lobster management areas.

The blue bar is 2002, the total number of vessels that were authorized, vessels with federal permits that were authorized to fish in Areas 3, 4, and 5 just prior to the implementation of this program in 2002.

And you can see that that has been significantly reduced if you look at the yellow bars which show the total number of vessels that are not eligible to fish in those areas. Next slide, please.

This is the look at the number of traps fished. You can see thousands of traps shown along the Y axis and the lobster management areas along the bottom. The best comparison is between the blue bars and the yellow bars.

The blue bars are the National Marine Fisheries Service's best estimate of the total number of traps fished by area in the environmental impact statement that we prepared to analyze this management action.

You can compare that to the yellow bar which shows that maximum trap ceiling that has been established based on the number of vessels that have qualified into the program. So you can see some significant reductions in the numbers of traps that are now able to be fished in these areas.

So what are the key accomplishments to the program? Well, the point was to control and cap fishing effort. We've certainly done that. We've limited entry down to a very finite number of vessels and established a

maximum trap cap for each area that can't be exceeded.

We've eliminated latent effort and prevented future effort shifts into these areas from other areas. And that was, if you remember back to the stock assessment peer review committee's advice, that was one of the things they cautioned against was the potential for effort shifts into other areas, especially the offshore Area 3.

And, finally, we've got now a very definitive number of vessels and number of traps, a firm baseline now, for basing the rest of the management decisions for the future when we, as we move forward to rebuild lobster stocks and end overfishing. Thank you. Any questions?

CHAIRMAN WHITE: That's amazing, Peter. Thank you very much. Any questions for Peter? Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, I'm wondering, can we rent you out for Area 2? (Laughter)

CHAIRMAN WHITE: Toni, AP nominations.

Advisory Panel Nominations

MS. KERNS: Thank you, Mr. Chairman. Before you we have one nomination from the state of Massachusetts for the AP panel. It's John Carver.

John Carver is active on the South Shore Lobsterman's Association, the Mass Lobsterman's Association, and the Mass Fisherman's Partnership, and the Marshfield Commercial Fisherman's Association. He has been fishing for lobsters in the trap fishery for over 17 years. And that is about the information that I have.

CHAIRMAN WHITE: Bill.

MR. ADLER: **I'll make a motion to approve John for the advisory panel.**

CHAIRMAN WHITE: Second? Second, Pat Augustine. Any opposition to the appointment? So moved. I have a housekeeping issue. I have talked with staff and what I would like to propose to do is have a strategic plan workshop for lobstering at the August meeting.

And I would urge people if they have specific issues that they'd like to bring to that workshop to contact me or the staff. There has been quite a bit of discussion today about trying to figure out how we go about dealing with different gauges in different areas and that type of thing.

And I think we need to really get back to the basics and figure out where we're going with it so I would urge people to get in touch with staff. I won't belabor that at this point. Are there any other issues to come before the board? Dan.

MR. McKIERNAN: Just a question for Toni, Toni, did you mention a few minutes ago that the cheat-sheet would be reissued with the new rules?

CHAIRMAN WHITE: Yes, she did.

MR. McKIERNAN: Wouldn't that be contingent on Connecticut getting the funding?

CHAIRMAN WHITE: Yes.

MR. McKIERNAN: Okay, so we'll wait until August to reissue the cheat-sheet.

CHAIRMAN WHITE: No, June.

MR. McKIERNAN: Okay, June.

CHAIRMAN WHITE: Any other issues? If not, we are adjourned.

Adjourn

(Whereupon, the American Lobster Management Board meeting adjourned on Monday, May 9, 2005, at 6:15 o'clock, p.m.)

