

**ATLANTIC STATES MARINE FISHERIES COMMISSION
 AMERICAN LOBSTER MANAGEMENT BOARD MEETING
 Providence Biltmore Hotel
 Providence, Rhode Island
 February 22, 1999**

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Lobster Board Motions

Move that the board postpone further development of the area management provisions related to egg production until the peer review is completed; provided that the board will approve that component of the addendum by December 31, 1999; and continue as scheduled for the other provisions of addendum 1.

Motion by Mr. Coates, seconded by Sen. Goldthwait. Motion modified by unanimous consent.
Motion is approved 5 in favor, 2 opposed, 2 null votes.

Move that the Board not include a provision to allow the possibility of trap limits by individual.

Motion by Mr. Coates, seconded by Sen. Goldthwait.
Motion passed by a vote of 6-3.

Move that the Board approve Addendum 1 as modified for public hearing.

Motion by Mr. Freeman, seconded by Mr. Coates.
Motion passed by vote of 8-0, with one abstention.

Move that the Lobster Management Board recommend to the ISFMP Policy Board that Amendment 3 be amended to change provision 3.1.7 (mobile gear possession limits) from mandatory status to discretionary status so that states may develop alternatives more suited to their respective industries.

Motion made by Mr. Gibson, second by Mr. Freeman.
Motion brought up for consideration, having been postponed until this meeting by the Board on January 13, 1999.

Motion passed by vote of 4-3, with one null vote and one abstention.

MONDAY MORNING SESSION

The Monday morning session of the meeting of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Bacchante Room of the Providence Biltmore Hotel, Providence, Rhode Island, February 22, 1999, and was called to order at 8:10 o'clock a.m. by Chairman Ernest E. Beckwith, Jr.

CHAIRMAN ERNEST E. BECKWITH, JR: We're missing a few states, but I understand they're on their way and they should be here shortly. This is the Lobster Management Board meeting, and my name is Ernie Beckwith. And the first thing we're going to do is have Amy call the roll.

(Whereupon, the roll call was taken by Ms. Amy Schick.)

MS. AMY SCHICK: We have a quorum, Mr. Chairman.

CHAIRMAN BECKWITH: Okay. I'm sure you haven't forgotten, but we will operate by the new quorum voting rules today. You can vote Yea, Nay or Null.

You should have a copy of the agenda in your folder in front of you, and I'd like to make a few changes to the agenda before I ask for any other changes. What I'd like to do is move Item Number 12, Comments on NMFS Proposed Rules, move that up after Number 4, which is Public Comment.

And John Nelson called me last week about an issue with the availability of the vents, and we'll put that on as other business.

Are there any other changes? Okay. Seeing none, we will proceed.

You all should have copies of the minutes for the last meeting in your package. I'm sure you haven't had a chance to read them. So what I would suggest is we just defer approval of those until the next meeting.

And that brings us to the Comments on Proposed NMFS Rule. And I think the way to start this off is I'm going to ask Amy to go over some draft comments that the Commission has put together. There should be a copy in your folders also of a draft letter that the Commission has put together.

Amy, if you would go over that and just point out some of the major points, then we can open it up to comment from other states.

COMMENTS ON NMFS PROPOSED RULE

MS. SCHICK: I know most people probably haven't had a chance to read through these draft comments yet, and so what I'm going to do is just briefly go over what the content of the letter is. And I encourage people to make any comments that they do have, and you can fax them in to me at the Commission or grab me after the meeting, and I'll put those together. The deadline for comments is the 26th, which is this Friday, so I'll need comments in by Wednesday in order to prepare that.

In the letter, the first issue is the trap limits and default measures. Amendment 3 sets up a framework for management of the lobster resource, and in that framework is area management. Right now we have default trap limits set up for each area in case the LCMTs didn't come forward with a proposal for that area. And in the federal plan, they propose implementing the default trap measures, starting May 1st, 1999.

The recommendation here is that rather than implementing the default measures that are contained in Amendment 3, that we take the recommendations of the LCMTs as they go forward through the addendum process and implement those, rather than the default measures.

The second issue is implementation of the trap tag program. Amendment 3, sets up a deadline of January 1st, 1999 to implement a trap tag program. The Board passed a motion back in October to include in the addendum a delayed implementation of January 1st, 2000 in order to develop a cooperative trap tag program. In the proposed rule, they propose to implement a trap tag program May 1st, 1999. So the Commission's recommendation is that the cooperative trap tag program be implemented at the same time, which would be January 1st, 2000.

The third issue is area designation. In the proposed rule, NMFS set up an area designation system similar to Amendment 3. However with Area 3, that area designation would be -- I don't want to use the wrong words. If you elected to fish in Area 3, then you could transfer into the nearshore waters once, but then you couldn't get back out to fish in Area 3.

The Commission recommends that area designation should be adopted according to Amendment 3, where a lobsterman would have the ability to designate whichever areas they chose to fish and continue to fish by the most restrictive measures of all the areas, but they would still have the freedom to choose all of those areas.

The Area 2-3 overlap is another issue. In the Commission plan, fishermen who fish in Area 2-3 overlap can either abide by Area 2 rules or Area 3 rules, depending on what area they have designated. In the federal plan, the Area 2-3 overlap, lobstermen fishing in that area would have to abide by the most restrictive of either Area 2 or Area 3 rules. And again, the recommendation is to adopt the concept of the Area 2-3 overlap in Amendment 3.

And throughout the comments, the strongest element that ties through is that the Commission would like to see federal implementation at the same time as the states implement measures under Amendment 3 and Addendum 1, which will be the topic of discussion today, so that the measures put in place are compatible and are implemented along the same time lines.

That's a general summary of the letter. If people have comments, we can take them now.

MR. PAT WHITE: A question, Amy. On the area designation -- and I was just looking and I can't find it in Amendment 3, but one of the specifications we had earlier was

there'd be an annual designation that people couldn't do it on a seasonal basis. And I can't remember. Is that true in Amendment 3?

MS. SCHICK: It is true, and that will be clarified as well in the trap tag system; that will be a part of the trap tag system.

CHAIRMAN BECKWITH: Okay. Any other comments or questions? I'll take comments from the Board first, and then we'll go to the audience. Actually, what I did -- I'm sorry. What I did was I skipped over Agenda Item Number 4, which is Public Comment. So let me -- I'll tell you what I'll do. Let me finish taking comments from the Board, and then I'll go directly to the audience for public comment. Sorry about that.

I see John, and I think Bruce had his hand up first.

MR. BRUCE L. FREEMAN: Thank you. Amy, just a clarification for the area designation. We had sent our comments to you, and I just need clarification as to -- I'm trying to read through this, listen to you and read at the same time. But just for clarification, what we're proposing in this draft letter is for the ability of fishermen to fish the inshore areas, which is now the Fishery Service proposal, and the offshore area, if a fisherman so desires. That would be Area 3.

In other words, the present regulation allows a fisherman to fish in Areas 1, 2, 4, 5, 6, but they can't fish in those areas and Area 3. This clarification is a comment to the Service that would allow the fishermen to fish in the inshore areas as well as the offshore area as they desire. And this historically has been what has occurred in the fishery, at least in the Middle-Atlantic area.

Okay. Now, again, there may be situations different in the Northern Area, and that's an issue that the North needs to be comfortable with. But so far as the Mid-Atlantic is concerned, this proposed rule by the Fishery Service would greatly impact our traditional fishery. And in fact, it really wouldn't decrease any landings over and above what's occurring at the present time. Okay. Thank you. That's an affirmative.

MS. SCHICK: And Bruce, I can also include a little bit more of that background in the section about the historic participation in the southern part of the range.

MR. FREEMAN: One other thing, Ernie, if I may. Tied in with that was the proposal by the Conservation Management Teams to restrict the traps, not to the number that was proposed by NMFS but to the present number, which actually would be more conservative, in our estimation. And there's a system that has been developed and supported by the industry in order to do that. And we feel that's a very reasonable way.

I mean, what we're doing essentially is capping the traps at what they are now, and there's a system to determine what those numbers are. These simply aren't arbitrary. And so long as that's implemented, we believe we'll have much more of a reduction on the traps than would the Fishery Service's present proposal, and we're asking them to consider the Commission's proposal. So they're really tied together.

MS. SCHICK: Okay.

MR. FREEMAN: All right. Thank you.

MS. SCHICK: Thanks.

CHAIRMAN BECKWITH: John, you had a comment?

MR. JOHN NELSON: Yes. Thank you, Ernie. When I was going through the proposed rules, one of the areas that seemed to be -- they had made great effort at trying to work out some type of system for the area designation. And, you know, I applaud them for certainly coming up with certain ideas that I certainly had not thought of and might be very workable.

But I think, Ernie, we have still to debate -- and we'll probably get to it today -- various measures, recommendations by the various LCMTs for how participation in certain areas would be recommended. And I think whatever decision we come out with today should be one of the recommendations to the Service that if we're asking them to abide by what the LCMTs have come up with and we have agreed to in other components of the plan, then we ought to be doing that in the area designation approach, too.

And the reason I say that is because we may want to -- well, certainly we're going to have the discussion on historic participation in various areas, and I think we want to make sure that whatever the outcome of that debate is is one of the recommendations that goes to the Service for their consideration.

CHAIRMAN BECKWITH: Okay. Any other comments from the Board?

As Amy said, the due date is this Friday, so if you have any comments -- sorry, Charlie, you had your hand up. Go ahead.

MR. CHARLES BERGMANN: Well, I'm not here for the Board, but I do have a comment or a question. In the proposed rule -- and I don't have it here in front of me, but under Section C, Item Number 7 in the prohibitions, it indicates that if you were a permitted, federally permitted vessel in the lobster fishery, if you have a lobster permit, then you can have no other gear aboard your vessel other than a trap that's specified under the definition of a lobster trap. And somehow I think that needs to be addressed.

CHAIRMAN BECKWITH: Okay. Bruce.

MR. FREEMAN: If I may add to that. These were included in New Jersey's comments, which we had sent to the Commission. It seems to concern primarily the states of New Jersey to Virginia. It's really an issue dealing with the Mid-Atlantic area.

Just a little background. Because of this interest, the Mid-Atlantic Council had set up a special committee which includes the states of New Jersey through Maryland, plus Charlie Bergmann, as a special committee to come up with a position that the Council will put forward to the Fisheries Service. That's the reason Charlie's here in addition to Bill Outten and the members from our Southern Area.

But this issue primarily deals with the joint fishery, the combined fishery of sea bass and lobster. And in our areas, these are fished simultaneously in that a fisherman will go out with a trap and simply make some minor modifications and either be fishing for sea bass or lobster, depending on the week, really.

And the difficulty is that he may have a sea bass pot, which is rigged as a sea bass pot this week, and next week the same pot is rigged as a lobster pot. And the problem with the definition, he probably will have a lobster tag on that pot, but it won't be fished as a lobster pot, because he just makes a small modification and it's a sea bass pot.

It does require some minor modifications of the pot, but the way the definition is written, he could be implicated or actually written up with a notice of violation for having gear aboard and lobster aboard, and the gear not being lobster gear. It's of grave concern to those fishermen. It seems to be a minor definition in the plan, but in fact it will have considerable impact.

And again, to our knowledge, it really only applies in New Jersey -- well, I won't say New Jersey -- New York, New Jersey, Delaware, Maryland and Virginia. There are no pots, to our knowledge, of fishermen in North Carolina. The only catch made there is incidental otter trawl catches. But there's no fishermen presently fishing pots out of North Carolina. But from Chincoteague northward to Montauk, that does occur, that particular fishery.

And we would ask that you would go back and look at our explanation of that problem and include that in this letter, because it does have concern to us.

MS. SCHICK: I can do that.

MR. WHITE: Could I just ask Bruce a question? So you're referring still to within a trap fishery, not into other types of fisheries?

MR. FREEMAN: Well, it's true, Pat, but we also had -- we presently have a fishery for other types of fish, and we incidentally catch lobster. For example, we have a gill-net fishery. If you catch more than six lobsters at a set of a net -- and these nets may be quite long in length -- it's very unusual. Our state regulations would allow you to keep up to six lobster. The federal regulations wouldn't. If you have a net, you can't have lobster, period. And we haven't really addressed that.

But in this particular instance, this lobster-sea bass fishery is a combined fishery. They've fished that way since probably the turn of the century, if not before. And I've spoken to Bob Ross about this and Harry, and it's really the way the regulations are interpreted. And as Harry and Bob have indicated, this regulation has been in place, and there haven't been any violations.

But our concern in the future is someone interprets this differently, the Coast Guard, for example. There's a guy out there's been doing this for ten years, and now he's got a violation, could lose his lobster permit. We're just concerned.

There are differences in the pot, and there's also differences in the escape vent. The escape vent for sea bass is somewhat smaller than for lobster. But that's really about the only difference in the pot. Now, the fishermen, you know, don't want to make these changes. But our concern is these pots would be the same, and they probably would have tags for the lobster, but they may not fished for lobster that day. But they're not going to rip the tags off and then next week put them back on. That's the

problem.

And it probably only affects a dozen boats, 15 boats. It doesn't seem like much, but to those fishermen, that's their livelihood.

MR. WHITE: I don't have any problem with that, but I was just wondering how much further you were going with that.

MR. FREEMAN: That's it. That's as far as we want to go.

CHAIRMAN BECKWITH: I had Bob Smith first, and then we'll take you, Charlie.

MR. BOB SMITH: We to a degree have the same problem in Rhode Island, and we have had the problem ever since the Mid-Atlantic Council came up with three different size vents, one for scup, one for sea bass, and we have one for lobsters in New England. All those vents have to somehow be used in the same trap. And we've had a concern about that right along. And that, in our opinion, needs to be addressed.

It's a pretty confusing issue, and if we were stopped with -- you can understand that a sea bass escape vent is much smaller than a lobster vent being used by the same trap. How do you do that? And so that needs to be addressed for those people.

Another issue that I think goes all the way to Maine is as we go up with the escape vent for lobsters in size, what about the crab fishery? How do you -- that crab fishery is done with lobster pots for the most part, at least off of Rhode Island it is. And I'm talking about the Jonah crab fishery. And how are we going to address that? As you go up with the size of the vent, you're not going to be able to capture the crabs. They're going to walk right through.

So whether anybody's interested in that or not, we are, and if it's on a lobster trap and you have lobsters, is that the issue?

MR. WHITE: Yes, because I thought the round vent had been increased to two and seven-sixteenths, the round crab vent had been increased to allow you and everybody to do that. Am I missing --

MR. SMITH: As long as that's understood that way, that it's still legal to have lobsters with that vent, I don't have a problem with it.

MR. WHITE: Well, it is in Amendment 3, I think.

CHAIRMAN BECKWITH: Charlie.

MR. BERGMANN: Thank you, Ernie. Pat, when I brought up the prohibition, I wasn't restricting it to black sea bass pots. I think you'll find that the scup pots have a problem with it. The mobile gear has a problem with it as well. I don't know what the solution would be, but, I mean, it says right out in front that if you have a permit -- nothing about lobsters on board, but if you have a permit, you can't have any other fishing gear. And, for some reason, that just doesn't go well.

CHAIRMAN BECKWITH: Okay. Any other comments from Board members on the proposed rules? All right. As Amy said, Friday is the deadline to get the comments to NMFS, so you would plan on faxing something to them on Friday? Okay. So if you have any other written comments you want to be included in

the Commission's letter, please get them to Amy prior to Friday so she can work it up.

And I certainly encourage any state or anyone here also to write their own comments directly to the National Marine Fisheries Service.

Okay. I skipped over comments from the public, so let's do that now. Anyone who'd like to make a comment on anything at this time? It doesn't have to be on the NMFS rules? Would you stand up and state your name please?

PUBLIC COMMENT

MR. LARRY KNAPP: My name's Larry Knapp from Maine. The people I'm representing would like to -- they've been trying to get a social impact study done on the vent in other areas of your plan. They're real worried about how that's going to affect them. And they have been unable to get them. I don't know where they are, but I'm sure they've been done.

And the other concern is a restriction from Area 1 to Area 3 lobstering. If you're in Area 1, and you venture out into Area 3, the way they've read it, they're afraid they can't fish back in Area 1 again. And they're afraid that that's a violation of the Sherman Anti-Trust Law as amended in 1890, because it would create a monopoly for offshore boats.

And as far as history goes, Area 1 boats fished on Cox's Ledge, which is in Area 3, I believe, before the offshore lobster fishery ever began. So I don't know what angle you're looking at it, but to us it feels wrong no matter how you look at it.

CHAIRMAN BECKWITH: Okay. Thank you.

Bob.

MR. BOB NUDD: Bob Nudd from New Hampshire, and I'd like to make a comment on the Federal Lobster Plan, Section 697.21, Gear Configuration. Section B is Gear Configuration, and Number 2, which requires radar reflectors on both ends of a trawl and a pennant on one end, I would like to propose that that particular gear configuration be seaward of the contiguous zone line rather than the boundary of the EEZ.

I believe, and I'm not positive about this, but I believe in Amendment 5 that that's the way Amendment 5 is written. That gear that's in the EEZ in the nearshore area, between the EEZ and the contiguous zone line, normally is the same gear that's fished inshore during the summer. It's moved there. There's a very high concentration in most areas of that gear.

To re-rig the gear from the normal configuration now with a lobster trap buoy on each end to put high-flyers, which would be required in order to support the radar reflectors, would require anchors, much heavier buoy lines, which is a problem with the whale problem that we have. It just exacerbates the whole thing.

And the other big problem with it is shipping traffic with a high concentration of gear in those areas inside the contiguous zone, I just can't imagine, at least where I'm from around the Isle of Shoals or even Boston Harbor, whatever, a tanker coming through at night and looking at all those radar reflectors, you know, thousands of them in one spot, it doesn't seem realistic at

all.

Thank you.

CHAIRMAN BECKWITH: Thank you. Pat.

MR. WHITE: Bob, what do you mean by a contiguous line.

MR. NUDD: On the chart about 12 miles outside --

MR. WHITE: Okay.

MR. NUDD: -- there's a line on the chart that says, contiguous zone, and that line, seaward of that line, I believe, is where the regulation is right now that that type of gear configuration is required. It's about 12 miles from shore all along the coast.

CHAIRMAN BECKWITH: Yes, sir.

MR. DAVID COUSINS: Hello. My name is David Cousins from South Thomaston, Maine, and I'd like to make a comment or offer up a comment on the proposal that you people, I believe, are going to look at later on today on looking at the dragging, mobile gear issue of easing the restrictions in Rhode Island to be able to target lobsters.

At least from Maine, and I think I speak for New Hampshire and Massachusetts as well, we are not in favor of that. We, you know, feel that we made a concession to allow a bycatch of lobsters, and we felt that it was big enough as it is, and we do not want to see any easing of that restriction or any increase in mobile gear effort.

We are deemed overfished, which we are, and we're facing all these proposals in the trap fishery. We don't want to see an increase in activity in the mobile gear issue. Thank you.

CHAIRMAN BECKWITH: Thank you.

Any other comments from the public? Yes, sir.

MR. MARK MAROSE: My name is Mark Marose. I'm a lobsterman from Montauk, New York. I'm also a co-chair for the LCMT Area 4. And this new proposed federal rule is just totally arbitrary to our LCMT management proposals. This arbitrary limit of a thousand pots has no biological significance as far as a management tool, whereas our gauge increases and a maximum of five-inch carapace length on female lobsters has a lot of significance.

Also, we have had a historical black sea bass-lobster fishery off Long Island for a long time, where we fish large amounts of traps, long sets, where we'll leave a trap 10-12 nights. We can't conceivably go with a thousand-pot limit and continue this historical fishery. There's times that we, like was mentioned earlier, we use these traps mainly for black sea bass for a good portion of the season, and then a portion of the season they'll be used as a lobster trap.

And we have fishermen support through our other management tools, which Amendment 3 is supposed to be area-specific management, and this arbitrary thousand-pot limit is not area-specific management. It's just, you know, a bad proposal that we won't buy into, where we will buy into Amendment 3 and our area-specific management tools to meet the egg

production scheduling.

CHAIRMAN BECKWITH: Okay. Thank you.

Any other comments from the public before we come back to the Board?

MR. ROY CAMPANELLI: This is Roy Campanelli. Myself and my brother own three offshore lobster boats. For years we have been in full agreement with the National Marine Fisheries Service that a reduction in effort is needed in the lobster industry. However, we oppose the National Marine Fisheries Service proposed rule which puts the burden of rebuilding the resource and effort reduction on the shoulders of the few large vessels that traditionally fish over 2,000 traps, and at the same time allows new effort into the fishery.

For this reason, we endorse the industry Area 3 LCMT history-based plan that's before the ASMFC. It meets the ten percent egg production goal and regulates the Area 3 fishermen more equitably and without the possibility of an increase in effort. It leaves intact the lobster industry as it is now and truly reduces the effort on the resource.

The 2,000-trap cap allocation with further reductions does not take into consideration the diverse group of fishing styles, operations or the size of boats. You have vessels in the industry fishing in Area 3 from 30 feet to 36 feet. One size trap allocation does not fit all boats. The 2,000-trap allocation with further reduction places an unfair burden on the largest vessels.

All we ask is an allocation that all vessels can live with, an allocation that is fair and equitable, and the history-based Area 3 LCMT plan does just that. We see no need to take a viable offshore lobster industry, turn it upside-down, make people go out of business or perhaps buy back their boats.

We believe it is possible to identify the recent participants in Area 3 and have them take responsible, reasonable trap reductions along with gauge increases to reduce the effort to meet the federal regulations. Thank you.

MR. FREEMAN: Ernie, could I get a clarification from that last speaker?

CHAIRMAN BECKWITH: Okay, sure.

MR. FREEMAN: I understood your statement to indicate that vessels fishing offshore, the size of those vessels would be 30 to 36 feet?

MR. CAMPANELLI: No; 30 to 96 feet. I'm sorry.

MR. FREEMAN: Okay. All right. Thank you.

MR. JOE BRENNAN: Joe Brennan from Belford Seafood Co-Op. I don't think fishermen would have so much opposition to federal management plans, ASMFC plans -- I don't think they'd have the opposition to past feelings and discontent that they've had if you gentlemen had any real scientific information to go by.

You come to the table, you've never been on the ocean. If you have, it was with a fishing pole in your hand. You come to the table, and you tell us how we're going to run our industry. We've been running the commercial fishing industry for probably

well over a hundred years, and we've done very well at it. We were able to stay in business, make a living for our families, put fish and lobster on the market. And now all you've done in the last ten years is put more boats out of business and family-run docks down the tubes.

We don't agree with any of your plans because they don't have any scientific information to back them up. They're proving that in a lot of different fisheries now, and I think that's going to be the up-and-coming theme of what the commercial fishermen are going to do. They're going to prove your science that you don't have is wrong.

And that's the only way we're going to be able to stay in business, because we're going to be able to get the plan the way it should be written for the fishermen, and not the way the regulators want to write the plan to suit themselves for what they think is right.

Vent increase for the inshore fishery off of New Jersey is very much wrong. We had one of our fishermen take 200 legal lobster towards the end of last year, and 70 of them just fell right through the new vent size. Lobster size -- you're doing the same thing with lobster that the federal management plan did with fluke. The fluke boat now coming in with a trip of fluke has two-thirds to one-third large fluke. This is not what the markets want. They want the medium-size fish.

The lobster -- you keep going with these vent increases, the gauge increases, the only thing that's going to be on a restaurant table is a pound and a half to a pound and three-quarter lobster. This is also wrong.

Management has really gone too far. It's to the point everybody is putting their boats up for sale. The little guy cannot survive. The man that's fishing with a thousand pots or 800 pots that can survive today, he'd have to boost up to 1200 pots to be able to stay in the business. It's something that's real that somehow we can't get this through your head, these that are real issues out there.

The vent size that you're using today is certainly fine for what you have. You're talking about egg production. You don't know, you have no idea the amount of lobster we have out there, the egg production today. You just can't pick a figure out of the sky and say, "This is what it is, so we increase the gauge size, and we increase the vent size; this is what we'll end up with." That's not fair to do to the industry.

The only way you're managing the industry is by driving the fishermen out of business. The pot level, the pot quantity is just too small. You want reductions. You're going to start inshore fishery with a thousand pots and reduce it next year to 800 pots. How are the men supposed to make a living? They have a big investment here, the boats, the pots, the ropes. This is a large investment. This is their whole life.

And you people take it away with a vote at the table. This is not going to help the industry. This is not going to help the fishermen. This is not going to help the lobster production. I think you men have to take a hard look at what's really going on out there, what these men have put into it.

I've had 25 years out there fishing. I don't fish today for lobster, but I have my boat, I have my licenses and I don't want to lose them. But these men, you ought to make a trip with them and you'll see what they go through, the hardships that are there, and you'd think twice about making the reductions or the increase, reduction in pot size, the increase in vent size. You wouldn't be going through all that.

You have to take a serious look at what they're talking about. Thank you.

CHAIRMAN BECKWITH: Any other comments from the public? Yes, sir.

MR. MAROSE: My name's Mark Marose again. I forgot one very important thing about opposition from

Area 4 to the new federal proposed rule. It's that in our LCMT plan, historical participation plays a big part as far as a management tool. And I can't speak for New Jersey, but I can speak for New York. And in New York State there's right now no more than 12 men with a federal license fishing Area 4 that through historical participation would be able to continue to fish lobsters with X amount of traps in the federal zone.

With the new federal plan, there's -- and again, I don't know the exact number because it conflicts, but there's around a hundred permits, federal licensed lobster permits. Most of these permits being late-in permits, they haven't been used, they won't be used unless, you know, the permit is a valuable commodity to sell. And in no way is this a biological management tool.

Our plan, the LCMT plan, would put approximately 18,000 trips in the federal zone and no more. The federal plan could possibly put legally a hundred thousand traps in the federal zone. So I don't see how this is a management tool or -- anybody, you know, that's looking at this could see that it could actually escalate the effort.

So with our LCMT plan of our gauge increases and our five-inch maximum carapace size in females, this is a biologically sound plan. This plan brings egg production to approximately 13.7 percent. Their plan brings egg production to nowhere, because no one knows where it would build. It could escalate.

There's a lot of fisheries that are teetering right now. There's a lot of guys that hold federal permits that are in other fisheries that are just waiting to see how this goes and jump in on the lobster bandwagon, because they have no other avenue to go.

And we're very opposed to this new proposed federal rule. And just out of the small community of Montauk, we have gotten, between Montauk and New York City on the island, with very limited time -- I mean, they only gave us originally two weeks to speak up against this new proposal -- we have over 2,000 signatures of a petition that we've been circulating opposing this plan and asking the Secretary of Commerce to give the Atlantic States Marine Fisheries Commission the necessary time needed to finalize the LCMT plans, which I think will have a lot more fishermen support and will do the most for the industry.

CHAIRMAN BECKWITH: All right. Thank you.

Any other comments from the public before we come back to the Board? Okay.

Bill, you asked to comment, and then John just raised his hand. We'll take them in that order.

MR. WILLIAM ADLER: I just wanted to emphasize Bob Nudd's concern with the federal wording about the buoy marking system. I noticed that, too. I remember when that buoy marking system was put in, and it was supported by everyone because they said, "That's fine as long as you do not bring it into the EEZ-state line, because it would be a hazard to navigation." At the time, it was also -- it would be very expensive and also it would cause a lot of problems with boating interests, marine interests. And now, of course, the whale thing has made that even worse.

So I want to emphasize that particular point on that buoy marking system that it needs to remain out where it was originally set and not affect the nearshore area fishermen. And I think that's a very important thing, because it could become a nightmare on many fronts if it's not changed, that wording isn't changed in the federal plan.

So I just wanted to emphasize that point that Bob brought up. The directional patterns as well, because every area sets directional patterns in a certain way for a reason. And to have everybody set in the same direction in the world won't work. So, to leave that up to the fishermen to determine, rather than set it in a federal statute of some kind.

So I think those are very important points about the buoy system. Thank you.

CHAIRMAN BECKWITH: John.

MR. JOHN MASON: Thank you, Mr. Chairman. I apologize for being late, so this may have been covered already. But I'm here today as the chairman of the Mid-Atlantic Fishery Management Council's Lobster Subcommittee, so I'm not sure how you want to address the concerns of the Council, whether it's under public comment or as participating in the discussion. But we have a subcommittee here, myself, Bruce Freeman, Charlie Bergman, and I haven't seen Bill Outten, but --

CHAIRMAN BECKWITH: Bill's here. Both Charlie and Bruce -- I don't know if Bill did, but we've gotten some comments from them already, and you're certainly free to speak for the committee if you would so choose to at this time.

MR. MASON: No. But I hope that we'll be able to participate when you get to the item about discussing the official comments, because the Council would like to support the Commission's letter. And the task that's been given to the subcommittee -- and again, I guess, if that's been explained, that I won't repeat it.

CHAIRMAN BECKWITH: No. We are talking about official comments right now. This is the appropriate time to do that. We've already gone around the Board, and the Board has made comments. Now we're in the audience. If you want to say something now, go ahead.

MR. MASON: If I may, I guess -- Charlie, has your issue been discussed about the blanket prohibition?

MR. BERGMANN: It's been brought up, John.

MR. MASON: Okay. I think that's our basic concern.

CHAIRMAN BECKWITH: Bob.

MR. SMITH: I'd just like to echo what Bill Adler has said about the marking requirements. Back when I was on the New England Council, we dealt with this issue extensively, and at least in Area 2 we came up with the solution of 25 miles before you go into that type of regulation for the same reasons that everyone else has stated: There's an enormous amount of gear until you get outside of 25 miles, and it's a shipping lane plus a lot of recreational traffic. And from that standpoint, we at that time came up with 25 miles, and we would still support that.

