

ATLANTIC STATES MARINE FISHERIES COMMISSION

American Lobster Management Board

Swissotel Washington, The Watergate Washington, D.C.

February 20, 2002

WEDNESDAY MORNING SESSION

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The American Lobster Management Board of the Atlantic States Marine Federal Fisheries Commission convened in the Monticello Room of the Swissotel Washington, The Watergate, Washington, D.C., Wednesday morning, February 20, 2002, and was called to order at 10:00 o'clock a.m. by Chairman George LaPointe.

CHAIRMAN GEORGE LAPOINTE: I am George Lapointe. I am the Chair of the Lobster Board. We will be here until 3:00 o'clock. We're going to dispense with calling of the role. Heather is going to pass the sign up sheet around.

I believe there are agendas at the back of the room.

All of the material is at the back of the room. We have changed the agenda slightly since the draft agenda went out to put the federal rules earlier in the agenda so that we spend enough time with that, but not too much.

Are there other announcements at this point? Without further ado, we will get started. We did a couple of things before this meeting. One was we had a pre-board meeting conference call to bring commissioners up to speed with the issues. We took no action with that.

It was merely to bring people up to date on the issues that we'll be dealing with today. I look forward at the end of the meeting to people's evaluation of that.

I am also going to try to stick with some strict

times on the agenda topics. If we get to the end of the times allocated recommended by staff, my intention is to see if we can wrap those agenda items up or postpone those to another meeting so we stay on time today.

I guess those are all the initial announcements. In your board package, there is a revised agenda. There are additional agendas at the back of the room. Are there any proposed changes to that agenda or the additions? Seeing none, we will move from that agenda. Nobody said if there were any additions.

In the board package as well, there was what are called proceedings from the October meeting. Are there any changes to the proceedings or the minutes from the last meeting? Seeing no changes and without objection, we'll just approve those minutes and get on to the next agenda item.

The next agenda item is public comment. The commission has a formal spot for public comment at the beginning of each meeting.

Are there public comments at this point? People should note that we welcome public comment throughout the agenda for specific topics as well.

Seeing no public comment, we will get into a discussion on the NMFS Status Report. Harry is going to discuss the proposed federal rule. Harry, we've allocated 15 minutes for you to talk, ten would be better, then the remainder of the half hour for the board to discuss that as well.

Heather, is staff going to prepare draft comments for the board's consideration?

MS. HEATHER STIRRATT: Yes.

CHAIRMAN LAPOINTE: I assume that following this discussion, she will prepare comments. I will look at those and distribute those to board members for a quick turn around to get those into NMFS in time for the 28th of February deadline. Harry, if you could, please?

MR. HARRY MEARS: Thank you, Mr. Chairman. On January 3rd the National Marine Fisheries Service published the proposed rule in response to Addendum I to the Interstate Plan. That initial proposed rule had a public comment period that extended through February 19th.

We did receive a formal request from the commission to extend the public comment period. In order to allow commission comments and deliberation on the NMFS proposed rule at this meeting, that request was approved on February 6th, and the new public comment period now extends through the end of this month to February 28, 2002.

Very briefly, to remind everyone what this federal proposed rule entails, the components of Addendum I had three primary components. One was to implement a regime for historical participation in Areas 3, 4 and 5.

A second component responded to a commission recommendation to consider conservation equivalent trap limits in New Hampshire state waters which would not change the trap limits in federal waters, but would allow the implementation by the state of New Hampshire of a proposal that was approved by this commission.

Thirdly, to modify boundaries of lobster management areas primarily in Massachusetts waters. All of this information is discussed in detail in the proposed rule.

The letter we sent out to permit holders documented the fact that this would, indeed, affect

the current and potential future fishing operations of all federal permit holders and especially acknowledged sensitivities regarding the logistics of implementing historical participation in the offshore waters of Areas 3; and also the nearshore EEZ management areas of Areas 4 and 5.

Both the draft supplemental environmental impact statement and also the proposed rule specifically requests comments from the public relative to the logistics of the documentation which will be required to demonstrate historical participation.

Certainly, it is crucial during the public comment period to get any additional comments from the commission with regard to the proposed documentation requirements, especially, for example, based upon any experience which may have been evidenced by the states bordering Areas 4 and 5 in New York and New Jersey relative to how conservative or how liberal their experience has been and the types of documentation which have been submitted for their purposes and what we might reasonably expect in terms of our own experience for federal permit holders.

With that, I will answer any questions the best I can. I do want to emphasize at this time we are in public comment period, so I am essentially restrained from entering into any question/answer debate over any of the issues other than responding to the general aspects of what is contained in the proposed rule itself.

CHAIRMAN LAPOINTE: Thank you, Harry. Any questions of Harry? Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Harry, I am trying to remember now everything that was in our Addendum I that is now in your proposed rule.

With regard to the area designations that you just mentioned is in this proposed rule, are you just establishing the areas or are you establishing those various area designations or boundaries that include the adjustments that we made in the

original ones?

If you remember correctly, there were two adjustments; one, the outer cape line was moved west in an adjustment, and inside Cape Cod Bay there was an overlap established with some -- do you remember that discussion?

Right off the top of my head, I don't remember which addendum that was in, but that came after the original lines were set up. Now where are you?

MR. MEARS: That's exactly what this proposed rule is addressing, to address some oversights in the original designations of those areas.

MR. ADLER: Okay, so that little section that became an overlap between outer Cape in Area 1, right?

MR. MEARS: That's correct.

MR. ADLER: And then the moving of the Outer Cape line between Chatham and Nantucket, it was moved west slightly as a permanent line, and that's what you're addressing?

MR. MEARS: Right, and that area encompassed modifications that included the Cape Cod Canal as well.

MR. ADLER: Yes, yes. Okay, thank you.

MR. MEARS: One other comment I wanted to make as well. We also essentially caught on the fly from the commission a follow-up request for an accelerated trap reduction schedule for Area 3 that technically was in Addendum II.

So that was incorporated into the current proposed rule, as well, to kind of catch up on the time elapsed relative to the Area 3 plan that transpired between the two addenda.

CHAIRMAN LAPOINTE: Other questions of Harry? Board members? Vito.

MR. VITO CALOMO: Harry, you're taking public comment today, so what we say will be on the record for public comment?

MR. MEARS: I would indicate that is true, but, more importantly, we are requesting that any prominent issues also be submitted in writing as well, so that we can have it for our own written record relative to the proposed rule.

MR. CALOMO: I know it, I just want you to say it, before what date?

MR. MEARS: February 28th.

MR. CALOMO: I know the date, I just want it on the record. Thank you.

CHAIRMAN LAPOINTE: Other questions for Harry? Heather said that staff faxed out to board members this comparison or this summary. I am going to ask that she go through that, briefly. Again, from the commission's perspective, I have asked staff to draft a letter for our consideration.

I will have her fax or e-mail, whatever, transmit the letter and this comparison to people even though we've gotten it already, so the board members can review that and the commission can make comments on time. Heather.

MS. HEATHER M. STIRRATT: Primarily, the purpose of this comparison was to highlight the areas where differences do exist between what the commission has implemented in state waters and what we would be asking or recommending that the Secretary of Commerce implement in the EEZ.

Of primary interest to Area 3, it's notable that the ASMFC requirement under Amendment 3 currently requires or did require a vessel upgrade limit. That expired at the end of last year. You'll note that in the federal proposed rule, this requirement has not been added in to their proposed rule.

It's just a difference in that it was originally in our plan. It did have an expiration date. That date has passed. It no longer exists, so it's probably not an issue. But, nonetheless, I wanted to point it out as a difference.

Relative to the federal proposed rule, it does contain some elements that the states have not adopted. For instance, the qualification periods that are listed for the federal proposed rule do vary from what we have.

We have an historical participation qualification period for Area 3 that runs from 03/25 of '91 through 11/01 of '97. The federal proposed rule starts on 03/24 of '91 through 09/01 of '99. The primary rationale for the difference is that NMFS has a policy to provide advanced notice to the public of qualification dates.

NMFS originally did this on September 1st of 1999; therefore, that's why the ending date is more lengthy than what the commission has adopted in its own plan.

In addition to that, there are some differences relative to the basis for the initial trap limit. Again, this is based on the qualification period that has been outlined in the federal proposed rule.

It deals with the historical participation for those areas. There's also a difference in the certification of the initial trap allocations. This would not be, as we've requested it to be, with a review by the RA and a notice to the public.

This would actually be an internal NMFS review with the option to appeal any decision that's made. That simply is the process that NMFS has outlined. They have noted the publication of public notice, which would specify individual trap allocations for each federal permit holder, is problematic due to a variety of privacy concerns and the ability of NMFS to retain and the authority to release such information at the discretion of the RA.

So these are all outlined in the fax that you've received. I simply point them out because there are differences. If you all had specific comments on these issues, we could try to get those out today, and I could write something up on behalf of the commission and submit that to NMFS.

As far as Area 4, the primary differences, again, the qualification dates for historical participation, there is note that there needs to be proof that at least 200 lobster traps were set. This goes back to the need to prove that you are actively fishing.

It's not a huge inconsistency. It's just something that we didn't outline in our rules. What is a big difference is that for Area 4 -- and you will also see this in Area 5 -- the National Marine Fisheries Service is suggesting a total trap cap, which would be capped at 14 -- 40 traps per vessel.

We do not have this in Areas 4 and 5. In addition to that, they provide a certification of initial trap allocations by saying that participants must use the same period to determine the total trap numbers to avoid allocating more total traps than the individual ever had in the water at any one point in time.

All of the rationales have been provided for these. Again, I think it's obvious why the historical participation qualification period is different. Proof of active fishing, this is consistent with the Area 3 proposal that was received and approved by the commission.

In terms of establishing a trap limit, NMFS believes that the removal of existing trap limits in Areas 4 and 5 without implementation of alternative trap limits would likely result in excessive lobster fishing, so it's just something to consider there.

The requirement to use the same period in determining the total traps numbers allowed to be fished; this is a consistency element that NMFS has suggested to remain consistent between Areas 3, 4 and 5.

The same comments that you see for Area 4 have been provided for Area 5, so we can put that up for your review, but I won't be redundant and cover it twice.

Mr. Chairman, that completes my review of the differences between the two programs.

CHAIRMAN LAPOINTE: Thank you, Heather. Any questions of staff? Any public comments on the federal rules? Seeing none, we will move to the next agenda item, and that is the Plan Review Team Report. Heather.

MS. STIRRATT: Just to review briefly, back in July of last year, the PRT noted that the state of New York lacked implementation of a circular escape vent that was required under Addendum I.

In July of 2001, the board directed staff to send a letter noting this concern to the state of New York.

A letter was sent from Jack Dunnigan to Gordon Colvin on October 25, 2001, in this regard.

Staff has not yet received any notice from the state which would identify or indicate that the state had resolved this issue.

However, I would defer to the state of New York to speak to this issue in person.

CHAIRMAN LAPOINTE: Gordon.

MR. GORDON C. COLVIN: Thank you, Mr. Chairman. If Byron Young hadn't been here the last two days in my place, he probably would have gotten the final rule-making package actually finished.

But since I made him come down here, I think it's going to take us a couple of more weeks to get it done.

We do have every expectation of filing that rule. As I have indicated to the board before, the circular vent thing is a very minor part of a very large rule-making package that has some complex and controversial elements, some of which we're going to need to substantially modify, and in fact not implement in order to get some of that rule,

including the circular vent provision filed.

The decision has been made on what to do. It's now a question of going through the mechanics of actual filing of the rule-making documents, which should happen within the next month.

We do have an upcoming deadline in early March to file it, or the rulemaking automatically self destructs, so that's a hard deadline at this point for us.

As I have also indicated, there's really very little use of the circular vents, so there's not much happening as a result of a rule not yet being in place.

CHAIRMAN LAPOINTE: You will notify the board when that occurs, Gordon?

MR. COLVIN: Absolutely.

CHAIRMAN LAPOINTE: Great. Any comments or questions to Gordon in regard to New York compliance on circular vents? Heather, Addendum II requirements.

MS. STIRRATT: A memo was sent from George Lapointe on November 27, 2001 -- it has been included in your packet for this meeting -- which basically outlines some of the implementation date concerns associated with Addendum II.

Of central importance to this memo was the need to clarify implementation schedules associated with Addenda's 2 and 3.

Specifically, mention was made of the December 31, 2001, deadline for Areas 2, 3 and the Outer Cape to increase their minimum gauge size by 1/32 of an inch.

While staff is aware that Rhode Island specifically increased its minimum gauge size well in advance of this December 31, 2001, deadline, no notice has been received from the other states associated with Area 2, for instance, Massachusetts; Area 3, which would really span the entire coastline and the

Outer Cape, which again concerns Massachusetts, to confirm that they have, indeed, increased their minimum gauge size.

One of the things I would like to mention in this regard, and then I will defer to those states involved for further comment, is that the board really has two options here. Either some action could be taken relative to a lack of implementation of these gauge sizes today; in other words, some action on non-compliance; or, the board could choose to await the plan review team's report which is anticipated for May of this year.

It's at that point in time that staff should have all of the necessary information regarding which states have implemented the necessary regulations and which have not. Nonetheless, I do have concerns as staff right now that perhaps these states have not implemented these regulations. Since the PRT is supposed to bring this information before the board at any time, I am doing that now.

MR. LAPOINTE: Heather, is there also not -- the issue of compliance in Area 3 is of particular concern, isn't it? Could you discuss that just for a moment?

MS. STIRRATT: I may have to defer to Harry to speak on this issue as well, but my understanding is that the states have adopted requirements for Area 3 within state waters.

Therefore, the states would need to implement the necessary regulations or at least have them on their books as it would pertain to a fisherman landing in their respective states. This would again require that states have on their regulations a gauge size increase for Area 3 fishermen landing in their states.

While we understand that the National Marine Fisheries Service has yet to move through the process of trying to fully implement the requirements of Addendum II, we anticipate that that will be forthcoming and something that we will wait for.

Nonetheless, it still provides a problem for fishermen that will be landing from Area 3 in the states, so it is a compliance requirement for the states themselves.

CHAIRMAN LAPOINTE: Questions or comments about the Area 3 compliance issue? Paul, I understand that you've got some information about Massachusetts in regard to the confusion caused by your three-grade ecosystems.

MR. PAUL DIODATI: Yes. As I suspected, you've discussed at past meetings in the Commonwealth of Massachusetts we have a legislative statute in place that prevents us from changing our minimum gauge size at this time.

However, the division has been successful in getting a new statute passed. An amendment that is in our state house, as I speak. I understand it has gone through the senate and the third reading of our house. We expect a positive result that would make us free to modify gauge sizes probably by early spring. That's all I could --

CHAIRMAN LAPOINTE: Questions or comments? Is there objection on the part of the board to waiting for that May PRT Report to look at all compliance issues and review both the New York and the Massachusetts progress at that point? Mark Gibson.

MR. MARK GIBSON: Rhode Island is getting a little weary hanging out here by ourselves. I would like to see it done faster than that. I would like to see the board begin a non-compliance action now to make sure that this gets fostered along and doesn't get stalled somewhere else.

Paul's assurances notwithstanding, I have a lot of confidence in Paul, but we've been hanging out here for a long time now. I am prepared to make a motion to that effect.

CHAIRMAN LAPOINTE: Heather indicates that

we should deal with all areas in regard to size limits to be consistent, which I suspect could be part of that motion as well, or we could discuss that at this point. Bruce.

MR. BRUCE FREEMAN: Just to make certain we're all in phase on the size increase, as we had indicated in New Jersey, we have a statute that sets the minimum size for lobster at three and a quarter. We have taken the initiative to put in a regulation to increase that with the expectation that that statute would be rescinded.

Last year a bill was introduced in the senate, went through the senate, was voted on favorably. It never got to the lower house. This past year it went through the lower house but was never voted on by the senate.

We need to have that statute rescinded; otherwise, our regulation will not become effective. Therefore, I think it's appropriate to have a letter from the commission to our governor and the president of the senate and speaker of the house relative to getting that legislation past both houses and signed by the governor before July 1.

In the past I didn't think it was necessary because the bill was moving, but now I think that letter is necessary.

CHAIRMAN LAPOINTE: Mark Gibson, are you going to follow through or comment before we get to a motion, perhaps?

MR. GIBSON: I guess the comments we've heard here today are sufficient for us to keep moving. I will wait for the PRT's full review, and determination is okay with us for now. Is that what you're asking?

CHAIRMAN LAPOINTE: I am looking for a sense of the board on where we want to go, exactly. Paul.

MR. DIODATI: Again, I am optimistic that our legislative -- they are going to respond positively

in this regard. But we are also prepared to go to public hearing in late March and as an option announce the changes in size limits.

We'll be prepared at our lower level to go ahead and implement these changes, so when the legislation passes we'll be in a good position to go right ahead and make a change.

CHAIRMAN LAPOINTE: Pat Augustine.

MR. PAT AUGUSTINE: Thank you, Mr. Chairman. In the event we went forward with a move for non-compliance for Massachusetts and New York, what is the approximate time frame that it takes to go through that process?

Quite frankly, would it make sense in view of the fact that Massachusetts has committed to the fact that they do have legislation in process, and New York has legislation in process.

We're talking about another 30 to 60 days maximum.

It seems to me this is an overkill situation, and maybe another final letter from the executive director saying that we understand that the state of Massachusetts has an action now, legislation going forward to meet the requirements as with New York, so I guess the initial question was how long would it take to complete the process of going for out of compliance? Would it really be worth it other than a spinning of the wheels?

CHAIRMAN LAPOINTE: Heather, can you address that question?

MS. STIRRATT: Well, first I would like to clarify that we're not talking about just two states. My understanding of the situation is that we're dealing with Area 2, which is Massachusetts and Rhode Island. Of course, Rhode Island has already met the need, so it's a Massachusetts issue there.

Area 3 is all of those states up and down the coast

that have offshore waters within their state. So I am not up to speed, I will tell you right now, because usually the annual reports get me up to speed as to where the states are or a notice from the state about implementing certain regulatory changes.

I have received no notice that any of the states with offshore waters in Area 3 have, indeed, implemented those state regulations of that 1/32 of an inch gauge size. so that could be the whole coastline.

In addition to that, the Outer Cape, which is, again, another very specific Massachusetts issue, so I think in terms of which states are we finding out of compliance, if the board decides to go that route.

It's unclear to me and I would need to do a little bit of research in that regard. I am not trying to encourage you to delay and wait for the PRT's report, it's just that I need to make certain which states are out of compliance at this time.