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Federal Lobster Trap Area Eligibility Program

Peter W. Burns

National Marine Fisheries Service

Northeast Regional Office

May 9, 2005

NMFS Final Rule and Regulations - March 2003

- Consistent with Commission recommendations in Addendum I to Amendment 3 of Lobster ISFMP
 - Cap and control trap fishing effort in Areas 3, 4 and 5
 - Limited access program for the Federal lobster trap fishery
 - Eligibility based on proven historical participation during the qualification period

Area 3, 4 and 5 Trap Fishery Eligibility Requirements

- Eligibility is based on permit history
- Application period April 28-December 31, 2003
- Required proof of:
 - Current Federal lobster permit
 - Fishing history of Federal permit during a single year within March 25, 1991 - September 1, 1999
 - 200 traps fished over a two consecutive months in chosen qualifying year
 - Total number of traps fished in each area
 - Minimum of 25,000 lbs. of lobster landed during qualifying year (Area 3 only)

Eligibility Determinations by Area, by State

	APPROVED*			DENIED		
	A3	A4	A5	A3	A4	A5
CT	4	4		1	1	
DE	1		9	1		1
FL						
MA	42			12	1	
MD			7			
ME	14	1		16	2	2
NH	9					
NJ	11	45	22	3	8	4
NY	5	22		2	4	1
PA						
RI	47	3		7	2	2
VA						
TOTAL	133	75	38	42	18	10

* A single application may have more than one area represented as approved or denied, if multiple areas were requested in the application.

300 applications received, 273 processed (~91%), 27 pending final decision.

Cumulative Trap Allocations by Area

Initial Approved Allocations vs. 2006 Maximum

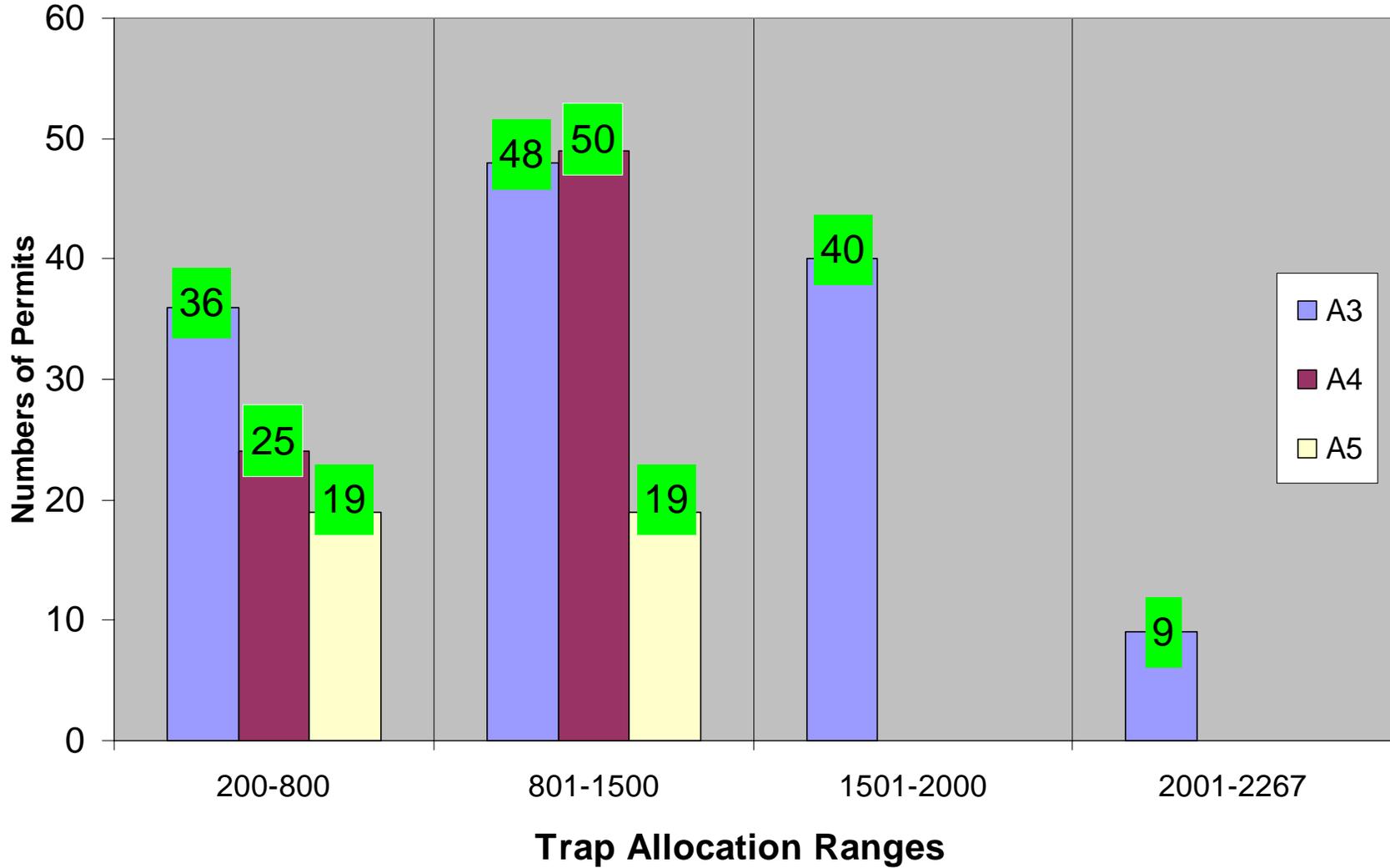
LCMA	Total # Traps Proven in Applications*	Trap Ceiling in 2006 (maximum allowable traps)**
Area 3	~ 204,000	~165,000
Area 4	~80,000	~77,000
Area 5	~33,000	~30,000