CHAIRMAN BECKWITH: Okay. Charlie.

MR. BERGMANN: I have a question of Bill. This area 25 miles, is that anywhere near the Nantucket lightship area?

MR. SMITH: No, no. It only goes out as far as Cox's Ledge, roughly Cox's Ledge.

MR. BERGMANN: And the only reason I was bringing that up is there was discussion at the last gear conflict meeting about conflicts in that area.

MR. SMITH: No. Where -- the gear conflict area for the most part is outside of what we're talking about. There is a small portion of it inside that I believe is and has been worked on by the Gear Conflict Committee that met in New Bedford several times and have solved most of that issue.

MR. BERGMANN: This was a new area. This will be a new area further inshore.

CHAIRMAN BECKWITH: George.

MR. GEORGE D. LAPOINTE: Maine has a draft letter. We'll be signing it in the next couple of days. And on the gear-marking provisions specifically, we're recommending that -- and this may be something the Commission wants to consider -- recommending that we use the LCMTs to tailor that to the individual areas, so that the gear-marking requirements fit the needs of the fishermen and the fishery.

CHAIRMAN BECKWITH: Okay. Any other comments on the proposed rules before we move on to the next item? Jack.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: I just want to make sure that we know what we're doing. As I understand it, then, Mr. Chairman, the Board is generally comfortable with the draft language the staff brought to the meeting. We're going to revise it to meet the comments that we've heard around the table today, add to it and send it out by the end of the week under the Board's name.

CHAIRMAN BECKWITH: Yes, that's what I'm hearing.

EXECUTIVE DIRECTOR DUNNIGAN: And I don't think the Board needs to vote on that. There seems to be a pretty good consensus to proceed that way.

CHAIRMAN BECKWITH: John.

MR. MASON: Ernie, does that then mean that the concern,

the specific concern that the Mid-Atlantic Council has about the issue of the general prohibition is going to be included as a point in the letter?

CHAIRMAN BECKWITH: Well, that was my understanding. I'll let the executive director speak to that, if you like.

EXECUTIVE DIRECTOR DUNNIGAN: I'm just looking for clarification. We'll include that if that's what the Board wants, and it seems to be so.

MR. LAPOINTE: John, has the Mid-Atlantic Council committee come up with a proposed solution to the issue? I mean, I think that would be of interest to other members as well.

MR. MASON: That's why I asked Mr. Bergmann if the issue had been discussed before I got here.

MR. LAPOINTE: I think the issue was raised, but I don't think that -- Charlie, did you propose a solution?

MR. BERGMANN: I proposed something. I didn't know if it would work or not. I mean, currently the prohibition indicates that if you have a permit, it may do to stipulate that if you have more than the trip limit for mobile gear on board, all other fishing gear other than pots be rendered unfishable. From my understanding, there was a concern over folks that had a mobile gear fishing vessel and would claim that they had fished pots offshore and came in.

And if this is the concern, you can address it by if you have mobile gear on your boat, then you're limited to the mobile gear trip limits, unless that gear's rendered unfishable.

CHAIRMAN BECKWITH: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Isn't that what Amendment 3 provides for already? It doesn't refer specifically to nets or anything. It just says "using gear methods other than traps, which are defined." So I mean, it seems to me that that's about where we were already anyway.

CHAIRMAN BECKWITH: Bruce.

MR. FREEMAN: If I may reply to that. That's true, Jack, but what we're commenting on is the federal proposal is different than that, and that exactly creates the problem.

EXECUTIVE DIRECTOR DUNNIGAN: I understand.

MR. FREEMAN: Yes. We're saying if in fact the proposed rule was changed to comply with Amendment 3, this problem would not exist, but that's not the present situation.

EXECUTIVE DIRECTOR DUNNIGAN: I think George's question was what's the alternative, and I think the alternative is as we have it in Amendment 3. You're limited to what we've been calling the mobile gear limitation, although actually the way Amendment 3 is written, it applies to any gear other than direct lobster gear.

CHAIRMAN BECKWITH: Okay. I thank you for that clarification, Jack.

Any other comments on the proposed rules? All right. Seeing none, why don't we move on to the next agenda item,

which will be the report from the Technical Committee, and also Carl is going to give the report from the Stock Assessment Subcommittee.

TECHNICAL COMMITTEE REPORT ON THE STOCK ASSESSMENT

MR. CARL LOBUE: Yes. Basically, that's what this is. The Technical Committee hasn't met since the last Board meeting, but we did meet as the Stock Assessment Subcommittee in January. At that time, David Stevenson was appointed the chair of the Stock Assessment Subcommittee. There's a report in your folder that David sent out. There were some last-minute modifications, so the one that I have is just slightly different, and Amy's assured me that'll get into the record.

Basically, I guess, I'll just work through this. It's very short. The subcommittee met in January. Members of the subcommittee agreed that the proposed April deadline for the report was too restrictive -- this is for the stock assessment report -- since it would not give subcommittee members enough time to do more than simply update the assessment using status quo methods that have been used in the past.

While this still needs to be done and will be the first priority of the subcommittee, an expanded time frame will allow us sufficient time to review recommendations made three years ago by the Lobster Review Panel and the Stock Assessment Review Committee and to develop any additional analyses that are needed. It would also give us time to evaluate some of the biological and ecological explanations for why stocks are so abundant despite the high fishing mortality rates. These explanations have been missing from previous assessment reports.

In addition, more time is needed to pull together the 1998 trawl survey sea sampling and landings data. If the 1998 data is not included in this assessment, then the results will only include information through the 1996 survey year. The survey years are split. So the 1998 survey year is still going on right now, so we can't include that.

More time would also allow us to develop more material for the peer review to evaluate. We would all like to see the panel make some significant contributions that would advance our knowledge of lobster science and the assessment issues, not simply produce another list of research recommendations.

The subcommittee would like to propose a July deadline for completion of the assessment report, with a Peer Review Panel session in August or early September. We believe this will give us enough time to meet all six proposed terms of reference which I'll go over next. Without the additional three months, all we can reasonably accomplish are the first three items without the 1998 data included.

Because people are still working on assembling data, it is unrealistic that we could even do a minimum and produce a report in April. The July schedule is an ambitious one that will require that the Management Board members make the lobster stock assessment a high priority over the next five months so that

appropriate staff time can be allocated to the work load required for the assessment.

I guess I'll read through the terms of reference?

CHAIRMAN BECKWITH: Sure.

MR. LOBUE: The only changes on the one that I have is on Item Number 4, so I'll just run through these. Item Reference Number 1 would be to provide the best available scientific advice without consideration of policy consequences.

Number 2. Compile data needed for stock assessment purposes, updating data bases to include most recent information available.

Item 3 is broken down. For each assessment area, estimate current levels of egg production, abundance and mortality rates; evaluate uncertainty associated with stock status indices; evaluate historical trends in population abundance, fishing mortality and recruitment, using population dynamics models and other indices; review and update biological reference points used to evaluate stock status.

Number 4. This is where the wording's just slightly changed. Develop analysis which could explain why the abundance and recruitment of lobsters has continued to increase in spite of the overfished status of the resource.

Number 5. Review reports made in 1996 by the Lobster Peer Review Panel and the Stock Assessment Review Committee, evaluate the current status of each recommendation and act on any remaining recommendations which the Assessment Subcommittee believes are appropriate and useful for the resource assessment purposes, and for which there is sufficient time.

A lot of these issues that were brought up in 1996 have yet to be addressed.

Number 6. Evaluate any other appropriate stock assessment methods and approaches that the Assessment Committee believes are needed and has time to develop and prepare analysis for review by the ASMFC Peer Review Panel.

I guess the terms of reference need to be formally approved or endorsed by the Board. I'm not quite sure how that --

CHAIRMAN BECKWITH: Well, I think we're going to have to have some Board direction on the whole issue of the stock assessment, the kind of assessment and the timing. So why don't we just leave that, and it'll naturally fall out.

Any comments or questions? I think before I do that, Amy, I'm going to ask you to give us an idea of where you see Addendum 1 ending and being approved, because I think that has some bearing on this situation in terms of the stock assessment.

MS. SCHICK: Again, I think it's going to be hard to comment on that until we get through going over the addendum today, this afternoon, this morning, how many states are interested in holding public hearings and how quickly we can get all that information compiled. The estimated time line that I have right now is May, late May to have a Board meeting again to approve the addendum. That's the best available information I

have at this time, and it's something we can go over when we discuss the addendum.

CHAIRMAN BECKWITH: Okay. So I guess even under - - I'd call it Scenario 1, where the Stock Assessment Subcommittee goes with the original April deadline, and then the peer review would follow after that, it doesn't appear that we could complete the peer review of the assessment prior to when our schedule would -- unless we delay approval of Addendum 1.

But it looks like we're going to shoot for getting Addendum 1 approved at the May meeting. That could certainly change today, but I just wanted you to be aware of where we are, where we could be in terms of timing on Addendum 1 and what kind of bearing, if any, that would have on the stock assessment, the kind of assessment or the timing of it.

Jill.

SENATOR JILL GOLDTHWAIT: Thank you. I'm not sure I followed your last statement, but it seems to me the logical sequence is to have that stock assessment before we approve Addendum 1, although from this report it looks like that could put that off into perhaps the fall. But is that an option from your point of view?

CHAIRMAN BECKWITH: From my point of view?

SENATOR GOLDTHWAIT: Yes, Mr. Chairman.

CHAIRMAN BECKWITH: I think that would be difficult. I think we all want to have Addendum 1 approved as soon as possible because we all have to know what kind of regulations we have to implement back home. So the sooner we have that done, the faster we can move on those things. But obviously, the issue of the stock assessment is extremely problematic and troublesome, because if it comes out differently than what we perceive the stock to be now, it could move us in different directions.

SENATOR GOLDTHWAIT: And if I could follow up. That's my point, Mr. Chairman. And with the nature of what we have to go through for implementation of these, if that stock assessment were to differ significantly from what is increasingly aging information, we would be in the middle of having held hearings, be in the middle of a process to implement things that are no longer valid, and that's the last thing we need for the credibility of this plan.

CHAIRMAN BECKWITH: We certainly have a problem.

SENATOR GOLDTHWAIT: Thank you.

CHAIRMAN BECKWITH: Gordon.

MR. GORDON C. COLVIN: I want to pursue this issue a little bit, Mr. Chairman, and I'm not quite sure how to, but I thought maybe if I could ask Carl a couple of questions, that might help.

Carl, I'm trying to interpret the proposed terms of reference which tend to get worded a little bit in "SARC-ese" and make a little bit more sense out of it from my perspective. What we seem to be looking at here is a couple of different things, partly simply updating the assessments for the currently assessed areas -

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MR. LOBUE: Correct.

MR. COLVIN: -- which would include new information that would bring estimates of mortality and so forth up to date through 1998. Is that correct?

MR. LOBUE: Correct.

MR. COLVIN: And that may or may not result in significantly different findings about where we think we are with respect to exploitation rates and percent MSP and so forth. But that will also involve, I think, reargument, if you will, or a reconsideration by the SARC of some of the parameters that have been used in the modeling?

MR. LOBUE: The parameters, that issue should be resolved before the assessment. When we do this, the modeling, the parameters have been hammered out and agreed upon.

MR. COLVIN: Let me pursue it another way. The LCMT plans that are on the table that are part of Addendum 1 are predicated on the acceptance of the work of the Parameter Subcommittee, which is not at this point in time final, as I understand it, based on the fact that some of this is going to get looked at again in preparation for the SARC.

MR. LOBUE: Correct.

MR. COLVIN: If some of the -- we've noticed that a couple of the outputs are extremely sensitive to small changes in certain of the parameters. Those parameters are on the table up to and inclusive of the SARC process. That, in addition to the updating of the assessment itself, the addition of the more recent data, may result in potentially some significant changes with respect to where we are in the egg production rebuilding schedule and where we may go. Is it fair to say that that's a possibility?

MR. LOBUE: It's a possibility.

MR. COLVIN: Is it fair to say it's a likelihood if certain parameters are changed significantly?

MR. LOBUE: I don't expect that any of the areas will end up in the not-overfished category. I think they'll end up overfished.

MR. COLVIN: Thinking more in terms of going the other way.

MR. LOBUE: I don't know how -- it's hard for me to say. They had a meeting up in New Hampshire where the Gulf of Maine folks have been trying to hammer out their work. I haven't been updated on how that went. I think that we're pretty set down in south of Cape Cod and Long Island Sound area, and there still needs to be a little bit of work done on the offshore parameters.

MR. COLVIN: Now, I've also seen some e-mail traffic where some of the members of the subcommittee are talking about things as significant as breaking down the boundaries between assessment areas and going to a single-unit stock assessment. Is that on the table here?

MR. LOBUE: That was suggested by the National Marine

Fisheries Service to look at the stock as a coastwide stock and not have it broken down into management areas. It didn't get much support by any other members of the committee.

MR. COLVIN: Are we at a point now where that is definitely off the table?

MR. LOBUE: Well, it keeps coming up again, but it keeps getting thrown off the table. So I don't think that that will get support. It may get done as an exercise if they just want to see what the numbers look like.

MR. COLVIN: I find myself, Mr. Chairman, having some of the same unsettled feelings that Senator Goldthwait has expressed about the timing of all this. I would agree that the energy and the attention it will take with the states and the industries and the various area management programs to institute this first set of regulations will be formidable.

And I would not like to learn shortly after we have begun that process that the target has changed significantly. I'll just say that, and I'll leave this open for further discussion to see how others feel.

CHAIRMAN BECKWITH: Before I go on to anyone else, Gordon, I just wanted to ask you or anyone else a question. You were talking about the SARC and the SARC process and having parameters reevaluated and approved. I'm a little lost here, because I asked Amy, and my understanding was the peer review was not going to be through the SARC, it was going to be a Commission peer review.

MR. COLVIN: Pardon me? I guess the influence of the NOAA members of the subcommittee has caused me to go into brain-lock in a certain direction.

CHAIRMAN BECKWITH: No, no. I'm not -- the only reason I point that out, Gordon, is not to put you on the spot, but I think it's a timing issue. It is not on the SARC for --

MR. COLVIN: I understand.

CHAIRMAN BECKWITH: -- this June.

MR. COLVIN: You're quite right. I just used that term for the reason I just said.

CHAIRMAN BECKWITH: Okay. So the point I -- where I was going with this thing is we can always do the peer review process, according to the procedure we've established, at any time. We're not locked into the SARC timing.

Yes. Any other comments? George.

MR. LAPOINTE: I'm just going to reinforce what Jill and Gordon have said. I think it will serve no one to do a rush job and then to have to reevaluate potentially after the addendum process is done. Certainly in Maine, the addendum process is going to be a difficult one, and to go through it twice won't help. It won't help the lobster resource, it won't help the lobster fishermen, and selfishly, it won't help the commissioner of the DMR.

CHAIRMAN BECKWITH: Phil.

MR. PHILIP G. COATES: I support everyone that's spoken

previously to this issue, and toward that end, I would move that we postpone the further development of the addendum until the peer review is completed.

SENATOR GOLDTHWAIT: Second.

CHAIRMAN BECKWITH: Is that a formal motion?

MR. COATES: That was a motion.

CHAIRMAN BECKWITH: Okay. That means if this passes, we can all just get up and go home?

MR. COATES: I'm open to perfection, of course.

CHAIRMAN BECKWITH: Can we have that motion up on the board, please?

MR. LAPOINTE: While Jack's putting that up on the board, Phil, can I ask a question? What is your intention about the timing of the assessment itself? You know, there was a discussion of a spring assessment or a summer -- getting the assessment done about two or three months later, using '98 data and whatnot. Was that implicit in your comments as well?

MR. COATES: I'd like see the assessment reflect the most available and up-to-date data. I think that's very key to this. And I realize that this motion may put us a little bit at odds with some of the time lines and schedules in the amendment, so we have to look at that, too.

But it makes no sense to me to complete this addendum or move forward on this addendum if I know we have to start the next addendum immediately because we've got problems.

MR. LAPOINTE: We can just call them frameworks.

CHAIRMAN BECKWITH: Okay. Let me just make sure we have it all up there. "Move that we postpone further development of Addendum 1 until the peer review is completed." Okay. That's short and sweet.

Any discussion on the motion? I've got so far John Nelson, Bruce and then Bill. John, you're on.

MR. NELSON: Thank you, Mr. Chairman. You know, obviously there's merit to the comments that have been made so far, as far as not doing something then finding out that we have to do something immediately after. It also, though -- I think we have to weigh the other concern, and that is not doing something in the meantime so that we wind up doing nothing.

And I guess -- is there some happy medium? And I guess I'm going to call on Carl. You've come up with a time frame here that lengthens the process out considerably, and is there some way of modifying that? I know you've requested to make sure everyone is made available to your committee as you need them. Is there some mechanism that we can use so that we can put this -- delay it a little bit, but keep it on a reasonable schedule so that whatever we have to do, we'll have the information and we can do it by the beginning of next year?

MR. LOBUE: The most I can say is to have staff available to do the work that's needed to be done.

CHAIRMAN BECKWITH: John, follow-up?

MR. NELSON: Could I follow up, Mr. Chairman? Is it realistic to be shooting for July for the final review?

MR. LOBUE: Even that's a tight schedule. It's an ambitious schedule, but it's one that we're committed to meeting. Also, that July was for -- I believe that was for to have our report done, and then the peer review would be scheduled after that.

MR. NELSON: I was looking at the peer review being done by July.

MR. LOBUE: I don't think that that's possible.

CHAIRMAN BECKWITH: Okay. Next we have Bruce, Bill Adler, and then Jack.

MR. FREEMAN: There are two concerns that we have on this particular issue. One deals with what's going to happen on the federal side. We're moving on parallel tracks, but there are time requirements. And from at least my discussion with Harry and Bob, something's going to happen.

And I'm just curious as to what their comments would be relative to the Commission taking no action till another year. I just want to know what that means.

The second issue deals with the area particularly for Areas 4 and 5 and also in Area 3, where there is a lack of biological information for Carl and his colleagues to make reasonable stock assessments. And part of the plan allows us to collect that information, perhaps for the first time in those areas, and to postpone at least portions of the plan may jeopardize obtaining that information.

I'm not saying that we'll have all the information within a year, but certainly from our indications from the fishermen, there's considerable information that could be provided and they're willing to provide, but there may not be a mechanism for doing this, unless at least part of this plan is moved forward, the data collection aspect.

So it concerns me to do nothing at this point. I'm not sure if that'll jeopardize that effort or not. It may or may not.

CHAIRMAN BECKWITH: Bill, we had you next.

MR. ADLER: All right. Now, what I'm listening to here is that if this passes and the addendum is put off until after the next stock assessment, then theoretically the stock assessments could come back, and all the areas that had met their egg production level may have to go back to the table and do, let's say, more possibly?

MR. LOBUE: If they have to -- I'm not clear on your question.

MR. ADLER: They've come forth with plans, and they've been passed by the Technical Committee as having met their egg production level. This basically is all the areas beyond 1. Okay? Now, you're going to come out, or they're going to come out with an update on the stock assessment, and I would imagine they would also therefore come out with where each area or stock area is with regard to egg production to which they have to get to ten percent.

So, if the other areas that have already submitted their plans

have made it, they may find out they didn't make it, so then they have to go back to the table again and work to come and do more, and then bring it back to this group. This is what I'm reading.

And, as an example, Area 1, which is deliberating now on how to get to ten percent, they don't really know where they are right now because they were at 4.2 before the vent increase and the five inch and everything was added into the figure, but they haven't come back with where they are above the 4.2.

(Inaudible comment.)

MR. ADLER: Well, that was what was said previously.

MEMBER: 5.9.

MR. ADLER: 5.9? Okay. And so they're trying to figure out how to get to ten so technically they could be told that they're not even that high. They might be less, which means then they have to begin again and continue their discussions. And basically all this would be the result of if we do stall this until we get the new figures out.

Is this how I'm reading it, that this is probably what would happen?

MR. LOBUE: This is the first I've heard of putting off the addendum, but it's an adaptive management process, and there's probably going to be other stock assessments in the time frame of this eight-year rebuilding schedule. Probably the initial phases of all the management plans, at least the initial phases, would need to go into place regardless of what the results of the stock assessment are.

Like I say, you're probably not going to end up with stock areas in the underfished or not overfished status.

MR. ADLER: Okay. But what I'm reading here is if this is what we do, if we put off this addendum development until after the new figures come in, we, it seems to me, would then -- we might have to start all over again with the LCMT process and then move to where we are now. It sounds like that's where we would be having to go, which puts off a lot of decisions, good or bad.

And my second concern was the federal position where they had some type of bad guy that was going to shoot them in the head if they didn't have June 30th, something wasn't done by June 30th. And I would like to hear what the federal -- what the National Marine Fisheries Service would do if this in fact was adopted by the ASMFC. Where would the feds be at this point in time if that happened? I would like to hear that concern.

CHAIRMAN BECKWITH: I think what I'm going to do before we take any other comments, I'm going to ask Jack to comment on something. You had your hand up anyway, and you were next on the list. Jack, we have dates right in Amendment 3 where various area plans have to be implemented, and how can we change that? Can that be done by a motion, or do we have to do an addendum to make those changes? Because that appears to be the path we're going down.

EXECUTIVE DIRECTOR DUNNIGAN: The correct procedure to vary from the default dates and measures would be

to adopt an addendum. If you don't have an addendum, presumably on its face, the default measures apply according to the dates that are in Amendment 3. We've already passed some of those dates because LCMTs have done a lot of work, and the Board's done a lot of work moving towards implementation.

CHAIRMAN BECKWITH: And I might point out there are some areas, I think three, that do not have default dates, do not have default measures. I think Area 6 is one of those.

Okay. Jill, I had you next on the list.

Are you finished, Jack? Any other comments to make?

EXECUTIVE DIRECTOR DUNNIGAN: I'll pass for now, Mr. Chairman.

CHAIRMAN BECKWITH: Okay. Jill.

SENATOR GOLDTHWAIT: Thank you, Mr. Chairman. There is a big dissynchrony, in my opinion, between the dates that have been set up by whoever, by us, by NMFS, by whoever, and our ability to resolve a lot of these issues. And some of it has to do simply with the difficulty of resolving these on a coast where things differ quite a bit, even within a single state. And some of them have to do with the time frame under which the scientific groups are working to try to provide us with good information.

But the lag-time from what we do in these rooms to implementation on the water is sufficient that it will certainly not be the perception that nothing is happening, because in the last three months, I think, Maine has published three separate rules implementing various pieces of different bits of the plan, and we have pending legislation that will impact implementation, both adversely and favorably.

And the amount of effort that's going on in the State of Maine on the part of the fishermen trying to sort all this out and keep up with us, and on the part of the legislature or the department in trying to get the appropriate provisions in place to implement what's been passed already is huge. And to suggest that if we were to defer additional action on this addendum until after we have the next Technical Committee report in hand does not at all suggest to me that we would be doing nothing in the interim.

There are some really big issues that are hanging out there that will take significant time to resolve, and I would cite the maximum measure, the mobile gear issues as two examples of those.

If a slower pace gives us better science -- I mean, we have heard testimony already today from the fishing community that they are in no way convinced that we are doing the right thing or that we have adequate science. If a slower pace gives us the scientific background that we need to have a higher confidence level in what we're doing, I don't think that's a bad thing.

But I really want to emphasize my very strong feeling that this simply does not put the whole program on hold. We have a lot of work to do, and it's not going to be easy to make decisions on these issues. And there will be plenty on the agenda between now and the summer or the fall or whenever it happens until we

get that next Technical Committee report.

And again, if it indicates significant changes in egg production or whatever, I don't want to go through this twice either. And if we put the effort that it will take in terms of our legislative and regulatory framework to implement this only to find out four months from now that we have to implement more measures, less measures or different measures, it's only going to continue to undermine the credibility of this body.

And I will also say that in a couple of weeks there will be a meeting that in my knowledge is unique to the association requested by legislators in states that are having increasing difficulty getting any of this implemented because of the lack of consensus about whether or not we're doing the right thing.

And it has reached the state in various states where the legislators feel compelled to sit down together and say, "How are we going to deal with the pace, and how are we going to deal with the amount of negativity regarding the plans that are coming out of the Commission?"

And that is something -- to me, that addresses sort of the underpinnings of this whole association and should be taken quite seriously by this and other management boards. Thank you.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: A couple of things. And I think first and foremost I'd like to emphasize something that Carl said. It seems to me that if there's one most important thing that the members of the Board take away from here with respect to this assessment and how it all fits with everything else, when they walk out the door here today, it is the need to go home and task their lobster staff with being fully on board with getting this work timely done.

That's going to mean, frankly, reordering priorities at home and making a commitment based on our commitment here today on whatever we ultimately agree to, that our staff will produce what's needed on time. I can tell you that there's been considerable frustration up till now about the slow pace of delivery of those materials, the slow pace of preparation of those materials, that is in part responsible for what we're talking about right now. Let's be candid about that.

We have to go home and oversee the work of our staff to get this done even in this new time schedule, which is later than we hoped for but still very ambitious in light of how much preparation has been done to date. I can't emphasize that strongly enough.

I'm not sure that I understand the motion to mean that the whole schedule slides past the kind of implementation dates that are in effect for when you look at the actual dates when things needed to be implemented, which tend to boil down pretty much to next January 1st in most cases.

What it means is that if we operate on this schedule, it seems to me consistent with the motion, we'll just have an awful lot of work to do to complete, to timely complete an addendum and any changes that may be needed, if any, to LCMT plans in support of such an addendum this fall. And that, I think, is true.

But I don't think that we have much choice in that regard.

So I would assume that our partners in the Federal Government would understand that that's the schedule that this undertakes. It's not that much different in terms of the bottom line, when things really begin to happen, as our current schedule, but it does suggest that we will have this assessment before us before we actually adopt the addendum.

I think John's right. I think we can do a lot of work in terms of getting an addendum ready and prepared and shouldn't just put it on the shelf and let it collect dust for the next three or four months. But I don't think we can take an addendum out until the results of the assessment are in hand. I agree with the motion.

CHAIRMAN BECKWITH: Any other comments to the motion? Any discussion? Harry.

MR. HARRY MEARS: Certainly the status of the stock assessments for the lobster resource, as associated with the management actions taken by the Commission along with its recommendations to the Federal Government for implementation in federal waters, has always been hampered by timing issues.

And certainly one of the concerns of the National Marine Fisheries Service through the implementation of Amendment 3 and as we work toward Addendum 1 has been one such that we're working toward an objective to end overfishing of the resource as indicated in the plan, with a lack of specifics on how we're going to get there.

I think in the last year we've come a long way with the establishment of the Conservation Management Teams, and we've indeed made some strides toward convening the scientists with the technical advisors, with the industry groups, with the state and federal representatives in terms of the status of the science, and what that means or might not mean to management proposals which have been placed in good faith on the table.

The one issue which bothers me most about this motion is its lack of specific reference to timing once again. This has always been a problematical point in our continuing series of delays to implement the additional measures which in fact are needed to achieve the objectives of the FMP.

A question was raised earlier in terms of a bad guy pointing a gun at the head. I mean, that's certainly not the case. However, there is a very serious commitment to fulfill the legislative responsibilities which we have before us, in fact, to have a plan in place by May 1. It's not simply to have a plan to have a plan to have a plan in place, which someone else characterized as occurring during the summer, fall or whenever that might happen.

And I believe that continues to be the weakness of the situation where we are now. We've had considerable deliberations of seven individual Conservation Management Teams, and now we are talking about a situation where we are further postponing giving them the type of guidance which they need to plan their own business decisions and the type of information which is needed to move forward to end overfishing of the resource.

I believe this is simply a game of Russian roulette where

we're daring the resource to do the worst types of things that we think can happen.

I'm all in favor of expediting the scientific review, but certainly, in terms of postponing further action on Addendum 1 and what that might or might not mean in terms of what this group might want to recommend to the Secretary for implementation in federal waters, without giving a real specific time frame to that, I believe that we are really stretching the credibility of where we've come during the last two years especially, and it's a monumental disservice to the industry and to the individual Conservation Management Teams.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: You know, I wish we had been able to do the assessment this winter, as I originally hoped, so that all of this would be on the time track that wouldn't cause us confusion. That wasn't possible. That certainly would have made things a lot easier for everybody, including the National Marine Fisheries Service. But things happened, one of which is that the Service couldn't find time to accommodate this in the SARC.

A minute ago, I gave a little speech about how important it is that all the partners walk out of here with a sense of urgency to go back and assure that their technical staff gets the job done. Let me tell you that, in my opinion, that applies to every partner here, most especially the technical staff of the Northeast Fishery Science Center. As much as or more than everybody, their input, their work, their analyses are needed to get this job done on time.

CHAIRMAN BECKWITH: Okay. I've got Bruce, Jack, Bob Smith and Ralph and Bill.

MR. FREEMAN: Thank you, Mr. Chairman. There seems to be confusion, certainly in my mind, as to what this motion will really do, and I need clarification. The Lobster Plan really has two major components. One is to cap effort at its present level, and there's proposals by the Commission through their Lobster Conservation Management Teams, which we've already adopted. And then there's a proposal by the Federal Service which varies from those proposals.

And then the other important component is to increase egg production to ten percent, and that's really what the Technical Committee will be doing, seeing in fact where we are in the various geographical areas, and what we need to do, if anything, but what we need to do in order to meet that ten percent goal.

The concern I have is what this motion really means, and I need clarification. Because in some of the areas, we've already taken action to put in place, from the states' perspective, a capping of the effort that hasn't occurred in all areas. How does this motion influence that, or is it essentially to deal with the ten percent? I'm totally confused as to what the intent is, and I don't want to have to vote for this not understanding the underlying intent as to what's going to happen.