**CHAIRMAN LAPOINTE:** With those comments, it strikes me that I don't mind waiting for the PRT Report, but I also don't mind working with Heather to figure out the situation for each state -- Maine in Area 3 for instance; Massachusetts in Area 3 and the other states and writing a letter to the states -- in New Jersey's case -- I mean, we can address those to whoever we want to to put some fuel under the fire.

Then we'll review that more completely at the May meeting. Any other comments on the Plan Review Team Report at this point?

Any public comments? Seeing none, we will now move to the Advisory Panel Report. Dave Spencer.

**MR. DAVID SPENCER:** Thank you, Mr. Chairman. The Advisory Panel met via conference call Monday, January 28th. We had several items of discussion, the first being Addendum III. We went through area by area and

took comments that anybody would have on each area.

We'll start with Area 1; we had several comments. Both comments for Area 1 pertain to what I will call the Jim Fair Amendment at the last board meeting. It was felt that the LCMT for Area 1 should have had the opportunity to comment on this action before the board voted to implement this option for Massachusetts.

We also felt that an amendment such as this is counteractive to the LCMT process. The second comment pertaining to Area 1 was that -- again, to that Jim Fair Amendment -- that in order for Massachusetts fishermen to achieve 50 percent of the desired 100 percent V-notching rate, it was a very short time frame that was given to them.

The next comment we had was a wording comment for Area 6 having to do with V-notch. Apparently, the Area 6 plan needs the word "female" inserted in the V-notching provisions for that area.

Those are the only specific comments that we had or area-specific comments. We did have two others. There was pretty good concern about circular escape vents, the size of them. We feel that perhaps they're too small, and we would recommend that the technical committee take a look at those and make sure that they're the proper size.

The next general comment we had was there probably should be a uniform implementation date for gauge size increases. The panel felt that January 1st was the best time but also recommended that NMFS and the LCMTs provide further comment on this.

That was all the discussion we had on Addendum III. The next item that we took up was the work on the transferability workshop. The advisors are currently putting together a workshop on the transferability of trap tags.



We're aiming for the August board meeting week. We are starting to come up with a list of potential speakers. I don't believe this is cast in stone, but it's a starting point.

Essentially, we have people from areas that have already recommended this transferability system, a URI professor who is familiar with it, and a University of Maine professor who is also familiar with it.

We have also considered possibly Joe Fessenden from enforcement; somebody else from enforcement who currently works with this type of transferability program; a NMFS representative. We would like to get two board members as part of both the planning and taking part in this workshop.

We're trying to put together an informative, balanced and meaningful workshop really aimed at the commissioners. We feel that if we could get several commissioners to take part in this, it would go further to ensure that we meet that end.

So I will throw out a request for two volunteers, and I am sure you can tell Heather or myself, but I think it would be very helpful in having a successful workshop.

The next item that we talked about was something I believe the board will discuss today and that's the composition of the LCMTs. We had a fair amount of discussion on it. We did not reach a consensus as to what alternative we preferred.

However, we were able to reach a consensus that there should be the word "maximum number" in there, rather than just "minimum". I realize it's a difficult issue and we were not able to reach a consensus other than that. That concludes my report, Mr. Chairman. Thank you.

CHAIRMAN LAPOINTE: Thank you, David. Any questions of David on the AP Report? I have a couple -- well, actually, some of them are Addendum III concerns. We'll look at those later.

Carl, can you get the technical committee to do the review of the circular vent size issue?

MR. CARL WILSON: There are actually a couple of proposals within the TC of different states trying to attempt to do that. I mean, the problem has been that a lot of the work that these numbers are based on is work that was done by the Maine DMR back in the 70's and 80's.

Since the gauge sizes have increased since the late 70's, a lot of it we're kind of extrapolating beyond the points. So I believe Carl LoBue in New York has a specific proposal to look at new vent sizes in particular.

CHAIRMAN LAPOINTE: Can you provide an update to the board at the next meeting just to where we are with that so people can judge how long that might take?

MR. WILSON: Yes.

CHAIRMAN LAPOINTE: Great, thank you. David asked, on behalf of the Advisory Panel, for a couple of board members to work on a transferability workshop. Are there people who are interested? Ernie, thank you. Thanks very much, Ernie, Ernie Beckwith from Connecticut. Other board members?

That's a good start. You said one or two. Thanks, Ernie. Other questions or comments for David? Again, he mentioned LCMT composition. That is on our agenda. It's called the discussion of LCMT concerns. We should remember the AP comments then and for Addendum III as well.

With no further comment, we will move to our next agenda item, which is the Law Enforcement Committee Report. I believe Bill McKeon is going to give that.

MR. BILL MCKEON: Yes, I believe Joe has submitted a letter to everybody on the board, and

has everybody received that?

MS. STIRRATT: Bill, that was faxed out to the commissioners last week. I do want to apologize. There seems to have been about three copies of meeting materials that were meant to be distributed here today as a redundant method for the fax that we had sent out last week.

It looks as though those may be missing, but we're in the process of trying to figure out what happened there. But nonetheless, they were faxed out Friday of last week.

MR. MCKEON: Okay, I believe Joe's letter here, or memo, is fairly self-explanatory, but I would like just to make a couple of comments.

In October of 2000 the Law Enforcement Committee submitted a document which is entitled "Guidelines for Resource Management on the Enforceability of Fisheries Management Measures".

Now, in conjunction with that, fisheries management relies on a clear public policy. Enforceability of regulations is a crucial component of the resource management. It needs to be considered and understood by managers.

The Law Enforcement Committee continually supports -- excuse me, I have the wrong section. What I would like to continue with is the issue of "at-sea enforcement".

In Joe's letter he states, "At-sea enforcement would be a primary aspect of the addendum and the amendment." Based on our document on enforceability, the at-sea enforcement is the most difficult and/or impractical type of enforcement. Also, enforcement recommendations in our document states manpower-intensive issues should be looked at; difficulty to monitor issues".

Also, we state, "We should maintain same-size regulations across jurisdictions consistent across state boundaries and in federal waters".

In regard to dockside enforcement, there should be pre-established loading points or offloading points to accurately track landings. Regulations should be consistent, standardized requirements. Also, you should maintain consistency in size regulations.

As far as the court systems are concerned, regulations must be developed in a consistent manner that is clear to the stakeholders as well as the court system. If they are not, the courts, in most cases, give the violations a lesser degree of priority. I would just like to emphasize those issues. Any questions?

CHAIRMAN LAPOINTE: I have a question. Bill, those were recommendations of the Law Enforcement Committee for all plans and not just specific to lobster?

MR. MCKEON: That's correct.

CHAIRMAN LAPOINTE: Questions or comments for Bill? Paul Diodati.

MR. DIODATI: Although those comments are not specific to lobster, I think they do speak to all the issues that I recognize in these plans.

I thought that Colonel Fessenden's memo that does speak directly to lobster was rather brief and didn't outline or didn't really address any of these specific issues that we just heard.

My concern is being able to conduct good government over broad regions, and it sounds to me like this plan is dealing with a number of enforcement issues that are impractical, probably more so post 9/11 than prior to 9/11.

I would like the Law Enforcement Committee to provide a written report that's very much directed at this lobster addendum. I would like to see them address all the issues, not only minimum sizes, but things such as differing V-notch definitions between areas in a single state, effort controls that

exist only in portions of a single state.

I would like to have a written report from the committee that addresses all of these issues that are in the plan.

CHAIRMAN LAPOINTE: Does the Law Enforcement Committee do a periodic update on each plan?

MR. MCKEON: At times we are asked to review the plans, but it's not on a consistent basis.

CHAIRMAN LAPOINTE: Heather.

MS. STIRRATT: From the staff's perspective, any time a proposed management rule comes out from the commission, it is always forwarded during the public comment period to a number of different bodies, including the Law Enforcement Committee.

There was communication between staff and the Law Enforcement Committee during the public comment period, which was November and December of last year on Addendum III, requesting comments specific to this addendum.

However, a formal discussion where the LEC convened and actually discussed this addendum, to my knowledge, has not occurred. So my suggestion is that if the Board wants to move forward with the suggestion that Paul has offered, it is probably going to have to happen -- it will have to happen after this board meeting.

We do have anticipated final action on Addendum III today, so I will leave it to the Board to discuss.

CHAIRMAN LAPOINTE: I had John Nelson and then Gordon and then Paul.

MR. JOHN I. NELSON: Thank you, Mr. Chairman. I think I concur with what Paul has said as far as the review and having as much uniformity as possible.

I think we usually wrestle with that every time we do an FMP, I think. And in this case, where we were doing area management, I think we tried to put in measures that made sense for that area.

I know that in the case of law enforcement that, certainly, in our area we passed that by our folks to get an insight as far as what would work and had tried to craft the management measures accordingly.

Joe's letter, which I am just seeing now, I think presents somewhat of a different point of view, and that is that if a state decides to be more restrictive than what is called for in a management plan, they have every right to do that, and I think in many instances it's very appropriate.

It's certainly probably helpful to the resource. But if they have then put in a more restrictive measure and that's what's complicating economics in the marketplace; whereas, the other states are abiding by what is in the fishery management plan, then I think they need to just have thought of that before they go to the more restrictive and not necessarily point out that a market problem is existing for law enforcement because of their action.

So we've got to look at this as universally as possible, and I appreciate the opportunity to say that.

CHAIRMAN LAPOINTE: Gordon Colvin.

MR. COLVIN: Maybe just a slightly different viewpoint, because I am somewhat surprised that the issue came up when it did, as it did.

We've been engaged in a lobster management program, the central focus of which has been area management, for several years now.

Let's not kid ourselves. Area management means there are going to be different management measures in different areas.

So, presumably, we all had our eyes wide open, including all of our advisors right along. Goodness knows, we've talked many times about

the challenges imposed by different management measures, including gauge sizes in different areas.

It occurs to me that, yes, this is not at all unique to this management program, and I am a little surprised that it seems to be a higher level of concern now looking at Addendum III to lobsters than it has been, or perhaps we weren't listening all along for -- you name it -- species of fish.

Between conservation equivalency and producer areas versus coastal areas and any numbers of buzz words and catch phrases we can throw out, we've crafted deliberately management programs and size limits and other kinds of regulations that differ geographically throughout the range of our management programs.

If we are to reconsider or reevaluate the problems caused by different gauge sizes, we need to recognize that throughout the course of this management program, we never said, that I know of, to the LCMTs, "Go figure out a way to solve this problem, but gauges are off the table".

To the contrary. We told them that changing the gauge size was one of the tools that could be used, and in many cases, surprise, surprise, the LCMTs suggested differences, changes in the gauges, both minimum and maximum, to address the problems.

In some cases they didn't. That was also predictable. So we may have a heightened level of concern, but it's, frankly, nothing new, and it's nothing we didn't see coming.

I guess I am a little puzzled, and I have expressed a little bit of that to some of our own law enforcement guys at home about the issue coming up now.

CHAIRMAN LAPOINTE: Paul Diodati.

MR. DIODATI: I agree that this is not a new issue, although, unfortunately, institutionally, I

have not been involved in this. This is relatively new to me. Looking at this is the last year of the past six years of this process, it concerns me.

I see a very confounded regulatory pattern developing here. I am also surprised that with all of this advice that has been built on an area basis, that I haven't seen any reports from law enforcement committees to date.

I think, again, for me to be able -- and, again, being a state that probably has some of the more complex issues to deal with, I think it's going to be extremely valuable when I make my state-level decisions to take opportunity of my flexibility that John Nelson mentioned that we can be more restrictive.

It's going to be important to weigh my decisions with what's practical on a law enforcement basis. Being more restrictive also presents a challenge in this plan, given that these area plans are based on very marginal benefits for each area.

It seems that for most areas they've done the least possible. They don't really gain a lot of conservation benefit beyond the targets that they're trying to strive at.

So to be more restrictive, we're going to result in a situation where we're being punitive in some areas and too relaxed in others. So it's going to be very - - and I assume that's the basis for area management. That's why we have this complex system because we need to be flexible among the different regions.

Nevertheless, I feel strongly that a Law Enforcement Report would be helpful, given that this is the most important inshore fishery for the principal states involved. I think it's imperative that we have it.

CHAIRMAN LAPOINTE: Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. Paul, I just need clarification for my understanding

of what you're asking. I understand it's a report, but in that report are you asking the Enforcement Committee to point out the difficulties and then possible solutions? What would you like that report to finally arrive at?

MR. DIODATI: I don't think it's necessarily the job of the Enforcement Committee to point out solutions. I have prepared a chart that very easily shows the differences between areas, at least in my state.

I imagine you can generate this. I think they can very easily go down the list of this matrix and comment on where differences occur and provide whether it's doable. I guess they could rank this. I would like to know, based on their more generic report for enforcing regulations, how they would rank these measures.

CHAIRMAN LAPOINTE: Bruce, if I might, it strikes me that Gordon's comment is an important one, that we all knew we were getting into this.

But nonetheless, the issues do arise, and it strikes me that a reasonable thing to do is to ask the Law Enforcement Committee at its spring meeting to address this issue, but to address it entirely from a looking-forward perspective and then providing that information both to the board and the LCMTs so the future work by the LCMTs and the boards will have that perspective.

Then they can make conscious decisions as they move forward with that law enforcement perspective in mind and not to try to say, "Well, now the system we've crafted through the LCMTs needs to be changed somehow." Does that make sense to people? Gordon Colvin.

MR. COLVIN: Sure, it does. It occurs to me, too, that there's a policy issue embedded in all of this that we as a board have not really confronted.

I think, looking at the reviews that our law enforcement staff did on the gauge size issue, they concluded quite correctly, from my judgement,

that the smallest minimum gauge in any given state will be the possession limit in that state.

It has to be that way. Unless we get some kind of water body of origin harvesting and tagging program in place like we have with molluscan shellfish, which I don't see as likely, then that's the reality.

Now, one of the issues that has come up is lobsters from some states will be harvested and landed lawfully in those states at smaller minimum gauges than in other states who are part of this partnership.

What's the expectation of those former states with respect to their ability to market that product in states that have raised their gauge? That's not strictly speaking of law enforcement issues, but it's tangled up in this law enforcement question, and we've not confronted it.

Some of the states might not be happy with the answer to that question, frankly; and having been behind that eightball in weakfish and some other things in New York, let me suggest that this board, if there is going to be a review, that we address that question as well. It's, to me, inseparable ultimately, but it's a policy call and not an enforcement one.

CHAIRMAN LAPOINTE: That makes sense to me as well. Should we put that as an agenda item for the next board meeting? I will work with staff to come up with some background information to kick start that discussion. Bill.

MR. MCKEON: George, if you look at the document, there are various categories within that document; closed areas, bycatch enforcement, enforcement gear, amount on board per landing, et cetera, et cetera, so there are certain criteria in there.

I think the complexity comes into effect with a state such as Massachusetts where you have four different distinct areas within the state. In the year

2005, Massachusetts will have three lobster gauges.

This is, obviously, an enforcement problem and will be an enforcement problem. The issue is the "at-sea enforcement". In other words, we will be able to board vessels, we're able to check those vessels at sea to make sure they are complying with the various gauge sizes, but when that product gets into the market, gets to the dock, gets into the market, then everything is 3-1/4 inch. It's unenforceable once it gets into the market.

CHAIRMAN LAPOINTE: And that moves into the question Gordon just raised. Does that strike the board as a reasonable way to go to discuss this? I think we mentioned a two-prong approach.

One is to address the Law Enforcement Committee to look at these issues with an eye on the future and not undoing what's been done because I don't think people intend that.

Then, secondly, I will work with staff on preparing some background materials for the issue of the marketing problems associated with different size limits in different jurisdictions. Paul.

MR. DIODATI: If I can just back track a moment to the Advisory Panel Report, what we heard was some concern focused on my deputy, Jim Fair's most recent motion or amended motion at the last meeting.

Maybe this would be a good opportunity to set the record straight, and I think it would be helpful for me to make sure I understand this process of lobster management, on what the role of the LCMTs -- what is the role?

Is it advisory or is it something other than that? Is this the policy-making body, or is it something other? I think we need to clarify that because there seems to be concern where Mr. Fair's motion simply -- it didn't even change the tenets of their

plan in Area 1.

It simply added a level of observation to it to monitor the effects of the plan. There seems to be a lot of concern that has been raised at the board level and certainly back in my own state.

So maybe we need to clarify for the record the LCMT authority, the board's authority and -- well, I know what my authority is back at the state level, and I can deal with that.

CHAIRMAN LAPOINTE: That, in fact, is a discussion topic under Agenda Item Number 12 because it has been raised by other people as well and the issue of the motion is part of Addendum III as well. We can discuss that if we need to. David.

MR. SPENCER: Thank you, Mr. Chairman. I would just like to give an industry perspective to two things we've been discussing, and one is enforcement. I think that the best enforcement is having management plans that industry buys into. I think that's the best enforcement you're going to get. Essentially, that's what you have with these LCMT plans. I understand they're problematic for a clean enforcement, but I think that's a point that gets overlooked sometimes, and I would just like to throw that out.

The other statement was in regard to Gordon's comments. The advisory panel actually did discuss, and I think at the last board meeting had a recommendation that states should implement landing laws rather than possession laws.

I believe that's what Gordon was saying. But the advisory panel has discussed that and did come up with a recommendation. If the Board is going to discuss it again, we would be happy to further discuss it. Thank you.

CHAIRMAN LAPOINTE: Thank you, David. Other comments on the Law Enforcement Committee Report? Vito.

MR. CALOMO: Thank you, Mr. Chairman. I have a question for Bill, if that's all right with you, Mr. Chairman. Bill, I know you've been on the law enforcement for a long time.

I just have a question, probably -- it's very simple. Again, I haven't gone fishing in 20 years, but this morning at 4:45, like a good captain, I woke up and started going over the plan. And, boy, I was more confused than when I went fishing.

But, Bill, I just want to ask you, on reading this draft here in the addendums, can you enforce what's being submitted before you, different gauges, different areas, different measures?

I just want to know, is this enforceable, because I am hearing people saying, "Well, we can enforce this". I want to hear what you have to say to me because this is very important, if it's enforceable, in my way of making a decision. Could you answer that for me, Bill? Is this going to be a plan where you can enforce it? Thank you.

MR. MCKEON: We will be able to enforce it to a degree. Obviously, there will not be -- probably, I would say not over 50 percent. It's not over 50 percent enforceable in Massachusetts. As an example, in the state of Maine, you do not have this problem.

There are two areas, Area 1, Area 3. Massachusetts is the problem because there are four distinct areas, and you have the different gauge sizes in three areas, and in one area there's the standard three and a quarter. So it will be a major enforcement issue in Massachusetts, and I can't stress that too strongly.