*total number of traps allocated based on demonstrated fishing history w/ 91% of applications fully reviewed.

**considers 2006 reductions for Area 3 and 1,440 trap cap for Areas 4 and 5 5

Trap Allocation Ranges for Eligible Federal Lobster Permits

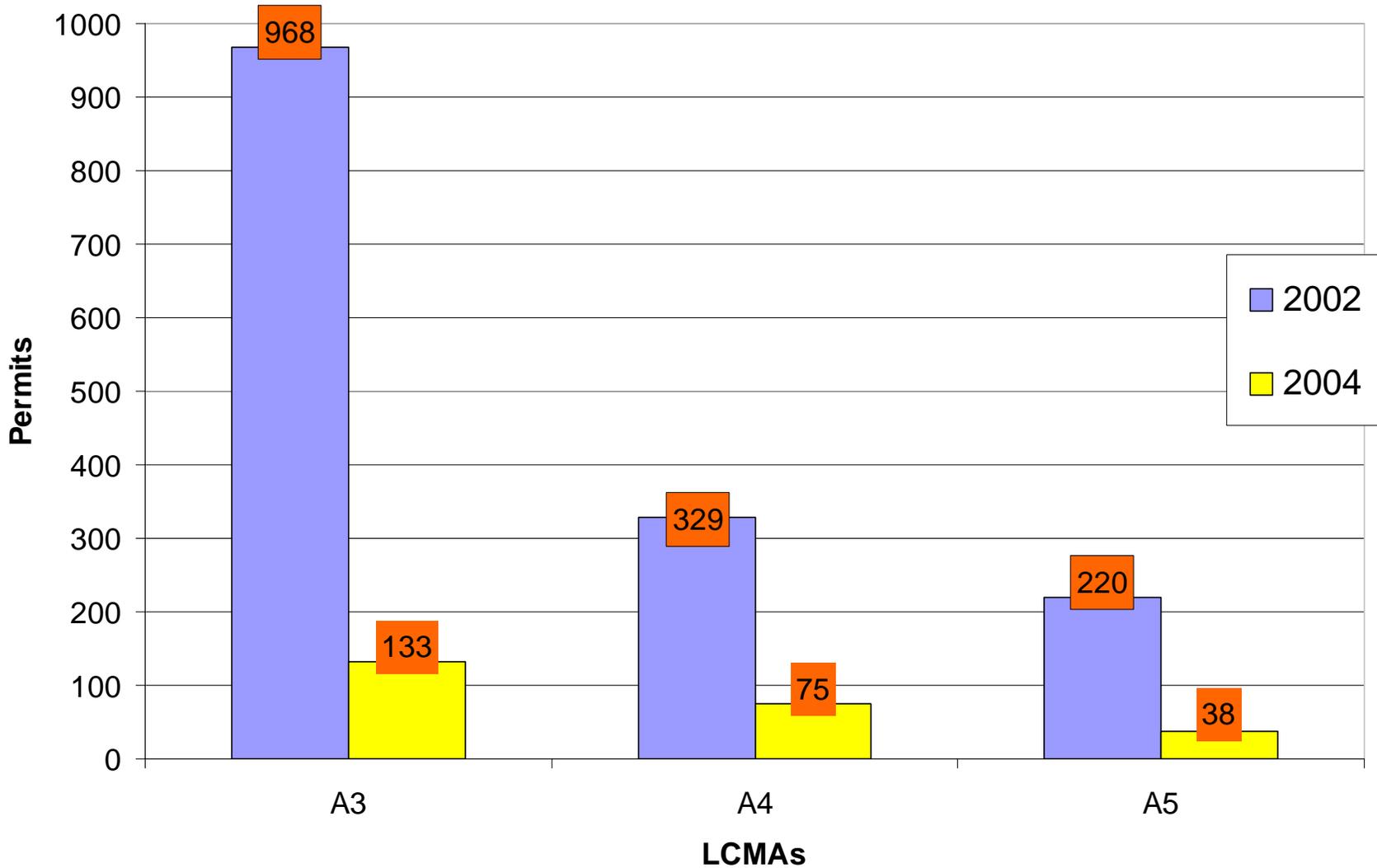
Considers Area 3 Caps and Reductions Through 2006
and 1,440 Trap Cap in Areas 4 and 5