So I'd ask anybody, the maker of the motion, if he would.

MR. COATES: I guess it depends on -- I was going to do an analogy relating going to the doctor and having some investigatory work done in certain parts of your digestive tract. But I guess we can clarify this more easily than that.

Bruce, I am very concerned that we're going to get -- you know, we definitely have a need for an updating of the assessment. And I understand the issues about people thinking, "Well, this would be a good ploy to use in the future for postponing necessary action in other arenas as well if we just keep offering needs for additional assessments. And that way we can keep postponing action."

But as you know, there are some very significant issues inherent in the information with regard to what's being proposed for actions. The gauge increase is a specific one where all the LCMTs except Area 1 have indicated, have supported the gauge increase. It's inherent in the various plans. It's purported to have various levels of benefit. And it has yet to be assessed for Area 1. In fact, there has yet to be a rigorous assessment of the current status of Area 1. I heard 5.7 percent was the current status of egg production.

But in essence, in looking at this very pragmatically from my perspective, I don't want to be faced with a dual size limit in Massachusetts. And I see no way out of us facing that until we get our colleagues from Area 1 at least understanding how far they have to go with regard to this initiative to get this egg production goal to ten percent, if in fact that remains the overfishing standard. And I haven't heard any proposal to change that.

So, in essence, what I'm suggesting is that we need to get this final, this definitive peer review. And, of course, we could say definitive peer review, and then there'd be even a more definitive one after that. But we need to get this completed.

I don't see we're going to lose that much time with regard to the development of the addendum. It makes no sense to me to go forward with an addendum that we realize the practical consequence is we'll not be implementing additional actions in 1999, because by the time you get the addendum, the hearings done, you're talking about approval in May, and it's very unlikely that regulatory legislative action would have any effects during 1999 for the most part for those components of the addendum that require additional action.

So, I still think we have the schedule in our control here if we get the peer review out, we can get the information disseminated, we can conclude an early Board meeting, and we begin to develop the addendum, and it could be -- in my understanding of this process and the addendum process, it's certainly possible to have in place the necessary actions as a result of the peer review and our further development of the addendum in time for 2000. I'd, you know, offer anybody to challenge that, but I think it's still possible.

And since we -- I think the calendar year for lobster -- it's a calendar year plan, is it not? So, you know, that's consistent with the beginning of the next fishing year, rather than come in midterm or mid-fishing. I think it's a more logical schedule.

And quite honestly, I'm further motivated by the fact -- and that was going to be my original comment -- that up in New England we've been taking a series of actions under the expedited rule-making process, for another array -- it's an array of species up there, which everybody knows about. And we've

been criticized severely about taking action before the results of the previous action are even understood or known.

And I can see an escalating compounding effect taking place here if we take actions under the current addendum and then we find out through the peer review we have to take additional action, we bend to that task, we're going to be falling into that same pitfall. And I don't really want to do that.

I think the dose should come all at once if in fact it is going to be a dose, rather than small increments at this point, particularly since under the plan we're operating, there are, as Jill noted and other speakers, a lot of actions have been implemented. We're facing some very challenging initiatives right now just getting these trap tag systems up and running and dealing with some of the other actions that are still called for.

This addendum does not postpone those items in the plan that are under the implementation schedule. And I will admit that we will have to probably make some adjustments to that through an addendum. But, you know, these are just temporary postponements. I see the benefits to this far outweighing, you know, the consequences of us feeling good about making progress when in reality it will be a little progress for this fishing year.

CHAIRMAN BECKWITH: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Chairman. I certainly see the logic of the arguments that are being made on behalf of the motion, and the sensibility of knowing what you're doing. I think there's the other side, though, that really hasn't been articulated, and let me just make sure the Board members understand that.

If what we want to do is to wait for the next assessment on the theory that everybody will be happy with the scientific advice, I think that's an illusive goal. I'm not sure that we're going to be as much farther down the road when we get done with the next assessment than we are today. And I certainly don't believe that we're going to be able to respond as quickly to it as Mr. Coates just referred to.

It seems to me that we can talk -- and there are a number of audiences that the Commission needs to worry about its credibility with, and clearly the industry is one of them. And I think the comments that were made in that regard are well taken.

But I just can't see how other parts of the people who work with us aren't going to look at this and say that we're just trying to avoid putting something into place.

Now, the other thing I would say is that we just talked about a letter that we're going to send to the Secretary of Commerce. I guess we're going to send it to Harry. And one of the things that we wanted to try to do in this letter is to convince the Secretary that we are moving as quickly as we can, and that the LCMTs have already done a lot of work. We're in the process of putting it in place. "Coordinate your implementation time with ours."

I think that argument to the Secretary is going to be undercut if we take this approach. It's clearly still the Board's choice to do that, but I think it's going to be a much tougher sell.

CHAIRMAN BECKWITH: Bob.

MR. SMITH: Thank you, Mr. Chairman. As the chairman of the Area 2 Management Team and a member of the industry who has been dealing with this issue for over ten years, trying to come up with some sort of management that we could support, we have gotten there pretty much in our area, and I fully understand the problems that the states have. The State of Rhode Island is no different than any other state with some of their problems and implementation.

But this is a bottoms-up management measure, a management regime coming from the industry which supports, for the most part, the process. And I think that this undermines them to go this route at this time, mainly because almost every day, day to day, in my position I get from the industry, "Where are we? What are we going to do and when are we going to do it? I thought we were there, and I thought we were ready to go."

How do I answer to them now that this body has now postponed it for another six months to a year? I honestly think that it's a bad move, it's a bad precedent set to the National Marine Fisheries Service. You heard what Harry had to say. I agree with him. And although I don't agree often with him, I agree with him on this issue.

It's just a bad situation from my perspective, looking at it from the industry. You're never going to get a hundred percent interest from the industry as everyone agreeing, and we know that. But for the most part, we backed this system, and we're in full support.

How we're going to get any worse situation in Area 2 than 50 percent reduction in mortality I don't know. We may have to do more than that, but that's pretty serious for us, and we've taken some pretty serious steps to try to get there, the industry. And we fully agree that that's what we need to do.

Don't hold us up any more than you have to. We've been ten years trying to get there. Thank you.

CHAIRMAN BECKWITH: I had Ralph next.

MR. RALPH W. MALING: I'm not sure. Will the motion change any of the dates of implementation?

CHAIRMAN BECKWITH: No, that is in the plan.

MR. MALING: Industry can easily lose faith in this Commission if we don't adhere to the present schedule. We've worked hard, as Bob just commented on.

As far as the scientific information goes, it changes. It changes from month to month, year to year. And if we wait each time for what the best available scientific information is going to come down, when we're supposed to be working on what we have now -- that's what we're supposed to be doing on the best scientific information available. And I'm sure we have the best scientific information available. If the scientists are sitting on something that we should know about, then let them come forth. I don't think there's going to be a big change myself from what I heard.

But this amendment, addendum or whatever it is, can cause legal problems in the legislature and whatnot, but that's their

problems. The industry can't be concerned with that. We've got our own problems. You've got a lot of people that came to this meeting today that are sitting out in the audience. They're here to hear what you have to say. They're not here to have you say, "We're going to put it off for another six months." Believe me, they're not.

So therefore, I'm opposed to this amendment like all the people in the industry will be, too.

CHAIRMAN BECKWITH: Okay. I've got Bill Adler, then George and Pat and then Dennis.

MR. ADLER: All right. I see the schedule, if this is promoted, I see the schedule as waiting until some time in the summer to get an official change to the status of the scientific data. Then since in all likelihood there will be a need for more LCMT meetings to adjust their plans, that will take some more time, so now we're into the fall. Good fishing time. That's wonderful. And then that information gets back to this group to approve an addendum late fall to go to public hearing.

So then, in reality, the schedule now is into next year, which would mean that you're into the winter and spring before you get finished with approving an addendum, and that's at the earliest. That's what I would think would be the reality once that new stock assessment, peer review, new figures come out some time this summer: You will be into next winter before you get this thing rolling again.

And then what's your date going to be? And I still have not heard what the federal people will be doing, other than opposing this motion. I haven't heard what the final federal plan will then say and how does that screw up the whole thing, too. So I'm still on the fence on this.

CHAIRMAN BECKWITH: George.

MR. LAPOINTE: Thank you, Ernie. I've got a couple of questions. One is about the assessment. I am reluctant to impact our fishermen twice in one year. I mean, Harry mentioned the fact that we lose credibility because people can't plan. Well, how are people going to be able to plan if they have to plan for two periods of uncertainty?

And Bob Smith said that people have been planning for this for implementation of the LCMT, and they certainly should. I am reluctant again to use '96 data when we have '98. And the benchmark, as I remember in our current assessment, is that effort has been considered static since 1993. Is that correct, Carl?

MR. LOBUE: We'll have to do the update.

MR. LAPOINTE: But I mean, the old benchmark was '93, was it not?

MR. LOBUE: The old benchmark was the 1993 survey year, which consists of 1993 and 1994.

MR. LAPOINTE: Regardless. I mean, five or six years old. And I think that we could ask people around this room for their views on that assumption. I think that people think, I mean, it's blown out of the water.

And so the idea that we're going to impact people -- I understand the question about schedule. But the idea that we're going to rush through the addendum and then the people who are staring at me now, I'm going to say, "You've got to make these changes, and then at the end of the year I'm going to do the same thing again"?

And then my next comment I'm going to switch gears to Jack's comments about our federal partners. None of us are blameless in the scheduling for the plan and where we are right now. I remember when I sat in another seat asking the then regional administrator in December of 1997 when were we going to see federal regs. And he told me January of 1998, and we did for a short while. The real federal regs. came out in January of 1999.

So as much as we try to work with our partners, our partners need to try to work with us. We've been waiting for a year for these federal regs., and they have been in limbo. And so I don't think it's -- we're all part of the blame in the scheduling, and I don't think that's a valid reason not to ask for a slipping of the clutch until we get new information.

CHAIRMAN BECKWITH: Pat.

MR. WHITE: I'm concerned on both sides. Obviously, I'm very concerned about the resource, but I'm also concerned about how we move forward, having sat through this New England Council process with groundfish and doing one thing after another before we knew the results of it.

I saw what may be a preliminary draft of proposals that have been made by Area 1 by the Technical Committee. We're at a point now where we've got Area 1 in a trap reduction schedule. We've gone into vent increase. And we have had an LCMT meeting where we've discussed different options that we wanted clarified.

At this point in time, with the most severe option that the LCMTs have discussed, it only gets us up to 8.62. And I think the option that was discussed was something that we thought was maybe way, way down the road. Now I find through this Technical Committee report that we don't even make it.

And as much as I sympathize where Bob is trying to come from for the area that he's in, I think to go forward with something now that in essence, by looking at this report, I know isn't going to work would be folly. And I think we need to have our ducks lined up a lot more before we go back to industry with something that is going to be obviously much more severe than we had anticipated.

CHAIRMAN BECKWITH: Next on the list is Dennis.

REPRESENTATIVE DENNIS F. ABBOTT: Thank you, Mr. Chairman. When this discussion began, I wasn't sure what my position could be or would be, and I'm probably still uncertain. One of the concerns that I have is the question of postponement. I think postponing anything and not to a time certain is not a good idea, because that takes us nowhere. If the postponement had a schedule that was fair and reasonable, then it would seem as though it would gather our support.

I also heard through the discussion earlier in the day that

most of the people in the audience that got up and spoke said that they favored the Atlantic States method of going about this. They thought we were doing the right things.

And I would also question what the time lag is between any assessment data and a plan getting to a position of where we are? We would always be in that situation, would we not? There's always going to be a time lag. And it seems as though that we're making this assumption to postpone based on the possibility or probability of having better population assessments coming down the road. And I think that most of us might believe that that would not be the truth.

I think that -- I don't know the gentleman down on the end of the table -- I think Mr. Smith commented about the work that's been done up to this point, and that reminded me of the editorial that Mr. Dunnigan wrote in last month's newsletter about involving the industry in all our decisions. And I think in this situation, we have done that quite well.

And I don't know what kind of a message this sends to the people who have been participating in this process for some length of time that we're suddenly going to essentially table this action. So I think that doing what this motion proposes discourages that participation from the fishermen, and for those reasons I think it's a bad idea to have a motion that just simply postpones. Thank you.

CHAIRMAN BECKWITH: I've got two speakers on the list and Jill just raised her hand. What I'd like to do is to take the two speakers, take a 15-minute break, come back, finish up with the Board, and then go to the public. So the next one on the list is Bonnie.

MS. BONNIE SPINAZZOLA: Thank you. Bonnie Spinazzola, Atlantic Offshore. I tried to scribble notes as people were talking, and first, as far as Harry was saying, the effects to the industry and the resource, I think, would be truly hampered if this were put back any time at all.

Jack, I will say that I agree that the perception of the Secretary of Commerce, if this were tabled, I think, would look like you guys were stalling. Whether you are or aren't or whether you want to wait for a peer review, I think the perception is there.

Another thing to remember that I think is very important is that this plan was written knowing that it was an evolutionary process. There would be stock assessments all along the plan, and that the plans would have to change. I think the industry knew that, the LCMTs knew that, we all knew that. So we can't table things because they have to change. These plans are changing constantly.

Let's see. Another thing too is that by doing nothing, we continue to stay in an overfished situation. By doing something, it is a step in the right direction. We may have to do more. Again, we all know that. But it's a step in the right direction. It's doing something.

The lobster fishery does not want to go in the same direction as the groundfish fishery. We feel as though by implementing some regulations, we're at least moving forward.

And finally, if you should agree to this, I'm just requesting

that the Board -- I guess I'm asking the Board, but I'm assuming that the Board will continue to send those recommendations to NMFS? Because obviously, although we didn't hear what they will do, I'm assuming that their plan will move forward. Thank you.

CHAIRMAN BECKWITH: Okay. Gordon's next.

MR. COLVIN: I'd just like to pursue a couple of things, Mr. Chairman, one of which is to get a better sense, at least in my mind, how much things could change as a result of the assessment. Because my sense is that they could change a whole lot, and that may be what some of us are concerned about.

Carl, if you could, give us a rough idea of -- as a result of the work of the Technical Committee and the Parameters Subcommittee -- where we now stand, where we think we stand in terms of a percent of egg production from Areas 2, 4 and 6? What are the assumptions of our present egg production in those areas that the LCMT plans were based on?

MR. LOBUE: What they were based on?

MR. COLVIN: Yes.

MR. LOBUE: In the plan, their baseline was that Area 4, which is the Georges Bank and south SARC assessment area was at 1.68 percent and --

MR. COLVIN: But that's not what their plan is based on.

MR. LOBUE: No. Their plan is based on that they were at -- these are from my memory --

MR. COLVIN: Go ahead, roughly.

MR. LOBUE: -- 4.5.

MR. COLVIN: 4.5 for Area 4?

MR. LOBUE: And 8.6 for south of Cape Cod.

MR. COLVIN: 8.6. And Area 6 was?

MR. LOBUE: That's 8.6.

MR. COLVIN: Was also 8.6. So Areas 2 and 6 were at 8.6?

MR. LOBUE: Yes.

MR. COLVIN: Area 4 was at 4.5?

MR. LOBUE: Yes.

MR. COLVIN: Roughly?

MS. SCHICK: Gordon, if you look at Page 5 in the decision document, that table is included, and it gives the numbers that the LCMT proposals were based on. Page 5 of the decision document, and it's the table on top is what the Technical Committee used to evaluate the LCMTs.

MR. COLVIN: Ah, perfect!

MS. SCHICK: And the second table is from Amendment 3.

MR. COLVIN: Now, compare that to the egg production rebuilding schedule in the plan. My question to Carl side-bar a couple of minutes ago was that, understanding that the

parameters that have been changed, the changes in the parameters that led to what's on Page 5 here, will be on the table for discussion, debate and potentially for change in this upcoming assessment, and they will be, and that the possibility exists that the assessment itself and/or the peer review could result in recommendations or scientific determinations that it's necessary to change some of those parameters which will change these numbers, my question was, what's the worst case scenario?

Carl's answer was the worst case scenario is this, back to here. Okay. So that, for example, south of Cape Cod, instead of 8.9, we could be at 2.2, or we could be anywhere in between. We probably won't be over 8.9. I don't think anybody thinks that. Might not change. The Parameters Committee did a lot of hard work, and the results of that work may stand up. They may not.

And because of the potential for significant change to our schedule and where we may need to go as a result of this, that's one of the issues that's on my mind.

The other is the issue that George brought up. Everybody recognizes that effort has increased a very large degree throughout the range since the time of the last assessment. It's not so clear how that's going to affect exploitation rates or proportion egg production potential. But we won't know until it's done, and it could be significant.

One of the things that -- I'm not sure what happened in the other areas. I know that in Areas 4 and 6, the respective technical staff from the states involved made it very clear to the LCMTs that the next assessment would pick up the increase in effort that had occurred in recent years, and that that might very well lead to an increased estimate of exploitation and other changes that could affect the schedule.

That was on the table. Everybody knew it. And they also knew that that assessment was planned for 1999. It wasn't a surprise. So all this should be out there.

This schedule is troublesome, and I agree with those who have said that perhaps it would be worth taking the time to spend a few minutes to try to come up with a more clearly specified, laid out in detail schedule. But at the same time, to adopt an addendum in July that's rendered significantly changed by an assessment that comes in August makes no sense to me.

CHAIRMAN BECKWITH: Before I go on to the next speaker, can I ask you a question, Carl? Gordon raised the issue of significant changes, and how do you perceive that potentially occurring? Through re-estimation of the parameters or is it through a different approach to stock assessments, for instance, considering larval transport and migration, and things like that?

MR. LOBUE: Well, it's hard for me to say how they would change. I believe that the parameters that are used, if there's a full agreement from the committee, then one set of information will go to the peer review. If there's a real split, they may get two sets of parameters that the peer review will then give its recommendations. As you guys have been told, the growth parameters have, both parameters have a major effect on the outcome.

Other sorts of things, other types of stock assessments that might be considered, some of the modelings are going to be changed. I believe the DeLury is going to be modified to incorporate all the different trawl surveys.

And I'm just not sure how the outcome is going to be.

CHAIRMAN BECKWITH: Okay. We'll have Jill be the last speaker before the break, and when she finishes, we'll take a 15-minute break.

SENATOR GOLDTHWAIT: Thank you, Mr. Chairman. I'd like to say in response to an earlier comment from Jack that first of all, as I said, I don't really see this as a postponement because we're not doing nothing now. And as far as whether I have the thought that if we wait a couple of months that my state's going to be happy, I certainly don't entertain that illusion for a minute. I would like to live to see the dawn of the millennium if that is possible, and this may help to expedite that.

There's not really a reason that I know of why a state couldn't take action. If it's ready to go, and LCMT is ready to go, they can go ahead and do that if that is their choice.

The other issue is that we can adopt an addendum in May or August or September or December. It will not make any difference in Maine to implementation. Our legislature starts the first of the year, and that's when we can first get our hands on a bill that would be useful in implementing any of this. So it may be done differently in other states, but it does not matter as long as it's adopted somewhere between May and December as far as implementation of this addendum.

And presuming that the schedule in no way would put it before May, we cannot do it in this session. There is not enough time left. So anything that sees us doing this prior to December or in December would mean that we would implement it on the same schedule as if it were done in May.

CHAIRMAN BECKWITH: All right. Thank you.

Let's break and come back at about 10:35.

(Whereupon, a short recess was taken.)

CHAIRMAN BECKWITH: Let's take our seats and get started. Pat.

MR. PAT AUGUSTINE: Thank you, Mr. Chairman. After listening to the comments around the table and concerns of delay, the importance of making sure it's right this time around, not redoing it again, all important comments on both sides of the fence, having participated in the Advisory Panel body and finding yourself so frustrated after having gone to so many meetings only to come face to face with the Commission, not be stonewalled, but be put off, it becomes very upsetting, makes you wonder why you're spending your time, makes you wonder why you put in the effort, but why are we doing the plans? So those are the questions that come up.

So after listening -- and Mr. Martin down at the end made a good comment -- I think without having an end date on this, we're asking for trouble. Whatever the perception is, the reality of it is we don't have an end date. So I know there's no such thing as a friendly amendment, but I'd like to offer an

amendment.

MR. COATES: I was amenable to any kind of perfection anybody wants to offer.

MR. AUGUSTINE: Thank you, sir. So I would like to restate as is, but with the following, "but no later than December 1st of 1999."

Thank you, Mr. Chairman.

CHAIRMAN BECKWITH: Okay. Phil, you accept that as a perfection?

MR. COATES: So that are you talking about the development of the addendum until December 1st? I mean, I want to know where that's going to fit.

MR. AUGUSTINE: Yes.

MR. COATES: You want the peer review --

MR. AUGUSTINE: Well, the peer review would be worked into it backwards. In other words, we've got an end date for the Technical Committee or peer review to perform their activity. And if they get it done prior to, there's no reason that we cannot go forward with the addendum sooner, but in no way, shape, form or manner later than December 1st.

This now sends a message out to all the parties involved plus the user groups and so on.

MR. COATES: Right. I am probably amenable to that, but I'd just suggest that there may even be a more vigorous schedule in the works for the addendum. We were talking about, towards the end of the break there, the possibility of -- again, Carl indicated that their best efforts are going to go into this thing with a hope for completion of the peer review by July.

MR. LOBUE: No.

MR. COATES: I'm sorry. Give those dates again.

MR. LOBUE: Completion of our report in July, which then has to go to a peer review, which would then push into August or September.

MR. COATES: September. Okay. Then that could conceivably still work if we have the report in hand by September. And I don't want to put you on the spot, because I know, you know, these peer reviews tend to be like other proposed rules and things and plans, and they always end up being a little bit late.

So the December 1 would be the time at which we would, regardless of what we have for a peer review or whatever, we would move forward with the addendum development.

MR. AUGUSTINE: Yes, that's my intention.

MR. COATES: All right.

MR. AUGUSTINE: Thank you.

CHAIRMAN BECKWITH: Okay. We want to get it up there, and then we'll entertain other comments. Other people may want to amend it also.

EXECUTIVE DIRECTOR DUNNIGAN: I just need to

know for sure what it is.

MR. AUGUSTINE: What I was extending that to include, Jack, was, after the words, "review is completed," "but no later than December 1st of 1999." Otherwise, the language would remain.

EXECUTIVE DIRECTOR DUNNIGAN: Let me help you a little. The verb that's up there now is "development." You're going to postpone development until December 31st of '99?

MR. AUGUSTINE: Good point.

EXECUTIVE DIRECTOR DUNNIGAN: So what you're saying is that after "completed" add a semi-colon, "provided that the Board will approve the final addendum before December 31, 1999."

MR. AUGUSTINE: Excellent. Thank you.

EXECUTIVE DIRECTOR DUNNIGAN: Did you say December 1 or December 31.

MR. AUGUSTINE: December 1. Thank you, Jack.

CHAIRMAN BECKWITH: Bruce.

MR. FREEMAN: I would just like to approach this a little differently. I appreciate Pat's suggested comments, but there are still concerns that we have that are not addressed. My understanding of Addendum 1, there are several issues that need to be addressed, and one is to include the LCMT proposals, which we feel is an extremely important component.

Another is -- and I'm reading from Amy's memorandum, her action memorandum anyhow. Another aspect is to clarify the circular vent specifications; the de minimis specifications which we had discussion the last time, and we need to bring to closure; adjustments for the compliance schedule and monitoring and reporting requirements; and then I think this is the contentious issue, the egg production rebuilding schedule, which I understand has the implications that are of concern particularly of Maine and Massachusetts; and then the proposals for area closures between 1 and 3.

The position that New Jersey's taken, we would agree with the comments made in Phil's motion to at least delay till after the peer review the egg production rebuilding schedule, which gets into the possible gauge increase, which I think is creating a problem.

But the other components of that, we believe, need to go forward, and should go forward. We can move forward. Now, Maine has already made most if not all of those, as has Massachusetts. But the rest of us have not. And we feel it's extremely important to at least limit entry and control effort, as you have done. And we believe that those aspects should be continued forward in Addendum 1, so that we don't hold this aspect up.

Also, the Commission's recommendations are based upon the LCMs, so we believe that's an important argument we have, Harry, for the Service to amend the regulation to support those. But we believe those need to go forward. And I'm leery about delaying all that till December 1. That's my only concern.

I would like to see us move forward with those other components at least to go to public hearing. We need to go through that process. It may not mean much to the Northern Area, but it certainly will to the Middle Atlantic and Southern New England, Mid-Atlantic area. And therefore, I think this needs further refinement.

CHAIRMAN BECKWITH: Okay. Before I go to Pat, Jack, do we still need Addendum 1 to change the dates in the plan? If in fact we still do need Addendum 1, then we can include some of the things Bruce is talking about, and then we can work on Addendum 2 to implement the area management part of it, the rest of it.

EXECUTIVE DIRECTOR DUNNIGAN: As I said earlier, that would technically be the most appropriate way to achieve that. But there may be other ways of doing it, but they're not as clean.

CHAIRMAN BECKWITH: Are there advantages to other ways, simpler, faster?

EXECUTIVE DIRECTOR DUNNIGAN: Yes, simpler, faster.

CHAIRMAN BECKWITH: Do you have any recommendations on which course we should follow?

EXECUTIVE DIRECTOR DUNNIGAN: No.

CHAIRMAN BECKWITH: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Bruce, I would ask for your extension and improvement on this amendment.

MR. FREEMAN: Well, what I would suggest, Pat, is essentially listing those aspects that we should move forward with through the addendum process, and then hold up the egg production rebuilding schedule which is really -- George, you can answer this, or Phil -- is the issue that's creating considerable problem. And we probably should know much more what we should be doing before we move forward with that. I agree with that.

But the other aspects -- and if I'm misspeaking, please correct me. And I understand the implications, George, you and Jill and Pat have, and I understand the implications, the concerns Phil has with what we had spoken about at our last meeting. So if we could hold those until after the peer review, I feel very confident we should have better information. But the other aspects we should move forward with with the addendum.

So the way this could be done, Pat, is simply indicate that we'll --

MR. AUGUSTINE: With the inclusion or the exception?

MR. FREEMAN: -- postpone the egg production rebuilding schedule until December 1 and the other aspects -- I mean, we don't have to address that, but the other aspects we'll move forward with.

MR. AUGUSTINE: Could we just say, "with the exception of" at the bottom?

MR. FREEMAN: We could, sure.

MR. AUGUSTINE: Or up above? Say "with the exception of the egg production"?

MEMBER: It's just the opposite.

MR. AUGUSTINE: That's what I said, at the other end. Try to reword it, Bruce.

MR. FREEMAN: I would put after "Addendum 1" "concerning egg production rebuilding schedules." And that, I think -- I don't know where George went -- but I think would take care of the concerns of Maine and Massachusetts. And then we'd put something at the end after "1999."

MR. AUGUSTINE: "With the ongoing efforts of" --

MR. FREEMAN: We just proceed with --

MR. AUGUSTINE: "With the ongoing efforts of the remainder of the plan."

MR. FREEMAN: Then put a comma after "1999," Jack, "and continue as scheduled for Addendum 1."

MR. AUGUSTINE: Phil, does that look --

MR. COATES: I think it can be -- oh, Mr. Chairman, I'm sorry. I was just going to say I was asked a question.

MS. SCHICK: With the way the motion is worded right now, by including Addendum 1, if the Board chose to move forward in the interim with an addendum that would contain delayed implementation schedule and the de minimis specifications, trap tag and the other elements that are currently scheduled to be in Addendum 1, rather than referencing Addendum 1, you may want to reference area management, and then Addendum 1 may not contain area management. Just so you're specific on what you mean, rather than a document that hasn't been prepared yet.

MR. FREEMAN: Let me just ask a question without any action. If in fact we list the area management proposals which have been approved by the Board, we'd move forward as an addendum, clarify circular escape vents, de minimis specifications, adjustments to the compliance schedule, monitoring and reporting requirements and proposals for area closures between Area 1 and 3. I'm not sure what that means, but I'm reading from your document, Amy. I'm not sure what the area closure between 1 and 3 is.

MS. SCHICK: In the plan right now under Area 1 and Area 3 management measures, it requests that those areas develop a proposal for a closed area, and John Nelson reported back in October and again in January that their proposal was not to have a closed area.

MR. FREEMAN: Well, my understanding is those are the issues that need to be addressed in Addendum 1, bearing in mind that what we're doing is putting this forth for public comment. So I believe those aspects should be continued. And then just hold off on the egg production, which gets into the gauge increase. That's really the thrust.

CHAIRMAN BECKWITH: Okay. First, before we go any

further, Phil, do you accept this as a whatever it is?

MR. COATES: I like the way Bruce is going with this, and what I would like to see in addition to that is the understanding that, you know, the egg production schedule is still a major component, and even get the comments as a component of this addendum. But it's an issue we want public comment on in terms of a proposed schedule to do it after we do the peer review and with the time line of December 1 or whatever for the implementation of the next addendum.

In other words, you're talking about Addendum 1 containing everything except the egg production schedule; Addendum 2 on the schedule we talked about, peer review by September and the action on the egg production schedule by December 1. If that's in there, then you get the public commenting on it, you get a reaction. You get the Feds in there, the National Marine Fisheries Service the opportunity to comment on it as well.

MS. SCHICK: I just have a question for clarification. You're talking about just the egg rebuilding schedule, which is a specific section in the decision document, or are you referring to all area management measures? Because the proposed increases in gauge size, increases in vent size, historic participation, all of those things are components of area management, and all of those things are based on the egg production rebuilding schedule.

I just need a little clarification.