CHAIRMAN LAPOINTE: Bruce Freeman.

MR. FREEMAN: Before we leave this subject, I would like to indicate once again our enforcement concern. We have expressed previously and continue to hold to the view that to have this effectively enforced, it will be a possession and not a landing.

We've had experience with other fisheries where we started out with a landing size limit, and the enforcement just got totally out of control with illegal product being put into the marketplace to the point where we went to the opposite side and had possession.

This includes things such as striped bass, weakfish, summer flounder, sea bass and so forth.

In our view, it's a possession that will be enforced; and in the development of this discussion with staff, I think this will be somewhat of a contentious issue.

I think you need to get the view of some of the enforcement people, and we would be happy to supply what information we can on our experience.

This will be a contentious issue, but I will state right up front that we're convinced in our instance because we may have different size limits coming into our marketplace from other areas that will be a possession.

It will be a possession at the boat, at the dock, at the dealer and at the consumer level, so I think that needs to be clearly expressed.

CHAIRMAN LAPOINTE: I think that's an inherent part of the discussion, or the work we will do with staff that Gordon mentioned and we committed to for the next board meeting.

Other comments on law enforcement, comments from the public before we move on to the Technical Committee Report? Seeing none, Carl, please.

MR. WILSON: Thank you, Mr. Chairman. There are three portions of the Technical Committee Report today. I will be speaking to the first one, the review of the trawl survey Trends that the technical Committee met and discussed in January.

Geoff White will be giving an update on the Lobster Database

Subcommittee. Mark Gibson will be giving a Model Development Subcommittee Report, and the Socioeconomic Subcommittee Report will be handled by Heather.

Basically, I would like to give you guys a quick overview of a discussion that the Lobster Technical Committee had. This is our second kind of an annual review of a state and federal trawl survey.

This is just a way -- in the absence of a yearly assessment, we can look at trends from our trawl surveys, which is our only really measure of fisheries-independent data. This can provide, in the absence of a full assessment, useful indicators of stock status.

We are lucky that we have many surveys along the coast, and this allows us to look at regional differences in stock structure. As I mentioned, this was our second annual survey that we looked at. This was following a January 17th TC meeting in Portsmouth, New Hampshire.

Highlighted trends from trawl surveys and fishery-dependent data were presented. Today I am just going to present the trawl survey results.

If you would like to look into each state's presentation, please look to your packet, and you can -- for example, the National Marine Fisheries Service, Joe Idoine provided a bunch of different analyses using trawl surveys.

I am just going to present the general trends. Vic Crecco from Connecticut did the same thing with a lot of the trapping data and trends and fishing effort in that state.

We've got six surveys we were talking about in January, the largest being the National Marine Fisheries Service Survey. This covers really most areas from the Canadian border south. Then as we look into, say, the Gulf of Maine, we've got the Maine/New Hampshire Inshore Trawl Survey.

The Massachusetts survey covers both the Gulf of

Maine portion of Massachusetts state waters and south of Cape Cod. We've got Rhode Island covering mostly Rhode Island state waters and the Connecticut survey covering Long Island Sound. There's also a survey from New Jersey.

To just go through each trend, what I am going to try to do is give you the bulleted highlights and then quickly move through a couple of figures, and this should just take a few minutes.

So general trends from the NMFS survey; all three stocks were surveyed. These surveys began in 1976 in the fall, while spring surveys began in 1979. Pre-recruit lobsters, sub-legal lobsters, mean number for total for both sexes were generally declining throughout all areas in both sexes.

General indications are that resource conditions have not improved since the last presentation, October 2001, or the last assessment covering surveys through 1998. It is important to note that the NMFS survey is primarily the survey that's being used for reference point determination as far as fishing mortality.

Just general trends; Gulf of Maine males and Gulf of Maine females, we see a general trend up since the 70's, coincident with landings. The last few years have been stable, as Joe reported. Georges Bank and south, the most striking feature of females and males is that it's generally flat, and this has been really ever since the mid- 70's.

South of Cape Cod, Long Island south, Joe indicated that the survey for whatever reason seems to be very spotty in how it picks up lobsters south of Cape Cod; maybe due to habitat differences or such but, again, relatively stable.

Maine and New Hampshire highlights, basically, the Maine and New Hampshire Inshore Trawl Survey is a northeast consortium-funded proposal that started in the fall of 2000 and will continue to 2003.



We've not identified any long-term sources of funding. This is in the last stock assessment. Although we did have the Massachusetts Inshore Trawl Survey, this was the one area that Maine and New Hampshire state waters had very little fisheries-independent data from trawl surveys.

Fall 2000 results, highest relative abundances were observed in western and midcoast regions. These are generally areas with the highest landings. Relatively, abundances were significantly lower in the spring than in the fall.

In this fall, 2001 -- you can talk to George about this -- but there were significant levels of resistance from industry, especially in Eastern Maine.

Again, just a few figures here. We can see that Regions 2 and 3 -- and I am, obviously, most familiar with this survey -- but Regions 2 and 3 are right around the midcoast, Penobscot Bay area. That's where 40 to 60 percent of the landings on the coast of Maine come from.

And just as a general indicator, relatively the abundance derived from the trawl survey indicates that as well. We can also see differences between fall and spring, between the different regions and with depth.

The Massachusetts Inshore Trawl Survey is lucky to cover two different stock areas; the Gulf of Maine and south of Cape Cod.

There are radically different trends in abundance between the two.

Trends for the 2001 survey, fully recruited lobsters were well below their respective time series means and were close to lowest values in 20 years for both males and females.

Pre-recruit lobsters indices were well below their respective time series means and were second lowest values in the 20-year time series for both males and females.

South of Cape Cod, Long Island south, fully

recruited lobster indices were well below respective mean for both males and females, as well as sub-recruit indices were near time series lows and remain well below levels observed in the late 80's and early 90's for both males and females.

Connecticut, this survey began in 1984, 80 tows in the fall and 120 in the spring. The spring and fall 2001 survey showed a decreasing abundance for all size classes.

Fall abundance estimates in Long Island Sound are comparable to estimate from the late 1980's. Pre-recruit lobster abundance has dropped considerably from the peak in '98. Recruits have continued to decline since 1997 but have remained relatively stable since.

Again, both sexes combined for the fall lobster survey in Connecticut, we can see that obvious peak in 1997 and general decrease since then. Rhode Island highlights annual spring and fall abundance for all lobsters show a decreasing trend during '97 to 2000, with both indices showing a modest increase in 2001.

Fall survey abundance indices for male recruits show a decreasing trend '97 to 2000 with a slight increase in 2001, as well. Fully recruited males show a steadily decreasing trend during '97 to 2001. Fully recruited male indices are the lowest of the 20-year time series from 1999 to 2001.

Annual fall abundance indices for female recruits, the survey showed a decreasing trend during 1997 to 1999, with a slight increase in 2000 and again in 2001.

Fully recruited females show a steadily decreasing trend during '97 to '99, with a slight increase during the 2000-2001 seasons. The 1999 to 2001 fully recruited female indices are the lowest of the 20-year time series.

Here's one figure from the Rhode Island fall survey showing the three different size ranges;

blue being 59 to 70 millimeters -- that's approximately two molts away from the gauge -- '71 to '82, just the sub-recruits; then the '83-plus being the full recruits.

New Jersey, this is approaching the southern limits of the large aggregations of lobsters. The New Jersey Trawl Survey is a stratified random design much like all the other surveys. However, only a small portion of Lobster Management Area 4, approximately six miles offshore, is sampled.

And this is an area where a diversity of bottom habitat and exclusion from lobster grounds occupied by trap gear may affect catch in trends.

Basically, the point with this is that there was some feeling from Bill Andrews that the areas that the trawl survey is accessible to are not the areas that are necessarily being fished.

As I understand it, New Jersey is characterized by a lot of sand with patches of distinct outcroppings, mostly from dredged spoils. The catch data varies without trend and abundance of pre-recruits or full recruits over the survey period '89 to 2001.

Total catch per tow was at 13-year lowest levels for 2000 and 2001 surveys. Again, survey trends, if you notice the number per tow, stratified mean number per tows, it's quite a bit lower, almost an order magnitude lower than in other areas, and this might be reflecting again, one, the low density of lobsters in the areas, but also incompatibility with where the lobsters are and where the survey is surveyed.

So, in summary, all surveys are declining or vary without trend. The integration with the lobster database, which is forthcoming -- and Geoff will speak to this -- will make annual updates far easier.

We'll be able to get a lot more into just trends and abundance from trawl surveys. There's also a need to standardize between surveys for comparisons, and we all kind of brought what interested us to the meeting with pretty general rules.

We're going to be looking to standardize our results so we can give you very consistent patterns from each survey. That concludes this portion of the report. If there are any questions, I will be happy to answer them.

CHAIRMAN LAPOINTE: We have time for a couple questions of Carl, and then we'll move to the next part of the Technical Committee Report. Bill Adler.

MR. ADLER: Thank you, Carl. I just wanted to know if you're making progress with trying to include more survey work in areas where the lobsters really are as opposed to the sidewalks that the tows may pick up a lobster on?

I mean, that has always been the argument among the fishermen is why don't you do the survey where the lobsters live, rather than where they don't live. I understand the whole trawl/survey thing. So is there progress being made on adding more of that information into the trawl survey things, which must continue, I understand.

MR. WILSON: Well, in the last stock assessment, a number of different indices were brought forth, more than just the federal trawl survey. The state trawl surveys were brought forward as well as diver surveys, indications of settlement over the last few years.

MR. ADLER: And trap sampling?

MR. WILSON: Yes, there were trends in catch-per-unit efforts as well for traps.

MR. ADLER: That's the best place to get more and better.

MR. WILSON: I think the idea with the trawl surveys are -- and there's no question that there may be incompatibilities with habitat and where the lobsters are and where the trawl survey can survey, but what you're looking for is a relative index over time.

So you hope that even if you're not on the heart of the population, which might be, say, in rocky habitat, that you're getting the same relative trends with the resource. That's where, for example, the federal survey tracks and the Gulf of Maine tracks very well with landings for the last 20 years.

MR. ADLER: I just find from experience that the place where I fish off of Massachusetts, there are lobsters everywhere in a particular time. Then they leave. Then along comes the trawl survey for that year in that location.

It's always after those lobsters have left that area. I go, "Why weren't you here?" And that created other problems, but I will stop there.

CHAIRMAN LAPOINTE: I am going to go to John Nelson and then Pat White, and then Mark Gibson and then move to the next agenda item.

MR. NELSON: Thanks, Mr. Chairman, just a quick question. Because of the inability to get into a really prime lobster area in Downeast Maine, are we really losing out on a lot of data that would probably show a change in the trend?

How is it affecting the trends? We've got decreasing trends showing up in a number of areas; and if we're not able to sample the areas where there are a substantial amount of lobsters in the nearshore area, are we trying to compensate for that somehow?

MR. WILSON: Two points, really. Even if the Northeast Consortium Funded Survey had been able to tow inshore waters this past fall, we would have two points, 2000-2001, so it's hard to get a trend off of two points. It's being consistent over the period.

The second, talking directly to Eastern Maine, Eastern Maine and the Bay of Fundy in Canada are seeing dramatic increases in the landings in the last few years, where other areas, say, in Western Maine, New Hampshire, Massachusetts, it might

be flatlining. Eastern Maine is definitely surging forward as well as the Bay of Fundy. So, yes, we might be missing that.

CHAIRMAN LAPOINTE: Pat White.

MR. PATTEN D. WHITE: Carl, just as a follow up to that, basically, all the modeling work that's done is based on the Federal Trawl Survey. Do we have to then go on a long-term database to get a summary from this end to integrate it, or can that be somehow done on an annual basis?

I know in the past they've extrapolated what our inshore data is because they've never had it. How does that integrate now into the process?

MR. WILSON: Well, the past assessment was the first time where we started to -- I believe, and maybe Mark Gibson can speak more to this -- but I believe it was the first time that we really tried to integrate some of the state surveys and compare them and contrast them with the federal survey.

As far as areas that are not being assessed, we just don't have the time series. I mean, it's being consistent over a long time period to start to form those extrapolations in the areas.

Mark, you can speak to this, please, but I think what was done in the last assessment was using the best available data that was available.

MR. GIBSON: Yes, it's just lacking a time series. Even if this survey continues on, it's going to have to go on for awhile before it's going to be able to be incorporated into the DeLury models the way we did this past round where there was weighting given.

For example, in the Southern New England area, there are three different trawls surveys that can be brought to bear, Rhode Island, the state of Connecticut and the National Marine Fisheries, and Massachusetts, for that matter.

In order to repeat that process in the Gulf of Maine

area, that survey will have to bear some fruit at some point, be longer and have some consistency of station's methodology and so on before you can do anything with it.

MR. WILSON: I think what is encouraging, Pat, is that with the board endorsing the modeling subcommittee to look into other alternative models, you kind of start to look into alternative ways of looking at the population and maybe bringing in different surveys and incorporating stuff. But, really, time series is the bottom line.

CHAIRMAN LAPOINTE: John, I'm going to get Mark Gibson, and then I am going to go to the next agenda item unless something really new comes up.

MR. GIBSON: Carl, your summary was of the trends, but there are a number of surveys that are trending downward and some of the value without trend. It seems to me that there's some pretty clear synchrony or comparable patterns in the inshore area from, say, Massachusetts down through Rhode Island and Connecticut.

Most of those surveys are doing pretty much the same thing, peaking out in the mid to late 90's and then falling off consistently; whereas, the offshore federal surveys don't seem to have that clear a pattern.

In the Gulf of Maine, Maine/New Hampshire area, we really can't say much about it because we don't know what the survey is doing. But, did the technical committee say anything about what they thought was the reason for those state inshore surveys trending downward in recent years the way they are in apparent synchrony, but not in the offshore areas, as evidenced by the federal trawl survey?

MR. WILSON: Well, we didn't specifically try to jump to any conclusions, but there are, as you know, a number of issues as far as shell disease, the die off in Long Island Sound. The Rhode Island survey is picking up a very high incidence of shell disease.

So there could be a number of factors. It could be fishing. Where the south of Cape Cod surveys peaked in '97-98 is where the last stock assessment ended as far as its assessment and as far as removal rates and comparing it with fishing mortality rates.

So I think, as we look into the next stock assessment, you will see an update of all those kinds of conclusions, but we didn't specifically address that.

CHAIRMAN LAPOINTE: Are there new topics or -- I am mindful of the agenda, and I told people I want to stick with it, and I intend to do that.

So if there are new topics, we can address those, or we can get to the next agenda items and people can handle these outside the board meeting. If we need to cycle them back in, we can do that at the next meeting. Go ahead, John.

MR. NELSON: I will make it very quick. Again, I just want to point out there are other surveys that have long-term information. I would hope that we're not just going to rely on the trawl surveys, especially where we might have only limited data for some of them to incorporate in the VPAs or our modeling.

The other thing is are we going to run into a problem with trying to obtain long-term funding for the New Hampshire/Maine trawl survey, if we're going to only be able to do a partial amount of that?

I guess that just leaves the question also of what type of educational aspects or educational approaches are we taking to try to resolve the concerns of folks from downeast?

CHAIRMAN LAPOINTE: We don't have time enough in the rest of the day to get into all of these issues, I will tell you that. Why don't you and I sit down -- because the states of New Hampshire and Massachusetts are involved and sit and discuss

how we're doing with that and where we're trying to do education of folks downeast.

Regardless of the controversy funding, long-time funding is going to be a concern, and I would be happy to discuss that with you. Jerry, your question and be quick.

MR. JERRY CARVALHO: Thank you, Mr. Chairman, I will be brief. The question is for Carl. You mentioned that they could be fishing these reductions in biomass. Do we have any idea what the increase in predation is having?

MR. WILSON: None.

MR. CARVALHO: None. Do we intend to look in that direction?

MR. WILSON: There is some work at the University of Rhode Island that's looking at predation on settling larvae to the bottom with tautog.

MR. CARVALHO: I am talking about real predation where man competes with other animals in nature. I mean the explosion of sea bass, striped bass, fluke, scup are all preying on this lobster resource. I would hate that we're pointing the finger at the fishermen as the guilty party.

CHAIRMAN LAPOINTE: Without getting into that debate because that can be another long-term one, I would encourage board members to talk to their industry members and bring questions summarized for people to look at with the next assessment -- a lot of those are unanswerable -- just so that they put them in the proper perspective.

With seeing no other hands or lights, Geoff White is going to talk about the Lobster Database Subcommittee Report.

MR. GEOFFREY G. WHITE: I just wanted to give you a brief update on the progress of the lobster database. There were two documents in

the briefing book. One of them was a short one-page summary with a great big table in the middle with a time line. We're going to spend most of our time on that today.

The other was a longer document with a summary of responses for the data availability contact information. I just provided that for your information. We really don't need to spend any time talking about that today, although I am around if you wanted to ask any questions later.

We've made a lot of progress on the lobster database. Last summer we finished the requirements' document and began the contract with ICF Consulting to design the logical model. That was completed at the end of December and was taken to the technical committee for confirmation of the design, basically.

The technical committee looked at everything that we had kind of laid out in the program structure and how it was going to function and how information would go from the database to the technical committee, or the stock assessment subcommittee, rather, to work with it and then plug that information back into the database as a central storage location.

So we started last year, and it looks like we're on track with the funding and the work with ICF to have a functional system in probably mid to late 2003. That would be including all of the data from the states and NFMS.

The main focus at this point is really getting the data into the system. In the middle of the table there are three dates that are in bold. January 17th has passed, and that's really the summary that's the second sheet, our contact information for all the data sources.

By the end of March and the end of April is when we're really looking to get the historical data from all of the state and federal agencies that are holding at this point.

The reason we need that historical data early is laid out in the boxes below that, which is our plan with ICF Consulting, to, after we've gathered all of the information, have them take a review of what each data source looks like and be able to analyze how much work it's going to take to actually get it into the new standardized format that they're developing for the whole assessment database.

So the timing on this is early from the standpoint of when the final product will be around, but it is critical at this point to get the data in so that they can analyze it and figure out how to map the information into a standardized structure.

That's the main focus at this point. I have just one more point. It looks like we've had good success and interest from the technical committee members to provide the data and interest in the transfer file formats and being able to help us out. We're willing to work back and forth with that. So at this point it appears we've got good support, but the only action I really wanted to ask from an informal standpoint of the board is to support your staff in getting the data to us so that we can build this and then be able to support your assessments.

The lobster database will end at the point of the catch-at-length matrix. That was decided by the technical committee in the development point as a good place that would be able to enter into any assessment model which the model development subcommittee would be able to start with.