Remember, the goal was to cap and control trap fishing effort in Areas 3, 4 and 5.

So, how does current effort compare with prior effort?

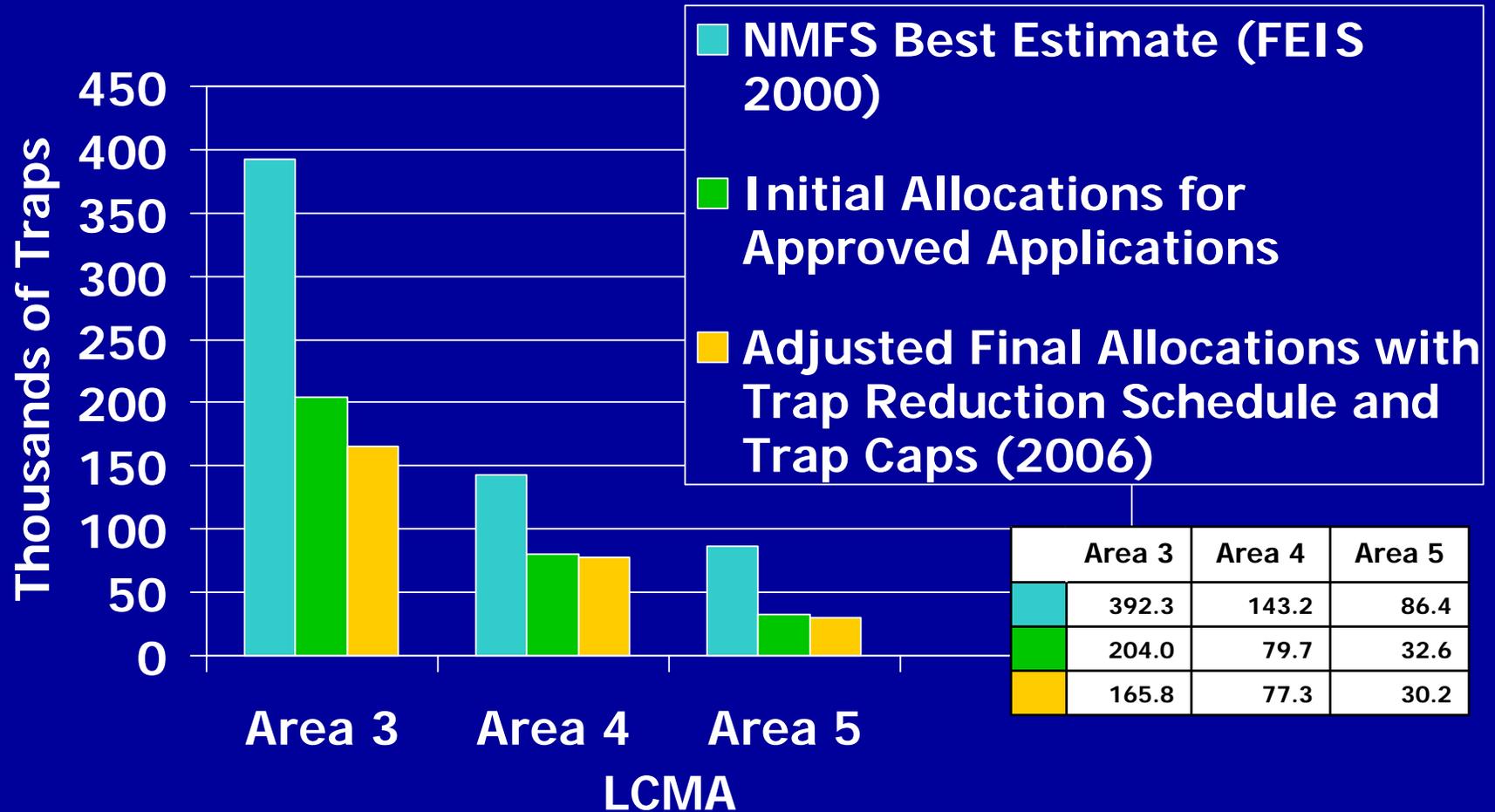
2002* and 2004
Authorized Permits, Areas 3, 4 and 5**