MR. FREEMAN: Well, my concern here is that the egg rebuilding schedule got us into -- I mean, one of the ways to accomplish that is a minimum size increase, which then creates the problems that we've been discussing. We need to understand where we are on the egg production aspect, and then it may well be we don't need a size increase, or there's something else.

I just want to hold that size increase issue until we get the peer review. But the other components I think we need to move forward with. That's my only concern.

CHAIRMAN BECKWITH: Jack, Jill and then John.

EXECUTIVE DIRECTOR DUNNIGAN: It's funny sometimes how these things come full circle, because it seems to me what you're talking about now would also be accomplished by proceeding with the addendum but including in it an alternative, and perhaps it would be a preferred alternative, to postpone the implementation of certain aspects of area management pending a new assessment or something else that you might include in there.

And from a cleanness of process standpoint, it leaves all of your options up on the table now as we take this out to public hearing.

CHAIRMAN BECKWITH: So that motion does that, but it doesn't do it as cleanly as you could write it.

EXECUTIVE DIRECTOR DUNNIGAN: I would think that -- well, let me just be real straightforward -- that you not pass this motion, get on to discussing Addendum 1, and decide what you want to do about the area management measures in terms of your alternatives when we get to that in the agenda.

MR. FREEMAN: Mr. Chairman, would it be appropriate

simply to table this motion till the end of the meeting so we can go through these other issues? Would that be a way to deal with this?

CHAIRMAN BECKWITH: Well, we could do that, but it doesn't -- I think the issue is -- well, I'm searching how to characterize it. But I don't think it makes any difference other than if we go through the other operations, it'll be more clear to the people here just what will be included in Addendum 1 and what will not. It doesn't change the basic approach we have here.

MR. FREEMAN: But we're trying to come up with a precise motion here that'll do things, and I think if we discuss those things, that by the end of this meeting we can come up with a much better motion. I'm just trying to find the best way out of it.

CHAIRMAN BECKWITH: Whatever the Board feels they want to proceed, we can do that. Jill.

SENATOR GOLDTHWAIT: Thank you. One more suggestion, and then I'll give up. And that is, the intent, I think, of the Board is that we don't want to see a delay really. So if we change the motion so that instead of saying, "postpone further development," we said, "Move that we schedule adoption of Addendum 1 after the peer review is completed," it casts it more positively. It certainly expresses the intent of the Board that this is not a delay, a postponement that's going to go on forever.

And then we don't have to specify anything about egg production or anything, because that motion would give us the latitude to deal with any pieces of this addendum that we want to deal with now. But we also know that we wouldn't be adopting it finally until we get that peer review.

CHAIRMAN BECKWITH: Well, that's just -- we've actually come back to where we were before, because what we have up there now is a different approach, and that's going forth with Addendum 1 right now on the schedule we have minus, less the egg production issue. And that's a very clean way to do it.

SENATOR GOLDTHWAIT: And I guess my suggestion means that we don't have to worry about do we have specific egg production or not or areas or anything else. It would simply acknowledge that there was some information that we would need before we finally adopted the addendum. And in the interim, we would go ahead with anything else that is appropriate to do.

CHAIRMAN BECKWITH: But how would you do that? You need an addendum to go forth with a lot of other things. So you really need Addendum 1 to go forth with all the other things. We're just taking the part that would be most impacted by the stock assessment out of it and just delaying that until we get the stock assessment information.

Pat.

MR. AUGUSTINE: Mr. Chairman, I appreciate the comments and the support and help in rewording this thing, and the senator has some very good points, but I think this is about as clean as you can have it. We've specifically stated what has to be accomplished, what must go forward.

The key issues of the items that were noted, as Bruce had brought forward in Amy's paperwork, it seems to me that we can play with words, but until we get this approved and move on -- if we have to make other motions as we get further into the agenda, they still can be added, not to this motion, but other motions can come forward as a result of the total. We get through. Whatever motions are important, relevant for other parts of your agenda, can come following later.

This seems to be the cleanest so far, so I would suggest that we call the question, unless there's further debate.

CHAIRMAN BECKWITH: Well, I'm going to take a comment from Jack, and if there's no other Board comments after that, we'll open it up to the public, and then we'll call the question. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: I do think you should listen, though, to Amy's suggestion that you not refer to the egg production rebuilding schedule, refer instead to area management, because, I mean, logically all of the other things that are in the plan are geared towards our overfishing goals as well. So I think more precisely what you're really talking about here is the area management section.

CHAIRMAN BECKWITH: Just as long as it's clear that the trap part of it, the trap cap and the trap reductions are not considered part -- well, they are part of area management, but for this motion they are not included. They're going forth. They're not excluded. They're going forth. Is that clear? Is that what everyone understands?

No? If we don't understand it, then maybe we should consider doing what Bruce said, to go through all the other issues so it's clear and then come back and vote on this.

MS. SCHICK: If I may make one point. With the area proposals that came forward to the Board, the Technical Committee looked at those proposals as a package and evaluated them as a package with increases in the minimum gauge size, increases in the vent size, the historic participation or trap allocation. And that was evaluated as a package.

So to take a portion of that package and move forward with it without the entire package, I'm not sure if that's the best way to go about it. It's up to the Board. But I just want to make it clear that those things came forward as a package, and once you start pulling them apart, you're pulling apart pieces of the package that weren't evaluated by the Technical Committee.

CHAIRMAN BECKWITH: Carl, you want to comment on that?

MR. LOBUE: Yes. With the exception of Area 3, the effort caps, caps on number of traps in that tagging system, that had no effect on egg production, so you could actually do those, move forward with those, and that wouldn't be something -- I mean, that would be a move in the right direction without getting caught up in the stock assessment.

CHAIRMAN BECKWITH: Pat.

MR. AUGUSTINE: Based on the additional information we just had from Amy and clarification by Carl, I would suggest

that we maybe do take out the egg production language and insert that with area, as you suggested. Do we call it "area management" or just "area"? With area management?

And Phil and Bruce, does that make sense to you? Okay, please.

MS. SCHICK: Jack, on that motion, it might be better to replace Addendum 1 with area management, rather than the egg production. And that could even be more specific, that the development of egg -- go ahead.

MR. MASON: Jack, try this on. "Further development of the area management provisions related to egg production until" - you need an "of" after "development" in the second line,

CHAIRMAN BECKWITH: Yes, that works better.

Okay. Is everyone clear on that? Any other comments? Bill.

MR. ADLER: So according to the wording that starts off, "provided," and goes on from there, if you were to move ahead with the other parts of the addendum that we were developing, the de minimis status and the reporting and the rest of the stuff which we could continue on, but according to that wording, that addendum wouldn't be approved until December 1 of 1999, instead of perhaps earlier, and then coming along with the management provisions at a later time.

So the way that's worded, even though we would proceed with the de minimis status and all those other things that are in this addendum, we wouldn't be approving it until December 1 of '99, when we had originally figured that we could have public hearings on those issues and approve those issues for implementation before that date.

And now with this, the way it is worded after the word "provided," the whole thing would be stalled until December 1, '99.

(Cries of, "No.")

MR. ADLER: Okay. But, I mean, that's the way that's worded there.

(Overlapping comments.)

CHAIRMAN BECKWITH: There's too many people talking at once. Let's take it one at a time.

MR. ADLER: Okay. And my other comment was if, for instance, the area management provisions are being stalled because of the peer review thing, in reality what is the schedule that you would foresee that once the stock assessment or the thing is approved and then it goes to peer review, and then the pieces of paper are handed over to the ASMFC saying, "This is where we are or where we have to go now"?

Think about the schedule. Are you going to then be calling the LCMTs in when? And I don't see how a date like December to proceed with the area management part of that is going to ever be met. And so think about the schedule. Can you do it? Can you do that? The peer review comes out, you said, August-September by the time you're done with that.

What's the next step, Amy, that you would do once you get that paper from them to follow it through? What would you do?

MS. SCHICK: After the peer review comes out, a report would be presented to the Management Board on that peer review. From there, the Board could direct the LCMTs to meet again based on the updated information.

MR. ADLER: When would that be, ball park?

MS. SCHICK: October.

MR. ADLER: October. All right. They would then get their plan to submit back to the Board November?

MS. SCHICK: Yes.

MR. ADLER: Then it would have to go to the Board to go to public hearing in November?

MS. SCHICK: Correct.

MR. ADLER: It would then be scheduled for public hearing -- now, watch that December date -- scheduled for public hearing in December? It gets approved in November and goes to public hearing in November, all in November, and then it comes back to the Board for adoption before December 1? On December 1. Is that realistic?

CHAIRMAN BECKWITH: It's tight.

MR. ADLER: That's what I'm looking at. You see what I mean? Because can you get the LCMTs to all get together and come up with a plan and get it submitted in that time line?

CHAIRMAN BECKWITH: We have some other people that may want to comment on that. I've got Bruce, Pat and then Phil.

MR. FREEMAN: Again, to this issue, Mr. Chairman, it seems Bill Adler's point is very valid, and if we simply take out the December 1 -- now, Pat, that was put in in order to make sure there was a time certain. But the point of the matter is that it may slide one way or the other. And I think if we just do away with the December time line and just proceed as we will normally after the peer review, this'll come to its normal conclusion.

CHAIRMAN BECKWITH: I had skipped Bonnie, so I'm going to go to her now.

MS. SPINAZZOLA: Thank you. I'd just like to say that Carl had said that Area 3 does have trap limits in their egg production schedule. That means that if an across-the-board motion is made, how do you deal with one area that does not work into that thing. You have to do something with one area, whether it's 3, 5, 1, 2, 4, if it doesn't have the same limitations as everything else. Thank you.

CHAIRMAN BECKWITH: Go ahead, Carl.

MR. LOBUE: The reason that Area 3 initial trap limits have some sort of egg production value involved is because the numbers that were provided for -- the number of traps used in 1993 are higher than the projected historic level that would be in place if they put them in place now. And the reason for that was some boats left the fishery.

So just so that you know where that's coming from. So they got some sort of benefit because they were -- it was actually, according to the numbers that we got, less numbers of traps in the water now than there were in 1993 in Area 3.

CHAIRMAN BECKWITH: Pat, you're next.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think, based on the amount of time and effort and energy that's gone into where we are now at this point, it just seems if we don't have a date in there, we're somewhat decommitting, even though we're working to an end date of somewhere around December 1st. It seems to me we have to force the system and the calendar to work to our needs, and if it means there's got to be some emergency meetings, then so be it.

But this is another case that -- I've only been here a short period of time, working in the Commission, and it seems to me we have delayed more decisions over the last two years than I could shake a stick at. Some of the plans they've just dragged and dragged and dragged because we can't make a decision or we have to take a plane.

And the fact of the matter is, I think a lot of valid points have been put on the table here. Let's make the hard decision. Let's move on with what we have to do and make that decision. I'd prefer to leave the December 1st date in there. Thank you.

CHAIRMAN BECKWITH: Okay. I think we're coming to the end here. We've got Phil. You're the last one, Phil. And then we'll go to --

MR. COATES: Okay. How about adding "will approve that component of the addendum" -- "have to approve that component of the addendum by December 31st." I hate to ruin everyone's Christmas, but, you know, we've been doing that regularly in the New England Council, so we may as well share. "That component of the addendum." You don't need "final addendum." Drop the "final." You don't need the "final," I don't think. And then make it "December 31st." That gives us enough -- I mean, the time line Bill laid out is a -- he basically had to bunk, broke the time line, so we need the 31st. I think that'll do it.

CHAIRMAN BECKWITH: Any other comment on the motion from the Board?

MR. AUGUSTINE: Call the question.

CHAIRMAN BECKWITH: We're going to take some public comment first. John.

MR. MASON: Mr. Chairman, I think that the Mid-Atlantic Council's concerns are probably really addressed by this, but I would like to ask Harry Mears a question.

Harry, given that the basic part of the addendum will go forward and that the change to December 31st is basically to try to get good information on the egg production stuff, will that allow NMFS not to lower the hammer that we are all concerned about, especially the members of the Mid-Atlantic Council, about some of the area management triggers that you guys have put in that don't meet up with the LCMT proposals?

MR. MEARS: I'm not sure I completely understand the

question. And one thing I can't do is prejudge what I think might or might not be in the final rule. However, as a Board member, unless I'm wrong, the entire plan is area management, and I'm just completely confused by this motion what it intends to do and what it does not intend to do.

Part of the concern, I believe, is that the results of the stock assessment will suggest that there needs to be different barometers or mile posts by which to judge the individual area management plans. In fact, we've done that to date, where several of the plans have been evaluated with respect to what's already of record with regard to the modeling provisions of the stock assessment as well as an unpeer-reviewed alternative way of looking at egg production.

I simply don't look at this motion as anything other than a continued time delay.

CHAIRMAN BECKWITH: Okay. Any other comments from the Board? Is there any member of the public who'd like to make a comment on this motion? George.

MR. GEORGE DOLL: I'm in favor of this motion. George Doll. I'm the LCMT chairman from New York. The biggest problem that we've had with the fishermen buying all this stuff is that they don't see any relationship between your science and what we see in the sea. And to get better data would definitely help, you know, that misunderstanding. So I am definitely in favor of this proposal.

As an example, on Page 5 of your decision document, we started this process in Long Island Sound at egg production of 2.1. Just by having our biologists' data accepted, or almost accepted -- it's not entirely accepted yet -- we went to 8.9. Now, if we developed a plan, you know, to increase egg production at 2.1, it would be addressed very much more drastic than we had to from 8.9.

And something that does confuse me is that on Page 9 in the back of this document, there's another egg production value thing there that has Area 6 separated, and this one says that we are at 9.6. So, I mean, I don't even know where we are really. And we haven't done a thing. We went from 2.5 to 9.6 by doing nothing.

MR. LOBUE: Vent increase, George.

MR. DOLL: Oh, vent increase. Oh, okay. So, you know, we need the best data that we can have to go forward with. You know, you're getting the horse ahead of the cart.

CHAIRMAN BECKWITH: Thanks, George.

Any other member of the public want to make a comment at this time?

MR. DAVID SPENCER: David Spencer. I'm an Area 3 fisherman. The control date for a federal lobster permit was 1991. We all believed federal lobster management was imminent. It's eight years later, and we have no Federal Lobster Management Plan. There have always been good reasons, what appeared to be good reasons why no action was taken.

We seem to be at the same point today. There appears to be a good reason, and we're ready to stall again. I think we need to approve this addendum and move forward. Industry has been

diligent through the LCMT process in meeting their goal of egg production and also meeting deadlines. Meeting deadlines is a two-way street. Industry met theirs. We're asking you to meet yours. Thank you very much.

CHAIRMAN BECKWITH: Okay. Any other comments from the public?

MR. JAMES VIOLET: My name's James Violet. I'm an area fisherman also. And I'd just like to back up what Dave said. I'm kind of tired of coming to meeting after meeting after meeting and having nothing at all being done. This is your job to get these things done. Let's do it. We're here. We're here to get public comment on other parts of the plan. Let's talk about the plan. Let's talk about the trap limits. Let's talk about the gauge increases. Let's talk about the different areas.

I mean, what happened to the area management? Isn't that the whole idea about this plan? If Area 1 doesn't want to do something, fine, that's their prerogative. If Area 2 wants to have a different idea, fine. Let's talk about the area management. Let's move forward. Let's get going. I'm tired of this delay after delay after delay.

MR. MAROSE: I agree. My name's Mark Marose. I agree that we should move forward with something here today, because if the federal plan goes through, there's going to be several guys in New York State that are going to be out of compliance. There's no way we can comply in time.

And I would like to see better biological data, too. As far as I'm concerned, it's all barbaric. We have none from our area. We know it's out there, but we're making decisions on actually statistics that are outdated.

But we have to do something here today, because if the federal plan does go through, we're going to be out of compliance. We will not comply in time. We can't, we won't. We believe in our plan, and we want to see it move forward.

CHAIRMAN BECKWITH: All right. Let me just ask -- we've had at least two speakers from the public comment about moving forward. It's unclear to me as to whether you want to support this motion as a means to move forward or go back to the original schedule for Addendum 1. Are you in support of this motion or not?

MR. MAROSE: What's very confusing here -- and I'm sure a lot of the fishermen are confused. We have two government agencies sitting here. You guys are talking, they're talking. Nobody's telling anybody what's going on here. You know, Harry made a statement, a comment, but he's not really saying what's going to happen with this federal plan.

We have livelihoods here that are at stake. We're in limbo-land right now. Everybody's a nervous wreck. There's families that are being totally disrupted by all of this. How would you like it if you don't know what you're doing in two months, if you don't know if you're still going to support two other crew members on your vessels in two months?

I mean, I've been going to meetings, like Bob said, for eight years. You know, we've come forward. We know that things could change with this new biological evidence. But the whole

thing's supposed to be an evolutionary process. We're willing to accept that. We're willing to change with that.

But we're not willing to sit here today and not know what the Federal Government's going to do two months from now, depending on what happens at this meeting today and how far this meeting goes. That's not fair to us any more. We want to know before we leave tonight, and I demand to know, what they're going to do as of May 1st, depending on where this meeting goes today. And I think there's a lot of guys in this room that want to know the same thing.

CHAIRMAN BECKWITH: I appreciate your frustration, but my question was for the previous three speakers, do you support that motion or not?

MR. MAROSE: It's confusing. You guys have confused us and confused yourselves for the past two hours. Nothing's been accomplished in two hours. And as far as I'm concerned, you have a lot of nerve to schedule a one-day meeting when I know -- I've been to meetings for years and years and years and not much gets done in one day. And this is a very important issue. And if you keep scheduling short one-day meetings, you'll never get this process done.

And our livelihoods are at stake, not yours. Everybody else here has jobs. My livelihood is at stake here today. And we put forth good plans that are conservationally sound. If we get this plan crammed down our throats, we're out of business. And I can't blame myself. I've done my part.

MR. SPENCER: My comments were designed to not support this amendment and to do -- I'm sorry. David Spencer, Area 3 fisherman. My comments were designed not to support this amendment, to do what was supposed to be done in January and on the agenda for this meeting, and that was to get to Addendum 1 and approve it. Thank you.

MR. JOHN PEABODY: John Peabody, Area 3. I'm definitely against that thing. We want to do something now. If 1, 2, 5, 6, a hundred, doesn't want to do anything, fine. Area 3 wants to do something; we want to do it now. We've got a plan, we support it. We just want to do it. We don't want to postpone this stupid thing again.

Egg production isn't going to go up. Some guys are betting it's going to go up. What if it goes down? Then they're going to say, "Oh, we can't do that. Let's go back to where it was before." They don't want to do anything. We want to do something. The egg production's not going up, or I'm not doing my job, because I'm trying to catch all the lobsters.

MR. PAUL BENNETT: My name is Paul Bennett, an Area 3 fisherman for the last 25 years. I've been involved in the EMT process back in about '94, and I, too, remember the control date in 1991. I just don't have a very good feeling here at this meeting. I don't support this motion up on the board.

I think it's time that, you know, we really do something here today, and that would be to support the LCMT plan, particularly for Area 3. I think it's a plan that's been reviewed by the scientists, has met the ten percent egg production goal. I think with the gauge increases, vent increases, pot reduction goal that

we've had in that plan, I think it can work.

I just look at what's going on here today as another delay here, very frustrating for myself and, I'm sure, very frustrating for all Area 3 and all offshore fishermen. Thank you.

MR. GRAHAM MOORE: My name is Graham Moore, Area 3 fisherman. I just want to reiterate what Paul and David have said. I do not support this motion that's up on the board right now. I think industry has worked hard, the LCMTs have worked hard to come up with a proposal that is going to work and meet the goals that were put forth.

I think the Area 3 fishermen here have a very big fear, a large fear of the NMFS Proposed Rule 1. If we don't act and do something here today, we're just stalling it further, and I think that's what NMFS is -- I think NMFS is pushing it. They want to see this move forward, and that's what Proposed Rule 1, I feel, is about. It sure has scared me, and, as this other gentleman said, all our livelihoods are at stake here. And this has to move forward. We can't stall any more.

Thank you.

MR. BENNETT: One thing I forgot to add. I'm not much of a speaker here. But I think stock assessments change continually, and I think it's great to wait for the most up-to-date assessment we can get, but I just don't think that's practical. I think we have to deal with what's on the table here and get moving ahead.

By the time we get this new assessment in, I think it's going to be time -- and then go ahead with this procedure here -- it's going to be time, we're going to be looking back and saying, "Gee, maybe we should get another one." So let's deal with what we have here.

CHAIRMAN BECKWITH: Okay. Any other public comments before we go back to the Board?

MR. AL EAGLES: My name is Al Eagles. I'm an Area 3 fisherman, also a State of Rhode Island lobster fisherman, and I would definitely be against this proposal on the board. I think the Area 3 plan that Atlantic Offshore presented on a history-based participation should be the way to go.

And the only negative comment I'd like to say is some of the other plans I've read, they would like to exclude fishermen from fishing both areas, if you fish Area 2 and Area 3, that you wouldn't be able to fish in both in the future. I totally disagree with that. So no matter what plan went into effect, I'm dead against that. I've been fishing both areas for years, and that's where I make my living, by being able to go in both areas.

So other than that exception, I would be in favor of the Atlantic Offshore proposal. Thank you.

CHAIRMAN BECKWITH: Okay. Any other public comments?

MR. JOHN SOLIE: John Solie. I'm from the Rhode Island Lobster Association, Area 2 fisherman. This is beginning to look scarily like the EMT process that we went through five years ago.

Pertaining to the motion that's on the table, I am not really sure that I understand exactly what this is going to do, except to buy some more time for the state directors to pull some of the nuts and bolts together that will help to make this whole thing float forward.

From a fisherman's perspective, we've seen enough of this. The fishermen from Area 2 that I speak for have been anxiously waiting the departure of this train from the station for almost nine years. Any more delay, whether they're well-founded delays or not, are going to be perceived by fishermen as an inability to move forward with comprehensive management in this fishery, which is something that we've all been anxiously working towards, both in the EMT process and the LCMT process.

My fear is that the credibility of this body, the credibility that fishermen have in the ability of the ASMFC and the National Marine Fisheries Service to work together towards comprehensive lobster management will begin to falter or actually is faltering now, and that process will accelerate.

I think that the management process, the adaptive management process envisioned being able to work with better science as it became available. So I'm not really -- I'm not totally convinced by the discussion around this table that this motion is necessary. If we can hold as best as possible to the schedule that's been laid out by Amendment 3 without throwing any unnecessary delays at this stage of the game, I think that would benefit all of us.

CHAIRMAN BECKWITH: Okay. Any other comments from the public before we go back to the Board? Okay. We're back to the Board. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. For all you concerned gentlemen who just spoke, this does not slow down or stop the process that you presently have going. This does not impede it in any way, shape, form or manner. This captures this group, forces them into a position where not only the scientific community has to go forward, complete their work, but there's a guarantee there that this addendum will be approved, got to be on the table by December 31st. We had started it at December 1st. So anything you're doing in Area 3 or Area 2, as the case may be, there's nothing here that slows that down, nothing.

So I may have to stand corrected on that, but, Mr. Chairman, that's my understanding of what we're doing here. Bruce clarified it. It indicated that we are able to move forward. And I wish someone else would clarify beyond that, if necessary.

CHAIRMAN BECKWITH: Let me say this. We're not debating issues here. We're taking comments on the motion, and we're back to the Board. Let's let the Board make any final comments. Phil.

MR. COATES: Yes. My understanding of the motion is that everything else goes forward except the area management egg production provisions of the plan, so that the Area 3 historic participation if, in fact, the Board further debates that today and includes it in the addendum, that goes forward.

CHAIRMAN BECKWITH: Right.

MR. COATES: That's my understanding.

CHAIRMAN BECKWITH: My understanding is a lot of the people who were speaking to the situation in Area 3 with the trap limits, that part of the plan goes forth is my understanding. I think if you really want to bring it down to where we are, this really affects gauge increases. This would just perhaps postpone that a little while till we get some additional data in.

Okay. Harry.

MR. MEARS: Sorry, Mr. Chairman. I'm a bit confused. I was not equating here the interchangeability of the words "area management" with "gauge increases." If that's what we're saying, that's the way the motion should read, not that I'd agree with it, but how would -- would anyone explain a vote either taken in favor or against that motion and know exactly what was in the minds of some of the Board members? It's beyond me, because it certainly wasn't in my mind.

CHAIRMAN BECKWITH: When I spoke about gauge increases, I spoke about where we are with the proposed Addendum 1. If the additional information comes in from the stock assessment review, there could be other alternatives to meet the egg production schedule. But currently that seems to be the primary mechanism we have.

Harry.

MR. MEARS: I'll make one final comment, and again it's about area management. I believe we're at a very important crossroads for current and future directions and also giving us an indication of how well a state and federal partnership can work from an area management perspective. In fact, we are looking at issues including historical participation, closed seasons, displaced fishing effort, gauge increases.

These issues are here now, and in terms of voting on a delay in anticipation of what some updated stock assessment might tell us or not tell us, we as a Board always have that opportunity. In fact, it's our responsibility to act on the basis of the best scientific information available.

My strong feeling at this point is we need to go forward with everything that's been put on the table by the individual Area Management Teams, and it includes all of the various options that we've talked about in terms of current and future choices for lobster management.

Again, this motion is not only unclear, it's misleading, and I don't believe it's needed.

CHAIRMAN BECKWITH: Any other comments from the Board? Bill.

MR. WILLIAM A. OUTTEN: If I remember correctly, when we started this discussion in the wee hours of the morning, one of the strong reasons put forth was we don't want to go forward until after the peer review, because we may have to make some substantial changes. I think I've heard industry say clearly they don't care about the changes, they're willing to deal with that, and they just want to see it go forward.

Now, if I have misunderstood what I have heard industry say, I apologize, but I thought that's what they said.

And the second thing would probably help everybody here,

is someone to tick off precisely what happens under this motion, what items are going forward as we set and what items are being held pending the peer review at a later date. I think there's probably still a lot of confusion there.

CHAIRMAN BECKWITH: Okay. We can attempt to do that. Amy, can you do that? Gordon, you want to defer your comment, or you want to make it now?

MR. COLVIN: Well, it's related to what Bill said. Maybe we can do that.

CHAIRMAN BECKWITH: Go ahead.

MR. COLVIN: You know, Bill, it's becoming clearer, I think, as the discussion goes on that there are different viewpoints on this, and a lot of those viewpoints are being driven by the proposal for the regulations in the EEZ. I think what you would hear from the fishermen here who are fishing in the EEZ is that they would like to go forward now, because they have a threat right on the horizon coming up within the time frame, well within the time frame of final action as proposed by this motion, that may well come at them.

And they hope -- it's very clear that this is a hope at this point -- and we hope, certainly we in New York hope, that the final rule would be changed. But none of us knows whether that will happen. It sounds as though it's more likely that that final rule would be changed to defer to the Area 3, Area 4 and the other area management programs if we went forward with the full addendum.

I think that's what I'm hearing the representative of the Service saying. But the fact is that, as he said earlier, he can't guarantee that either, because the bottom line is nobody from the National Marine Fisheries Service can sit here today and say what the final rule is going to contain. They can't do it. Legally they can't do it.

I don't think they can say this either, which is what's been bothering me. I don't think a representative of the Service could sit here today and say, "But our position won't change if there's a stock assessment that comes out with a peer review report in September that suggests that we are in a substantially different place." I think frankly their position would change if that happened, just as ours may. And I think that's the essence of this motion.

What you heard from George Doll, and I suspect you might hear from some of the other inshore fishermen, is without that threat of the federal regulations looming out there on the horizon, it makes sense to give this a little more time to get the update of the assessment on the table to compare that to the management plans that have been done by the different area management teams, to nail it all down, to tie it up as tight as we can, and then go forward on a very ambitious time schedule.

It is the threat of the federal regulations is what's driving people's views on this. And I think somehow -- and I'm frustrated about it just like everybody else in this room is this morning -- somehow we have to find a way to deal with that in a more constructive way, because what's going on here isn't constructive.

Last point. It is largely about gauge increases in state waters, not because it's about gauge increases but because the fact is that by choice most of the Area Management Teams came up with gauge increases as the preeminent way to increase egg production. There are some other things. Area 4 has some other things: Maximum size limit, some area fishing restrictions. I suspect there are in some of the other areas as well.

Most of us have to go to our legislatures to implement these management plans, and certainly our legislatures are going to have a lot of interest in the subject of gauge increases, maximum gauge sizes and other things. This is not a thing you can go to your legislature with twice in two consecutive years. You can't do it, none of us can do it. Senator Goldthwait made that point very clear, and she's right. She knows better than we do.

If the Board is going to take the position that regardless of the effects or the consequences or the outcome of the upcoming assessment update, we can go ahead with the area management plans as we approved them last fall for one year, two years, three years, five years, we wouldn't have to have this discussion.

But I don't think that's what this management program contemplates. It contemplates updating where we're going based on the results of the assessment and knowing that that assessment's coming, I think we need to have it in hand when we ask our legislature to support what we have to do. And I only want to ask them once.

CHAIRMAN BECKWITH: Amy, can you run through the list of things that would be included in Addendum 1 that would go forth for a May approval and what would be excluded for a later approval?

MS. SCHICK: Based on this motion, how I would proceed is preparing an addendum that would contain -- and I'll just walk through the decision document that I have in my hands right now -- would be starting with Section Number IV, Historical Participation; Section V, Circular Escape Vent Specifications; Section VI, Proposal for Area Closure. Section VII I think is debatable. We can go forward with it, because one of the alternatives is to update the table following the next peer review assessment.