So it's really getting the data compiled and up to that point that's important. In terms of the survey data, it would be entered in about two times a year to be able to make Carl's presentation a little bit easier to gather that information and work from. That's all.

CHAIRMAN LAPOINTE: Thank you, Geoff. If my memory serves me right, the lack of a coordinated database was one of the things that slowed up the assessment last time.

So if we don't commit individually as people who have to contribute to that database, our time line,

which Mark Gibson is going to talk about, I think, in a minute, will be slowed considerably, and we'll be in the same quandary we were last year.

So I intend to work to keep in touch with commission staff and as Board Chair hound the states if I need to to make sure that data gets into the database on time. Gordon Colvin.

MR. COLVIN: Thank you, George. A couple of years ago, as Chairman of this board with a technical committee chairman from my home state -- and I welcome George to the similar circumstance -- I was basically presented with the ultimatum to get this database project moving because those who were involved in that stock assessment, that infamous stock assessment, laid down this ultimatum that I don't know if this board ever heard, "Until this database is done and in place and working, we ain't doing another stock assessment update".

I was also told in very clear terms how important it was and that it was really -- whether we perceived it or not because it wasn't in front of us all the time -- really the most important long-term project we were embarked on.

So I have dutifully repeated that message from time to time, and I do so again today because I did believe it at the time and I continue to. It's like a lot of things that we do. It's easy to forget because it's data, it's data management, it's out there.

It's stuff that our staffs do, but it really is incredibly important that we as board members -- including the board members who are not employed by the states they work in -- bear in mind the importance of getting this project done and doing what we have to to make it successful.

CHAIRMAN LAPOINTE: Thank you, Gordon. Other comments? Geoff has an additional comment.

MR. WHITE: The other portion of the deadlines that we have set by kind of the beginning of May

of getting this in, it's important from the other standpoint of we do have the funds from ACCSP to build this in the contract with ICF Consulting.

That's something that, unfortunately, once we set that contract and time line in place, we don't have much ability to change that. That's our driving force from the background. Thank you.

CHAIRMAN LAPOINTE: As a final note, my thanks to the commission staff and the staff members in the states who have been working on this diligently since that last assessment to put us in better shape. Thanks, Geoff.

Model Development Subcommittee Report, is this the Mark Gibson component? There's a time line that has been handed out that goes along with this discussion.

MR. GIBSON: I don't have and perhaps no one else has the original one, but I think we remember what the changes were. You have before you a draft time line which makes -- you've seen the time line before that makes some adjustments.

The primary ones are the extension of the model development work which now goes through the fourth quarter of 2003. I think it stopped formally in the past version of the fourth quarter of 2002. In the other version you had there was a second status quo update.

Do you remember where that fit in, Heather, in terms of the time that's done? I just want to show the people where the changes have been made before we get to why.

MS. STIRRATT: Actually, that was something that staff had inserted their words to be two stock assessment updates before we had the Peer Review Stock Assessment, and that would be status quo. But given the revisions that we discussed, that has been altered at this time.

MR. GIBSON: There are two primary reasons for putting before the board for consideration a revised time line with the major changes, the

extension of model development.

The first is we were in a position where the former time line would have concluded the model development work just prior to what we call a "turn-the-crank" update, stock status update.

We would be in the position of potentially having new assessment methods, revised biological reference points, floating around at the same time we were trying to do a simple turn-the-crank update. There would have been some interest in some quarters of incorporating this new work.

It would not have been vetted through an extensive peer review process at that time, which is scheduled, as you can see, to occur later.

So it made more sense to us to have the status quo updates going on, using the methods and the approaches we have in hand now, while this model development work was going on, which is addressing potential revisions to biological reference points and new assessment methods; have that conclude later into 2003 and then be available for the formal peer review process and inclusion in the terms of reference that would be developed for that.

The second reason was a more practical one, but the work is simply going to take longer than we had anticipated. I think we probably all anticipated it would take some time, but we have a bit of a problem in terms of the approach we're using to get this kind of work done.

I think it takes place throughout some of the other commission species committees, and that is we have a method of operation whereby specific units of work are identified, and then people go off and work on those, usually to the exclusion of contact with anybody else other than an occasional phone call.

It puts a great demand on the Chair of this group, who happens to be me, and Heather to try to organize this work and keep it on the right track.

I think you see a very good example of this sort of thing which has happened in striped bass where we have been unable to come to closure on biological reference points, and that has defaulted to the Plan Development Team to resolve.

I think that's an example of what happens when you have people with good ideas and legitimate scientific disagreements or discourse going on, but they're working in seclusion from one another, so there's never an ability to get to a resolution, a real consensus, because you don't work frequently enough for people to understand their work fully, give them good feedback, good peer review and try to come to some kind of closure on some of these issues.

I have no doubt that this is what is going to happen with this model development subcommittee when we're going down the road of somebody working on a biological reference point that has predation effects built into it; somebody else is working on a very sophisticated length-based basin-size structured assessment model, and all these things are going to come together as built pieces, and none of them are going to fit together.

That's what continuously happens to us when we use the method of operation which is to have infrequent meetings, have people go off on work tasks to work on them on their own schedule and try to bring them together to all fit together.

That's not working right now in this model development subcommittee. What we have concluded is a better method of operation, which would be to have more meetings, longer-duration meetings where individuals who are participating would come together and actually work at those meetings and try to take advantage of each other's insights and each other's review that we can give to one another and produce a more integrated product which will likely have a greater likelihood of being received well by a technical committee and by a management board down the road.

The cost of doing that, of course, is that there's cost to the states in terms of committing their people to that kind of meeting schedule. I have been made aware that they're not necessarily budgetary constraints at the commission level right now.

We have sufficient money budgeted to do these sorts of meetings, but there would be a significant investment by the states on a time certain to do these things as opposed to having their staff people working as it fits in with the other workloads that they have at home.

I can assure you that I don't have any more time to commit to this. My boss is no longer in the audience, but I am sure he would not advance any additional time to try to work this through in the independent model that we're working on right now.

I don't think that's going to get us where we want to go. We're going to have, again, a series of products that don't necessarily fit well together, continued disagreement over which one is more appropriate, and it will go right down the same road we went with striped bass where we didn't get to a resolution at a technical committee level.

So we have a suggested draft time line which extends that time line for the development of the work, but also suggestions on how to improve getting that work done in a comprehensive and integrated fashion. I believe you're looking for some board action on that.

CHAIRMAN LAPOINTE: Thank you, Mark. Yes, we are looking for approval of the draft time line. It strikes me that we need to have continual discussions with you and other subcommittee members about whether, as we advance on model development work in particular, that we do need to talk to your bosses, and Carl needs to talk to his boss, et cetera, about carving out not a lot of time, but some time into the future to have those face-to-face meetings for the critical review of models as they develop. Does that make sense?



MR. GIBSON: Yes, Heather and I had talked about getting together here at this meeting or shortly thereafter to sort of lay out a little strategy time line as to when our internal group could work, when would be an appropriate meeting time, duration of meetings and the intermediary products we thought we would need if the board was willing to leave that up to us to try to develop that.

CHAIRMAN LAPOINTE: Questions of Mark? Ernie.

MR. ERNEST E. BECKWITH, JR.: I am not sure that Mark can answer all the questions, but I am looking at the time schedule here. Obviously, there's going to be a lot going on, and I really can't follow what's going on here. Perhaps someone could walk me through.

What I see, there's going to be -- as Mark referred to it -- a "turn-the-crank" updated assessment in '03. Then the model development work goes through '03. Then the next one is a development in terms of reference for peer review. Is that the peer review of the model to have been developed and a new terms of reference; is that what's going to be reviewed?

MR. GIBSON: Yes, I would think that would be included in there, but those terms of reference ought to be for the next full-blown stock assessment as well.

MR. BECKWITH: That was where I was leading. So the next stock assessment is going to be done with supposedly the new terms of reference and the new models, and then that will be peer reviewed.

MR. GIBSON: Yes, if they withstand the peer review process and are appropriate for inclusion, they would be available to do that.

MR. BECKWITH: Thank you, I understand it.

CHAIRMAN LAPOINTE: Gordon.

MR. COLVIN: Follow up. Understanding the schedule as elicited by Ernie's question, my question is to Heather. Following this "turn-of-the-crank" assessment 2003, is there an expectation of -- it says here, "FMP Adjustment", question mark; does that mean the possibility of sending the LCMTs back to the drawing board to revise what they've done for Addendum III?

MS. STIRRATT: To answer your question, Gordon, yes. As new information becomes available, it would be provided to the board. If we are off of that rebuilding schedule in the plan, then I would assume it is the responsibility of this board to take some action in that situation.

Just briefly, I want to mention a few things about the time line. This time line covers a lot more than just the modeling development subcommittee work.

However, it is important for the Board here to sign off on the concept that the modeling development subcommittee is going to need a little bit more time to complete this work.

Therefore, the next stock assessment update, which has been discussed multiple times by this body, the next stock assessment, which is anticipated to be simultaneous with the completion of the lobster database in 2003, will be a mere "turning of the crank" with the current EPR model and the current overfishing definition of F-10 percent.

Now, if that makes anyone uncomfortable around this table, then that's something that I think does need and deserves some discussion. But the whole purpose is to get some feel for the board's approval of this draft time line.

There are lots of things with question marks. That's because I, as staff, don't have complete confidence that these things will be necessary or are going to happen on the time frame that you see indicated here.

CHAIRMAN LAPOINTE: I think this makes everybody uncomfortable, but we don't have an alternative simply because, in talking to Mark and Carl and Heather, the work on new models is going to take more time.

In discussing it with them, I said I would rather get those new models done well than done fast, so that's what this schedule reflects. Do I wish it was otherwise, yes, but we don't have a good alternative at this point. I will take Paul and then Mark and then Pat and then try to move on just approving this schedule.

MR. DIODATI: Actually, Mr. Chairman, I was going to make a motion to adopt this time line. If it's seconded, I would like just to comment.

CHAIRMAN LAPOINTE: Okay, is there a second to the motion? Pat Augustine, thank you. Paul.

MR. DIODATI: I guess my concern here are the issues that Mark raised that working in this time line we risk getting some time down the road here, and there's still a lot of disagreement or various ideas in the scientific community.

A lot of that seems to be because of not enough communication on a regular basis, and at least that's a possible solution. The commission has talked recently about video conferencing on some meetings.

There is inexpensive technology to do that today, and I can't see why the technical committee members involved here couldn't video conference on a regular basis to improve that dialogue.

CHAIRMAN LAPOINTE: We did talk about that. I asked Mark, specifically, about that. Some of the subcommittee members have tried that in the past, and it still doesn't at times substitute for face-to-face meetings.

But I go back to the comment, I think, Mark made,

that he and Heather are going to discuss how this happens. It strikes me that this would be a good thing to bring back to the board so you have some idea about how they intend to get through those tough issues to come to agreement. I had, I think, Mark Gibson next.

MR. GIBSON: Just a follow up on Paul's point. If this were to string out further than this and there continues to be disagreement, that doesn't necessarily cause some irreparable harm here.

All it means is that you continue to do the "turn-the-crank" updates, and they end up getting reviewed as required by the MSC trigger.

You wouldn't necessarily have completed new material available for that. There might only be pieces of it, so I don't think that would necessarily cause great harm here.

The other issue I think that you raised, George, about everybody being uncomfortable going with the existing of the status quo assessment and reference points, I would think you would be equally uncomfortable if we had this accelerated development, and we were throwing it at you without any external peer review.

It was coming only from a group of technical committee people, some outsiders and the management board person. I would think if we're talking about the sort of things that we are -- and it's very interesting work again, evaluating ways to incorporate predator abundances to the length-based stock assessment, following up on some of the work that has been done for other lobster stocks around the world; production modeling that will give biomass base targets in addition to F targets.

It's all very interesting work, but I think you would be panicked if that was all thrown at you without any external review as well. That would be just as uncomfortable, if not more so.

CHAIRMAN LAPOINTE: Absolutely. Gordon,

did you have a comment?

MR. COLVIN: Well, sort of a question. Frankly, I am not particularly interested in any more stock assessment updates using the existing models. Seeing that there's one, okay. I would be even more concerned if we had a second one.

So from my perspective, what I would like to see done is for the board to do whatever is in its power to facilitate the successful work of the model developing subcommittee.

Now, I thought I heard Mark say, and it wouldn't surprise me, that he would anticipate that the most limiting factor controlling the success of that group now is the amount of time the employing organizations can give to its members for this purpose.

I don't really have a sense of what is involved there. I don't even know, besides Mark, who is on the committee, and the extent to which that problem can be addressed by members of the board.

I think it would be helpful to the board to get some information along those lines, who are the members, what's needed from both their employing organizations and from the rest of us to the extent that it's within our power to give to help address that critical path problem of their availability.

CHAIRMAN LAPOINTE: Right. That's what I intended when I talked about Mark and Heather getting together, and then we'll report back to board members on whatever we need to do. Ernie, and then I am going to go to the next agenda item.

MR. BECKWITH: Thank you, Mr. Chairman. Gordon said a large part of what I was going to say. I am concerned and I am disappointed that this important work has taken so long. I am also concerned that I don't really know what they're doing.

I don't know what their priorities are, whether they have a plan. I don't know who is assigned to do what. I find it somewhat troublesome because this is very critical work that needs to be done for the work that we have to do here.

Unfortunately, and I don't know if it's true, but I have gotten some feedback from some of my staff that is doing some of this work, and I ask questions, "Well, when is this going to happen, when is this person going to finish this?", and he said, "I don't know." I think we need to know more about what is going on. They need to know from us that this is important and we need it ASAP.

CHAIRMAN LAPOINTE: Heather wants to give one final word, and then we'll go to the last agenda topic before lunch.

MS. STIRRATT: All the subcommittee lists to the technical committee have been distributed to the board in previous meetings or through previous communications.

I will make sure, however, that an additional list is distributed so that you are familiar with exactly who is serving on each one of these subcommittees. Therefore, it will be easier for you all to know who needs to dedicate time where.

In terms of how this group works and the game plan for how we're going to achieve this work in the future, I think it is a good recommendation, and one that Mark and I have agreed to do, is to work together and bring back to this board in May a game plan for completion of this work.

If you all agree with that approach, then we will certainly proceed in that fashion. I would like to note, though, that we've just started this process.

We probably started working with the Modeling Development Subcommittee, last August was our first meeting. So there hasn't been a long period of time here that this delay has occurred.

We want to get back on track, make sure that we have a game plan and make sure that we have defendable time lines and products to get to the board. Certainly, that is the objective that we will try to meet.

CHAIRMAN LAPOINTE: Thank you, Heather. Yes, we do have to vote on the motion before us which is on the amended timeline. Are there any objections to the motion? Seeing no objections, the motion passes, the motion carries. Heather, you were going to provide a Socioeconomic Subcommittee Report.

It's my intention -- it's now noon -- to have Heather give this report and we will start at 1:00 o'clock, so timeliness is good.

MS. STIRRATT: This is going to be the briefest subcommittee report ever. You received in your mailing packets two memorandums from the Socioeconomic Subcommittee, the first of which deals primarily with comments on draft Addendum III.

I am not going to take the time to go through those. Those were distributed in advance, and I will just ask you all to take a look at those, if you already haven't, prior to this afternoon's discussion on Addendum III.

The second memorandum which was distributed by the Socioeconomic Subcommittee deals with governments. A continued issue that has been coming up during our socioeconomic subcommittee discussions has been the issue of governance, basically the way in which the commission is deriving the regulations; the process, sort of the bottom-up approach to management, which a lot of people do see this lobster fishery and lobster management in general operating under.

The subcommittee sees this as being a very big issue, one that they would like to continue looking into, perhaps, to provide the board with some feedback as to how this process is working,

whether people feel buy-in, of course, from a social sciences perspective.

The purpose of this memo is really to ask the board's permission to continue looking into the issue of governance, perhaps to provide the board in coming months with a white paper on the issue of governance as it applies specifically to the lobster fishery.

So, really, the action that we're looking for on this particular agenda item is permission from the board for the socioeconomic subcommittee to evaluate the issue of governance further, especially given that it is not a directive that has come down from the board itself.

CHAIRMAN LAPOINTE: Is there board objection to the subcommittee continuing work and, hopefully, producing white paper on governance? Gordon is grimacing. Gordon.

MR. COLVIN: I would like to talk about it a little bit.

CHAIRMAN LAPOINTE: Okay, then we will not take action on that, and I will talk to Gordon. We can either bring it up after lunch with time or at the next meeting.

MR. COLVIN: Well, I was going to say, Mr. Chairman, what is it going to cost us? I mean cost us out of our pockets, cost us in terms of the time and outputs we expect from that committee within the confines of the current charge. That's all. I assume there's going to be a cost. Nothing is free. At least that's what Jack Dunnigan taught me.

CHAIRMAN LAPOINTE: Heather.

MS. STIRRATT: The only cost that I can see, Gordon, would be the cost of communication between the individuals on the subcommittee. Most of these individuals that serve on the socio and economic subcommittee are not employees of the state. They're primarily academics.

We do have Dick Allen here as a representative from that committee. We have just a number of different people who are serving at universities. They're doing this on a voluntary basis. Again, this work would not take precedence over any board directive that would come down.

It would be a secondary type task that they would take up as time allowed. But if, in fact, they were having a meeting to, say, review a proposed management measure, a draft addendum or something to provide comments on that, and there was allowable time in the meeting to work on this issue, that's what they're asking for.

MR. COLVIN: Well, that's helpful. The only other thing I would point out is what we all know. Governance is touchy. It's a word that has implications, and some of that is going to come up later this afternoon. Maybe we want to think about what we really want and expect here.

CHAIRMAN LAPOINTE: Okay. Paul.

MR. DIODATI: The nature of this white paper is really not that clear to me. Is the goal to develop an evaluation of the lobster management process and then advise the commission on how to develop FMPs in the future? If that's essentially the goal, I am not comfortable with it.

MS. STIRRATT: Paul, I think, as a member of the management board, this body can tell them what the goal should be. If you want them to look at this issue, if you don't mind them looking at it, I think that some directive could be given to them. Otherwise, it's very openended, and it could end up anywhere.

CHAIRMAN LAPOINTE: Bill Adler and then Ernie.

MR. ADLER: Thank you, Mr. Chairman. On another part of this socioeconomic report, I had some concerns with some of the comments that were made by the socioeconomic -- is this the time or is another time the time?

CHAIRMAN LAPOINTE: On Addendum III?

MR. ADLER: Well, yes, it's in that particular memo. There are two here.