*In 2002, Federal vessels could select any and all LCMAs.

**Total number of qualified permits by area at the end of the 2004 fishing year (April 30, 2005).

Number of Traps by Area: Before, During and After Program Implementation



Key Accomplishments

Lobster Trap Area Eligibility Program

- Controlled effort
 - limited entry, capped number of vessels
 - capped overall number of traps by area
- Eliminated latent effort and prevented future effort shifts and trap escalation
- Established a firm baseline of effort to facilitate future management decisions

Questions

Appendix

Summary of Eligibility Decisions

- 300 applications received
 - Final Determination made on 273 applications (~91% complete)
 - 27 applications pending final determination
- Area 3: 133 approved; 42 denied
- Area 4: 75 approved; 18 denied
- Area 5: 38 approved; 10 denied
- 5 appeals, 3 granted eligibility, 2 pending

Number and Status of Applications by State

	TOTAL # APPLICATIONS	TOTAL REVIEWED	% COMPLETE
CT	8	7	87.50%
DE	10	10	100.00%
FL	2	0	0.00%
MA	59	55	93.00%
MD	7	7	100.00%
ME	35	31	88.57%
NH	9	9	100.00%
NJ	76	70	92.10%
NY	31	27	87.10%
PA	1	0	0.00%
RI	60	57	95.00%
VA	2	0	0.00%
TOTAL	300	273	91.00%

Cumulative Allocations by Area and State

Initial vs. 2005 vs. 2006

LOBSTER TRAP ALLOCATIONS BY STATE/AREA

	ALLOCATED* (UNADJUSTED)			A3 TRAP REDUCTION & A4, A5 TRAP CAP - 2005**			A3 TRAP REDUCTION & A4, A5 TRAP CAP - 2006**		
	A3	A4	A5	A3	A4	A5	A3	A4	A5
	CT	4450	3325	0	4123	3325	0	4082	3325
DE	300		8090	300		8090	300		8090
MA	57964			50541			49718		
MD			6285			5580			5580
ME	10743	1250		10195	1250		10140	1250	
NH	17803			14444			14126		
NJ	17081	54065	18214	14462	52064	16534	14202	52064	16534
NY	7020	18763		6369	18543		6301	18543	
RI	88649	2284		68585	2124		66928	2124	
TOTAL	204010	79687	32589	169019	77306	30204	165797	77306	30204

*The total number of traps allocated based on demonstrated fishing history.

** Considers 2005 and 2006 Area 3 reductions and 1,440 trap cap for Areas 4 and 5.