Section Number VIII is Monitoring and Reporting; Section IX, De Minimis Specifications that were approved at the last Board meeting; the trap tag system, which was approved at the last Board meeting. And then going to Section XIX, Adjustment to the Compliance Schedule, and that would include the language in this motion that an addendum be approved by December 31st, 1999 that would contain the area management measures, and it would also include recommendations for actions in federal waters.

And I'll defer to the executive director if there's anything else he thinks should be included in that first addendum.

EXECUTIVE DIRECTOR DUNNIGAN: For the area-specific sections that you've skipped over, is the only thing that's implied there that we don't want to talk about gauge increases? That we would still include the trap limitations?

MS. SCHICK: Yes. The trap limitations could go forward

as well as the historical participation section. So Yes, those could go forward.

EXECUTIVE DIRECTOR DUNNIGAN: So Sections XII through XVIII, they're not out completely; it's just a piece of them that's out.

MS. SCHICK: Correct.

CHAIRMAN BECKWITH: Bruce, do you want to follow up?

MR. FREEMAN: Yes. Just a general comment to add somewhat to what Gordon had indicated and others. Just a brief review, and to hopefully put the minds at ease of the fishermen who have spoken here. This process, I think, in retrospect has been very useful because we have developed a process of involving industry.

They have worked very hard -- I can speak for Areas 3, 4 and 5, because I've been directly involved -- in coming up with a process that essentially looks at what the existing effort is and reduces it to a level which does not exceed what presently is being fished.

In these instances, the fishermen look beyond just that to what would be necessary to increase egg production, and they have a litany of issues, one of which is gauge increase, but there's also maximum size, there's a number of things. And their comments were, "If we reach these thresholds, then let's consider these additional measures." But it has been fairly well thought out, and it goes beyond just the ten percent egg production.

And the approval of this motion would put those into effect, or at least would put it into the process of putting this into a document that everyone in the public could look at and could agree to or disagree to. And then we come back and make those decisions. What it does take off the table, at least for the time being, is any firm determination of gauge increase until the peer review is done.

But what's extremely important, I think, to particularly Areas 4, 5 and 3 is getting sufficient biological and catch information to better do the assessments. And my crystal ball on this thing is when the assessments are completed -- and I can't speak for Carl -- but going through the process is that some of the information's going to be very informative, but we're going to find we don't have all the information we need.

The fishermen see this already. They're willing to provide it. The future analysis of the stock assessment in two or three years probably will be very good, much better than the one coming up.

But in the meantime, we need to move forward, and although I've heard the comment the fishermen don't support this motion, I think they don't understand it, and my firm belief is if this motion is passed, it will accomplish much of what these fishermen have been spending their time and asking for. This will put that in place after our public hearing process.

CHAIRMAN BECKWITH: Okay. I think it's time to call the question. Caucus. Let's take a minute to caucus.

(Caucus)

CHAIRMAN BECKWITH: Yes, Mr. Executive Director.

EXECUTIVE DIRECTOR DUNNIGAN: Before you take the vote, I'd like to have the opportunity to read the motion into the record.

CHAIRMAN BECKWITH: Yes. Let's keep the noise down. Jack's going to read the motion into the record before we take the vote, and it'll be a roll call vote.

EXECUTIVE DIRECTOR DUNNIGAN: Motion by Mr. Coates, seconded by Senator Goldthwait, as modified by unanimous consent:

Move that the Board postpone further development of the area management provisions related to egg production until the peer review is completed; provided that the Board will approve that component of the addendum by December 31, 1999, and continue as scheduled for the other provisions of Addendum 1.

CHAIRMAN BECKWITH: Okay. I thank you.

I think we're ready to vote. Everyone has caucused. Okay, Amy, let's call the vote by roll.

MS. SCHICK: Okay. If a state has a "Null" vote, just make it clear. I know at the last meeting I took some wrong calculations because I thought they were saying "No." So if it's a "Null," maybe give me an extra indication that that's what you mean.

The State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: N-u-l-l.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Null with an "l".

MS. SCHICK: Rhode Island.

RHODE ISLAND: No, N-o.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: New Jersey votes Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

MS. SCHICK: The vote is five in favor, two opposed and two null votes.

CHAIRMAN BECKWITH: Okay. The motion passes.

All right. It's ten minutes to 12:00. Why don't we break for lunch and try to be back a few minutes before 1:00?

(Whereupon, the meeting recessed at 11:50 o'clock a.m., February 22, 1999.)

MONDAY AFTERNOON SESSION

The Monday afternoon session of the meeting of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Bacchante Room of the Providence Biltmore Hotel, Providence, Rhode Island, February 22, 1999, and was called to order at 1:15 o'clock p.m. by Chairman Ernest E. Beckwith, Jr.

CHAIRMAN ERNEST E. BECKWITH, JR: All right. Why don't we get started? Okay. The chairman of the Technical Committee asked if we could, the Board could approve the terms of reference. He said it would make his job a lot easier to make sure the stock assessment moves forward in an efficient manner. I don't know if we need a motion to do that, or can we just approve it by consensus?

Is there any objection to the terms of reference as proposed by the Stock Assessment Subcommittee? Jack.

STOCK ASSESSMENT TERMS OF REFERENCE

EXECUTIVE DIRECTOR DUNNIGAN: I have a couple of questions, Mr. Chairman, for Carl. Do we really need the first one?

MR. LOBUE: That was a suggestion by one member, and it was debated for quite some time, so I'd be just as happy to have it taken out.

MR. COATES: I don't want to set any precedents.

EXECUTIVE DIRECTOR DUNNIGAN: We always do it that way, right?

And then the second question I have, if I may, Mr. Chairman, is Number 4, develop analyses. Are you really talking about hypotheses there? I don't know what you're going to analyze.

MR. LOBUE: Yes. I suspect that -- there's been some suggested ways to do some modeling, meta-population modeling where you have influx of animals in and out of the different populations. This is something that Vic Crecco is working on.

I had reworded Number 4. I don't know which copy that you have. But the way I have it on the version that I'd like you to approve reads, "Develop analyses which could explain why the abundance and recruitment of lobsters has continued to increase in spite of the overfished status of the resource."

I think this is something that we need to try to address in

order for scientists and for industry to kind of come on board with this. To just keep saying that it's been overfished and we're on the edge of a cliff, yet abundances keep going up, I think we need to try and address or explain how that might have been occurring.

EXECUTIVE DIRECTOR DUNNIGAN: Carl, the sentence you read is not what I have before me right now, and that sounds much better.

MR. LOBUE: Okay. That's in the copy that Amy has.

MR. COATES: Could you read it again, please?

MR. LOBUE: Sure. Number 4. "Develop analyses which could explain why the abundance and recruitment of lobsters has continued to increase in spite of the overfished status of the resource."

CHAIRMAN BECKWITH: Any other changes? George.

MR. LAPOINTE: I have another comment, and I don't know if it's specifically a term of reference, but earlier in the day we heard discussion about mashing the three assessment areas into one, and this Board member for one thinks that would not be a productive use of our time right now. I understand people don't want to go -- you know, originally we talked about moving to more areas, and I don't want that. But changing from three to one, I think, will cause more confusion.

MR. LOBUE: I would agree with George.

CHAIRMAN BECKWITH: Okay, John and then Harry.

MR. MASON: Unless the Board says don't, there's a possibility out there of doing that.

MR. LOBUE: I wouldn't object if you want to include "Don't do that."

MR. LAPOINTE: Are there any Board members who like the idea of decreasing from three assessment areas to one?

CHAIRMAN BECKWITH: Are you raising your hand for comment or just saying, "Yes, let's do it"?

MR. COLVIN: Comment.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: I would agree with George, and it could be done by perhaps in the beginning of Number 3, indicating, "Retain the three current stock assessment areas and for each area" colon.

CHAIRMAN BECKWITH: Mark.

MR. MARK GIBSON: I think it's possible that there could be some collapsing of stock areas, and I wouldn't want to preclude the Assessment Committee from looking at that. This whole concept of meta-population dynamics, if there is a bombshell, it could come out of updated and enhanced assessments following along the Peer Review Panel's suggestions. It's in this area.

It's very possible. In fact, papers have been now published on it; for example, that the end productivity, the inshore area could remain high indefinitely if there was a larval subsidy to the

inshore area from the offshore area, and this would be even further enhanced if there is a migration of recruit lobsters from the inshore to the offshore area.

If that exists, and there's a lot of information that it does, that violates the current stock structure assumptions. And I don't think we should preclude this sort of investigation from going on.

There's building evidence to that effect, and I don't think it would be in the best interests if the Board superseded the Technical Committee, the Assessment Committee's purview and investigations in this area.

CHAIRMAN BECKWITH: Before I go to Gordon, a question for you, Mark. Could we still analyze those approaches and maintain the three areas we have now, just incorporate those issues?

MR. GIBSON: Certainly, you can maintain those areas for comparability; that is, strictly updating the assessment according to the old protocols and assumptions. But it may be that the inshore and offshore areas would be collapsed to one area with exchanges between them under this, you know, concept of meta-populations.

And that is a prominent recommendation in the Peer Review Panel's advice. In a number of places it shows up in terms of evaluating this concept, evaluating data which might support it.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: I had some limited awareness of the ideas that Mark's referring to, and in my mind, at least, I had sort of catalogued those as potentials under the revised Term 4. And would that be an appropriate place where those ideas could be pursued within these terms, Mark?

MR. GIBSON: Yes, I think that's a good spot for them.

MR. COLVIN: I don't think it's ruled out there, even if we made the change I suggested.

CHAIRMAN BECKWITH: Any other comments on the terms of reference? Harry.

MR. MEARS: Yes. I have two questions or points to ask Carl. What we're looking at here, I believe, are the terms of reference for the subcommittee, which is part of the Lobster Technical Committee --

MR. LOBUE: That's correct.

MR. MEARS: -- for their July deliberations.

MR. LOBUE: That's correct.

MR. MEARS: Recognizing that we're, I believe, also beginning steps to recruit a Peer Review Panel for August, has there been any thought to develop terms of reference for that group? How does one --

MR. LOBUE: Perhaps Amy can answer that question, terms of reference for the peer review.

MS. SCHICK: That is correct. They're going to have to develop separate terms of reference for the Peer Review Panel, but it's my understanding that they will follow very closely with these terms of reference that their subcommittee has developed

for themselves, but addressed directly to the Peer Review Panel rather than the guidance for the Stock Assessment Subcommittee to perform the analyses. So it will be very similar to how this looks now but geared for a different audience.

MR. MEARS: Okay. And the timing of recruiting members for the Peer Review Panel, is there any tentative strategy for that?

MS. SCHICK: It has been dependent up till now on when the final date for report is due by the subcommittee. So following this meeting, I'll be getting together with Lisa Kline, and some of her staff will be arranging the peer review. They plan to move as soon as possible once they have a date set that the subcommittee's report will be in our office. She will make arrangements accordingly, and that will be a firm date once it's been established. If we go with a July 1st date, she can begin recruiting that Review Panel fairly shortly.

MR., MEARS: Thank you.

Mr. Chairman, my second comment was with regard to previous reports which we have heard from the Technical Committee inasmuch as future assessments would need to address the ability of the science to match measures by the individual management areas to coincide with objectives to rebuild the stock which are relevant to the stock assessment units. Is that implied in any of these terms of reference?

MR. LOBUE: I'm not exactly clear on --

MR. MEARS: Okay. In other words, we have seven management areas. We have three at the current time, three stock assessment populations. There have been considerable discussions during the last two years of the ability to monitor the effectiveness of the individual seven sets of regulations as they may correspond or not correspond to meeting the goals of the individual stock assessment areas.

MR. LOBUE: That's going to be a difficult issue, particularly when you have management measures in adjacent areas or within the same stock assessment area that conflict, such as a maximum size in one area and in an adjacent area no maximum size. That's a difficult issue, and that's -- or different minimum gauge sizes.

It's going to be very difficult for scientists to figure out if one or the other plan isn't working. And that was advice we had given to you when we submitted the analyses of the LCMT proposals, and that advice still stands.

MR. MEARS: Mr. Chairman, I'd just like to make the point that this is an issue that's very critical to the longer-term success of the Lobster Plan. We need somehow to address that in the near future. I don't know where to go with this, other than it's a very prominent issue.

CHAIRMAN BECKWITH: A question for you, Carl. Once we develop a monitoring program where states have monitoring requirements for data as well as fishery-independent sampling, will this assuage some of Harry's concerns possibly?

MR. LOBUE: I don't see anyone at this table talking about expanding their monitoring reporting requirements as of yet, so

I'd have to try and see what -- you know, maybe it would, perhaps it wouldn't. Some of these areas are very big, Area 3, Area 4, Area 5. If you have different management measures in them, if you have five-inch lobsters crawling across the line and they're no longer protected, you might want to consider going back to LCMTs and maybe suggesting that they try and do, as far as gauge sizes, uniform coastwide gauge sizes, minimum and maximum.

CHAIRMAN BECKWITH: Okay. Any other comments or changes on the terms of reference? Bruce.

MR. FREEMAN: Just one comment that was made earlier, just the issue about inshore/offshore and larval transport. In the data needs sections that was put together by, I guess, the Technical Committee, those are within the top four priorities of what the scientists want to accomplish. There's 14 or 17 different issues they want to deal with.

But the stock discrimination and larval transport is in the first four of those. It's also incorporated in other portions of the plan that we don't have before us. So that's another way -- the issue that Gordon addressed with Mark's concerns, it's another way that can be addressed.

MR. LOBUE: I don't know if any resources have been made available to do any of those studies, but they are recommendations of studies that would be useful to do.

CHAIRMAN BECKWITH: Okay. Any other comments on the terms of reference? Is there any objection to approving the terms of reference with the changes as indicated? Seeing none, then they are approved.

Okay. The next agenda item will be Review of Decision Document for Addendum Number 1, and Amy had gone through previously and indicated what items we would be covering. And at this point, I will turn it over to Amy, and she can walk us through it.

REVIEW DECISION DOCUMENT FOR ADDENDUM #1

MS. SCHICK: I'm going to skip over the first three sections that are included in the decision document, those that relate to gauge size increase and comparable vent size to minimum gauge increase, and skip to Section IV, which is Historical Participation.

Historical Participation

Areas 3, 4, 5 and 6 propose capping their trap numbers per vessel based on historical participation, and the Board must act fairly and equitably in capping and reducing the number of traps coastwide. So the question that the Board faces now is should we apply a baseline standard for all areas or should each area be able to develop a standard process for evaluating historical participation?

The alternatives put forward are to develop a coordinated evaluation process for historic participation across all areas. The second alternative is to allow each management area to develop

an evaluation process. And I've summarized what was put forward in the area proposals in Appendix 5, which is towards the end of this packet of materials.

Alternative 3 I recently put in. It wasn't in the initial decision document that was passed out in January. But just as an alternative that go to public hearing is to adopt the default trap limits specified in Amendment 3 for each area. And the fourth alternative is to take no action.

In terms of developing a coordinated evaluation process, there are several states that have areas within their boundaries, as well as the National Marine Fisheries Service, and if each area went forward by developing their own evaluation process, that would mean that the States of New York, New Jersey and the National Marine Fisheries Service may have different evaluation processes for determining historical participation within different areas.

Adopting the default trap limits is what is currently in the plan right now from the proposed rule that the National Marine Fisheries Service has put out. It hasn't been met with much support from industry, but it could be included as an option to go out to public hearing.

And by taking no action, that would mean that the LCMT proposals which cap and/or reduce the trap levels per vessel as a means of controlling effort would not be followed, and therefore some of the LCMTs may have to go back to the drawing board and methods for capping and reducing effort.

These are the four alternatives that I have put together for going out to public hearing, and I can take comments on this section right now.

CHAIRMAN BECKWITH: Let me just give you an example of a potential problem, and maybe it'll help clarify some of the issues here. But Area 6 has got a line running right down the middle of it, and the one side is New York and the other side is Connecticut.

And the State of Connecticut has a logbook system that we've maintained since the late '70s, and from that, we can determine the number of traps that a fisherman has fished, traps as well as trap haul set-over days. They also indicate under licenses the number of traps that they intend to fish for that license year.

We have gone through that information and analyzed that, and if you tally up the number of traps fishermen indicated they had fished for the last four years, each year it came to an average of over 300,000 traps. If you calculated what they actually fished, the average is about 148,000 traps. So you can see there's quite a difference based on what method you would utilize to determine what a fisherman fished or what a fisherman said he fished.

This is a problem not only for us in the Long Island Sound, but because the State of New York doesn't have a logbook system to fall back on -- they'd have to utilize some other method for determining what the historical participation was.

I think the issue here is that we could probably see these kinds of differences within areas and also between the different

areas we have. And I guess the issue is, should we consider some uniform equitable way of determining historic participation so we can allocate traps fairly amongst the areas and within the areas? I don't know if it's possible to do that, but that's the issue.

Pat.

MR. WHITE: I guess it becomes less and less possible as we start to get from one area to another, and I've gone on record as opposing in the federal plan the inability of people to traverse between Area 1 and Area 3, as do I have a problem with the trap limit proposal that Area 3 currently has for the offshore lobster fishery.

And I've talked at length with them about it, because I think we have a little bit of a unique situation in the Gulf of Maine north of 42 degrees, because at this point in time we only have half a dozen boats. As a fisherman, it precludes me from fishing out there, but somebody from North Carolina would have the ability to fish up there with a lot larger number of traps.

The people that are currently fishing there now don't have the large numbers that have been alluded to in this trap reduction schedule that they have for the whole of Area 3, which I understand. So specific to our area and the Gulf of Maine, I get much more concerned about the ability of people to move within Area 3 or from Area 1 to Area 3 and what it does for conservation.

CHAIRMAN BECKWITH: John.

MR. NELSON: Thank you, Ernie. I'm not sure what you were asking. Don't the proposals that we have here that we're suggesting be put into the public hearing document cover the gamut of providing either a joint program amongst multiple groups or unique programs, or something in between?

And isn't that really what we want to make sure, that the range of options is adequate to address what you have outlined as a possible problem when we actually come back to have the discussion on what would be appropriate for that area, based on the public comment that we've received?

CHAIRMAN BECKWITH: You have to look at two things: What would be appropriate and also what is possible. Because it might not be possible to do it all ways in all areas.

George.

MR. LAPOINTE: I have had concerns, and I've talked to Bonnie in particular about the historical participation part of the Area 3 proposal in particular, but for the public hearing document, I think the suite of options is broad enough to cover those concerns in the future. And I'll just look at the issue part of the discussion, and I think that's sufficient for me at this point.

CHAIRMAN BECKWITH: Harry.

MR. MEARS: Yes. In addition to the Area 3 proposal, I believe there are at least two other proposals which deal with, to some extent, historical participation. And I believe I understand what is intended by including Item Number 1 for development of a coordinated evaluation process as an alternative for historical participation.

I'd like to suggest -- I don't think we're going to solve that at this meeting, but I would like to suggest that perhaps there be a work group in much the same way which we evaluated the trap tag implementation as well as law enforcement issues, for a work group to be assigned the responsibility to consider what's already come forward in terms of historical participation, the type of issues which have already been referenced with regard to ability to implement historical participation on the basis of individual jurisdictions, and to come back to this Board with a summary of findings or comments or recommendations.

I believe if such a group were convened, it would be very helpful to address some of the questions which will surely arise during the public hearing process.

CHAIRMAN BECKWITH: Okay. Any other comments? Bruce.

MR. FREEMAN: I think you are aware, Mr. Chairman, there has been a very detailed explanation of how this would operate in Area 3, and then also in Areas 4 and 5 so far as determining historical participants and the number of traps they're presently using. It would seem to me that if that hasn't been looked at by Area 6, it could be. It seems like this system will work and be a fair system.

And again, I would suggest that if Area 6 has not considered it, to look at the philosophy and the way it would operate in Areas 4, 5 and 3 and see if there is application for Area 6.

CHAIRMAN BECKWITH: Okay. Any other comments? I guess we have two approaches. One is to see if the proposed approaches for Area 3, 4, 5 and 6, did you say also -- not 6, but 4 and 5 -- would have applicability to other areas. I guess the only other area is Area 6.

MR. MASON: Area 6 has one.

CHAIRMAN BECKWITH: Area 6 has what?

MR. MASON: A proposal on how do this historical thing. It's on Appendix 5.

CHAIRMAN BECKWITH: What does it say?

MR. MASON: If you look at three pages back from the back, there's a historical participation requirement summary for each of the areas. Three pages from the back, counting the blue pages. I mean, if somebody wants to develop another possibility besides these, maybe there's a need for a working group, but they're already there.

CHAIRMAN BECKWITH: That is just a list of alternatives. I guess the issue here is if people select different alternatives as their basis for determining trap allocations, then there could be a situation where it would not be equitable across the board.

I think the issue here is to have the Board consider whether they want some baseline that would assure a fair and equitable system across the areas, and not have different areas or states within areas proceed with a different way of calculating or determining historical participation.

Obviously, the kinds of things you have there as a list are the

kinds of things that states and areas could use. I can see this is difficult for the Board in terms of how they should deal with it.

Bob.

MR. SMITH: Bob Smith, Area 2. If these criteria that John just showed were to be used, we would like to be included in Area 2. We have wanted this type of system forever. But it's a historical participation, and we're constantly told that we didn't have enough data to do such a system. And so we abandoned it, but we sure didn't abandon it because we didn't like the idea. Thank you.

MS. SCHICK: Mr. Chairman, if I may clarify. The alternatives that are presented forward in this decision document are alternatives to take out to public comment. The first alternative, if that was determined to be the preferred alternative, or that's the alternative that the Board went with a final addendum, the specifics on what that system would look like would have to be worked out. And in that case, it might be worth pursuing a subcommittee to investigate a historical participation system, as Harry mentioned.

In terms of Alternative Number 2 and the language that was in the LCMT proposals, I think those are good frameworks and types of information that they're interested in pursuing in determining historic participation, but the specifics on the process would have to be refined a little bit further from their proposals before you could implement that system. That was my understanding.

So the alternatives put forward here are just to get a range of reactions from public comment and not to have the specific language that would be included in an addendum on historical participation.

CHAIRMAN BECKWITH: Thank you, Amy. I think that really clarified it for me anyway.

John.

MR. NELSON: Just to go a little bit further. Where we talk about Number 2, Alternative Number 2 and allowing each management area to develop an evaluation process, etcetera, etcetera, when we look at the analysis part, we talk about Areas 3, 4, 5. We do mention 6 under default trap limits. But are we saying, or should we be saying that it's something that all the areas can consider?

And therefore, if that is the case, we want to make sure that that's clear in the public hearing document that all the areas can discuss options or alternatives for their areas.

CHAIRMAN BECKWITH: I'm not sure that it says that, because I believe that only applies to the areas that have the flexibility to develop area-specific plans. What I mean by that is some areas that it was already set. Area 1 was already set. The Outer Cape was already set. But the other areas, they had the flexibility to develop their trap allocation system. I believe it only applies to those areas.

MR. NELSON: All right. So where Bob had asked if Area 2 could be considered in that, then really they would not be considered based on how they are proposing to do this anyways?

Is that correct?

CHAIRMAN BECKWITH: They already have a -- I'm trying to remember what Area 2 is. They have a default in there, don't they? And that's what we're proceeding on. I think it was Areas 6, 4 and 5 and Area 3 were the ones that had the flexibility to develop --

MR. NELSON: Right. I just wanted to make sure that was clear when we go out to the public and have that discussion.

MS. SCHICK: Again, my impression is that this is just to go out to public hearing, and that doesn't preclude Area 2 from making recommendations and submitting comments that they would also like to pursue a historic participation program.

MR. NELSON: Okay. Well, that was my point. We want to make sure it's clear that if that is an option for that area to consider, that it's clear in the document that they do provide that type of input. And I was not getting the impression that that option was available to other areas.

CHAIRMAN BECKWITH: I didn't think it was, and the issue just came up. It certainly is a different direction than we've gone in so far. If you want to do that, that would have to be included in the addendum, have it specify that. That is not in this decision document. We haven't considered that before. But we can certainly do that.

MS. SCHICK: This may help some. What I could do is -- what we're looking at right now are not the measures that are particularly under area management, but if you look at Section XII, which is Area 2, and under Item Number 3 it says, "Limits on the number of traps per vessel," and Alternative 1 is the alternative that the LCMT put forward as their recommendation. And those are the default trap limits that were in Amendment 3.

What could be included there also as a second alternative, based on the comments from the chairman from the LCMT Area 2, an alternative could be added in that portion that Area 2 could potentially pursue a historic participation system on limiting their trap numbers.

CHAIRMAN BECKWITH: Thank you.

Go ahead, Bob.

MR. SMITH: Just for the record, I appreciate that thought, and I would agree with it. And it would be an appropriate way for us to look at that issue or revisit that issue that we visited right in the very beginning and were told we couldn't do because of the lack of information.

But as the chairman has already said, there are other states that have the same types of lacks of information to develop the program, so if we could come up with a way through a committee that you have stated should be developed, or Harry stated should be developed, then maybe we can find ways of doing this even in Area 2.

CHAIRMAN BECKWITH: Okay. Any other comments on this? I think we've pretty much narrowed it down to the -- and we've clarified the options that we have in the decision document.

If that's okay, we'll proceed with those options for the public hearing document, and we'll go on to the next item. Ralph.

MR. MALING: Do you make concessions to Rhode Island to be able to get in this history participation? Is that also available to Area 1 fishermen?

CHAIRMAN BECKWITH: I would expect it would be, because those areas are treated the same in the plan as is the Outer Cape also.

MS. SCHICK: What I can do, Mr. Chairman, is write in language underneath this item that would go out for public hearing under issues, and make a statement that at this meeting, Area 2 LCMT made a recommendation that this be presented as an alternative that that LCMT could pursue if they chose to do. And I could also include language that this would be an alternative available to all LCMTs if that's the route they choose to go.

CHAIRMAN BECKWITH: Is that okay with the Board? Okay. I see heads nodding in the affirmative.

Carl, do you want to make a comment?

MR. LOBUE: I was just concerned that I think the language in Amendment 3 is different for Area 1 than it is for Area 2.

CHAIRMAN BECKWITH: How so?

MR. LOBUE: Under Section 3.3.11.

CHAIRMAN BECKWITH: Give us a page number.

MR. LOBUE: Page Number 23. That's for Area 1. It reads, "The following limits on the number of traps must be implemented according to the following schedule." When you read Area 2's, which is on the next page, Page 24, it reads, "In the event that an acceptable plan is not submitted, the following trap limits must be implemented." So the language is a little bit different.

CHAIRMAN BECKWITH: Yes, you're correct. What does Outer Cape say? That's on Page 26. Yes. Outer Cape is very similar to Area 1.

MS. SCHICK: If I may, Mr. Chairman, under adaptive management, any of that language can be changed. So currently for Area 1, they have to have these trap limits in place, but that doesn't mean that the Area 1 LCMT couldn't come forth with a recommendation to change this to a historical participation system.

So the executive director can correct me if I'm wrong, but I don't think the language matters in this case.

MR. LOBUE: Great.

CHAIRMAN BECKWITH: Okay? I think we're clear with where we are on that. Shall we move on to the next one?

Circular Escape Vent Specifications

MS. SCHICK: The next section is Section Number V, Circular Escape Vent Specifications. Back in the August Board meeting, the chair of the Technical Committee reported that a

complementary circular vent size of two and seven-sixteenth inches would complement the one and fifteen-sixteenth inch vent size, and a motion was passed by the Board to adopt that as the language for a circular escape vent.

In the meantime, it has been pointed out that the conservation equivalent of one one and fifteen-sixteenth inch rectangular vent is actually two two and seven-sixteenth inch diameter circular vents. And it's my understanding that these two circular vents come on the same panel. Please correct me if I'm wrong. That was just the information I was given.

So that is correct. The panel comes with two circular vents.

CHAIRMAN BECKWITH: Joe.

MR. JOSEPH FESSENDEN: I just have a question. A number of fishermen ask about putting the circular panels in different locations, separating a panel. That doesn't make a difference does it, separating?

MR. LOBUE: I don't see why it would, because they usually come on the same panel.

MR. FESSENDEN: I understand, but it's been brought up and I want to clarify it. So they can be in separate locations, one on either side or whatever?

MR. LOBUE: I don't see why not.

MS. SCHICK: So the language would include the two and seven-sixteenth inch circular vent sizes to go out to public hearing.

Proposal for Area Closure

Are there any comments on this section? Okay. I'll move on to Section Number VI, which is Proposal for Area Closure. As I mentioned briefly before, in Amendment 3, it specifies both under the Area 1 and the Area 3 area management sections that they develop a proposal for a closed area. And John Nelson reported to us back in October that their recommendation was that no closed area be established.

So as a means of housekeeping, we could include in the addendum that that requirement that they come up with an area closure has been met, and that their proposal was to have no area closure. So it's just a matter of housekeeping.

Bill.

MR. ADLER: Why do you have to put that in the addendum?

MS. SCHICK: As a matter of housekeeping?

MR. ADLER: Yes.

MS. SCHICK: In the plan it says that Area 1 and Area 3 have to come up with a proposal for an area closure. What this does is it recognizes that they satisfied that requirement, and that their proposal was to have no closed area. And it was recommended at the last meeting that it be included in the addendum to recognize the fact that they did meet that requirement.

MR. ADLER: Okay.

Egg Production Rebuilding Schedule

MS. SCHICK: If there are no other comments, I'll move on. Section VII is the one before when we were talking about the last motion, would be included in this first addendum, and that's the egg production rebuilding schedule. It's the pleasure of the Board if they want to include this in this first addendum that we pass.

The issue is that in Amendment 3, there's an egg production rebuilding schedule that's established in Section 2.5, and the area proposals were evaluated on updated scientific and biological information, so the baselines had shifted from when Amendment 3 was passed.