CHAIRMAN LAPOINTE: Let's take that up under our Addendum III discussion.

MR. ADLER: Yes, okay.

CHAIRMAN LAPOINTE: Ernie.

MR. BECKWITH: I am just curious. It seems that someone has identified a problem here that necessitates someone doing a white paper on it. I mean, what's the problem?

CHAIRMAN LAPOINTE: My sense is, I mean, given the questions people have and with my interest in keeping the agenda on track, I will have staff get some more information to present to the board before we proceed on this topic.

Other items before we break for lunch? We will break for lunch and we will start at 1:00 o'clock.

(Whereupon, the meeting recessed at 12:10 o'clock p.m., February 20, 2002.)

#### WEDNESDAY AFTERNOON SESSION

The American Lobster Management Board of the Atlantic States Marine Federal Fisheries Commission reconvened in the Monticello Room of the Swissotel Washington, The Watergate, Washington, D.C., Wednesday afternoon, February 20, 2002, and was called to order at 1:00 o'clock p.m. by Chairman George LaPointe.

CHAIRMAN LAPOINTE: Good afternoon. You are back with the American Lobster Board. The first topic for discussion this afternoon is Addendum III. I will have Heather go through the public comments and a review of outstanding issues, and then we will take up the issue of board

action on Addendum III. So without further comment, Heather, please.

MS. STIRRATT: To start off with this afternoon, normally what I would do is prepare a powerpoint presentation to walk the board back through the draft addendum before making a final decision.

Because of time limitations and the sheer number of issues that we have to deal with, I am not going to walk you back through the addendum. If you have questions, I will be happy to try and answer those following this review.

I would like to start off with by providing you with a brief review of the public comments that were received. There were 13 public hearings held during the months of November and December of 2001.

Hearings were held in the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey and Maryland. There were 47 written comments received by staff. You are receiving copies of those as we speak.

You would have received those on a CD ROM but they were not in electronic format, so you are receiving them now and I will be summarizing those for you. All of the comments, as I mentioned, are being distributed.

I will cover both the verbal and the written comments on an area-by-area basis. This summary is going to be as it was with the Tautog Board, a summary based upon the majority of the opinions offered during the hearings and in the written formats.

If, in fact, the states have additional comments that they want to provide based upon the hearings that were held under your oversight, that would be fine.

But to start off with Area 1, there was general support for the Area 1 plan. However, some concern was expressed that trap reductions or

other appropriate regulations are needed to control effort.

There was also some concern raised about the mandatory V-notching requirement, specifically, the idea that 100 percent of all egg-bearing lobsters were to be V-notched and enforcement of this requirement was also a concern.

For Area 3 there was general support for the Area 3 program. Some concern was raised relative to the expiration of the vessel upgrade provisions as listed in Amendment III. I will note that the extension of that provision has not been included in draft Addendum III, and therefore that's why the concern was raised.

Areas 4 and 5; most of the comments were similar in this area. I will point out one difference. Recreational divers would in general like to remain exempt from the maximum gauge sizes.

Now as we discussed at the previous meeting in October, all of the regulations which have been listed in draft addendum III apply to commercial fisheries. I am going to get into that in just a few minutes as an outstanding issue that perhaps the board can discuss.

There was general support for the Area 4 and 5 programs, with some concern expressed over the differences in maximum gauge sizes.

There was a general opposition to the adoption of the vessel upgrade provision, which is currently listed under the Area 5 provisions in Addendum III.

For Area 6 there was general concern over the Long Island Sound dieoff and predation by stripers and tautog. Participants felt that the addendum does not address changes in environmental conditions.

Comments on the management program were basically divided. Half supported no action because they felt as though the environmental

factors were the reason why their populations were in such dire straits.

The other half suggested that perhaps the commission should act sooner than 2004 to do more than what is even suggested in Addendum III to, in fact, protect the resource.

For the Outer Cape there was general support for the Outer Cape program. However, concerns were expressed over the issues of trap reductions and transferability, especially for individuals that have recently purchased a vessel and a license to participate in that fishery.

In terms of general comments that were themes throughout the entire public comment period, the ASMFC is focusing way too much on egg production and uncertain science surrounding the EPR model.

Concern was expressed about varying gauge sizes along the Atlantic coast. Enforcement difficulties and interstate trade issues, i.e., landing versus possession laws were often an argument for avoiding this scenario.

The technical committee should evaluate escapement sizes appropriate for gauge sizes above 3-3/8 inches. Stock assessment should be updated as soon as possible. There were general concerns expressed about the delay in developing consistent regulations from the EEZ.

I think it's fair to say that if you do take the time to look through the written packet of material, you will find that about a third of the letters received by staff were submitted by recreational sport diving communities.

Clearly, there's a misunderstanding or something that we need to do to clearly express that these are commercial regulations only. And there is general concern that has been expressed about Jim Fair's amendment to the Area 1 plan which requires V-notching of 50 percent no later than 2002. Mr. Chairman, that summarizes the review of the

public hearing comments.

CHAIRMAN LAPOINTE: There are outstanding issues as well. Can you just go right into that, and then we'll get into questions from the board?

MS. STIRRATT: Sure. You should have received a memo from staff and I am going to apologize. A lot of the discussions that are going to be going on this afternoon have been initiated by staff. I feel like I have kind of opened a Pandora's Box of issues for everybody to start to discuss.

I think it is fair to say that if I hadn't have done it, somebody would. So, in terms of issues relative to the Addendum III, there are a series of those outlined in the memo which was dated January 30, 2002.

This memo basically focuses on gauge size implementation dates.

You may recall that in Addendum II we had covered Areas 2 and 3 gauge size increases. In that document, we did not provide a specific date each calendar year that they had to come into implementing those regulations.

In Addendum III we provided a date for the states to implement their gauge size increases of July 1st of each calendar year.

To make it consistent, staff is suggesting that we add some text to Addendum III that would address this problem.

Primarily, it would come down to the addition of a section dealing with Area 2 which would require Area 2 to implement their gauge size according to the plan that was approved in Addendum II no later than July 1st of each year.

The same type of a statement would need to be inserted for Area 3. Again, this is to make it consistent across all areas for all time periods.

The second issue that's outlined in this memo deals

with the trap reduction schedule for the Outer Cape. There is mention in the Outer Cape's proposal that they will be looking at Massachusetts' landings by the reports from the fishermen from that area.

There would be no reports that would be looked at from the state of Massachusetts' perspective from fishermen outside of Massachusetts. So the concern is that the allocation that would be determined would not be reflective of those fishermen who aren't actually Massachusetts fishermen.

According to the federal agencies, there are quite a few participants that exist that have listed the Outer Cape as part of their fishing designation but are not Massachusetts fishermen, so that's a concern that needs to be addressed.

Staff did not provide any real recommendations as to how to address that because staff did seek out those types of comments from the National Marine Fisheries Service as well as the state of Massachusetts and was unable to resolve that issue up front of this meeting. I simply throw it out there for the board to consider.

The third issue that needs to be addressed deals with the LCMT Area 6 proposal. There are two issues that come up here, the first of which is that I received a call from George Dahl very concerned that staff had not included some text to describe the trap tag buyback program.

It was the feeling of staff, in reviewing the proposal submitted by Area 6, that that program was not designed --although we understand it contributes -- it was not designed primarily to meet the egg-rebuilding schedule.

No information was included in that proposal that really outlined the details of that program. Therefore, you won't find any text in draft Addendum III which speaks to that issue. Now that doesn't mean that if the board wants additional

text to be inserted that we can't.

It just means that's the rationale that staff used at the time.

In addition to that concern, George Dahl also raised the concern that staff had inserted the word "female" in front of lobsters relative to their list of options to employ in their management program after 2005.

Specifically, he was talking about the proposal's reference to V-notch some percentage of lobsters. He was not sex specific in the proposal that was submitted.

Staff inserted the word "female" in front of that because of the fact that the technical committee, when they evaluated that proposal deemed the fact that they would only be given credit for female V-notching. If, in fact, we want to make that more general, we can do that.

The fourth issue that comes up relative to Addendum III deals with "if necessary" provisions. It's not an issue that needs to be addressed by the board.

I simply want to make it very clear that when the technical committee evaluated the LCMT proposals, both in June and October of last year, every single element that was provided in those proposals was deemed necessary at that point in time to meet the egg-rebuilding schedule, which means that in the situation where an area has said we will do this in 2005, if necessary.

Right now, without an extra stock assessment in front of us, it's deemed necessary. In 2003 if we have the "turning of the crank", then we'll have additional information where we can say, "Yes, you have to do it", or "No, you don't."

But at this point in time, all of those measures are necessary. I just want to put that on the record in case it ever becomes unclear what the meaning of those provisions are.



The fifth issue that comes up is relative to this minimum/maximum gauge size being in the commercial fishery only. According to Amendment 3, the section on LCMTs deals with commercial fishing only. When the management board came forward at the beginning of Addendum II, when we put into Addendum II that request for the LCMTs to go back and reevaluate their program, that automatically locked us into producing a document that would focus primarily on commercial fishing.

Now staff has made a number of suggestions in this memo about how the board can address the issue of recreational fisheries. We do not have a section in the plan right now which speaks to recreational fisheries.

What that means is, is that in order to put something in that would change the recreational minimum gauge size or the recreational maximum gauge size, you really have to amend the plan; the reason being is that there is a coastwide minimum that's established under Amendment 3, but that coastwide minimum says that you're going to have that for the entire coast.

Since we don't have a standardized minimum gauge size for the entire coast any more, it's going to present a problem if you amend just that section. If there are any questions about these, I will be happy to elaborate or go into the specifics of the plan.

The last and final issue deals with minimum gauge sizes and compatible escape vent sizes. We've heard about this through multiple reports today.

I think it is fair to say that the technical committee is going to be evaluating this information, and they should have something to the board in the coming months. Mr. Chairman, that concludes my review of the outstanding issues.

CHAIRMAN LAPOINTE: Thank you, Heather. Questions to Heather at this point? Bill Adler.

MR. ADLER: Very briefly, Heather, I was at the Buzzard's Bay meeting. I know I was sort of low key, maybe, but I was there.

CHAIRMAN LAPOINTE: Other comments for Heather? Questions? Bruce Freeman.

MR. FREEMAN: Heather, as you indicated and as applies to New Jersey, the great majority of the commenters were recreational dive fishermen. They expressed their interests primarily in the trophy size lobster. That's really one of the reasons they dive.

They were very concerned about whether this maximum size would apply, and it was explained that it would not. What bothers me somewhat is the minimum size, as indicated. There really is no provisions for recreational fishery, and after going through the several public hearings we had, it certainly, in my opinion, is necessary somewhere along our process of amending a plan.

That needs to be done in order to clarify these issues, because you heard our comments and we spoke to you. A lot of it was confusion. Even though we told them it didn't apply, they kept commenting because some of them were unsure.

So just from the sense of relieving or at least having these people understand what the plan does and who it applies to and how it applies, I think it would be very useful to include a section dealing with the recreational fishery.

The comments we heard from those people, however, although they objected to the maximum size, was that they would have no difficulty going with an increase in minimum size. From my perspective, if we do move up in gauge, I would like to see it across the board, not just for the commercial fishermen.

Now the comments were made that the recreational removals are very, very minimal, but, nevertheless, as we spoke about earlier, before lunch, to have different gauge sizes is just going to

be confusing. From our perspective, we would certainly favor increasing the gauge size for recreational fishermen as we have for commercial. I don't know if we need to take specific action. I guess we do relative to your comments.

CHAIRMAN LAPOINTE: It strikes me that there were a number of items that Heather mentioned. The "if necessary" provision, we may need to remind LCMT members and states and others that, in fact, the analysis show those are necessary just so people don't think that it's not going to happen.

It strikes me that the issue of the lack of reference about recreational fisheries, Heather has rightly said, I believe, that we need to do an amendment for that.

I would encourage those states that have recreational fisheries to stay compatible between the two if they find that advantageous for their state, as in New Jersey.

Then the other issue that she talked about that we won't take action on today is the scape vent size in conjunction with minimum size, and the technical committee is going to have to do both, I suspect rectangular and circular sizes, to come up with the appropriate sizes.

Those are things we can report back to the board on, but those are outside of Addendum III in the context of what we're discussing today. Other board comments on Addendum III? I would entertain a motion for approval.

MR. COLVIN: Mr. Chairman, I am prepared to offer such a motion, but I am wondering whether the motion needs to specifically include the staff-recommended language associated with Issue 1?

I am seeing an affirmative indication, so I move adoption of the addendum with the addition of the staff-recommended language in association with Issue 1.

CHAIRMAN LAPOINTE: Which is the gauge

size implementation dates?

MR. COLVIN: It is gauge size implementation dates for Areas 2 and 3.

CHAIRMAN LAPOINTE: Thank you. Is there a second to that motion? Seconded by Pat White. Discussion on the motion? I have Bill Adler and then Bruce and then Harry Mears.

MR. ADLER: I am not clear about the motion. Is the motion just on Issue 1?

CHAIRMAN LAPOINTE: The motion is on the document.

MR. ADLER: The whole document?

CHAIRMAN LAPOINTE: For approval of Addendum III as written with the addition of Issue 1 as we're calling it this afternoon.

MR. ADLER: Because I am not sure where this would need -- I have a couple of motions that I would like to make on the Area 1 plan when you think it is appropriate.

CHAIRMAN LAPOINTE: We're discussing the addendum, Mr. Adler, go ahead.

MR. ADLER: The whole plan? All right, this has to do with Addendum III. It has to do with, first of all, the section on Page 3 called "Zero Tolerance Definition of V-notching" on Area 1.

I would like to put this motion on the board. My motion reads as follows -- you can follow it on Page 3 in the definition of zero tolerance. There's only a little change -- "The V-notched female lobster means any female lobster bearing a V-shaped notch of any size; or, a V-shaped indentation into which an approved V-notch gauge of 1/16 can be inserted into the depression."

The rest of the wording is as you have it unchanged from the document. I would like, Mr. Chairman, to be able to explain that motion.

CHAIRMAN LAPOINTE: Is there a second to that motion? There is a second. Pat White seconded it.

MR. ADLER: Okay, my reasoning behind this, the ASMFC's fisheries plan process is designed to be somewhat of an umbrella system to guide states in managing fisheries species.

States have always, it seems, wanted to be able to adjust measures to address needs within their jurisdiction. The Atlantic States Marine Fisheries, through its plan, have kept adjustments under control.

I feel that the current proposed definition of a V-notch in the Addendum III Area 1 plan, if cemented into the ASMFC Umbrella Plan, does not allow flexibility to the involved states should they -- and I underlined "should they" -- decide they need some flexibility.

My concerns here deal with possible enforcement problems in dealing with what will be anything and everything on a flipper is a V situation. I wonder how a busy judge would rule on this.

The currently proposed definition also means there will be some arguments at the pier over what is or isn't a V'd lobster. It could come down to perception and eyesight for many people if you've ever seen some of these examples of what is a V.

If you've got anything but a 20/20 vision, you might have problems identifying it on your own boat. With all due respect to the great state of Maine and its perfect system of managing this issue, I would like to at least allow enough flexibility in the definition so if -- and I underline "if" -- a state in Area 1 determines a number size is needed in its regulation, it will be able to have one without the ASMFC having to go through an addendum.

Remember that the motion does not stop any Area 1 state from having as strict a definition as it

wants. The plan only restricts the state from being too liberal.

The next logical question on this issue is if a 1/16 number is used by an Area 1 state, does it so affect the number game we're working with here -- that's the 10 percent level -- that it would drop the calculated gain back below 10 percent.

I had talked to Carl Wilson earlier, and he noted to me that a 1/16 would not destroy the gains. As a matter of fact, I believe, when the calculations were made in Area 1 with its plan, it's at 10.4 or 10.6.

Carl said, however, that at 1/8 of an inch -- which I would have preferred as the umbrella or even a quarter -- did start to drop the numbers. I was concerned, I didn't want to lose the points that had been gained by the discussion.

So the sixteenth did not do that. I don't believe the insertion of this optional definition is contrary to the LCMT plan because the original proposed wording is still there.

Even if the 1/16 version is used, the goal of the LCMTs and the ASMFC has still been met, but gives those states and the enforcement community some working room if they want it.

There were Massachusetts fishermen at the public hearings and beyond who expressed support for the Area 1 plan but didn't like this particular definition that was in here for a number of reasons.

What I have tried to do here is to accommodate the concerns on all sides of this issue. Those are my arguments, Mr. Chairman, as to why I am proposing this as a motion.

CHAIRMAN LAPOINTE: Did LCMT 1 bring this up in their discussions?

MR. ADLER: No, they did not.

CHAIRMAN LAPOINTE: Of different gauge sizes? Pat White.

MR. WHITE: I seconded this motion for the point of discussion, and I think it goes back to where we were talking with enforcement a year ago when they were concerned about having something measurable to take to court.

So I will support Bill in his endeavor on this, although I am a little concerned that it wasn't discussed by the LCMT 1 Area, but it doesn't stop the state of Maine in its perfect world from being more restrictive.

CHAIRMAN LAPOINTE: Carl Wilson.

MR. WILSON: I think it's important for me to say that in determining as far as states' different sampling programs have determined what a V-notch is and what a V-notch is not, it ultimately lies -- as the state of Maine's sampling programs goes -- ultimately lies on the shoulders of the captain and that they are the responsible parties for the lobstering.

So I think, certainly, a 1/16 inch V will protect more lobsters than a 1/8 inch V. That's not where I disagree with your interpretation of my comments.

But I don't know how the state of Massachusetts is conducting their sea sampling to determine what is a zero tolerance V as opposed to a 1/16 inch V or 1/4 inch V.

I think that's -- as we talked about on the phone -- where I am a little unsure exactly where that comes in. I don't know if that clears it up at all, but --

CHAIRMAN LAPOINTE: Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. Could we get a reaction from the enforcement gentleman on this in trying to manage this?

MR. MCKEON: I think this is a reasonable proposal.

CHAIRMAN LAPOINTE: John Nelson and then Gordon.

MR. NELSON: Well, Mr. Chairman, we probably should change it from zero tolerance then to some other definition. I think that we have difficulty with this because our enforcement folks would rather have the zero tolerance definition that originally was in the document.

They have been enforcing that for a number of years. It's pretty easy for folks on the water to look at the flipper and to say, "Oops, I have got an imperfection here".

Wherever that came from, they know that that's probably not one you should be keeping. Then to haggle over whether it's 1/16 or 1/32 or 3/16 or whatever starts getting into the problem area, and that's when you start having the court cases.

If we are striving to have uniformity for regulations, I would think that we would have the one definition rather than trying to have multiples. Thank you.