And so the alternatives that are presented are to update the table based on the current baseline values that were used to evaluate the LCMT proposals, and that's Alternative 1. The table of those numbers are included. And all that was done in this table is take the initial baseline values and to reach ten percent, it was equally divided each year to refigure that rebuilding schedule, which is exactly how it was done in Amendment 3.

The second alternative is to update the table following the next peer review, so once the baseline numbers have been peer-reviewed, once again we could start with the baseline numbers in 1999 and divide them out through ten and each year have equal increments till we reach ten percent.

Alternative Number 3 is to continue to operate under the current rebuilding schedule, which is contained in Amendment 3. And the analysis for that is, under the first alternative, the LCMT proposals were evaluated and adopted based on this information, so by adopting the information it forces any proposal to go up from where they stand now with the baseline. If you continue to operate under the rebuilding schedule, an area could do nothing for several years and still meet the rebuilding schedule.

Under Alternative 2, the rebuilding schedule would not be finalized until a peer review analysis takes place, but it would allow us to use numbers that have been peer-reviewed and would be the most up-to-date biological information.

Under Alternative Number 3, sticking with the same numbers that are included in Amendment 3, the baseline -- let me start over. The baseline is going to continually shift if you keep reevaluating egg production rebuilding schedule each year, each time you have a peer-reviewed assessment. So rather than continually shifting your reference periods, if you stick with one set of baseline numbers, you'll achieve the goals as you go.

Any way you go, we're going to have to get to ten percent in the year 2005. So by sticking with the current rebuilding schedule in Amendment 3, you would just make those targets static, and that may mean that in the first couple of years, not much needs to be done to reach those goals, but the LCMTs all have taken actions to do more than that.

So those are the three alternatives and the analysis for them. And again, this will just be language to include in the public hearing document, and no decisions are made at this time. Are

there any comments?

All right. I can move on to Section Number VIII, which is Monitoring and Reporting. If you look -- yes, Bill.

MR. ADLER: So therefore, what you're saying is that Section VII is going to be in the addendum?

MS. SCHICK: Yes.

MEMBER: What page are you on?

Monitoring and Reporting

MS. SCHICK: Of the decision document? I'm on Page Number 5. Under Item VII is Monitoring and Reporting, and if you go back to your folder materials, there's a separate page that's titled, "Monitoring and Reporting." Amendment Number 3 defers monitoring and reporting requirements until recommendations are made by the Atlantic Coastal Cooperative Statistics Program.

And currently, the ACCSP program design has been approved. However, the date of full implementation has not yet been determined, and it's estimated to be achieved in approximately five years. Once ACCSP is fully implemented, the fishery-dependent reporting requirements that were recommended by the Technical Committee would be fully covered through the ACCSP program.

So Commission staff is currently drafting common language concerning ACCSP to put into all the fisheries management plans during this interim period, before ACCSP is fully implemented. And this language should be available in the next couple of weeks and could be included in the public hearing document for Addendum 1, and I can make sure that all the Board members have a chance to see that language before it goes out.

Below are recommendations from the Technical Committee on monitoring and reporting requirements, and all of these data elements would be included in the templates contained in the ACCSP program design.

And at this point in time, the Technical Committee, in consultation with the ACCSP, recommendation is that we should take a transition or a phase-in approach allowing states to come up with pilot studies that would allow them to begin collecting these data elements prior to fully implementing ACCSP. And again, we're hoping that some of that language can be included in common language for all of the FMPs.

And I would just like to reiterate that Amendment 3 does specify that states must maintain at least their current reporting and data collection programs until ACCSP comes on line.

So in terms of what would come out for or be included in the public hearing document, I would like to include the language that's going to be drafted up for all the fisheries management plans in the interim period in implementing ACCSP as well as recommendations that states look at a transition or phase-in approach and the flexibility for them to develop pilot studies to begin collecting the data elements that have been required by the Technical Committee.

Also included are some recommendations on data collection for the sea sampling programs, and if you look at the second page, it compiles -- Carl had put this together -- it compiles information for each state, what they currently have in place for fishery-dependent reporting and monitoring and fishery-independent monitoring. So this just documents what states are currently doing.

Does anyone have comments? John.

MR. MASON: Amy, along with the general discussion of ACCSP, are you going to include a copy of the template that has been recommended for people to look at?

MS. SCHICK: I plan to include those, yes.

Ralph.

MR. MALING: On the requirement for the license number, I can understand having it on the report, but it should be made removable so that when the data is sent in -- all that that license number does is verify that the fisherman has sent in his report. If that license number stays on that report, that report is not going to be accurate. If the number is not on there and then the information becomes all confidential, then there's a better chance that you will have an accurate report.

In my talk with the fishermen that have been involved in data processing and whatnot that Massachusetts has to have, New Hampshire has and Connecticut has, the moment you put a license number or name on that report, you've locked that fisherman in. And if he's concerned about reduction in the future in the number of traps, he's going to lie to you on the number of traps that he's fishing.

So my recommendation would be that you make this a confidential report with the stipulation that the license number could be on a tag that will be removed just to verify that the fisherman did make the report. And I think you'll get much more accurate information because the fisherman has nothing to lose this way.

MS. SCHICK: Jill.

SENATOR GOLDTHWAIT: Thank you. I think we had talked along the way about the potential for a provision for states to use sampling rather than requiring the data from every single fisherman. Is that necessary to include in this document, or would we have that latitude without including it?

MS. SCHICK: My intent was, by allowing states to develop pilot studies or developing a transition, phase-in approach, it would provide the flexibility that a state could come forward with a proposal for a monitoring program like that.

SENATOR GOLDTHWAIT: It does say "from each lobster fisherman."

CHAIRMAN BECKWITH: I've got a question. Doesn't ACCSP say you have to have information that you've indicated, and a sampling program would be an interim transition program?

MS. SCHICK: That's correct. The list here that says "for each fisherman" is a request from the Technical Committee, and that's what will be in place once ACCSP is in full

implementation. So in this interim period, a pilot study where a subsample of fishermen were filling out logbooks or submitting this information would be acceptable.

MR. WHITE: So is the final proposal as you anticipate it, that every lobster fisherman will be filling out a logbook?

MS. SCHICK: When ACCSP is fully implemented, that's one of the elements of ACCSP, is to have all fishermen filling out a logbook. If I'm wrong, John --

MR. LOBUE: That was accepted in Amendment 3. This Board accepted that a couple of years ago.

MR. WHITE: I don't think so, but I'll argue with you later.

MS. SCHICK: Are there any other questions on monitoring and reporting, or comments?

De Minimis Specifications

Moving on to the next item, Number IX, De Minimis Specifications. Again, if you go back to your trusty old folders, there's another set of papers on de minimis specifications. We don't need to go through this document right now unless the Board chooses to do so. Basically, this document includes all the corrections that were made at the Board meeting in January.

And what I tried to do is incorporate the Board motions that were made and comments that I gained at that meeting. And if people look through and find that there's an inconsistency or correction needs to be made, just let me know. I don't think we need to go through it piece by piece, though. It's exactly what we covered at the January Board meeting. And this would also be included in the public hearing document for Addendum 1.

Any comments on that?

Components of a Trap Tag System

And moving on to Item Number X, the Trap Tag System, I did the exact same thing. I put together all the comments from the January Board meeting on the coastwide lobster trap tag system and put it together in another document. Again, this would go out in the public hearing document for Addendum 1 and includes the corrections that were made at the last Board meeting, minus a law enforcement standard which I can get into next if people don't have any comments on the coastwide trap tag system.

Okay. The next item is the lobster trap tag enforcement standard, which was brought up as a recommendation at the last Board meeting as something to pursue. If we're going to have a trap tag system, then an enforcement standard to ensure that the trap tag program is in force equally throughout the coast was pursued as an alternative that the Board would like to have included in the trap tag system.

Put together here is a brief purpose, goals and description of enforcement methods. What happened is we got a group of law enforcement representatives from the States of Maine, New York and National Marine Fisheries Service on a conference call and began to review what a law enforcement standard might look at,

and came to the conclusion that there was not nearly enough time and enough input from all the states included to come up with a very specific proposal for a law enforcement standard.

Such elements that have been recommended are having law enforcement haul a percentage of the traps in their area in their state, or setting a target number of traps that each area would have to haul, or having very specific sanctions if people were in violation of a trap tag system.

And basically the conclusion was that at this point, states aren't even geared up to enforce a trap tag program, so to recommend that they must enforce, they must haul a certain percentage of traps just was not realistic. So what they decided to do -- they thought a law enforcement standard was a very good idea, and they felt that tasking the Atlantic States Marine Fisheries Commission's Law Enforcement Committee with developing a more specific law enforcement standard would be the best alternative to go, recognizing that an enforcement standard is an important component of a trap tag system if they would like to move forth with that.

But there's two essential ingredients. Law enforcement is going to need additional funding to enforce a trap tag system, and that some sort of standard would be contingent on what types of staff and equipment and available resources they had to enforce that standard.

So at this time, the recommendation is to put in place a law enforcement standard with the language included here, and that the Law Enforcement Committee be tasked with developing a more specific law enforcement standard.

Pat.

MR. AUGUSTINE: Thank you, Amy. I'm just wondering, is there any place in here does it talk about where funding can be derived from, or is that another step somewhere along the line? You said that although they're going to develop this scenario, it would require funding in order to accommodate the plan. And it seems to me at this -- I want to say "late stage," because we're so close to Addendum 1 moving forward, even though it's the end of 1999.

Has anyone studied the momentum of looking for funding? Or Jack, is that a question for you that you could answer enforcement-wise? Where would funding come and what would be the source to start an action to develop it, so that when Addendum 1 comes on line and the plan goes into effect that we in fact will have the enforcement capability to make this happen?

CHAIRMAN BECKWITH: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Chairman. Each state is responsible for carrying out all of the provisions that apply to it under a fishery management plan. The states have many different places they can go looking for those funds. One of those places would be the money that's been made available by Congress to help implement the Atlantic Coastal Fisheries Cooperative Management Act.

But, you know, you've got to make a choice within the state how this need for those funds stacks up against all the other things that are important for those funds, and you have to make

some choices. Clearly I believe this would be an allowable use of those funds if a state wanted to use them.

MR. AUGUSTINE: Thank you.

MS. SCHICK: Also, Pat, to follow up on that, the State of Maine currently charges additional money to their trap tags, and those funds are allocated for law enforcement. And also another alternative would be just a general fund appropriation.

MR. AUGUSTINE: Thank you.

MS. SCHICK: Gordon.

MR. COLVIN: I had a question. I don't know if Amy can answer it. Maybe Joe can. The first bullet under Roman Numeral III here indicates that officers should have the ability to actively haul gear to check for trap tags. The impression I had talking to our enforcement folks, the impression I've had from talking to them and reading their e-mails and so forth is that in effect, I guess, they would say that law enforcement agencies should have the ability, because they see the limitation not just as confined to equipment and training, but also for personnel as well.

And so I'm surprised it didn't read that way here.

MS. SCHICK: That definitely makes sense, and I can make that change to the wording.

Pat.

MR. WHITE: Are we finished on this subject, because I'd like to go back just a little bit to change a word, too, if we're doing that. Are we done on enforcement of trap tags?

CHAIRMAN BECKWITH: Well, we can ask. We've got a question. John.

MR. NELSON: Yes. Again, on the description of the enforcement methods. I don't know if we want to try to make these a little bit more flexible to get comment on them. And I'm looking at Number 2, for example, untagged traps should be seized and forfeited, which may very well be an option.

But we had a long discussion about, you know, what is an enforcement officer going to do when he's on board, he has the lobsterman pull up a trap, and five have tags on them and one doesn't? Is this the type of thing that's going to happen, the seizure and forfeit? Or is it going to be some other approach to it, which -- we went through the discussion last time. I won't bog us down with that again.

I think we need to make sure that we provide this flexibility in here that allows people to comment on how should traps that supposedly lose their tags one way or another be handled? And I don't see that really being outlined. These seem very black and white, and there's so much gray that I'd like to see some gray in there to get comments on.

CHAIRMAN BECKWITH: John, I think you were referring to some discussions we had that when a lobster fisherman pulls his traps in and discovered some of his traps are not tagged, that he would get on the radio and call it in, versus the circumstance you're describing is when a law enforcement officer is on the vessel and he pulls traps and discovers untagged

-- law enforcement officers always have the ability to utilize whatever discretion they have.

MR. NELSON: Well, you know, maybe we ought to have that down there, should they use their discretion. Because, you know, otherwise, is that really how we're going to address things from state to state? And that was the question I raised before. You know, what do you do in a circumstance like that? And if we had some policy approach that outlined a set of criteria for them to consider that didn't handicap the law enforcement people, but at least it gave some more guidance than what I think we've got right now.

CHAIRMAN BECKWITH: Jill.

SENATOR GOLDTHWAIT: Would it solve Mr. Nelson's problems to say "untagged traps may be seized and forfeited"?

MR. NELSON: Any perfection is wonderful.

CHAIRMAN BECKWITH: Okay. We'll change "should" to "may."

MR. COLVIN: For the record, Mr. Chairman, I don't agree with that change.

CHAIRMAN BECKWITH: Okay. Then we won't change it until we get some further discussion.

MR. COLVIN: It doesn't say "must" or "shall," but "should." It establishes a presumption that they should be. It doesn't say that they have to be.

CHAIRMAN BECKWITH: Okay. Joe, you have your hand up.

MR. FESSENDEN: I'd just like to say that we put this thing together in one phone call and actually based on some comments that came from New York. And I think it's important for law enforcement to work cooperatively with industry to set up an enforcement standard. And I'd feel more comfortable going out to public hearing basically trying to state that, that we want to work cooperatively with industry to develop an enforcement standard.

So you may want to add that in, Amy, because it's -- we need the industry to get on board to help us enforce this plan. And, you know, we have a lot of discretion in law enforcement, and I think it's important that the Law Enforcement Committee is given some time to get together, spend a couple of days on this standard. I think we can do a nice job, but we need time to do it, and we just haven't had that time.

And I'm hoping we can have some time before the May meeting and we'll have this pretty much together if it works out. Thank you.

MS. SCHICK: That language can definitely be added in, that we're seeking comments from industry as well as to what a law enforcement standard should look like.

I'd like some Board input on this in light of Joe's comments just now on getting the Law Enforcement Committee together. Would the Board like this law enforcement standard included in this first round of an addendum, or is this something that we should give a little bit more time to to refine prior to taking it to

public hearing?

CHAIRMAN BECKWITH: Pat.

MR. AUGUSTINE: If it's going to be a complete document and you've gone this far with it, and it's going out to the public, you're going to get all kinds of comments on it anyway. The question's going to be asked, I'm sure, by the public, and people are going to have to live by this, "What's the enforcement side of it?"

So if it goes out as a complete package from start to finish, there'll be fewer questions, and they can comment on the specifics. Yes, they should be included.

MS. SCHICK: Are there any other comments on the trap tag system or the law enforcement standard?

Pat, you had a comment on wording.

MR. WHITE: Getting back to the monitoring and reporting section again, I'm still uncomfortable with that, only because of the sheer volume of numbers that we have in the State of Maine. And I guess I don't agree that it was a mandate that every fisherman had to do it as reported on Page 29 of Amendment 3. It goes on to say that we will do this, but it doesn't say it will include every fisherman.

And I think to go out to public hearing, if we could have it at least each participating lobster fisherman, because we may want different data, like we used to have in Maine. You had to fill out how many pounds you landed when you sent in your license, but that was all the information that 90 percent of the people had to send out. And this other more specific information might be from more select groups than what they do in Canada.

I'm just really concerned about whether it's federal or state getting in 7,000 data points with all this stuff on it that in a month they'll never get anywhere. And I think we're far better off to get -- if we need to have it based on something to do with our landings data, fine, but to get much more specific information -- you know, in Canada in areas, I mean, they're doing it with 150 people and getting much more specific information.

So I would just like to add that one word in there.

MS. SCHICK: Okay. I don't know if this will help or if it meets with your point or not. What I was planning to do is this issue section and the language that is presented from staff on implementing ACCSP and the fisheries management plan would be included, and I was planning to include the Technical Committee recommendation on the exact data elements, be included as an appendix, so it wouldn't be specified in the public hearing document that each fisherman must report in a logbook.

The way it's worded right now is that these data elements should be collected and that each state will have the ability to prepare a pilot study or a phase-in approach.

MR. WHITE: Well, that's more similar to what it was in the document, yes.

MS. SCHICK: Does that help, or do you --

MR. WHITE: No, I'm fine with that, as long as it has the flexibility of doing and allowing a state -- you know, maybe a

state wants to do it all.

MS. SCHICK: The flexibility will be written into the public hearing document.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: Does the wording preclude that you then can't have every fisherman send in a catch report?

MS. SCHICK: No.

MR. ADLER: So it still could come to that.

MS. SCHICK: Correct.

MR. ADLER: Okay. Because, I mean, if everybody doesn't have to send in a catch report, then maybe Massachusetts fishermen may want to go that way, too, so they don't have to send a catch report in mandatory like -- you know, if everybody else can get out of it, they can too.

CHAIRMAN BECKWITH: John.

MR. MASON: Everybody remember what the ACCSP standard is for commercial fishing, which is individual trip reports from fishing units, whether it be a vessel or whether it be a fisherman. That's the ACCSP standard with some time to get from where you are today to there.

CHAIRMAN BECKWITH: Carl.

MR. LOBUE: I just wanted to point out that, you know, we're pulling all this stuff together for the stock assessment, and 1998 data excluded the State of Connecticut for the Long Island Sound area where they have their monitoring and reporting system in place. It took them two weeks to get all their information together and to the committee on time. Other states, including New York, are still trying to pull that together.

Just to show you what a good reporting and monitoring system can do.

MR. WHITE: That's what concerns me with 7,000 people.

CHAIRMAN BECKWITH: John.

MR. JOHN W. CONNELL: Ernie, I just want to clarify that even though there'll be some flexibility right now in reporting, that once ACCSP goes on line, every fisherman will have to follow that method.

CHAIRMAN BECKWITH: Well, unless something changes, that's what we're hearing today.

Area 2 Trap Limits

MS. SCHICK: On to the next section. The motion that was passed before, I made it clear that we were going to include area management in this first addendum. However, the trap limits were meant to go forward. So under Area 2, the limits on the number of traps per vessel -- this is Section XII, Item Number 3, limits on the number of traps per vessel.

Included is the schedule that was included in the LCMT proposal, and a second alternative would be added that they could pursue historical participation system for establishing the

number of traps per vessel.

MR. SMITH: Just a procedural issue. The schedule says 1999, 1200 traps. If we were to work on this historical base schedule, how would that fit in with the proposal that we have on the books now as to 1999, 1200 and 2000 a thousand and so on? Can we revamp that in some way, or do we start and in theory, at least, we're at 1200 right now, although we're looking at historical participation further down the road? I'm not clear on how we would go about doing that.

MS. SCHICK: I think based on how the other areas are approaching that, right now for the areas that are pursuing historic participation system, they haven't put a certain number of traps in place, so I would presume that it would follow a similar course of action.

If anyone has any other comments on that?

CHAIRMAN BECKWITH: I think one of the things we had planned to do today was to take a look at the schedules to implement the area plans, because they're in Amendment 3, and in this case, I think we're probably looking to deferring that until January 1st. So that would go along with that date.

I mean, we wouldn't have to be concerned about doing it for July 1st. And hopefully by January 1st, we'd have the situation resolved as to whether you're going to go this way with this schedule or some other historical based schedule.

MR. SMITH: From the standpoint of the chairman of the committee, I need to have some idea of how soon we need to get started on this as another alternative. I would suspect we need to start pretty shortly.

MR. WHITE: I guess to that same question then, would you be starting the schedule in the year 2000 at a thousand like we had to, or are you asking if you'd start at 1200?

MR. SMITH: That's part of the question I'm not clear on as far as what would we do, where would we be? Can we switch from one to the other in the year 2000? And that's kind of my question, Pat.

MR. WHITE: Because ours was sort of waived, Bob, but it was expected, because we couldn't enforce the 1200, it was expected that we'd be at the thousand on January 1st in '99.

CHAIRMAN BECKWITH: I would interpret that for Area 2 as come January 1st, 2000, you would implement 1,000 traps or some alternative system based on historical participation. You'd have to do something for January 1st, 2000.

MR. SMITH: Thank you.

Area 3 Trap Limits – Historical Participation

MS. SCHICK: Going on under Section Number XIII, Area 3, Offshore Waters, Number 3, which is the limits on number of traps per vessel to historical levels. Again, that discussion will be included in the addendum and will be taken forward for public comment.

Under Section XIV, Area 4 -- Jack?

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, can I raise a separate issue while we've got Area 3 on the table right here? It's something that occurred to me over lunch, and it's following up on a discussion we had this morning. And it has to do with the proposed rule.

CHAIRMAN BECKWITH: The floor is yours.

EXECUTIVE DIRECTOR DUNNIGAN: I'm not sure where this ended up after our long discussion this morning, but relative to the proposed rule, I've talked to a lot of people, obviously, about what we ought to be doing about this, and one of the things that I've heard over the last, oh, ten days, is that there are quite a number of Area 3 fishermen who are going to recommend that if the Service is going to move by their proposed date, May 1st, that they put the Area 3 recommendation into place in Area 3 by federal rule.

I've also heard that there's some reluctance perhaps on the part of the Service to consider doing that, given that it's an LCMT proposal, which is really affiliated with the Commission, unless the Board has indicated that it's something that's okay with them. If I get asked that question by the National Marine Fisheries Service in the next couple of weeks, should I respond that the Board wouldn't object to that or not?

CHAIRMAN BECKWITH: I think that's a very critical issue, and let's take comment on Jack's question. George.

MR. LAPOINTE: My concern, as I mentioned before, is I'd be reluctant to give you license to do that because of the concerns about the use of historical participation in Area 3 and the perception of fairness in that Area 3 fishermen could fish in Area 1, but Area 1 fishermen couldn't fish in Area 3 as envisioned by our plan. So I'm reluctant to say that that's an okay thing to tell the Feds.

EXECUTIVE DIRECTOR DUNNIGAN: I didn't follow that. Why couldn't --

MR. LAPOINTE: Under what was approved in our plan, Area 1 fishermen with historical participation can fish in Area 3.

EXECUTIVE DIRECTOR DUNNIGAN: Yes.

MR. LAPOINTE: People without historical participation can't fish in Area 3.

EXECUTIVE DIRECTOR DUNNIGAN: Right.

MR. LAPOINTE: Area 3 fishermen without any historical participation in Area 1 can fish in Area 1. Is that fair? And I understand they may not because of vessel size and whatnot, but that's what written into the proposal right now. And so if Area 3 fishermen have unimpeded access to Area 1, Area 1 fishermen likewise should have better access to Area 3 as a matter of equity.

EXECUTIVE DIRECTOR DUNNIGAN: Except that Area 3 fishermen are going to be limited by whichever's the more restrictive of those limits. If they're fishing -- if they're licensed to fish in a zone in Maine that has a limit of 600 pots, they're going to be limited to that even in Area 3.

MR. LAPOINTE: But they'll have that choice, and those

fishermen in Area 1 without historical participation in Area 3 will not have that choice.

EXECUTIVE DIRECTOR DUNNIGAN: That's true.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: I would like to see it remain right for now in this process that we're going through, going out to public hearing, to give the public a chance to take a look at the Area 3 history base proposal and comment on it, because there may be some offshore fishermen that don't like it anyway or whatever.

And my concerns are the same, that the Area 1 people, for instance, can't fish in Area 3 because of the historical participation, although I think there's a way through that morass if we could get a little meeting going to talk, try to work out some details on it.

But anyway, I think that it should go to public hearing rather than have the Federal Service just take it and ram it into place as such. I think it needs to go out through our process.

CHAIRMAN BECKWITH: If I may ask a couple of questions of Harry. I think we've got a timing issue here, and what I'm hearing is that Board members would like to see the Area 3 proposal go out, and the other proposals go out to public comment. So prior to us making any kind of a recommendation to the Service for Area 3, Harry, how much time do you need to put -- how much lead time do you need to put rules in place if you were going to stay with the May 1st date? And is there any flexibility with the May 1st date?

MR. MEARS: As written, and not to prejudge public comment, May 1 is the date for regulations for all federal permit holders concerning their proposed regulations in addition to those that are in place now. Exactly how the Service has yet to respond to public comment or to prejudge the way this Commission will provide its recommendation to the National Marine Fisheries Service, I certainly am not in a position to try to guess ahead in terms of how much wiggle room or how much flexibility is there, other than to indicate at the present time, as indicated in the proposed rule, the agency does intend to take action as soon as possible so as to have a plan in place by May and to begin to work toward the rebuilding schedule identified in Amendment Number 3.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: May I suggest that a federal wording in their final plan could indicate that their current proposal for Area 3 would take effect on May 1st of the year 2000 if the LCMT Area 3 plan for Area 3 under the ASMFC has not been approved for implementation by January of that year.

You've got your default thing coming in in May just delayed, giving them a chance to get their plan on line.

MR. MEARS: Once again, could you restate the question?

MR. ADLER: That in the final version of your plan, that instead of May of 1999, which I believe is what you have down now, that you say that your wording as such would take effect on May 1 of the year 2000, unless the Area 3 plan as proposed to the ASMFC has not been approved for implementation by January 1

of the year 2000.

MR. MEARS: I can't really comment on that, Bill.

MR. ADLER: Just a suggestion. You'll get that in writing from me anyway.

CHAIRMAN BECKWITH: Bonnie, did you have a comment?

MS. SPINAZZOLA: Thank you. What the Area 3 people are proposing is not to bypass the ASMFC process at all. What we're proposing is to try and not have to have the federal rule imposed as it stands. We feel that that is a big detriment to the industry, to the resource. And frankly, even for the reasons stated, which I understand there are certain concerns, and I think they probably certainly can be worked through -- but I think that the lesser of any evil would be to implement what the Area 3 LCMT has recommended.

Then if you people should go through the process and take things out or add things or change it, it can still be done and you would recommend that through the normal course of events. But this is strictly as a recommendation to the Service so that they don't implement their final rule as it's stated.

CHAIRMAN BECKWITH: Okay. Any other comments? We're taking comments on Jack's question. I'm afraid we're not going to be too much help to you, Jack. John.

MR. NELSON: Well, as I understood Jack's question, if he's asked, what should he say, and there's certainly components of what Area 3 has proposed that we've already voted on, saying that it meets the egg production levels that we required of them. And are those components -- I guess maybe Carl could address it. You know, what components of that have we formally approved that meet the egg production level? Do you recall the specifics of --

MR. LOBUE: Most of those came from the trap reduction that will occur over the several years, the proposed reduction, in combination with the minimum legal size increase.

MR. NELSON: Okay. And that may be a problem as far as if we're going to delay comment or inclusion of a minimum size. So, you know, is it fair to at least say, for Jack to be able to say that various components of it have been approved, which do include a gauge increase and the trap limits?

Let me rephrase it. It would seem to me that that was fair to state for Jack, since we've already voted on that.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: What trap limits, John, have been approved for Area 3?

MR. NELSON: Carl, do you have those available?

MR. LOBUE: Everybody has the Area 3 proposal in their packets.

MR. ADLER: Yes. Are you talking about the Area 3 history based individual trap allocations or are you talking about the 2,000 down to 1800, da-da-da?

MR. LOBUE: Are you asking me or are you asking John?

MR. ADLER: I don't know.

MR. LOBUE: Why don't you ask John.

MS. SCHICK: I can jump in here if you'd like. What the Board did is they took action saying that each of the area management proposals conformed to the egg production rebuilding schedule as presented to the Board. They did not approve or disapprove of any components of the area proposals. Does that clarify the situation?

CHAIRMAN BECKWITH: That's the purpose to go to public comment so we can get some comments and then determine what we want to approve.

Okay? Sure.

MS. SPINAZZOLA: One more thing. Earlier, when you were talking about the motion that took out the egg production schedule, I should tell you, as I'm sure you know, the Area 3 plan, everything is tied to egg production, including the trap reductions, including everything, which is different from the other area plans. So therefore, the whole plan is tied to egg production.

Also, if you think about the NMFS plan as it stands now, transitional process coming back to the LCMT plan is going to be a nightmare. There's going to be real problems. And by implementing some, all, part, as many as possible of the LCMT proposals now, the transitional process, even if they're not approved later and we have to back off, is going to be far less than doing it in the other direction.

And I'm just thinking about industry and actually all of our headaches. Thank you.

CHAIRMAN BECKWITH: Carl.

MR. LOBUE: Yes. I just want to add -- because maybe this'll shed some light -- there was some concern in the Technical Committee when we evaluated the Area 3 proposal, and part of that concern stemmed from the number of vessels and the amount of gear that would qualify. And if this went in the direction that that process would begin, then we would begin to have those actual numbers of how many vessels and how much gear would qualify to fish in Area 3.

And that would aid in our evaluation of the process as we move through the stock assessment or after the stock assessment.

CHAIRMAN BECKWITH: Any other comments to Jack's question? I guess that's all there is, Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Chairman.

Limit on Vessel Upgrades in Area 3

MS. SCHICK: I have another question for the Board. Under the Area 3 proposal, one component was to limit vessel upgrades. And I don't believe that was a measure that was tied to egg production. Is it the Board's desire to take that component of the Area 3 proposal out to public hearing at this time? I hear one Yes.

MEMBER: Yes.

MS. SCHICK: Okay. We'll plan to go forward with that to be included in the public hearing document.

Yes, Bruce.

MR. FREEMAN: A comment I would have is I agree it should be, and I think also it may give people from other areas food for thought, that this may be something that they hadn't considered and may want to consider. Or if they have considered, they may reject it. But there's certainly value in doing that, particularly for the people for Area 3 if, in the future, things have to be done. This upgrade may be a very important way to deal with that.

So I just think it's useful, certainly for Area 3 because they've discussed this at length, but for other areas as well.

MS. SCHICK: John.

MR. NELSON: Well, I think Bruce is correct in what he said. Do we need to add the vessel upgrade sections, then, to these other zones so that people can comment on it? Because if they're not in there, then I would think technically they could not comment on them for those particular management areas. So I'd suggest if we're going to have that comment, we put it in there in those management areas.

CHAIRMAN BECKWITH: Correct me if I'm mistaken, but there isn't any limit in the other areas. There's only a proposed limit in Area 3. Unless you want to put them in there, there's no reason to comment on them.

MR. NELSON: Well, that was the point. If they're not in there, you can't go in that direction. If they're in there, you can get comment and you can go in that direction if you want to go that way.

CHAIRMAN BECKWITH: But wouldn't we have to bring that back out to the LCMTs for those areas to get a comment on before we go to public -- well, we don't have to do that, but that's the preferred way to do it.

George.

MR. LAPOINTE: Recognizing that not all things that happen in Area 1 are directly related to lobstering, I'd hate to be known as the anti-lobster boat race commissioner. A number of our people up their horsepower a lot for our lobster boat races.

CHAIRMAN BECKWITH: Okay. Pat.

MR. WHITE: If, in the offshore lobstermen's plan, Area 1 people have the ability to fish in Area 3, I'd like somebody to clarify how you would restrict the boat, that horsepower or size increase if it doesn't happen in Area 1 but it does happen in Area 3 and there are people that fish both areas?

MR. AUGUSTINE: Secondary to that, what was the reason the 10 percent and 20 percent were put in? If it was the same reason in our groundfish fishery vessel upgrades, it was sold on safety because of bad weather, the need to get in quicker and so on, but I think the points that were made are very valid. It seems to me they should be offered across all areas, and if they don't want them, they don't have to accept them.

But to go out without it in all of the other areas, I think we're asking for another big question mark on why weren't they included. Whether appropriate or not, they should be consistent.

CHAIRMAN BECKWITH: Do you want to comment, Amy?

MS. SCHICK; I can just offer one suggestion. I could include similar language as I proposed doing for historical participation where specific areas recommended taking that avenue for limiting trap numbers, but that I would include language that this be a possibility for other areas if they choose to pursue it. I could use similar language in this case, saying that Area 3 has proposed it for their area specifically, and this remains an option if other areas choose to pursue limiting vessel upgrades.

CHAIRMAN BECKWITH: Does the Board want to have that language included that way? I see one or two people shaking their heads in affirmative. Is there any objection to having that language included that way? Pat.

MR. WHITE: I guess that's probably a better way, in my mind, of having it than to have it listed as an option under every area. I think it would be less confrontational to do it as Amy just suggested than to have it listed as in every area. It just is going to create a whole lot of controversy. And the first public hearing is in Jonesport.

CHAIRMAN BECKWITH: Okay. We can move on.

Area 4 Trap Limits – Historical Participation

MS. SCHICK: Okay. Moving on to Section XIV, which is Area 4, I would again include the language that's limiting trap numbers per vessel based on historical levels. This will be included in the discussion earlier on, but it'll be pointed out that this includes Area 4 as well.

Area Closures in Area 4

In terms of Items 4 and 5 under the Area 4 section, the maximum size limit is tied to egg production, so I would bypass this section. And with the area closure, they were not given any egg production benefits for that area closure. And again, it's up to the Board whether or not they want the area closure provisions to be included in this first public hearing document for an addendum.

Would the Board like that included? Bruce.

MR. FREEMAN: I would say to include it. Again, I just think we should get comments. Relative to what you stated, Amy, it is true so far as Area 4 is concerned, no benefits, but that may not hold in the future. There may be some benefits derived from that. There also may be other reasons for area closures such as gear conflicts, for example. And in order to resolve other issues, although you may not get any benefit for egg production, it may be just something a fisherman would want to consider.

So I think at this point, to put it in and see what comments we get would be useful.

MR. WHITE: Are you saying you're not going to put in for public comment the maximum gauge in Area 4?

MS. SCHICK: That's my intention. Again, the Board can choose to include that, but based on the motion that was passed earlier today, we were not going to include measures that were related to egg production.

CHAIRMAN BECKWITH: Now, that would be included in the second part of this addendum later on this year.

MR. ADLER: One more time. Which part of XIV there in Area 4, which ones were you going to include?

MS. SCHICK: I was planning to include Number 3 and so far the indication is to also include Number 5. So that would be the historical levels of traps and area closures. Based on the comments from Bruce, I will plan on including area closures in the public hearing document.

Area 5 Trap Limits – Historical Participation

If there's no other comments, I'll move forward. Item Number XV is Area 5. Again, Number 3, which makes reference to limiting trap numbers based on historical levels will be included.

Area 6 Trap Limits – Historical Participation

Item Number XVI, which is Area 6, I would include language again on historical trap levels, as we talked about earlier.

Outer Cape Trap Limits

In Section XVII, which is in reference to the Outer Cape, Item Number 3 would be included, and those are the trap numbers per vessel that are included in Amendment 3 currently as default measures and have been proposed by the LCMT.

Review of Area Management Program

Okay. Moving on to Section XVIII, Continuing Review of the Effectiveness of Area Management Program. Several of the LCMTs within their proposals submitted requests or indications that they plan to meet at certain times in the future. Some indicated a specific date; others indicated following up on the next peer-reviewed stock assessment.

What this section basically does is say that the LCMTs in Amendment 3 are charged with advising the Board concerning all aspects of the implementation of Amendment 3 and to recommend changes to the management program. In Amendment 3 originally there were deadlines set for areas to submit proposals. Basically what this section is bringing up is that the Board could again set deadlines for LCMT proposals or LCMT comments.

So the LCMTs could be required to again review their plan following the next lobster assessment, which is Alternative 1. They could insert a requirement for a plan review following the first two years of the program, or finally to take no action

because in Amendment 3 already it makes a statement that the LCMTs are informed to advise the Board and present recommendations for area management.

So the question is, would the Board like this to be included in the first addendum that we plan to take out, and are these alternatives sufficient? Any comments?

MR. ADLER: Does anybody see any downside to putting this in?

MR. FREEMAN: I would comment, Mr. Chairman, that certainly there is a benefit. We've used the LCM process under the New England Council and under this, and in both instances there were benefits involved. To have the industry involved, in part, in the decision-making process, I find to be very beneficial, plus, what we've heard to date is, it will make the plan much more effective, because you have the industry support.

So in my opinion, I think it should be continued as an integral part of the plan. As time goes by, we will get better stock assessments, decisions will have to be made. To continue the process we have now, I think, will be of great benefit. So from our personal standpoint, I'd like to see it continuing. I see absolutely no downside to this at all. I see just benefits.

MS. SCHICK: Any other comments?

MR. MAROSE: What's going to be interesting to see is if this federal plan goes through, if you'll actually have any participating LCMT members from Area 4 willing to participate at all in any more Amendment 3 process. Because, as far as I feel, if this federal plan goes through, our Amendment 3 process has no credibility.

So that's what keeps banging me. And I'm sorry to keep bringing it up, but it's banging me in the back of my head that if the federal plan goes through with a thousand-pot arbitrary limit, it's so derogatory to our Area 4 management plan that I myself couldn't participate anymore in good faith. And I think most of the other guys feel the same way.

Adjustments to the Compliance Schedule

MS. SCHICK: Okay. Moving on to the next section, XIX, Adjustments to the Compliance Schedule. The first item is implementation of the trap tag system. Back in October, the Board passed a motion to extend the implementation date for the cooperative license/area designation and trap tag allocation system until January 1st in the year 2000. So the alternatives are to move that compliance date back or to take no action.

The second item is implementation of the Area 3 management program. Again, a motion was passed back in October to extend the implementation date for the Area 3 management program to January 1st, 2000. So the alternatives would be to delay that implementation or to take no action.

Item Number 3 is the implementation of the Areas 4, 5 and 6 management programs, and again that's a similar situation. The Board passed a motion to -- in this case, actually, the Board has not passed a motion, but by delaying the trap tag system until January 1st of 2000, the trap system would not be in place to

enforce. So should the Board extend the implementation date for Areas 4, 5 and 6 till January 1st, 2000?

CHAIRMAN BECKWITH: I've got a question for Jack. Jack, since we passed a motion on the other areas extending it to January 1st, 2000, do we need to do that for 4, 5 and 6, or can we just include that when we approve this document for public hearing? You didn't follow me? The Board passed motions changing the date for Area 3 and for, what else, the trap tag system?

MS. SCHICK: Correct.

CHAIRMAN BECKWITH: To January 1st. But we specifically didn't pass a motion changing the dates for 4, 5 and 6. My question to you was do we need a motion to do that for those areas or can we just incorporate that when we approve this document for public hearing?

EXECUTIVE DIRECTOR DUNNIGAN: I think you can just incorporate it when you approve this document for public hearing.

CHAIRMAN BECKWITH: Okay. Where's Area 2?

EXECUTIVE DIRECTOR DUNNIGAN: Southern New England.

CHAIRMAN BECKWITH: Area 2 should be included also. Area 2's got --

MR. WHITE: In the last paragraph it says -- I think it's just an omission -- it says 2, 4, 5 and 6 under "Issue." It just didn't say it under --

CHAIRMAN BECKWITH: Okay. It says it in one place, but a few other places it's left out. So we'll just include Area 2 in there.

George has a question, then we'll come to you, Bruce.

MR. DOLL: George Doll, the LCMT co-chairman of Area 6. In that Paragraph Number 3 there, implementation of Area 4, 5 and 6 management programs, in the middle of the paragraph it says, "The Area 4, 5 and 6 management proposals contained management measures to cap then reduce trap levels."

CHAIRMAN BECKWITH: That is incorrect. That's been pointed out to Amy, and she will correct that language.

MS. SCHICK: Also included in this section would be language concerning the motion that was passed this morning on area management under this "Adjustments to the Compliance Schedule" language.

Are there any other comments on "Adjustments to the Compliance Schedule"?

MR. FREEMAN: Amy, the comment I was going to make relative to implementation was partly due to the schedule on which the Fishery Service published in the proposed rule that it would be in place by -- June, Harry? May? And I think the discussion from the Board's standpoint, to have a state system, a cooperative state-federal system agreed to and implemented by that time would be virtually impossible.

I think that's what led us to delaying the enactment. And so

part of it was from a practical standpoint that we just didn't see how we'd have this agreement together and have the tags issued by the beginning of their fishing year is my recollection of part of the justification for that. It wasn't a stall thing; it was essentially to have something in place that could be effectively enforced by both state and federal.

MS. SCHICK: That is correct, and that is included in our comments on the proposed rule is language similar to that, that the cooperative program should be implemented on the same date, and that there isn't enough time to put a trap tag program in place in six weeks.

CHAIRMAN BECKWITH: John Nelson, you had a comment?

MR. NELSON: Yes. Thank you, Ernie. A question as far as adjustment to the compliance schedule. If we have another item further in the schedule -- and I'm thinking of the vent discussion that's under other business -- and we want to adjust the compliance schedule for that, will we be able to go back to this document to do it, or should we do it at this time, have that discussion at this time?

CHAIRMAN BECKWITH: Yes, we can always go back and do that. We'll do that before we approve it for public hearing.

MR. NELSON: Okay. Thank you.

Recommendations for Actions in Federal Waters

MS. SCHICK: If there are no other comments, the last section would be Recommendations for Actions in Federal Waters, and those recommendations would be to implement the decisions that are made in the addendum in federal waters. So the specific language isn't written out, but the intent is to make the recommendations for implementation in federal waters.

Are there any other comments on this document?

CHAIRMAN BECKWITH: Okay. I've got Harry and then Carl.

MR. MEARS: On the basis of the vote on the motion earlier this morning to not allow public comment on gauge size increases in any of the area management plans, will there be incorporation into the introduction and explanation to the public in the individual management areas why at this time we've made that decision not to entertain public comment?

CHAIRMAN BECKWITH: Yes.

MR. COLVIN: May I, Mr. Chairman.

CHAIRMAN BECKWITH: Yes, and then Jack.

MR. COLVIN: I just want to take issue with the characterization, Harry, that we are --

MR. MEARS: Not to -- okay. Duly noted. Not to incorporate the issue of gauge increases to specifically encourage public comment. Is that better?

MR. COLVIN: It's better. That doesn't quite set me off.

CHAIRMAN BECKWITH: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: I think what we decided to do this morning was not to incorporate that into Addendum 1, to defer it to Addendum 2 after the peer review is available. And I don't know. Does the Board mind if we go ahead and explain what happened this morning that way in the document so that they see it coming?

CHAIRMAN BECKWITH: I think it's certainly appropriate to do that, since a lot of people involved in the process were expecting gauge increases and explain they may happen in the future or they may not happen in the future. We deferred until we get better data.

MR. WHITE: I would just suggest then that we use wording more similar to Jack's than Harry's.

MR. MEARS: There's two reasons I raised that concern. Number 1 would be I believe there'd be a lot of questions from the public why at this time we're not entertaining additional public comment on that option.

Secondly, there was a recommendation in Amendment 3 for the Federal Government to initiate discussions with the Canadian Government on the mutual value of gauge increases. Those communications have been initiated, and certainly the issue of where this plan is heading relative to the choice or option of gauge increases as a possible choice in the toolbox approach certainly, I believe, should be explained to the public for several reasons.

CHAIRMAN BECKWITH: Okay. I think we are all in agreement that we'll have some language in the public hearing document that will address that issue, and we'll leave it to staff to come up with the right words.

You had a comment, Carl?

MR. LOBUE: Actually, my comment was very much the same as Harry's, except that I think that it should be added that any measure that has any egg production value was omitted from public comment, including maximum sizes and other measures.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: I wanted to make the same point. I think, you know, as I said earlier, we focused on gauge increases because that's what most of the LCMTs chose, but who knows what we might choose if we find after the assessment that there is a lot more to do, and it might not just include gauge increases. It might include closed areas or maximum gauges.

We might even decide V-notching doesn't look so bad. Who knows?

MS. SCHICK: Just a comment on that language. I want to make sure all the Board members do recognize that Area 3 did get egg production benefits by their trap reduction program that's presented in their proposal, and that we did decide to take to public hearing. So that is the one exception, and that can be noted in the introduction.

CHAIRMAN BECKWITH: Okay. Why don't we move

on?

Traps per Vessel/License

MS. SCHICK: One issue that's been raised to the Board -- it's the staff actually, not the Board yet, is that in the addendum, the trap limits that are established as default trap limits include language on traps per vessel, and it has been brought to our attention that many states license individuals rather than vessels. And so there was a need for the Board to recognize this fact and decide how to proceed. Should the language remain traps per vessel?

MR. WHITE: Absolutely.

MS. SCHICK: Any other comments?

CHAIRMAN BECKWITH: This is just to go to public hearing. I'm sure there'll be sufficient comment out there to get the other side of the issue, too. So I will defer any personal comments on that.

MS. SCHICK: Actually, Mr. Chairman, it's in the plan already, and I'm not sure if it needs to be included in the addendum for public hearing. It is a component of the plan.

CHAIRMAN BECKWITH: Well, it's problematic for us in Connecticut since we issue licenses to the individual. We'd have to rethink on how we would enforce that per vessel.

MR. COLVIN: So does New York.

CHAIRMAN BECKWITH: Maybe based on what I'm hearing that at least three or four states have that issue, perhaps we should include it in the public hearing document for comment. Well, let me ask the question this way: Is there any objection to including that in the public hearing document for comment?

MS. SCHICK: If I just may get some clarification, how would you like that to be included?

CHAIRMAN BECKWITH: Well, I don't know. That some other -- that a per fisherman allocation would be considered rather than in addition to or -- I don't know how to do it, because I haven't really thought about it that much. I think this is an important issue, because the trap allocations that we're going to make for the areas, is this going to be per licensed fisherman or is it going to be per vessel? How's it going to work?

I mean, I certainly see your point, Pat. If you've got two licensed fishermen on a vessel, they can double up the number of traps they can fish. I understand that.

MR. WHITE: We have two options. Our lobster license in Maine is per person, but the trap limit is per vessel. But there is the option in our area right now where we have a thousand traps per vessel that two men of 500 traps each could fish on that boat. But the vessel still can't exceed the maximum number of traps. Otherwise, it becomes a real problem.

CHAIRMAN BECKWITH: I don't mean to get into this debate. It's not my position to do that. But in some cases, does it really matter? Because if participation and allocation is based on history and if you fished 800 traps or a thousand traps, that's what

you got. I won't say it doesn't matter whether you fish it off of two vessels or one vessel. Perhaps it does in terms of efficiency, but the same number of traps are in the water being fished.

Bill.

MR. ADLER: First of all, isn't it in the amendment that it's per vessel, and it would take an amendment to change it, not an addendum?

CHAIRMAN BECKWITH: No.

MR. ADLER: No? Okay. Why not?

MS. SCHICK: Under adaptive management, it specifies which sections of the plan can be changed by adaptive management, which is through the addendum process. This is one of the components that can be changed by the addendum process.

MR. ADLER: Okay. Now, the other thing is that if you start to fiddle with this, then you have to go talk to Harry again, because I think Harry's plan over there has per vessel. So we get confusion where at least we did not have confusion before. We had something we agreed with them on, and they agreed with us on was the per vessel part.

And now if you're going to wiggle that back, you may get into some more trouble you didn't want to get into. I'm just throwing that out.

CHAIRMAN BECKWITH: The purpose it was put on the agenda was to elicit comments. We can determine what to do with it. Because it was recognized as a potential issue for some states, and that's where we are now. Let's get some direction from the Board on how they want to proceed on it. Shall we include it or shall we not include it? John.

MR. NELSON: I'd suggest we include it, Mr. Chairman, and I think we could merely point out that per vessel, traps per vessel is already what's called for in the amendment, and that the question would be should we modify that to license traps per licensee, or should it remain as per vessel? It should be very simple and straightforward.

CHAIRMAN BECKWITH: Okay. What's the pleasure of the Board? I'm getting comments on both sides here. George.

MR. LAPOINTE: I don't think it should be included because I think the issue we'd get into -- and Pat may have talked about it a while ago -- is if we get multiple license for boats, we'll have some boats fishing 800 and some boats fishing 16- or 2400. And the issue of equity will come up. I think it'll be a very tough thing to handle perceptually.

CHAIRMAN BECKWITH: Just depends how you look at it, I guess. Any other comments? Harry.

MR. MEARS: I certainly would not favor inclusion of revisiting that issue. I don't see any need for it. I think it'd be a monumental step backward in terms of moving toward a state-federal approach for lobster management.

CHAIRMAN BECKWITH: Okay. We seem to have opinions on both sides of the issue. Would someone like to make a motion so we can proceed? Phil.

MR. COATES: I move we not include this issue.

SENATOR GOLDTHWAIT: Second.

CHAIRMAN BECKWITH: Any discussion on the issue? Bruce.

MR. FREEMAN: The question that I would have for Harry, when that address was addressed by the Service, was that question asked at the public hearing?

MR. MEARS: No. That issue was not addressed. At the time we went to public hearing, they were predicated in part upon existing lobster regulations already in place, which are based upon vessel.

CHAIRMAN BECKWITH: Ralph.

MR. MALING: Now, if you hold a federal license, it doesn't matter where you're fishing. If you're fishing in state waters, you're regulated by the federal license. So you are opening up. And if the guy continues and gives up his federal license, stays in state waters, then you can allow so many per fisherman. But you've got to remember that we're extending these waters out, and some of the fishermen won't be able to go out there because they don't have the federal permits.

CHAIRMAN BECKWITH: Any other comment on the motion?

MR. EAGLES: For the record, Al Eagles. I lobster-fish Area 3 and also Area 2. In the State of Rhode Island, your license is issued to an individual, not the vessel. And with the federal permit, it's issued to the vessel, not the individual. So where you're going to extend your federal jurisdiction into state waters to include Rhode Island, I think you're going to run into a situation there that I think you have to look at closely, because in Rhode Island there are situations where there's more than one person on a vessel. Each person has a license. So they're fishing, like, two sets of gear. They're doing that now at this time.

So I think you should take a look at that. Thank you.

CHAIRMAN BECKWITH: I've got Bill and then John.

MR. ADLER: Doesn't a federally licensed fisherman have to go by the federal rule no matter where he fishes? So wouldn't that make the point that if the federal lobster trap limit is a per vessel and the state is a per person, he'd have to go by the federal one even in state waters unless the state one's more restrictive? Isn't that true?

CHAIRMAN BECKWITH: Right.

MR. ADLER: So that would put the federally licensed fisherman at a disadvantage in state waters to the state licensed fisherman. It would be different for those two unless the state somehow makes their thing per vessel, which makes it all even.

MR. EAGLES: I fish both areas, and as far as I know, to the best of my knowledge -- I hold a federal permit on my vessel, I hold a state license for my person. Now, if I'm fishing in state waters, I come under the jurisdiction of the Coast Guard that can board me any time for federal violations and inspect my vessel. But there are also people fishing in state waters without federal permits that the Coast Guard can only board them for a safety

inspection, not fishing violations.

So you're running into quite a situation here that I think you have to take a real close look at. It's sort of like a Catch-22. Myself, I can fish in state waters, but the Coast Guard can board me for fishing violations, but the guy fishing right alongside me with a state license, the Coast Guard cannot board them for federal violations. So, something to be addressed. Thank you.

CHAIRMAN BECKWITH: Ralph.

MR. MALING: Yes. I just want to point out, too, that some states do not have a moratorium on licenses, and you can get three or four guys aboard a boat -- go ahead, throw up your hands, Bill, but this is true.

CHAIRMAN BECKWITH: Any other comment on the motion? John.

MR. NELSON: Thank you, Mr. Chairman. I think Bill sums it up pretty well. You know, you do have a state and a federal issue out here, also the fact that this type of situation has existed for years without a lot of undue problems, I think. I think the fact that there's pro and con that you're hearing now would indicate that's exactly why we should go to public hearing and get people's opinion on this, and then have the debate after we've got that public input.

CHAIRMAN BECKWITH: Okay. Bob.

MR. NUDD: Bob Nudd from New Hampshire. In the situation in the past, we haven't had trap limits either. And when you do something besides limit the number of traps per vessel, when you allow multiple fishermen on one vessel, you just open the door for stern men having licenses, and it's a perfect way to circumvent any trap limit you ever want to impose.

CHAIRMAN BECKWITH: George.

MR. LAPOINTE: It further erodes the idea that there's consistency within an area if we allow this.

CHAIRMAN BECKWITH: Any other comments from the Board? Any other comments from the public? Yes, sir.

MR. ROBERT BRAMON: Robert Bramon, Newport, Rhode Island. I'd like to get the Board's opinion on the open access fishery and the proposed trap limits in the State of Rhode Island. Do you foresee in the future that it will go under 800 traps?

CHAIRMAN BECKWITH: Well, we're taking comments to the motion. Let's deal with the motion, then you can ask that question again if you'd like.

Any other comments to the motion? Okay. Do we need -- let's take 30 seconds to caucus.

(Caucus)

CHAIRMAN BECKWITH: Okay. Why don't we proceed, and Jack, can you read that into the record, please?

EXECUTIVE DIRECTOR DUNNIGAN: Well, Mr. Chairman, as I heard it, the exact words by the maker of the motion were, "I move that we do not include that provision." So I'm trying to help make the motion say what you really want to

do, and I don't know if I'm right here or not. And I don't even recall who made it.

CHAIRMAN BECKWITH: It was Phil who made it and Jill seconded.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, motion by Mr. Coates, seconded by Senator Goldthwait is:

"Moved that the Board not include a provision to allow the possibility of trap limits by individual."

MR. ADLER: What does that mean? Only corporations can hold them?

EXECUTIVE DIRECTOR DUNNIGAN: No. It means only vessels. It's assigned by vessel. And that there won't be an option of considering something else.

MR. ADLER: I know what is meant. The way I read that would be that only corporations can have licenses or something.

EXECUTIVE DIRECTOR DUNNIGAN: But we just explained it. We have legislative history.

MS. SCHICK: I'd also like to make a clarification. The way it stands in the plan right now for Area 1, Area 2 and the Outer Cape have these trap limits, and it specifies traps per vessel. Area 1 does not have a proposal in to make any changes to where they stand on their trap limits. But for Area 2 and for the Outer Cape, those are provisions that are included right now in this public hearing document for the addendum.

So an appropriate course of action might be to change the language in this decision document because how it stands in the decision document to go out to public hearing is traps per vessel.

CHAIRMAN BECKWITH: Okay. Is there any -- unless anyone has any recommended changes, we'll vote on this motion. Okay. I think we're going to vote on this motion as it is and have Amy call the roll.

MS. SCHICK: Again, if you have a null vote, please indicate it especially so I don't take a wrong vote again.

For the State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: No.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Yes.

MS. SCHICK: Rhode Island.

RHODE ISLAND: No.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes.

MS. SCHICK: Maryland.

MARYLAND: No.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MS. SCHICK: The vote is six in favor and three opposed.

CHAIRMAN BECKWITH: That motion passes. Okay. That means it will not be included in the decision document.

Establishment of Boundaries in State Waters

The next item on the agenda is Establishment of Boundaries in State Waters, Area 1 and Cape Cod, Area 2 and Cape Cod and Cape Cod Canal. And Phil, you were going to carry the Mass. on that one last time, weren't you?

MR. COATES: Jim Fair is here today, and as soon as we sort out his soggy papers, he's going to take care of this issue.

CHAIRMAN BECKWITH: Go ahead, Jim.

MR. JIM FAIR: Yes. What we proposed is three minimal changes to the boundaries of the Outer Cape Cod Management Area and the other area of the Cape Cod Canal, which is between Areas 1 and 2. As far as the Outer Cape Cod Area goes, the present boundary between Area 1 and the Outer Cape Cod Area is in error in that it doesn't meet the shoreline in any spot, and it doesn't effectively cut off the two areas.

There's also a problem with the Port of Provincetown because they're clearly part of the Outer Cape Cod area, and they would have been excluded by virtue of the original line.

So we've proposed wrapping the line around the end of Cape Cod and including an overlap zone similar to the one between Area 2 and Area 3.

CHAIRMAN BECKWITH: Does everyone have the memo that Jim sent to Phil dated January 11th, which has a map?

MR. FAIR: It's in the folders today. It's in a separate memo in the folder.

CHAIRMAN BECKWITH: Jim, can you explain how that differs from the way it is now?

MR. FAIR: Okay. If you're looking at the map right now, the northern boundary of the Outer Cape Cod Area where it comes in just north of the end of Cape Cod, right now it just ends in the water just north of the L in OCLMA. It doesn't meet the land at any spot. So it really effectively does not close off the area. There's no definite boundary between the two areas.

At the same time, at public hearings it was made very clear to us that many of the fishermen in the proposed overlap here considered themselves part of the Outer Cape Area and their fishery is more in tune with what goes on in that area.

We have had no opposition to this. It's all in state waters, and it mainly provides a better separation between the two areas.

CHAIRMAN BECKWITH: Okay. Any questions for Jim on this proposal before he goes on to the next one? Bob.

MR. NUDD: A question on -- in that part of that area that's now Area 1, what rules are going to be followed in that overlap area? That's specifically the maximum gauge size?

MR. FAIR: We would propose that fishermen from either Area 1 or Area OCLMA could fish in that zone using their own rules, whatever they are.

MR. NUDD: So somebody fishing in the overlap area from the Outer Cape would be able to take the maximum size in that area?

MR. FAIR: That's correct, if they indicated that they were part of the Outer Cape Cod Management Area. If they also have Area 1 on their license, however, then they have to fish by the most restrictive rules just like everybody else.

CHAIRMAN BECKWITH: Okay. Jim, we're on the next one.

MR. FAIR: The other one is not coming from a problem in the plan, it's just a request by the fishermen in that area to move the line back slightly. Actually, the line that closes off Nantucket Sound separates the Outer Cape Cod Area from Area 2. The line as it presently exists is from the end of Monomoy down to Great Point and Nantucket. The proposed line would include the ports in Harwich, which are more attuned to the Outer Cape Cod Area.

CHAIRMAN BECKWITH: Okay. Any questions for Jim on that proposal?

MR. FAIR: Cape Cod Canal is pretty simple. The fact is that the present descriptions of Area 1 and Area 2 do not include the canal. They say it's a no man's land anyway. We would propose that it become a buffer zone between the two areas. Not a buffer, an overlap.

CHAIRMAN BECKWITH: Okay. Any questions or comments on that proposal? Is there any opposition to including the proposal in the public hearing document? Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. I'm trying to understand this. The first map that we were given is the Outer Cape and the overlap zone. The question is, why is that such a large area when in fact, as I understand the explanation, you want to include just Provincetown? It seems like you're going almost - - it's hard to read this chart or whatever this part of a chart is. But it would only include the Port of Provincetown. Those hatches further down the Cape towards Wellfleet, why do they go down so far? There must be a reason for it.

MR. FAIR: The only other port on the west side of the Cape in that area is at Kimmit in the town of Truro. Those fishermen also agreed that they are part of the Outer Cape Area.

MR. FREEMAN: But the crosshatch area that is shown here includes Provincetown Harbor, but then it goes considerably beyond that, and my question is why do you go so far? Why isn't it smaller?

MR. FAIR: Well, again, our intention is to separate these fisheries to the most practical extent. The fisheries are distinctly

different in that area than they are in the rest of Area 1 or the rest of Cape Cod Bay.