CHAIRMAN LAPOINTE: Thank you, John. Gordon.

MR. COLVIN: Carl's comments prompt me to ask a question. Obviously, when this measure was developed through the LCMT process and brought forward to the board, there was an estimate made of the contribution this measure would make to achieving the egg production rebuilding schedule.

Before I can support this motion, I need to know whether there is a likelihood that this change would materially affect that implementation of that schedule.

CHAIRMAN LAPOINTE: Carl, please.

MR. WILSON: Gordon, I do not know how 1/16 inch as opposed to a what would be a zero tolerance would affect any numbers that were run. There are a couple of issues, previous reports that have been completed by Bruce Estrella at the Massachusetts DMF back in the early 90s.

Back when the V-notching concept was just coming into the federal plans, I believe, there were some comparisons from a conservative zero tolerance interpretation of V-notch and the strict quarter inch defined V, no seal hair.

In Massachusetts state waters, there was a difference if you included zero tolerance as opposed to just a quarter inch. Obviously, zero tolerance or what they've referred to in their reports as the main definition would protect more lobsters.

That's the intent behind the V-notching is to protect those lobsters. We have not -- 1/16 an inch as opposed to zero tolerance -- we have not discussed that.

CHAIRMAN LAPOINTE: Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. First of all, addressing John's comment, I mentioned in my first discussion point that if this were in the Atlantic states plan as an umbrella plan, this does not mean that the state of New Hampshire or Massachusetts or Maine needs to change their definition at all, because the definition as stated in the Addendum III originally stands.

It just simply says that if the state of New Hampshire wants to have the current definition that it uses, it can do it. It simply says -- what I am getting at here, also, is that if down the road the enforcement community determines that something has to be put in in order to get some better law enforcement at the judge's level, that they could do this under this plan.

This is not saying that the New Hampshire definition needs to be changed at all or enforced

any differently than it does now.

It just simply gives -- this puts this in this plan, which is simply an umbrella plan and you can be more restrictive. All three states can be more restrictive.

So it doesn't stop that, it just gives you the ability to change something without going through a major production, if you ever want to.

To Gordon's comments, the fact is this is why I particularly asked Carl that if we did put a size in there, I don't want the numbers to get dropped.

That's why I put a sixteenth rather than any larger size because it was indicated that you would start to lose points if you went larger. So that's why I just wanted some number in there, but not one that upset the apple cart.

CHAIRMAN LAPOINTE: Paul Diodati, and then I am going to make a comment. I am going to put my Maine hat on for a moment.

MR. DIODATI: Mr. Chairman, it was my understanding that a state would be able to come forward and apply this definition or a third or fourth definition of what a V-notch is in their state. We already have an alternative to both of these in our state that's in effect and has been in effect since the 90s.

It was my understanding that we would do that, but then to get to Gordon's point, it would be incumbent on the state to demonstrate if there's a gain or loss in benefits relative to egg production. Then we would have to take additional or maybe less action in order to compensate for that. So it was my impression that we already had the flexibility to do that. If that's not true, I guess I need to be corrected. And if I am correct, then we probably don't need this.

CHAIRMAN LAPOINTE: It strikes me there's two things -- and this is from my Maine perspective. One is John Nelson's point that we get a lot of people who work towards zero

tolerance because that's the right thing to do, and we get community compliance and benefits from that and that's important.

The other thing, it strikes me what we're doing is, although the LCMT 1 didn't discuss this, they asked for zero tolerance, and so we are tinkering around the edges of an LCMT recommendation by inserting this language. Other discussion on the motion? Public comment on the motion? Carl Wilson.

MR. WILSON: I think it's fair to bring up that in the last two years the technical committee on two different occasions has discussed definitions of V-notching and made the recommendation that a stricter definition of V-notching will protect more lobsters, not what the definition should be.

CHAIRMAN LAPOINTE: Pat White.

MR. WHITE: This may be a question for Jack because I get concerned about healthy and zero and all these things. In a court case -- because I don't think we've had one with zero tolerance -- is zero tolerance a definable term that can be prosecuted?

CHAIRMAN LAPOINTE: "Yes" was the answer. "Sure" was the answer, actually, Joe. Other comments on the motion before us? Mark Gibson.

MR. GIBSON: Again, I am trying to understand some of the comments that Paul made. Was it your interpretation that if a state chooses a less rigorous definition of V-notching, that they would have to compensate for it somewhere else in their management proposals?

This is allowing a state to be more liberal in their interpretation in which lobsters can be landed and how are we going to ensure that states make up for that somewhere else?

I am not necessarily arguing that V-notching is the best way to go in terms of lobster conservation, but to the extent that states do choose to do that, it

seems to me we ought to be as rigorous with it as we can be.

CHAIRMAN LAPOINTE: Paul Diodati in response.

MR. DIODATI: Where I already have a different V-notch definition in effect in my state, the zero tolerance would put two categories on the table. Bill's motion is a third. My goal would be to have a single definition of what a V-notch lobster is in Massachusetts.

It seems that in order for me to do that, I am going to have some affect on some area plan because everyone seems to have looked at V-notching and its potential benefit to egg production.

In some areas it depends whether I go liberal or more restrictive, but there's going to be an effect in one area or the other. I am assuming that I am going to have the flexibility to come out and have a sensible statewide plan. I thought I would have the flexibility to do that.

CHAIRMAN LAPOINTE: It strikes me that separate from the motion before us, that the issue of what's sensible comes out to be, I mean it will come out in your state plan and it will come out in the PRT review of the state plans as well to see if it meshes with Amendment 3. Other comments? Bill.

MR. ADLER: I was under the impression that if the addendum passed with the unchanged version, that the state of Massachusetts would either have to have the absolute zero and couldn't waiver from it for any reason without coming back here and putting in some type of a change in this addendum, via another addendum to put a size in; or if what Paul is saying is if Paul wants to keep the quarter inch, it destroys the Area 1 numbers thing, because the 10.4-10.6, whatever it was, was based on the original part of that definition; and that if Paul wanted to put a quarter inch state wide, then the Area 1 plan in Massachusetts Area 1 will have gone below the number.

CHAIRMAN LAPOINTE: It strikes me that we're getting off base, and that is an issue of compliance with Addendum III if it passes, and it's not speaking to the motion itself. I would like to get back on the motion in the interest of keeping us on schedule today. Other comments on the motion before us?

It says: Move to change in language in Section 2.1.1.2 and in quotes "zero tolerance definition of V-notching to read as follows: A V-notch female lobster means any female lobster bearing a V-notch shape of any size; or a V-shaped indentation within which a gauge of 1/16 of an inch can be inserted into the depression."

MR. ADLER: Mr. Chairman, the only other part was the rest of the wording in the addendum.

CHAIRMAN LAPOINTE: And the rest of the wording in the definition, yes. Other questions or comments? Ritchie White.

MR. G. RITCHIE WHITE: What would a 1/16 gauge look like?

MR. ADLER: You can see it. You can at least see it.

MR. WHITE: How do you have a gauge 1/16 and have it work?

CHAIRMAN LAPOINTE: We've got them. We've tried some stuff with them. Please, a caucus among the states. Bruce.

MR. FREEMAN: This is an issue, I think as we've reported before, fishermen are asking us what a V-notch lobster is because they've never seen one and chances are we may never see one.

But in the event that we do, it appears to me, as I hear the discussion, it would derive states the flexibility of any mark on the tail being interpreted as a V-notch if this definition goes in place.

CHAIRMAN LAPOINTE: I would be happy to

provide to board members --we have a chart with a lot of illustrations about what zero tolerance means. But, again, this only applies to Area 1 and not to the remainder of the lobster resource.

MR. FREEMAN: Well my concern, George, would be that I would like to see consistency in this plan across the whole range. Although, we may never see a V-notched lobster, in the event that we, do we would like to be measuring it the same way everyone else does.

It just appears to me that by putting this definition in, it's going to make it much more difficult, and I am referring to the comments that Paul had made. It seems it should be up to the state.

If they indicate any mark on the tail would be interpreted, it's going to be a very strict interpretation, and it's going to have certainly conservation consequences. It seems to me that's what we would want.

To insert this gauge measurement may allow lobsters or disallow lobsters that last molt because there's going to be some mutilation of that tail that they're going to be able to keep. It just seems like we're working against ourselves with this.

CHAIRMAN LAPOINTE: With that final comment, please caucus with your other state members and we will vote in a moment.

(Whereupon, a caucus was held.)

CHAIRMAN LAPOINTE: Fifteen more seconds. All those in favor of the motion to amend, please raise your right hand, one vote in favor; all those opposing the motion, please same sign, six; abstentions, 3. The motion fails. William.

MR. ADLER: Is it appropriate to bring up my other motion?

CHAIRMAN LAPOINTE: It's what we're here to discuss.

MR. ADLER: My second motion has to do with Page 3, the Massachusetts amendment at the bottom, and I will read it. This is a move to amend the wording contained in the footnote in Addendum III, Page 3 under 2.1.1, called the Massachusetts amendment; to read as follows:

The Commonwealth of Massachusetts will monitor the percentage of V-notched egg-bearing female lobsters in commercial catches in lobster Area 1. If the observed percentage does not reach 50 percent by the end of 2004, the Commonwealth may convene the Area 1 Lobster Conservation Management Team members from Massachusetts to determine what additional or substitute measures may be needed to help achieve the goals of the FMP.

These LCMTs will be expected to report back to the Commonwealth by June 1, 2005, with their recommendations for the possible needed action. Other states within Area 1 may also consider additional measures in this time frame to achieve the goals of Addendum III.

If I may, Mr. Chairman, I would like to explain this section.

(Whereupon, Mr. Dunnigan assumed the Chair.)

MR. JOHN H. DUNNIGAN: A motion made by Mr. Adler; is there a second? Second by Mr. White. Mr. Adler.

MR. ADLER: Thank you. During the public hearings, I heard in Massachusetts support for the Area 1 plan. However, I heard opposition to the Massachusetts amendment as written.

The six- to eight-month time frame to get this part of the plan to 50 percent is unreasonable. Under the approved time frame, which was Addendum II, Area 1 is supposed to be at 6.11 egg production by 2004 and 7.09 by 2005.

Under the Massachusetts amendment, the Massachusetts section of Area 1, at least, is being

asked to be at what amounts to roughly 6.7 by the end of 2002, when in the plan they're basically given until 2004, which is reasonable.

The Atlantic states has embarked on a program of letting the LCMTs develop plans to meet the goals of the FMP. The Massachusetts amendment, as worded, seems to have derailed the process in some respect.

This Atlantic states process has been regarded by industry as being an improvement in how the management process for fisheries is conducted.

It has been a positive development and it's likely to improve fisheries management and gain credibility for the process both in the lobster and other species as well. We don't need a setback here.

The motion still would provide the prod Massachusetts is looking for, yet would keep the process of tasking the LCMTs with coming up with the solutions in place.

The Socioeconomic Committee recommends in that their socioeconomic report that they recommended against impairing the self-governance structure. The lobster process is laying a good foundation for continuing conservation, and that was a quote.

The Atlantic states legislatures' and governors' appointees met here in Washington in December in order to try to improve the advisory panel system in the commission.

Part of the discussion focused on the reality of the process is to work -- and I believe everybody wants it to -- that the advisors should have to be listened to. I think that we've been pretty good in this department so far, but we need and are trying to improve this.

The LCMTs are advisors of sorts in the lobster FMP planning format. In order to continue with the program improving advisors' participation, this motion would do that by going back to the



LCMTs, if need be, to fix something that may need to be fixed.

It is understood why the Massachusetts amendment has been inserted to make them do what they said they would do. This motion still does that; it says the same thing.

It takes time to notch everything you see, which will begin now. As fishermen have indicated, lobsters notched now may not be seen the next day, but new lobsters needing to be notched will be encountered.

It will take time to cycle these notched lobsters into the resource. The 2004 date will allow the process to proceed. This motion provides the state or states and the commission with a definite time period for when the work if needed will be done.

It is not openended and will provide enough time to move an action through the regulatory process, either by the state itself or even the ASMFC. Thank you, Mr. Chairman.

(Whereupon, Mr. LaPointe resumed the Chair.)

CHAIRMAN LAPOINTE: Comments? I believe Paul Diodati had his hand up, and then I have Pat White and Pat Augustine, John Nelson.

MR. DIODATI: Actually, this motion raises a number of issues, one that I have already asked the board to comment on, and I guess we're going to do that in Number 12 of our agenda, precisely what is the role of the LCMT.

What is this Lobster Management Process, what is the public understanding of it; what is the understanding of this board?

This language will actually specifically direct lobster management for Area 1 in Massachusetts to the hands of the LCMT.

That's not my understanding of the process and the way it's supposed to work. Secondly, it would delay any potential action regardless of observed

benefits of whatever management scenarios are applied to at least 2005.

Mr. Wilson's report demonstrated that there seems to be a declining in the trends of abundance, at least in most of the coastal surveys from Massachusetts south.

What you didn't say, Carl, was that egg production seems to be down about 50 percent in those areas.

I am not sure how does the technical committee feel about those declines. Is that a warning to the technical committee?

Is there any concern about those declines? That wasn't mentioned in your report, but clearly pushing off any action to 2005, I think we need to go probe a little bit more in terms to the conservation needs for the resource before we could even consider something like this.

Thirdly, the motion on Page 3 clearly says that we may do something. I think the Commonwealth has always been reasonable in applying its authority in working closely and cooperatively with industry members. We would certainly do that in this case.

The 50 percent mark was put there as a benchmark, solely as a benchmark, but clearly with the only most demonstrable measure to increase egg production in that area, which is V-notching, there should be something I think throughout the entire area to measure the benefits of that program. So that's it.

CHAIRMAN LAPOINTE: Pat White.

MR. WHITE: Thank you, two things. Bill, I might suggest in the first sentence that you add the Massachusetts section of Lobster Area 1, because I am a little concerned that you're going to come up and haul my traps to see what I have for V-notched lobsters.

The other thing, I don't know if there's a compromise here or what. I appreciate what Paul

is saying and what his intentions are as far as the Commonwealth is concerned, but I am also reminded of the old saying, "Trust me, I am from the government". I think it probably would be good to have something clearer in there, and I don't know if this does it.

CHAIRMAN LAPOINTE: Pat Augustine, you were next.

MR. AUGUSTINE: Thank you, Mr. Chairman. I want to remind the whole group that under 2.113, Mandatory V-notching Requirement, it says you should be doing it immediately both inshore and offshore. We're referring to Area 3 here, in particular.

More importantly, in reading the statement at the bottom, there's absolutely no question, we're sliding off, again, implementation to the year 2004 and then take some action. We've got another year lost. According to Carl's report, we're heading for deep trouble, and that's a major concern.

And then a final comment is I was under the impression that the LCMTs were created to serve as kind of not a governing body, but as a body that would actually review the plan, develop some sensible approaches that would make sense for the fishery, not only on their behalf, but for the whole area and present those in an advisory capacity and serve as an advisory capacity to the board.

It seems to me we're heading in the direction where we're almost, and I will use the word being "dictated" that this is the way it has to be or it's not going to work, and we have to play kissy-kissy to make it right.

There's no question these lobster conservation management teams are doing an excellent job, but what their role is one of advisory capacity with recommendations like any other advisory panel.

Quite frankly, the word "management" -- and I will shut up in a minute, George, or you can shut me off by hitting that button -- quite frankly, the

word "management" in lobster conservation management team, I am not sure it belongs there. It's a misnomer and I think it's very misleading.

CHAIRMAN LAPOINTE: Carl Wilson.

MR. WILSON: Just a quick clarification on a couple of different terms, Pat, that you identified, but also Bill. One is I believe the Area 1 plan has called for 100 percent compliance with V-notching, okay.

And what the amendment to the motion at the last board meeting was, was 50 percent observed egg-bearing females with a V-notch in the commercial catch.

One is you can have 100 percent compliance but not have the 50 percent observed. It's just to what Bill was saying is it's a -- V-notching and measuring V-notching is essentially a mark recapture experiment.

So, one, the lobster has to be V-notched, returned and then recaptured and counted. Okay, so it's a probability of getting notched and then the probability of getting recaptured.

CHAIRMAN LAPOINTE: Other comments. Public comments on this motion to amend the main motion? Seeing none, we'll caucus for a moment and take the vote.

(Whereupon, a caucus was held.)

CHAIRMAN LAPOINTE: For the record, we will read the motion. The motion is move to amend by changing the wording contained in the footnote of Addendum III, Page 3 under 2.1.1 in quotes, the Massachusetts amendment to read as follows:

The Commonwealth of Massachusetts will monitor the percentage of V-notched egg-bearing female lobsters in commercial catches in lobster Area 1. If the observed percentage does not reach 50 percent by the end of 2004, the Commonwealth may convene the Area 1 Lobster

Conservation Management team members from Massachusetts to determine what additional or substitute measures may be needed to help achieve the goals of the FMP.

These LCMTs will be expected to report back to the Commonwealth by 1 June, 2005, with their recommendations for possible needed actions. Other states within Area 1 may consider additional measures in this time frame to achieve the goals of Addendum III.

Those states in favor of the motion to amend, please raise your hand; those states opposed, please raise your hand; abstentions.  
The motion fails.

We are back on the main motion. Heather has pointed out that under Section 4, our document under compliance says that by March 1, 2002, the measures applicable to commercial fishing in lobster management areas must be in place -- March 1 of 2002.

The size limit increases are supposed to go in place the 1st of July so we might want to consider adjusting the compliance date. John Nelson.

MR. NELSON: I would say by consensus we would adjust that date.

CHAIRMAN LAPOINTE: Any suggestions, Mr. Commissioner?

MR. NELSON: Well, I thought you had suggested July 1st --

CHAIRMAN LAPOINTE: No, that's when the size limits are supposed to be in place.

MR. NELSON: Why wouldn't it be July 1st, though, if all the measures would have to be in place, or is that when we're initiating them?

CHAIRMAN LAPOINTE: That would be a suggestion to have that date as the compliance date.

MR. NELSON: So moved.

CHAIRMAN LAPOINTE: John Nelson has made a motion to change that compliance date to July 1, 2002. Is there a second? Mr. Calomo from Massachusetts. Discussion on the motion to amend? Pat White.

MR. WHITE: I just have a question. In reading this document, regardless of what that date is, if it's now July 1, 2002, Area 2 and 3 -- we'll have to skip 1 and go right to 3-5/16?

MS. STIRRATT: I guess I am not certain what you're replying to. What would need to happen is that Areas 2, 3 and the Outer Cape would absolutely have to have increased their gauge size no later than December 31st of this year under Addendum II, to go up 1/32 of an inch.

All of the other areas, with the exception of Area 1, would need to be at 3-5/16 inches no later than July 1st of this year. The July 1st date is an annual date in which the gauge size increases will be implemented by the states and, hopefully, the feds as well.

The compliance date is the date in which the states must have all of these regulations on their books, so to speak.

CHAIRMAN LAPOINTE: That's adjustments to the compliance schedule that Heather is discussing. Other comments or questions on the motion to amend? Gill Pope and then Bruce Freeman.

MR. GIL POPE: Thank you. I am still not sure if I heard the answer to Pat's question. Does that mean that as of July 1st this year, another four months, five months or so, that it's going to be that jump that he is talking about?

CHAIRMAN LAPOINTE: That's correct.

MR. POPE: That's correct? All right.

CHAIRMAN LAPOINTE: Bruce Freeman.

MR. FREEMAN: I just need clarification. Relative to the original motion, not the amended one --

CHAIRMAN LAPOINTE: Hold on, we're on the motion to amend.

MR. FREEMAN: I know, I just need clarification.

CHAIRMAN LAPOINTE: But, no, I am going to try to be strict. We're discussing the motion to amend to change the compliance schedule from the 1st of March until the 1st of July. The main motion --

MR. FREEMAN: The 1st of March?

CHAIRMAN LAPOINTE: On the document on Page 9, there is Section 4, Compliance, and 4.3 is adjustment to the compliance schedule. Currently, the language in Addendum III reads, "by March 1, 2002, Section 2.1, measures, applicable to the commercial fisheries need to be in place".

This motion is to change that to the 1st of July because most of our state processes can't make that adjustment in two weeks.

MR. FREEMAN: Well, I was looking at the original motion which had a January date, and I thought this was to modify that. That's not correct?

CHAIRMAN LAPOINTE: Other questions on the motion to amend. Bill Adler.

MR. ADLER: I feel that going up that fast on one particular area would be very difficult. However, I understand you're trying to keep in line and get caught up. Would this allow July 1st an area to go up and then December 31st of the same year make the next jump. Therefore, you're up to date. Would that allow that?

MS. STIRRATT: We're not behind. I don't want to create the impression that we are behind. The

only areas that are behind are those areas from the Addendum II perspective that we discussed earlier. It's my understanding that that's going to be addressed in a different fashion separate from this issue.

MR. ADLER: So if we were to do what I just said, it would be possible if this passed?

CHAIRMAN LAPOINTE: If we don't pass this motion, we'll be behind on the 2nd of March, as opposed to the 1st of July. Other questions on the motion to amend? Public comment on the motion to amend? Seeing none, we'll caucus for a moment and then take the vote.

(Whereupon, a caucus was held.)

CHAIRMAN LAPOINTE: The motion to amend changes the compliance date to July 1st, 2002. Those in favor of the motion to amend, please raise your hands; opposition to the motion, like sign; abstentions, 2; null votes? The motion carries.

We're back on the main motion. Is there additional discussion on Addendum III? Harry.

MR. MEARS: Thank you, Mr. Chairman, two quick comments. One had to do with Issue Number 2 outlined in Heather's January 30 memo relative to outstanding issues. It's a topic we discussed during the Chair Board's briefing.

I don't think this is the appropriate time on the agenda to present the results, but NMFS did indicate it would attempt to give the results of what we could relative to the number of non-Massachusetts lobstermen fishing in the Outer Cape Cod area. So my point is I am prepared to comment on that at your discretion.

My second point is that because Addendum III does contain recommendations to the Secretary, I will abstain, but I do encourage that in the event it passes, and this applies to what seems to be a proliferating number of addenda and amendments

to the plan, that perhaps there could also be a recommendation from the commission that, where practicable, there would be an encouragement to consolidate, for example, recommendations resulting from Addendum III, along with those which have not yet been implemented from Addendum II. Thank you.

CHAIRMAN LAPOINTE: Thank you, Harry. Other questions or comments on Addendum III? Bruce.

MR. FREEMAN: Clarification on Issue 1 is that the original plan included Areas 4, 5 and 6 but did not include Area 2 and 3?

MS. STIRRATT: My understanding, Bruce, is his issue has been addressed. The board voted this morning a motion to include the suggested text that staff provided under Issue 1 in this document which resolves that issue altogether.

MR. FREEMAN: That was the problem; it wasn't listed.

CHAIRMAN LAPOINTE: Gordon's motion incorporated Issue Number 1. Public comment on Addendum -- Bruce.

MR. FREEMAN: Yes, I had some more comments. Issue Number 5 dealing with minimum and maximum gauge sizes; LCM 4 had indicated, if necessary, a maximum gauge size of 5-1/4, and LCM 5 had indicated a gauge size of 5-1/2.

CHAIRMAN LAPOINTE: All if necessary items are necessary, and the Board Chair is going to write a letter to the states in the LCMTs to that effect. The technical committee said that all the sections that said we're going to --

MR. FREEMAN: George, that's not my question. It's the same stock, different maximum size. I am not arguing about the need for the maximum size. I need clarification on what size needs to be put in place.

My understanding is that the technical committee looked at this issue for maximum size of 5-1/4. The LCMT 5 essentially made a recommendation without any analysis. I just need clarification that the justification for that size is for the need to put a 5-1/4 in place, not a 5-1/2.

CHAIRMAN LAPOINTE: The document, I believe, says for Area 5 they will implement a maximum size of 5-1/2 if it's necessary. Isn't that what the document says?

MR. FREEMAN: My point is that was just a recommendation made by the LCMT.

CHAIRMAN LAPOINTE: That is what is incorporated in Addendum III, that's the text. That's what's going to be in place.

MR. FREEMAN: Well, I am just telling you, George, biologically, it's going to be very difficult to justify that half the range is a different size than another half the range.

CHAIRMAN LAPOINTE: That's inherent in all the discussions we've had about different size limits in other areas, so it strikes me that that's not an Addendum III issue, that's an issue which we talked about in terms of enforcement in other areas.

MR. FREEMAN: Well, I have to disagree.

CHAIRMAN LAPOINTE: Well, I am going to take the discretion -- Bruce, I am going to take the discretion of the Chair and say this isn't a discussion item for resolving in terms of approving Addendum III.

Five and a half inches is what's in this document, that's what we're voting on. If we want to bring it up at another board meeting to discuss where we need to go with that, I am happy to do that, but right now we're discussing the language that has been put forward through public hearing.

MR. FREEMAN: Well, I would submit then, Mr. Chairman, that that's inappropriate. There's no justification other than it was a recommendation made without any analysis by the LCMT.

CHAIRMAN LAPOINTE: I believe it was analyzed by the technical committee. All the area proposals were analyzed by the technical committee, and all were approved by this board to meet the egg-per-recruit schedule put forward by this board, as well.

MR. FREEMAN: Well, let me ask the chairman of the technical committee, was there analysis done in Area 5 that the maximum size should be 5-1/2 inches?

MR. WILSON: Each of the plans, as was submitted to ASMFC and reviewed by the TC, included analysis with -- or I should say, analysis was done at the request of the proposals. So if it said 5-1/2 inches, then model runs were done for 5-1/2 inches.

MR. FREEMAN: And that was true of Area 4 as well?

MR. WILSON: Yes.

CHAIRMAN LAPOINTE: Other questions on Addendum III?

MR. FREEMAN: I have another question.

CHAIRMAN LAPOINTE: Please.

MR. FREEMAN: Dealing with the recreational fishery, it indicates that relative to the way the wording was in Addendum III, that the harvest from the recreational fishery was not addressed; that these size increases only deal with -- well, minimum size and maximum size only deals with the commercial fishery. As I understand it, the provisions of Amendment 3 would have a coastwide minimum size of 3-1/4 inches, only.

I would like to make a recommendation or an

amendment that the minimum size be the same throughout the range.

CHAIRMAN LAPOINTE: For recreational fisheries?

MR. FREEMAN: For all fisheries.

CHAIRMAN LAPOINTE: That's currently in Amendment III. As I remember from our staff discussion about outstanding issues, Amendment 3 doesn't address the recreational size limits and that we need to do an amendment to the plan to address those consistency issues.

We also, I think, said that those states who need to work on that as an issue within their state are free to do so, so we need to work on the recreational size limits in the context of another amendment.

Was that what we discussed at the beginning of this meeting? Other questions on Addendum III? From the audience? Seeing none, we will caucus and vote on the main motion which is to approve Addendum III with the inclusion of Issue Number 1 which addresses Areas 2 and 3 as outlined by staff in the January 30, 2002, memorandum.

Addendum III as amended. Final vote and Issue Number 1 was one of the issues and we changed the compliance date from the 1st of March until the 1st of July.

MR. CALOMO: Mr. Chairman, if you don't mind; if you mind, I will stop.

CHAIRMAN LAPOINTE: Ask your question.

MR. CALOMO: Thank you, Mr. Chairman. My question is short and brief to the point, Mr. Chairman. My question is this: In this amendment --

CHAIRMAN LAPOINTE: Addendum.

MR. CALOMO: Addendum, excuse me. I have got frameworks and amendments in my mind, as

you know. I don't speak too much on addendums, but this addendum has the possibility of changing the course of how people fish, their livelihoods, especially in certain areas that I see, that I have kind of gone over from time to time, and I've been troubled by some of this.

My question to the point, Mr. Chairman, is that people that are going to vote now, if they're full-time lobstermen or represent huge areas of lobster fishermen, are they in conflict on voting on this?

CHAIRMAN LAPOINTE: No more than fishermen are in conflict with any other vote that's taken that regards their state or their livelihood, Vito.

MR. CALOMO: How come at some meetings when there are such issues that they refrain from voting and they leave the area?

CHAIRMAN LAPOINTE: They do that by their conscience. And, again, I don't think this is an issue for this vote on Addendum III. If we want to bring up how the commission operates, we've had many discussions about that in the broader context and through the ISFMP Policy Board, and that's the appropriate place for this discussion to occur.

MR. CALOMO: Well, I appreciate your answer. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: You bet. Do we need more time to caucus?

MR. NELSON: Mr. Chair, just for your information, the AOC is going to be reporting on conflict of interest guidelines tomorrow, so I think it's appropriate that that's where that discussion take place.

CHAIRMAN LAPOINTE: Thank you, Mr. Vice-Chair of the Commission. Are people ready? Those members in favor of the main motion as amended, please raise their right hand, those states, seven; those states opposed to the motion, like sign; abstentions, three abstentions; null votes?

The motion carries.

Our next agenda topic is Discussion of Issues for Inclusion in Addendum -- Dennis Abbott.

MR. DENNIS ABBOTT: Thank you, George. Before you go on, could I ask you a question? Would it be more appropriate to have the discussion of Item 12, in particular 12B, prior to discussing a potential Addendum IV?

CHAIRMAN LAPOINTE: We have forty minutes left. I am flexible on whether people want to put that discussion topic first, although it might take the rest of the agenda topic, and those other agenda items will be put off until May.

I will tell you that it is the view of the Board Chair that I know there are a couple of issues that people want in Addendum IV. One is an Area 3 issue and the other is an Area 2 issue.

It strikes me that given our commission's concern about workload, about all of our concern about the workload for this board and for other people, I would think that the issues that are before us that people have discussed with Addendum IV could be put off until some time in the future when there's a more substantial package to take up the board's time, to take up the technical committee's time.

That makes sense to me. I understand there are some people who disagree with that, but in light of all of our work and trying to make the board more efficient and not burdening the staff and not burdening people in our state with concerns about ASMFC actions, which come up over and over again in public hearings, that it's a logical step to not move with Addendum IV at this point.

I would like to hear board comment on that. If that was the case, we wouldn't need to discuss LCMT composition first. Board members. Paul.

MR. DIODATI: So you're recommending that we not move forward on Addendum IV?

CHAIRMAN LAPOINTE: I mean, it's the board's decision, but it strikes me that, again, we continually talk about the pace of change that we're burdening people with. The Addendum IV issues aren't necessary to meet the EPR targets we currently have in place.

We burden our technical committees. We take time at board meetings, we take time at public hearings and so it seems logical to me not to move at this point. But, again, that's the Chair's views and not the board's. Paul. And then I am sorry, David. I will get David, as well, right after you're done.

MR. DIODATI: Before we make a decision on that, would you take public comment on that?

CHAIRMAN LAPOINTE: Absolutely.

MR. DIODATI: Okay, thank you.

CHAIRMAN LAPOINTE: David and then Pat Augustine and Dick Allen and -- I am going to go with the board first, and then I will get members of the audience. David.

MR. SPENCER: Thank you, Mr. Chairman. I think there are two questions. I think one was just to move it to a different spot in the agenda, and the other is do we postpone it all together? I would have -- as Chairman of the Area 3 LCMT, which does have a proposal there, I would have no problem moving it to another part of the agenda.

If we are going to discuss it right now, I am sensitive to the fact, as George pointed, that there's a lot of meetings, both state people, federal people, staff, certainly are overburdened, but I just want to remind everybody that nobody hates meetings more than fishermen.

My feeling is that if the fishermen have gotten together through the LCMT process and have come up with recommendations, at least in my expectation, I would hope that the managers see fit

to act on that. Thank you.

CHAIRMAN LAPOINTE: Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. It would seem to me I agree with you. If there are specific issues that they have put forth for proposals, it would seem to me at this point in time that we should consider that as an important thing to address.

As far as Section 12 is concerned, I surely do hope we have five or ten minutes at the end of it, but I think we should move forward. A lot of work has gone into -- from what I understand, a lot of work has gone into Number 11 and I think we should move forward with it, the issues, I am talking about.

CHAIRMAN LAPOINTE: I am not saying that people haven't put time into it. I am not saying we won't deal with them. I am just saying that to have a separate vehicle at this point, and the workload associated with that vehicle is something this board needs to consider. Gordon Colvin.

MR. COLVIN: Let me express a different point of view than my colleague, perhaps, but let me begin with a question. Where are we in terms of our board's scheduled and budgeted activities for the coming year with respect to another addendum?

CHAIRMAN LAPOINTE: Heather, could you address that?

MS. STIRRATT: Staff is aware that Area 2 is in the throes of developing an additional proposal for submission to the commission for consideration.

That schedule was made available to staff early last year, and Bob and I scheduled additional monies for the purposes of moving forward with Addendum IV should those proposals move forward this year. It's up to the board. There are monies available for this purpose.



MR. COLVIN: Thank you. To me, that's the ultimate question and answer that we need to pay attention to, the self-discipline of following our own work plan and budget. If that can be accommodated, then perhaps the decision could be made on the merit of the issue.

To some degree, Mr. Chairman, my view on this question kind of runs into Item Number 12. There comes a time in my mind when actions by LCMTs that go beyond the minimum requirements of the management program may not require the detailed attention of this board and this management program in terms of mandatory or compulsory implementation, but rather represent recommendations for voluntary actions by the managing agencies within that area.

That may be where we're headed with this discussion on Area 2, I don't know. But if it is, that needs to be part of the LCMT role discussion.

CHAIRMAN LAPOINTE: Pat White.

MR. WHITE: Maybe somebody can explain this to me because I understand that there is a plan before us now that was made by LCMT 2, but there are other plans that have been proposed.

I understood that LCMT 2 was in the throes of rediscussions, and David seemed to know something -- or can anybody -- Heather -- bring us up to date as to where we are on that because it seems like a hard point to make a decision on.

MS. STIRRATT: I am going to make a suggestion to staff that we follow the agenda, because things are getting a little bit mixed up in terms of bringing forth the necessary information so that everybody understands where we're at and on what page that we're on.

I will leave it to the chairman to make that determination. I think these issues are intermixed and, certainly, the board can defer action on one of those issues until they get the information.

CHAIRMAN LAPOINTE: I mean, given the

sense of the board or lack of comment, I go back to Dennis Abbott's question. Do you want to change the agenda item and discuss the LCMT composition, which will likely take the bulk of our -- the half hour, the bulk, probably, all of the half hour we have remaining. Then we'll take up those other agenda items at the next board meeting? Ernie Beckwith.

MR. BECKWITH: Mr. Chairman, I think we need to discuss Item B in 12 first, because if we clarify that, then we can make a decision on whether we should do Item 11A. I think we have a very serious process question here that has to be decided first.

CHAIRMAN LAPOINTE: Other board members?

MR. ABBOTT: George, which was my original question.

CHAIRMAN LAPOINTE: And that's why I am trying to get back to it, Dennis. It took me a little while, but I wasn't ignoring you. Mark Gibson.

MR. GIBSON: I was at the last LCMT 2. I just wanted to comment on where they are. It was important to them that this existing LCMT proposal come forward and the board be made aware of it at this meeting.

They also have some competing plan, a competing plan that they are looking at. From their discussions, it didn't seem to me and to most of the LCMT that those two plans are that far apart, and that there are elements of those two that potentially could be combined for a so-called better submission.

They want to continue those discussions and see if they could find a common ground and pick the elements of the best of both. But it was important for them to have this come -- if for no more reason than it's a placeholder for them, they didn't want to lose the opportunity to have some of their work come forward at this point.

They wanted to reserve the opportunity to modify it if they come to common ground and a combination of better elements from the two. I don't know if that helps you any.

CHAIRMAN LAPOINTE: Well, it strikes me that I have heard more people say they want to discuss Item 12 than the other one. In regard to the Area 2 component of Addendum IV, we have an LCMT 2 plan in place.

They are proposing changes. What we want from the LCMT is one plan to come forward. If they need more time for that prospect, send it back to the LCMT and that team has to come up with a recommendation.

I don't want this board to get put in the place of having dueling plans at the board level. We want that group, that industry group to come together with one plan to bring to this board. Is there agreement among board members on that? Dick Allen, I see your hand up; I will take you for just a minute.

MR. DICK ALLEN: Thank you, Mr. Chairman. Just on the point, I have been pretty heavily involved in the Area 2 deliberations. I think the board should recognize they only have one plan from the Area 2 LCMT.

I think anybody in the world could send a plan to the board and ask them to consider it as an alternative to a plan that has been put forth by an LCMT. That's the board's decision, but the LCMT, I think, made it very clear that they wanted their plan put in front of the board. That's the LCMT proposal.

They are continuing to work with everybody in the industry, and as they see it, this is the first step. When the board says, "Okay, we're going to start moving with Addendum IV and move forward with your proposal", that they would expect the ultimate result to be somewhat different than the proposal that they submitted.

They are working with people. As Mark said, at the last meeting a lot of people didn't think there was that much difference between the plans. So I think there's a misunderstanding about these competing plans, that they're not as competing as some people think.