MR. FREEMAN: Well, I understand that explanation, but are you saying that that crosshatch area, the fishermen of Provincetown fish that area? Is that the reason it's the size it is?

MR. FAIR: Yes. Provincetown and Truro, yes.

MR. FREEMAN: Okay. On the other chart that you show, I'm not sure I understand that one at all. What are the land masses that are shown on the upper portion --

MR. COATES: It's upside-down, Bruce.

MR. FREEMAN: Oh, it's upside-down. What is what here? What is the land mass at the top then? What is that?

MR. FAIR: The land mass at the top of the page is the outer part of Cape Cod with Chatham in the east.

MR. FREEMAN: Okay. And that peninsula sticking down is Monomoy.

MR. FAIR: Monomoy Island, and on the other end is the Island of Nantucket.

MR. FREEMAN: All right. But the line intersecting on Nantucket does not include the Port of Nantucket? Is that simply just a line drawn to some -- I'm not sure what that is down there - - but some just point for convenience? My question is, is Nantucket in or out of this, or is it -- because in looking on Page 19 of Amendment 3, the line drawn on Nantucket includes the eastern edge of Nantucket.

Now, this line would actually extend the area in Nantucket to a larger area, is that what I'm led to believe?

MR. FAIR: Yes. The folks that propose this just wanted to use a recognizable line that was already on the chart. These are longitude, and they just moved it back, I believe, five degrees.

MR. FREEMAN: Must be five minutes.

MR. FAIR: I'm sorry. Minutes, yes. We haven't had any opposition to this. Again, this came as a result of public hearings that we held relative to fishermen electing to fish in one of these areas. They have to declare where they fish. Some guys at that point in time were confused. These three suggestions were areas where there was confusion.

MR. AUGUSTINE: Mr. Chairman, is a motion in order to accept this as part of the plan? Do we need one?

CHAIRMAN BECKWITH: I don't think we need a motion.

MR. AUGUSTINE: Could we have a consensus of Board members then? It sounds as though they've done their homework, and according to what he's reported, there's no -- really, no one is concerned about it. It doesn't create any hardships. Sounds like he's presented a very solid case. So it would seem we should move on to the next item.

CHAIRMAN BECKWITH: Yes. I was getting there. As soon as he finished explaining it, I was going to ask if no one had any objections to it -- first, are there any additional questions or comments on the proposal? Pat.

MR. WHITE: I guess my question is why doesn't it take an amendment to change this any more than it would the other things that we have talked about?

CHAIRMAN BECKWITH: Well, let's check that. My understanding is the things that have to be changed by amendment are the basics in the plan, which are in Section 3 point something, I think.

MR. WHITE: We're significantly moving a line.

CHAIRMAN BECKWITH: We will check and see if that requires an amendment. I'm not sure. Amy, what do you think?

MS. SCHICK: I would like to confer with the executive director on this one, but my impression at this point is that with the border, the Outer Cape borders, there's not a line specified in Amendment 3 right now that closes that area. So it wouldn't be changing the plan; it would just be clarifying something that's already in the plan.

As for -- and that should be included in the addendum to clarify what those borders are. In terms of moving a line, I don't believe that that's possible without an amendment, although I'd like to talk with Jack about that. The borders are included in Section 2.3 of the management plan, and that section is not specified under adaptive management.

So I would consult with the executive director.

CHAIRMAN BECKWITH: Bruce.

MR. FREEMAN: Mr. Chairman, the question I would have is what is being proposed for a line change would go out under Addendum 1 for comment? Are you just asking the Board to make these determinations?

CHAIRMAN BECKWITH: No. I think what we're asking the -- I think what we intended to do was to include them in Addendum 1. But if it's not appropriate, if it requires an amendment, then obviously we can't do that.

MR. FREEMAN: Well, my only comment would be that, as Amy indicated, there's no closure -- or Massachusetts indicated -- no closure on the line, and there should be. It's obvious. That closure could go from that point under O to Race Point. I mean, there's many possibilities. But that closure needs to occur.

But relative to people commenting on Area 1, it would seem that we should at least allow them comment. I mean, there may not be any, but if it's going out for the addendum process for public hearing, then it's appropriate. But if you're asking that we make this determination, I'm not sure that's appropriate.

Because recall when we originally set these lines, the Board set them, but then this whole thing went out to public hearing for comment, and there were some changes made. And it seems to me that even though we need closure on the Massachusetts issue, to be fair to the public, at least they ought to be given the opportunity to say it's a great idea/it's not a great idea.

CHAIRMAN BECKWITH: Jack, you were going to give us some guidance on this?

EXECUTIVE DIRECTOR DUNNIGAN: I believe you

could vary this. I don't think the enumeration of sections under adaptive management in Section 3.6 is exclusive. If you look at the one we always look at, which is 3.1, it specifically prohibits changing anything in 3.1 except by plan amendment, and that's why we don't do it in that case.

I think the enumeration of those sections in Section 3.6 is descriptive and not limiting.

CHAIRMAN BECKWITH: Okay. So we can do it by addendum and take it out to public hearing for comment. Okay.

Is there any objection with us including these proposed changes in the public hearing document? Okay. Seeing none, we will do so.

The next action item was to approve Addendum 1, but I think we've got at least one more thing to do, and that was to discuss the availability of the vent. And John, since you brought that up, do you want to give us some background on that?

VENT AVAILABILITY

MR. NELSON: Well, thank you, Mr. Chairman. At one of our commercial fishermen's meetings, it was brought up that they were having problems coming up with vents, escape vents, and I then checked further with various suppliers in the area and found that indeed there were, if you would, waiting lists for various fishermen to be able to get vents. And this was both the rectangular vent and also the circular vent.

Now, the circular vent, we actually have in this document, since we didn't have it in the amendment. So we are looking at putting the discussion for the two and seven-sixteenths circular vent to public hearing, which I would then assume we were going to have whatever timetable of having it implemented decided upon.

But in the meantime, we are faced with both the circular and the rectangular perhaps not being as available as we thought they would be. And that's creating a problem for the March 1st timetable for having the escape vents in place. A lot of guys would like to use the circular, and we're moving ahead with our regulations to allow it based on what we understood ASMFC was going to be doing.

But we do have a practical problem in the availability, and I understand some other states may also be facing somewhat of the same situation. So the question is, what do we do if we need to delay just because they're not there? How do we do it? I asked our law enforcement what we could do about it, and they didn't feel that they could just ignore it, since it was a measure that had been passed.

So I'd like the Board to provide some insight to me on how we should deal with this particular measure.

CHAIRMAN BECKWITH: I think the first thing we have to do is perhaps better characterize the problem. I'm not familiar with how many vendors produce these things. Maybe someone can help us. And is it just a problem up in your area, John, or do the people in Connecticut buy from the same vendors that New Hampshire buys from? And also, what kind of backlog were the

vendors telling you they had in terms of the time before they could deliver?

MR. NELSON: Well, they were looking at months, several months to be able to get what they thought would be an adequate supply, and they're getting in four or five thousand at an order. But they have a waiting list for people to actually be called up and told, "Here you go. We've got the quantity in." So they were projecting it as probably about four or five months before they would be able to have that waiting list taken care of.

And the comment was made to me that, you know, once Maine had to start doing that, too -- and I'm not pointing at Maine, but once they had to start doing that, that that would really have a problem as far as the overall supply being available.

CHAIRMAN BECKWITH: We had switched over about a year or so ago and didn't hear any problems, but we have far fewer traps than Maine does and other areas.

George.

MR. LAPOINTE: Well, it must be the fiber-optic cables and the phone system in the State of Maine, because I hear at public hearings that -- I mean, there's a couple of weeks' delay, but people are going to get -- that's not the problem with increasing the vent size. I mean, there'll be some minor delays, but our suppliers and our fishermen aren't raising this as a concern.

CHAIRMAN BECKWITH: Interesting. You must be buying from the same people I would -- you're not buying from the same people.

MR. LAPOINTE: Maybe John should call Pat, and then he'll give him the number of the supplier.

MR. NELSON: What's your number, Pat?

MR. WHITE: I think the supplier that New England Fishing Gear gets their vents from is down in Massachusetts. One of the major suppliers in Maine is Friendship Trap, and the only one that they've expressed a week or two delay on is the circular vent, and they seem to have plenty, unless it's a specific color that somebody wants. They have their conservation equivalent in the oval vent, you know, more than enough to take care of it at this point.

CHAIRMAN BECKWITH: Ralph.

MR. MALING: John, you can probably save your fishermen some money if they take the back of their knives and scrape the old ones till they're the right size. We did it in Massachusetts to increase it. But we can't help you on the round vents. But it will work. You take the back of a knife and you just scrape that vent, and you make up an inch and fifteen-sixteenths measurement and you're in business, except for the stamp that's on there.

CHAIRMAN BECKWITH: Okay. Any other comments to the issue? John.

MR. NELSON: Well, Ernie, no, I don't want to raise an issue. There apparently is not -- that was just the information that we had gotten. People seemed to be in a panic about it, and

when I checked with the supplier, he had confirmed it. I will go back and point out that Maine will be able to supply all we need, scrape the ones that they have in place, and we'll move ahead.

And I assume that the circular vent, if people want to put in the circular vent, that we really don't have a problem with them doing that in anticipation of this being approved by the Board later on. Is that okay?

CHAIRMAN BECKWITH: In what being approved by the Board?

MR. NELSON: Well, we have the equivalency here in this addendum for the circular escape vent of the two and seven-sixteenths. So in anticipation of that, we would be looking to okay them to put those in, those that wanted to have the circulars in place.

CHAIRMAN BECKWITH: Okay. And if it does still remain a problem for you, we can bring it up at the next meeting, five weeks or six weeks or so.

Okay. I guess we're at the point where we would approve Addendum 1 for public hearing, and I would need a motion to do that. Bruce.

MR. FREEMAN: I would move that the Board approve Amendment 1 as modified for public hearing.

CHAIRMAN BECKWITH: Okay. Do we have a second to that? Seconded by Phil. Any discussion on the motion?

MR. FREEMAN: Addendum.

CHAIRMAN BECKWITH: Okay. Let's just -- Jack, are you going to put that up there? I know it's simple, but since we had a little fumble on words there, let's make sure we have it right. Okay. That's pretty straightforward. Okay. What I will do, I think -- I hope we're all in agreement on this. Is there any objection to this motion? Okay. Do we have to call for a vote now or can we just approve it by -- Jack, I need some help.

EXECUTIVE DIRECTOR DUNNIGAN: Take a vote.

CHAIRMAN BECKWITH: Got to vote? Okay. All right. Since there is objection, we're going to have to vote. Let's take 15 seconds to caucus.

(Caucus)

CHAIRMAN BECKWITH: That's probably sufficient. Amy will do a roll call and a vote.

MS. SCHICK: Jack, could you read the motion into the record?

EXECUTIVE DIRECTOR DUNNIGAN: Motion by Mr. Freeman, seconded by Mr. Coates:

"Move that the Board approve Addendum 1 as modified for public hearing."

MS. SCHICK: Thank you.

MR. MEARS: Mr. Chairman, can we have discussion or is that --

CHAIRMAN BECKWITH: I'm sorry. Yes, that's

appropriate. Is there any discussion on the motion? Harry.

MR. MEARS: I will abstain from this motion with mixed feelings. I believe that it's going ahead in the direction we need to with respect to additional public comment, particularly with respect to historical participation and furthering the identification of the adaptive management process which was established in Amendment Number 3.

However, I do believe that it is inopportune at this time to even encourage public comment on the gauge issue, an issue that we've heard from the Technical Committee time and time again as the one option which could have the most benefit toward achieving the FMP objectives.

Again, I'll repeat that we have in good faith entered into communications with the Canadian Government on working collaboratively with respective industries on gauge size increases. And to at this time not purposely allow consideration of all options on the table, I believe, only serves in delaying the point to which we need to get to begin achieving the FMP egg rebuilding objectives.

CHAIRMAN BECKWITH: Okay. Are there any other comments on the motion? Carl, did you want to make a comment?

MR. LOBUE: I just wanted to agree with Harry, but also point out that they could have sought public comment by adding that gauge increase into their draft proposed rule also.

CHAIRMAN BECKWITH: Okay. Is there any other comment or discussion on the motion? Yes, sir.

MR. BRENNAN: Mr. Chairman, Joe Brennan again from Belford Sea Food Co-Op. Could somebody give me the definition of historical participation?

CHAIRMAN BECKWITH: We haven't thoroughly defined it. There are several criteria that are listed in the decision document, and after public comment, that will be further defined by the Board.

MR. BRENNAN: But the only thing in your addendum there, Addendum 1, as far as historical participation goes, is a few selective years by the LCMT teams. Now, I would think historical participation to me would mean from when you started to the time you finished. That would be more historical than the present years.

So, you know, I just think that should be opened up a little bit as far as historical participation goes, because I have a record of the '60s, '70s, '80s and very little in the '90s. So historical participation, I can show a lot of it, but not much in the years they're talking about. And I still have an investment to protect, as do many more men in the same category that I fall into.

So I think in your public hearing document, that should be opened up a little bit or given a little bit more leeway for the fishermen.

I have another question, but I'll hold that till later because you just want questions about this amendment here, whatever you're doing. But I think it's very important for that to be opened up a little bit more than what it is, because those are just a couple

of selected years to fit the group that's fishing right now or actively fishing.

There's a lot of fishermen that hold federal permits that never had a lobster pot and don't want to have one. I think if you were to do some type of survey of federal permit holders, you would get a much better picture of how many pots are actually going to be in the ocean or could be in the ocean. I would say anybody that fished with lobster pots has historical history. Anybody that never fished with pots doesn't have a historical fishery, but does have a historical license that they've been holding, and maybe because they're bringing lobsters through trawling.

So I think that would make a better picture up here of what was happening. Thank you.

CHAIRMAN BECKWITH: Okay. I just want to remind you that these proposals were developed most in part by the Lobster Conservation Management Teams, and the purpose of the public hearing is to obtain those kinds of comments that you were just making, so I encourage you to come to the hearings and make those comments.

Okay. Is there any other discussion or comments on the motion? Would any other member of the public like to make a comment on the motion?

Okay. Seeing none, we'll have Amy call the vote.

MS. SCHICK: The State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Yes.

MS. SCHICK: Rhode Island.

RHODE ISLAND: Yes.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MS. SCHICK: Eight in favor and one abstention.

CHAIRMAN BECKWITH: Okay. Motion passes.

I think we've got one more item on the agenda, if I could find my agenda.

MS. SCHICK: I would like to ask a question of Board members. In preparing this addendum, I have included in the folder just a general time line for an addendum, and one thing that's going to influence how long it takes to get an addendum through the process is how many public hearings each state would like to have on an addendum.

For an addendum, there's no set requirement for public hearings. States can request to have a public hearing. I'd like to just get a general sense from Board members if they have an idea how many public hearings they would be interested -- if they would be interested in holding a public hearing, and if so how many.

CHAIRMAN BECKWITH: What I'd like to do is go around the table and each state indicate how many public hearings they'd like to have. Why don't you start at the top and work down, Amy.

MS. SCHICK: Maine.

MR. LAPOINTE: Two.

MS. SCHICK: New Hampshire.

MR. NELSON: One.

MS. SCHICK: Massachusetts.

MR. ADLER: Two.

MS. SCHICK: Rhode Island.

MR. GIBSON: Would you repeat the question again?

MS. SCHICK: Taking this addendum out to public hearing, how many hearings would the State of Rhode Island be considering?

MR. GIBSON: One.

MS. SCHICK: Connecticut.

CHAIRMAN BECKWITH: Two.

MS. SCHICK: New York.

MR. COLVIN: Two.

MS. SCHICK: New Jersey.

MR. CONNELL: Two.

MS. SCHICK: Maryland.

MR. OUTTEN: One.

MS. SCHICK: I'll have to contact the others.

MR. FREEMAN: I was going to make a suggestion. You certainly should have one in Delaware and one in Virginia.

MS. SCHICK: Thank you.

MOBILE GEAR POSSESSION LIMITS

CHAIRMAN BECKWITH: The final item on the agenda was a motion that was deferred from the last meeting, and it was a motion that pertained to the mobile gear issue. Jack, do you have that handy to throw up on the screen? I think we saw it

earlier today. While he finds it, I could read it. It said:

Moved that the Lobster Management Board recommend to the ISFMP Policy Board that Amendment 3 be amended to change Provision 3.1.7 (mobile gear possession limits) from mandatory status to discretionary status so that states may develop alternatives more suited to their respective industries.

And the motion was made by Mr. Gibson and seconded by Mr. Freeman, and that was tabled until this meeting. So we have to take some action on that today.

Okay. Amy says if you look at your minutes, if you want to read it, it's on the third page of your minutes.

Mark, to get it started, do you want to provide any background or rationale before you open up to comments?

MR. GIBSON: Okay. What the State of Rhode Island is looking for here is some flexibility for our Marine Fisheries Council to make allocation decisions relative to the resource in state waters. You will recall that we ran afoul of the mobile gear regulation in terms of our compliance. We have subsequently passed that regulation and have come back into compliance with the plan.

But our Marine Fisheries Council did it under duress, and their basis for that is that this regulation forces a direct catch limitation on one sector of the fishery, a rather small sector of the fishery, whereas it does not, in Amendment 3 or its developing addendum, does not impose the same daily catch limitation on the primary capture of gear within the fishery, that is, the pot fishery.

What in essence it does is it forces an otter trawl fisherman to discontinue fishing when he's having a good day, but no catch, direct catch limit is placed on the pot fishery. What is offered in terms of the amendment and the developing addendum is a set of pot restrictions, which our analyses have shown are not likely to reduce catch and are not likely to reduce fishing mortality.

So, having that information at their disposal, our Marine Fisheries Council is quite concerned about their requirements under their Administrative Procedures Act, which requires the Council to act in a fair and equitable manner and impose regulations which have some biological basis to them, and which can be defended in terms of their consistency of application and fairness of application to the different user groups.

So they have asked us, as a condition of their passing that regulation, to come forward to the Commission, explore ways with which Rhode Island could obtain that flexibility. What they would like to have is an ability to come forward with proposals which, under some demonstration of conservation equivalency or management equivalency, would allow them to make these kinds of allocation decisions within state waters. They don't feel that they have that right now.

So that's the basis for our application. Admittedly, it comes at a difficult time. There's one of the elements under 3.1 which requires an amendment to the plan. We obviously recognize the difficulty of asking for that in the context of a developing addendum, which purpose is to implement Amendment 3.

So that's our background. I'll try to answer any questions that you might have, and I'm sure there are representatives of the Rhode Island industry here that may want to speak to the issue as well.

CHAIRMAN BECKWITH: Okay. Let's take it one step at a time. Any questions for Mark? And then we'll open it up to discussion and comments. Any questions for Mark? Okay. Any discussion on the motion from members of the Board?

Jack, just as a procedural clarification, this motion was made time definite, so it is on the table, we can discuss it and vote on it without any further action, I assume?

EXECUTIVE DIRECTOR DUNNIGAN: Yes, sir.

CHAIRMAN BECKWITH: Okay. I'm not seeing any discussion from the Board. Bill, is this -- go to it, Bill.

MR. ADLER: Yes. I oppose this motion, and I think it opens a Pandora's box to something which has already been moving along in a way, and it's in the federal plan, it's in state plans, it's in the ASMFC plans. And I think this opens a Pandora's box which disrupts things, and also the fact that it's an amendment at this time as opposed to when we're working on an addendum. So I'm very much opposed to this motion.

CHAIRMAN BECKWITH: George.

MR. LAPOINTE: My comments are much the same as Bill's. We've got an addendum in process. We're going to have another addendum before year's end. And we may find through those two addenda processes there are a number of things we may want amended in this plan. And so I'd just as soon let this stew cook for a while before we do an amendment.

CHAIRMAN BECKWITH: Any other comments from the Board? Lance.

DR. LANCE STEWART: Yes. Just that this issue kind of touches very sensitively on habitat and directed fisheries in probably areas of lobster population that might be vulnerable. As you recall, Ernie, Lew went through a major mobile gear investigation in Long Island Sound, and essentially limiting the number of lobsters in a dragger catch per day trip was the solution to prevent rigging gear to fish heavily on the bottom and to target lobsters that are burrowed in habitat.

I'd just bring that back to Mark, especially considering what forces the industry is having to reel under now with the new wave of habitat protection. So, just wondering what the wisest move is. So, a comment on the issue.

CHAIRMAN BECKWITH: Okay. Any other comments from the Board?

Would any member of the public care to comment on the motion? And just state your name for the record, please.

MR. JERRY CARVAHLO: Yes. My name is Jerry Carvahlo from Rhode Island. I represent the Rhode Island Inshore Fishermen's Association. This group is made up largely of small inshore otter trawlers. This issue has had a profound effect on the way people behave in the

State of Rhode Island. It's taken user groups and pitted them

against one another.

People that live in the same community that tie up in the same port, often tie up on the same dock, people will walk down the dock now and can no longer say, "Hello" to one another because one group has been prejudiced or discriminated against in this management plan. It applies a daily possession limit without any scientific basis on one user group and no daily possession limit on the other user group. There's no fairness to it.

We didn't have a problem in the State of Rhode Island. We worked side by side for generations. And now, because of the Honorable Senator Snow, because Maine has a fetish about this kind of behavior, people working side by each, because Massachusetts finds it politically incorrect, they want to impose their views on the rest of the states. It's wrong. It's not based on science, it's based on greed. It pits fisherman against fisherman, no good reason.

Rhode Island has asked for the flexibility to manage its resource and to allocate it however it sees fit. Discrimination in Rhode Island is still or was still against the law up until this was imposed on them. It may be okay in Maine, it might be okay in Massachusetts, but we don't think it's right.

We would like to see the Commission and this Management Board make an adjustment so that Rhode Island can treat its people the way they think it's fair and not the way some states treat their people. I don't think that's an unreasonable request, and it's important, because it has shaken the social fabric of the fishing community. It means a lot to us to treat each other fairly. It does in Rhode Island anyway. It has in the past. We'd like to see that it continue that way.

CHAIRMAN BECKWITH: Okay. Is there any other public comment on the motion?

Any other comment from the Board? Bruce.

MR. FREEMAN: I just want to indicate that this motion made by Rhode Island was seconded by us because we thought that the issue needs to be discussed, realizing it's a very contentious issue, also realizing that so far as New Jersey's concerned, historically it had an otter trawl fishery that has a directed otter trawl fishery for lobster, but that has not existed for many years.

We have nothing to gain or lose by this, but it seemed to be at least reasonable to see if Rhode Island could develop a strategy for doing this. Now, Mark seemed to make a very legitimate case for Rhode Island. And again, as I indicated, we supported certainly for purpose of discussion.

But it may be reasonable to -- it's obviously still going to be contentious -- but to allow Rhode Island to go through the process of developing a plan and let's look at that before we make a decision. My concern is we're making decisions without looking at all the merits of the issue. And what Rhode Island develops relative to what they want for their fishermen maybe we could find perfectly agreeable and satisfied.

But I feel uncomfortable about not allowing them to go through that process. Normally, under other plans, we'd essentially allow something like this under conservation

equivalency, and perhaps, because of the contentiousness, we're being more restrictive. But it seems certain, from our standpoint, to allow that opportunity to occur, to allow them to develop a process that we could view and then make a determination at that time whether in fact it's sensible to go forward or not.

Therefore, we would still support the motion.

CHAIRMAN BECKWITH: Okay. Any other discussion on the motion? Not hearing any other comments or any other motions, I think we're ready to vote. Shall we caucus? Okay. Let's caucus. I'll give you 15 seconds, and then we'll vote on it.

(Caucus)

CHAIRMAN BECKWITH: Okay. I'm going to ask Jack to read the motion into the record, and then I understand you have a comment also, Jack.

EXECUTIVE DIRECTOR DUNNIGAN: The motion made by Mr. Gibson, seconded by Mr. Freeman:

Move that the Lobster Management Board recommend to the ISFMP Policy Board that Amendment 3 be amended to change Provision 3.1.7 (mobile gear possession limits) from mandatory status to discretionary status so that states may develop alternatives more suited to their respective industries.

CHAIRMAN BECKWITH: Okay. Did you have anything else to add?

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, if I could just make a comment for the record. This has obviously been a contentious issue that the Board's dealt with a lot and dealt with in enormous detail just last year. There's not been a lot of discussion around the table today, and I'd hope that Board members or the audience don't get the impression perhaps that there aren't many arguments more to be made by both sides than have been made before.

And for the record, I think I would just like to refer everybody back to the extensive record that we developed last year -- I'm sure it's still fresh in everybody's mind -- and that all of those arguments are still weighing heavily upon commissioners as you consider how to vote on this matter this afternoon. Thank you.

CHAIRMAN BECKWITH: All right. Thank you, Jack.

Okay. I'll have Amy call the vote.

MS. SCHICK: The State of Maine.

MAINE: No.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: No.

MS. SCHICK: Rhode Island.

RHODE ISLAND: Yes.

MS. SCHICK: Connecticut.

CONNECTICUT: No.

MS. SCHICK: New York.

NEW YORK: No.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MS. SCHICK: Lance, could you repeat your vote?

DR. STEWART: Null, n-u-l-l.

MS. SCHICK: Four in favor, three opposed, one null and one abstention.

CHAIRMAN BECKWITH: The motion passes.

Now what do we do? I guess, Jack, we need some help here. Do we need to instruct staff to begin preparing Amendment Number 4?

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, this is a recommendation to the ISFMP Policy Board. If they accept your recommendation, they will instruct the staff to take appropriate steps. The next meeting of the Policy Board would be scheduled for the Spring Meeting in May, and I presume that that's, you know -- unless something else happens, that's the time that we will bring this to them.

CHAIRMAN BECKWITH: Okay. Thank you for that clarification.

Phil.

MR. COATES: I just wanted to be clear on one thing that Mark said. I notice that it isn't included in the motion. And that was that this recommendation, this action you're proposing, would take place within state waters of Rhode Island, right?

MR. GIBSON: Yes.

MR. COATES: Okay. Thank you.

CHAIRMAN BECKWITH: Jill.

SENATOR GOLDTHWAIT: Did I hear that this will be taken up in May, and is that meeting not in North Carolina?

EXECUTIVE DIRECTOR DUNNIGAN: That is the next time the Policy Board meets, yes.

SENATOR GOLDTHWAIT: I would certainly object to discussing something of this importance to the lobster industry that far from the center of gravity.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, I guess I would be at the pleasure of the Board here. If the Board wants me to speak to the chairman of the Policy Board and see if there's some other opportunity for scheduling the Policy Board to

consider this, I would be glad to take it to him and ask. But it would require a special meeting of the Policy Board.

CHAIRMAN BECKWITH: What's the pleasure of the Lobster Board? How many people -- what's the feeling? Are you opposed to having it at the North Carolina meeting? Would you prefer to have it at a special meeting between now and then in some other location, more northerly location? Jack.

EXECUTIVE DIRECTOR DUNNIGAN: I didn't necessarily say between now and then. I mean, that will be up to the chairman.

CHAIRMAN BECKWITH: Okay. Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. The next Policy Board meeting, as indicated, will be in May in North Carolina, and then the meeting after that, the scheduled meeting, would be in Connecticut in October. The issue -- I would ask Rhode Island, Mark, from your perspective and your constituency's perspective, would it make any difference -- I guess it would -- but what aspect or what difference would five months make? Would it be critical to you at the latest five months? Obviously, you'd want to move as quickly as possible. I would just want to know what your feeling is.

And then the other issue is we could defer it to the chairman, which is going to be Dave Borden anyhow.

MR. GIBSON: I think the fall would be fine.

MR. FREEMAN: Then it seems to me, Mr. Chairman, that with the feeling of Rhode Island to delay this until the fall meeting, that may be suitable and would take care of Maine's concerns.

CHAIRMAN BECKWITH: Jill.

SENATOR GOLDTHWAIT: This meeting is seven hours from where I live, and I don't know how much further Connecticut is. So I very much appreciate your willingness to look at the matter, but having it in Connecticut does not take care of my problem.

CHAIRMAN BECKWITH: Pat.

MR. WHITE: I also think that's the Annual Meeting, and I think it would be very difficult to have an issue of this contention be filled into what is usually a very full Annual Meeting. I mean, it took us a long time to come to this conclusion. Now we've got to do something all over again. Time's going to be long.

CHAIRMAN BECKWITH: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, I suggest you let me discuss this with the chair.

CHAIRMAN BECKWITH: All right. Okay.

I think we're finished. Any other business to come before the Board today? Amy.

MS. SCHICK: I'd just like to remind Board members that the state compliance reports are due next Monday, March 1st, and to make sure everyone is aware of that deadline. I sent out a memo a month ago.

CHAIRMAN BECKWITH: Bruce.

MR. FREEMAN: There's one item I'd like to conclude with. And you recall at the last Board meeting there were concerns of New Jersey coming into compliance with those provisions of the plan. We have gone through the regulatory process. We have put in place now those provisions of the plan which we were lacking. So we do have the V-notching in place, we do have the maximum size of the traps in place.

We do, however, still need complete closure on this issue to get our legislature to withdraw the existing law. We do still have a conflict between one of the provisions as a statute and as a regulation. The Legislative Committee who deals with this issue has recently met and voted affirmatively to move in the direction that we need to, but the entire legislature has not yet voted.

But what we'll do is, Amy, we'll send you a letter indicating what we do have in place. But we feel confident the legislature will move quickly, and we will have all the provisions in place that need to be.

CHAIRMAN BECKWITH: All right. Thank you, Bruce.

Any other business before the Board? Motion to adjourn?

(Motion made and seconded from the floor, following which, the meeting adjourned at 4:30 o'clock p.m., February 22, 1999.)