Just kind of a natural element as we've seen in the other discussions here earlier today, everybody always has a little different approach to things.

But if I could just say, given the information you were presented on the surveys and what we're seeing in the fisheries in Southern New England, and considering the fact that Area 2 will be the only area that does not have a firm cap on effort and whether that will be a magnet for effort or not; considering the fact that the Northeast Fisheries Management Board in 1978 said we ought to control effort in this area, and we have not as yet; considering the fact that we have a control date that is becoming more and more stale, and all the work that this LCMT has put into this with advice from state advisors who have encouraged the LCMT to move forward and do a little bit more than what the egg-per-recruit standard requires, I think it would really be a disservice to the LCMT not to at least keep moving forward with the proposal put forth.

CHAIRMAN LAPOINTE: I think the board quite agrees, but that's the work of the LCMT and not this board for that to happen, Dick.

MR. ALLEN: I thought moving forward with an addendum was a decision of the board.

CHAIRMAN LAPOINTE: The sense I got from other board members is that they probably agree with you, but we're going to go to Agenda Item 12 for the remainder of this discussion, because that was the sense of the board I got at this point.

Is there disagreement with that? LCMT Composition; two things on LCMTs, composition and then the LCMT role. Heather.

MS. STIRRATT: Relative to LCMT composition, a memorandum dated January 30th went out which seeks to outline the concerns of staff relative to LCMT compositions. Specifically, the memorandum notes language limiting LCMT membership to a minimum number of participants.

Perceived inequities amongst the states relative to voting membership has resulted in a number of new nominations. Keep in mind that it is the state's right to designate their membership to the LCMTs. For example, Massachusetts recently nominated 13 individuals.

I believe 4 or 5 of those individuals had served on the LCMT previously for Area 1. They are recommending quite a few additional people to that Area 1 LCMT. Staff has outlined three options for resolution of the problem, the first of which would be to limit membership to a maximum number of participants.

You may recall that the advisors have commented that this would be a preferable alternative. Option 2 would be to provide voting membership based upon some schematic; for example, the landings associated with the state, the number of traps and/or number of participants in the fishery.

The third option would be to provide unlimited membership to an LCMT, but to provide the states that would be comprising that area LCMT with only one vote each.

In other words, you could have 50 participants per state, but they have to come to a consensus or some type of majority/minority opinion relative to how they vote on any given issue.

These are just three suggestions that staff has raised on this first issue. It wasn't meant to be exhausted, and if you all can come up with additional alternatives, then, certainly, I think it's worth the board's discussion of this issue.

CHAIRMAN LAPOINTE: Gordon Colvin.

MR. COLVIN: To me, one of the fundamental elements of area management tends to get somewhat overlooked from time to time.

As we focus on the LCMTs, we tend not to focus on the substantive roles of the states and the National Marine Fisheries Service in decisionmaking in the areas.

I think we're actually departing somewhat from the underlying intent of Amendment 3 in how it intended to make area management work when we do that. It seems to me that the answer to this question is grounded in the fundamental description of area management.

The intention there, I think, is that the managing partners, if you will, will agree among themselves on this question. Certainly, that's what happened in Area 6.

We had two managing partners, the states of New York and Connecticut, and following consultation with our respective industries, we came to an agreement between us on how to configure the LCMT for Area 6.

We made that decision, and I think that that's exactly what Amendment 3 contemplated that we would do. I would challenge the managing partners in Area 1 to do the same.

CHAIRMAN LAPOINTE: If I could take a moment, because I am one of those managing partners in Area 1, this is an issue, until I looked on the agenda, I didn't spend some time on. Paul's motion is reflective of the confusion about primaries and alternates from Maine on Area 1.

For Area 1, specifically, I would sit down with my other managing partners, and although it may say a minimum, I suspect a maximum is what was intended in Amendment 3, and we would work towards that number.

MR. COLVIN: Can I follow up, George. The bottom line is simply this. It would be better if the managing partners did it for each of the seven

areas than if this board did it. I don't want to do it. I don't want anything to do with Area 1. No offense, I know you don't, and you shouldn't, and it's that simple.

That's what area management is all about. But we need to take responsibility as the states and the National Marine Fisheries Service for managing that process within the areas, which is going to get to the B part of this agenda item as well.

CHAIRMAN LAPOINTE: Did you have your hand up or no?

MR. P. WHITE: Just briefly, George. I agree with Gordon and something that you said. I think when this was deliberated, because this came out of the EMT process and I think it was intended to be a maximum, and we deliberated at great length as to how many people would be on that board.

I think it would probably be a good idea to take it back to the board, but I think increasing the numbers at this time would be a mistake.

CHAIRMAN LAPOINTE: Dennis Abbott.

MR. ABBOTT: Thank you, George. Always agreeing with Gordon, am I to understand that the plan does or doesn't say how many members or how the members are selected for LCMTs?

CHAIRMAN LAPOINTE: The plan says minimum.

MR. ABBOTT: It says minimum, but it doesn't say that they're only chosen by directors or commissioners of the included states; is that true or not true?

CHAIRMAN LAPOINTE: Please elaborate.

MR. ABBOTT: Who does the picking?

CHAIRMAN LAPOINTE: I believe the states have done the picking in this process. Heather.

MS. STIRRATT: To answer your question, the LCMTs are appointed and convened by the Lobster Board to advise the board on each management area and recommend changes to the management program. It goes on to say that the states designate -- I may have to find it. I can come back.

CHAIRMAN LAPOINTE: Ritch.

MR. WHITE: Thank you, George. I think the road we're going down with Massachusetts adding 13 more to Area 1, New Hampshire obviously will have to follow. We'll have to send the whole fleet.

I think it makes much more sense to go to the one vote per state. Then you can have any amount on that you would like, but then it's not this rush to get votes to try to get your state represented.

CHAIRMAN LAPOINTE: It was a conscious decision not to go to one per state when we passed Amendment 3. However, I think what I started off saying when I put my Maine hat on was I recommend that we sit down with Massachusetts and New Hampshire and look at that number as a maximum.

For the state of Maine, that means segregating out primaries and alternates and clarifying with them their roles in the process. Ritch and then John and then Paul.

MR. WHITE: So you would foresee then an LCMT made up of 13 from each state, and all those people would be voting?

CHAIRMAN LAPOINTE: I do not. Amendment 3 has a minimum number of members, 15. When Amendment 3 was done, we talked about 6, 6 and 3 as I remember, some number, but to have a maximum number and it was not one per state. It was based on with some recognition of the differing sizes of the fisheries in those states. John Nelson.

MR. NELSON: Thank you, Mr. Chairman. I think, along that point, it is up to the states to just get together and determine what makes sense for that area.

I think we had raised this issue before -- I know I raised it -- that the LCMTs were should recognize that they are presenting ideas to us. Just because a number from a state doesn't constitute a majority, it may be a large number of people, but it's not necessarily the majority of all the stakeholders there.

Therefore, they should be presenting or try to come to consensus, and I think most of the time they can do that. But where they cannot, they should be presenting majority and minority votes or positions, I should say.

Along the same lines, I just want to make sure that we understand that a lot of the LCMT teams seem to be working fine. I would be somewhat reluctant to have a sweeping change that affects everybody when the chemistry might be fine for ten out of the twelve teams, or whatever number we're dealing with.

If it's only one that's a problem, then maybe we ought to focus on that and not tie up everybody else by this discussion.

CHAIRMAN LAPOINTE: Paul Diodati.

MR. DIODATI: Yes, I agree with John's latter points, and I respect Gordon's comments as well, that I think the three states involved in Area 1 could meet sometime soon before there's another LCMT meeting and come up with something that's agreeable. I don't think the board needs to spend too much more time on this.

CHAIRMAN LAPOINTE: Is there objection to that course of action? Seeing none, we'll move to the second item on Agenda 12, and that's the discussion of the LCMT role in process, and folks need to recognize we've got 15 minutes for this discussion.

MS. STIRRATT: Commissioner Ernie Beckwith from Connecticut recently contacted staff with a concern about the process for LCMTs submitting proposals to the ASMFC.

The primary concern was the notion that an LCMT could submit a management program recommendation directly to the board without sending them through the states for prior approval.

According to Amendment 3, the process for LCMTs, or rather the role that LCMTs play is quote:

LCMTs are formed to advise the board concerning all aspects of implementation of this amendment and to make recommendations on the management program.

The lobster operating procedures, which were approved by the board in June of 2000, further outline that the LCMTs provide recommendations for management measures that will accomplish the goals of the FMP while taking into consideration local fishing practices.

Meeting arrangement and staff support is provided by the states. State personnel, including representatives from the technical committee, are expected to staff meetings of the LCMTs.

The state should keep commission informed of all meetings and provide meeting summaries and/or minutes of all LCMT activities.

Staff interpretation of this text is that state personnel participate in all LCMT meetings and provide final oversight during board meetings themselves.

Language in Amendment 3 does not speak to the process for submitting recommendations to the board; however, the process has always been that advisory groups, including the advisory panel, technical committee, LCMTs and otherwise,

submit proposals directly to the board for further consideration without the need to go through the states for prior approval.

I would defer to Ernie or other members of the Board for further elaboration on this issue.

CHAIRMAN LAPOINTE: Ernie, please.

MR. BECKWITH: Yes, thank you, and I really can't recall how this issue came up. I am not trying to be defensive at all. I think it's a very important issue, but I think I was talking to Heather about lobster issues in general, and this issue came up and she and I did talk about it.

But I think it's an important issue that has to be clarified and not because it has been a problem in Area 6, but I, obviously, have talked to a lot of the Area 6 LCMT people. I know what some of them think, and it's contrary to what I think about the process.

I am also seeing things occurring in other LCMT areas which cause me concern. I can tell you the way that I think the process should work, and I will leave it open to the other commissioners to make comment.

But I believe that the LCMTs were formed to be an advisory body, and they are to assist the states in development of management plans for submission to the board. That does not mean that the LCMTs should submit the plans directly to the board.

The LCMTs are advisory, and even though we've done a good job in selecting people to sit on our respected LCMTs have represent our lobstermen, they, in fact -- and I challenge anyone to dispute this -- they probably do not represent all of the lobstermen that we have.

That's our role. That's the state's role. I think that the role of the LCMT is to work with us to get the best information and feedback that we can from those people that we're working with, take it back

to the states, utilize our internal process to gather whatever additional information that we need.

Then the state makes a decision on what's to be submitted to the board for approval for a plan, because the states are the ones that will be held ultimately responsible. I think that's the bottom line.

CHAIRMAN LAPOINTE: Gordon.

MR. COLVIN: I couldn't agree more with what Ernie said. I think arguably Area 3 has a somewhat different flavor in all of this because of the fact that it doesn't involve state waters. But with respect to those areas that require state implementation, I think that's quite correct.

One of the issues that came up in dialogue with some of our Area 6 members early on, we got into some of these "what if" things, "what if" we make a recommendation and you don't agree with it? My answer to that was twofold.

One is that this process contemplates an area management program that relies very heavily on the recommendations of industry members through LCMTs as a way of developing a partnership with the industry -- and you referred to it earlier in this meeting, Mr. Chairman, I think -- to bring us to a point where we're implementing things that the industry supports from the outset.

So long as the LCMT recommendations and advice follow and stay within the sideboards that we need them to be within to assure compliance, those recommendations are extremely important and extremely influential in terms of the state's decisionmaking.

But it is, after all, in the final analysis the states' decisionmaking. I would submit that what needs to go into an addendum as the proposal for an area to be implemented is that which the state or states bring forward, again, presumably in most cases, a concurrence with and an endorsement of the recommendations of the LCMT.

In most cases, that has happened that I am aware of. But I wouldn't rule out the possibility that a state might bring something forward that's a little different for the reasons that Ernie very well put down.

Now, it may be that what I am saying and what Ernie is suggesting is a little at odds with what Heather read a few minutes ago. So be it, but I still feel very strongly that that's the way it needs to be.

CHAIRMAN LAPOINTE: David Spencer and then Harry.

MR. SPENCER: Thank you, Mr. Chairman, two issues. Just one from an Area 3 perspective, I agree with Gordon. If you look, we have 11 states that's covered. I think it's more than problematic to take that course of action for Area 3.

But the other thing I just -- I am going to speak on behalf of the advisors. We have not discussed this issue, specifically, obviously, but we have had discussions pertaining to area management; bottoms-up management.

What strikes me is that the LCMTs initially are proposed by the state, so I think that comes with some sort of credibility as to their understanding of the subject and their credence.

I certainly think that the state should be involved, and actually I think they have been, but I think it's much better to be involved on the ground floor at the beginning of proposals so that an LCMT doesn't go through presenting a proposal, going to the state and then having it kicked back.

I think, from industry's standpoint, it's a lot cleaner to be there at the beginning with the technical people and say, "This is not doable" or "This is doable." We've tried to do that.

In Area 3 we've tried to get some states and even NMFS, so I think it meets the same end. I just

think from industry's perspective, that's a cleaner way to do it. Thank you.

CHAIRMAN LAPOINTE: Harry.

MR. MEARS: Thank you, Mr. Chairman. This is very similar to a discussion we had back in December of 1997, Peabody, Massachusetts, at which time we passed Amendment 3 to the plan.

We, at that time, as well, were talking about the role of the LCMTs, what was their degree of coordination or participation in terms of scientific expertise, management expertise, federal input, state input.

We, as I recall, came to consensus or tried to relative to the wording which Heather read previously right out of the text of Amendment 3. I think what we have at this point are issues that fall into either process or expectations.

The expectations are further broken down into roles and responsibilities of the LCMTs and how they provide feedback and receive feedback to and from the Board. I just heard two board members give interpretations of how LCMTs react first with the states prior to coming to the board.

To me, that's an interesting interpretation. It's certainly not what is written in Amendment 3. I can understand the benefits of doing business that way, but I can also readily identify some real disadvantages, perhaps, of how that would operate in practice.

Intuitively, why give the LCMTs that type of luggage or baggage or constraints in trying to come up with innovative ways to manage the fishery. And this includes Area 3 as well.

I think whether or not they're realistic in terms of what the federal government can do and what the state governments can do properly belongs to this group and not with the expectation that the LCMTs first have to pass the test that what comes to this board necessarily is practical from a federal

and state perspective.

Given that, what I would recommend is perhaps a subgroup of this board further looking into the how the roles and responsibilities of the LCMTs are articulated in the current language of the interstate plan and coming back to the board perhaps at the next meeting with some recommendations if changes are, in fact, needed.

I agree with comments earlier. I think the process is working. We're hitting some bumps right now. They're budget bumps, they're logistical bumps, they're timing sensitivities.

But I hope the perception is not out there that the process is not working. I think it is working, I think there have been some major accomplishments during the last four years. Thank you.

CHAIRMAN LAPOINTE: Thank you, Harry. Gil, please.

MR. POPE: Thank you very much. I think Ernie is trying to get at something that has been bothering a few people about the fact that sometimes if there is something submitted directly to, say, the board through an advisory panel or something like that, eventually, when it makes its way back to the particular state involved, say in Rhode Island, and some of the things that are included in this that's passed, will cause that state to have to go back to its state legislature and change laws in some cases; and have to do things and say "Well, where is this coming from?"

So, in other words, in a lot of cases a lot of this stuff that will get passed will possibly in some cases have ramifications where we have to go back to the state legislature, or you have to go back and you have to amend rules and laws and so on and so on.

So, I guess if I am listening to what Ernie says, it would be better if that were all taken care of ahead of time before that process was done.

CHAIRMAN LAPOINTE: I think Harry's suggestion was probably a good one for a small group to look at it. And it strikes me -- I am going to pick some victims. I will call on David as Chair of the AP; Ernie, Harry and Pat Augustine to get together with me and Heather to work on this issue to come back for more discussion. Is that acceptable?

We have two minutes left, and so we are going to adjourn. Given the discussion, it's my sense with the board that we are going to proceed with Addendum IV. But we need an LCMT -- if there's a proposal for a change from the Area 2 LCMT, that's got to come from the board when they sing Kum Baya and come together with one plan, so we will wait on Area 2 for that. The last thing I will allow is, Bonnie, please.

MS. BONNIE SPINAZZOLA: I just want to ask you a quick question. So the board will proceed with Addendum IV, you said, and you already have the Area 3 plan, so then I am assuming that at the next meeting if Area 2 comes forward with a plan, you will address it at that time?

CHAIRMAN LAPOINTE: Yes, we will put it on the agenda for our next meeting.

CHAIRMAN LAPOINTE: Richard.

MR. ALLEN: Could I just get a clarification to tell the Area 2 LCMT -- they did submit a plan.

CHAIRMAN LAPOINTE: Area 2 has a plan that has been incorporated in Addendum III.

MR. ALLEN: Right, and they've submitted a proposal for Addendum IV, so what's the status of that proposal?

CHAIRMAN LAPOINTE: My understanding is that there are these two differing plans at this point.

MR. ALLEN: Well, there are probably a hundred plans out there.



CHAIRMAN LAPOINTE: No, no, no, there are not a hundred. There are two is my understanding, Dick. If that is the LCMT proposal -- and we'll check with the LCMT Chair from Area 2 -- we'll incorporate that into Addendum IV.

But understanding there's another proposal that's close but not quite there yet, it strikes me that it would serve Area 2 well to come forward with one plan and not make another change right away after we get this process started.

MR. ALLEN: Okay, I think if the minutes from the last LCMT 2 meeting have been submitted, I think it makes it pretty clear what their position was.

CHAIRMAN LAPOINTE: I will have staff review that before next meeting. Gordon, last comment.

MR. COLVIN: I just want to signal something because I don't think that -- we haven't discussed any particulars here. Something that's been on my mind for a long time boils down to what would the commission do if a management plan moved in the direction of allowing the transfer of fishing privileges or assigned quota from one party to another as a compulsory compliance-based regulatory measure?

We've not confronted that. It's a big deal. It has associated legal issues and perhaps even constitutional issues in some of the member states.

I just want to throw that out there as a message to some folks if they think something is going to happen quickly. There are very large policy issues that may be way beyond the scope of this board that are being thought about by some folks right now.

CHAIRMAN LAPOINTE: Good point. And with that, I will entertain a motion -- come on, David, I am already over time. I told Susan I was

going to be good.

MR. SPENCER: It was too good of a segue, but I think it does point out the importance of the transferability workshop which we would really like to hold in August. I think if it's really important, we would still like another board member to volunteer. Thank you.

CHAIRMAN LAPOINTE: Mark, is it something new and burning? Okay, good. Motion to adjourn, please? Second? Any objection? Thank you.

(Whereupon, the meeting adjourned at 3:05 o'clock p.m., February 20, 2002.)

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