

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

Approved February 2010

**Hyatt Regency Hotel
Newport, Rhode Island
November 3, 2009**

TABLE OF CONTENTS

Call to Order 1

Approval of Agenda..... 1

Approval of Proceedings 1

Public Comment..... 1

Draft Addendum XVI:

Reference Points and Stock Status Criteria 1

Discussion of Approval for Public Comment 3

Draft Addendum XV: 10

LCMA 1 Limited Entry in Federal Waters 10

Review Public Comment Summary 10

Discussion of Final Approval of Addendum XV 11

Discussion of Outer Cape Cod Regulations..... 12

Adjournment 15

INDEX OF MOTIONS

1. **Approval of Agenda by consent** (Page 1).
2. **Approval of Proceedings of August 17, 2009** by consent (Page 1).
3. **Move to modify the third paragraph of Option 3 of the biological reference points of Draft Addendum XVI to read “a stock would be depleted if average reference abundance during 2005-2007 fell below 75 percent of the median threshold”** (Page 3). Motion by Doug Grout; second by James Gilmore. Motion failed (Page 6).
4. **Move to strike Option 3 under the biological reference points from the addendum** (Page 6). Motion by Doug Grout; second by Peter Himchak. Motion failed (Page 6).
5. **Move to strike the editorial that is in italics on the bottom of Page 8** (Page 7). Motion by Dave Simpson; second by Rep. Sarah Peake. Motion carried (Page 7).
6. **Move to have the technical committee review Option 3 and provide the board with advice on what would be a precautionary abundance threshold** (Page 7). Motion by Terry Stockwell; second by Doug Grout. Motion failed (Page 9).
7. **Move to include the traffic light approach from Addendum VIII in Draft Addendum XVI as a supplement to guide management of American lobster** (Page 9). Motion by D. Simpson. Approved by consensus (Page 10).
8. **Move that Addendum XVI as modified be moved to public comment** (Page 10). Motion by Bill Adler; second by Pat White. Motion carried (Page 10).
9. **Move to strike the words “EEZ” in Option C in Section 4.1 of Addendum XV** (Page 11). Motion by Doug Grout; second by Terry Stockwell. Motion carried (Page 11).
10. **Move to send state reports of lobster trap tag orders for fishing years 2004-2008 to the National Marine Fisheries Service by February 1, 2010** (Page 11). Motion by Doug Grout; second by Terry Stockwell. Motion carried (Page 11).
11. **Move to adopt Addendum XV as modified today** (Page 11). Motion by Doug Grout; second by William Adler. Motion carried (Page 12).
12. **Adjourn by consent** (Page 15).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for G. Lapointe (AA)	David Simpson, CT (AA)
Pat White, ME (GA)	James Gilmore, NY (AA)
Sen. Dennis Damon , ME (LA)	Pat Augustine, NY (GA)
G. Ritchie White, NH (GA)	Brian Culhane, NY Chair/Proxy for Sen. Johnson (LA)
Douglas Grout, NH (AA)	Peter Himchak, NJ DFW, proxy for D. Chanda (AA)
Rep. Dennis Abbott, NH (LA)	Tom Fote, NJ (GA)
William Adler, MA (GA)	Gil Ewing, NJ, proxy for Asm. Albano (LA)
Dan McKiernan, MA, proxy for P. Diodati (AA)	Tom O'Connell, MD (AA)
Rep. Sarah Peake (MA) (LA)	Harry Mears, NMFS
Mark Gibson, RI (AA)	

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

Ex-Officio Members

Kim McKown, Technical Committee Chair

Staff

Vince O'Shea	Toni Kerns
Robert Beal	Kate Taylor

Guests

David Spencer, AOLA	Thomas Angell, RI DEM
Bonnie Spinazzola, AOLA	Bill McElroy, RILA
Penny Howell, CT DMF	Lenny Dellinger, RILA
Colleen Giannini, CT DMF	Alfred Pickard, OCLM
Patience Whitten, NMFS-NE	Peter Brodey, RI
Peter Burns, NMFS-NE	Mark Mooney, OCLMA
Chip Lynch, NOAA	Ben Martens, CCC MA
Bob Ballou, RI DEM	Bob Ross, NMFS – NE
Janice Plante, Commercial Fisheries News	Arnold Leo, E. Hampton, NY
John Tulik, MEP	Hank Soule, Newington, NH

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in Brenton Hall of the Hyatt Regency Newport Hotel, Newport, Rhode Island, November 3, 2009, and was called to order at 3:55 o'clock p.m. by Chairman Brian Culhane.

CALL TO ORDER

CHAIRMAN BRIAN CULHANE: I'm going to call the Lobster Board meeting to order. My name is Brian Culhane. I welcome you all. We're running a little late on time and I'm going to ask the board to try to help us move as quickly through today's agenda as we can.

APPROVAL OF AGENDA

CHAIRMAN BRIAN CULHANE: The first item on the agenda is the approval of the agenda. If anybody dares to add anything to the agenda, please bring it up now. Seeing no additions to the agenda, the agenda is approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN BRIAN CULHANE: We have the approval of the proceedings from the August 17th meeting.

REPRESENTATIVE DENNIS ABBOTT: I make a motion to accept the minutes.

CHAIRMAN CULHANE: Thank you, Dennis. We have a motion to accept the minutes. Seeing no objection, we accept those proceedings.

PUBLIC COMMENT

CHAIRMAN BRIAN CULHANE: We have time on our agenda for public comment for anything that is not on the agenda today. Is there anybody in the audience who has comments on anything that is not on the agenda? Okay, moving on, the first order of business is Draft Addendum XVI, and Toni can take it from here.

DRAFT ADDENDUM XVI: REFERENCE POINTS AND STOCK STATUS CRITERIA

MS. TONI KERNS: On your briefing CD you had a copy of Draft Addendum XVI for public comment. This responded to the board's initiation of this addendum to look at revising the reference points in response to the 2009 stock assessment. This

document, if approved today for public comment, would go out for comment November through January, would come back to the board for review in February, and we would consider final action on this document at the February meeting.

The board initiated this addendum because the current reference points that are based off of the 2006 assessment are not compatible with the results of the 2009 assessment. We also initiated this document to address the need for the timely use of new data for management when assessment results come up.

The background for the document; the current reference points are an average F and an average abundance looking at the recent three years compared to stock-specific values. These values range from 1982 to 2003 for the Southern New England Stock and 1984 to 2005 for the Gulf of Maine and Georges Bank Stock.

The median abundance and median F are threshold reference points, and the abundance and F_{target} are one standard error from the threshold. The 2009 stock assessment recommended revised reference points. They determined that previous approaches are problematic in describing assessment results due to the changes in management measures that changed fishery selectivity patterns as well as the basis of the fishable stock.

The 2009 stock assessment recommends effective exploitation, which is an annual rate of fishing mortality and instantaneous – they did so because instantaneous F rates are problematic. They're difficult to understand and the practical consequences of changes in the instantaneous F rates when they're high.

The 2009 peer review rejected the assessment reference points that came forward. They did this due to the fact that 50 percent of the observations in the time series would be below the median value. They recommended that medians be used as targets for both sexes combined. They also recommended that abundance thresholds should be half of the target and that the overfishing thresholds would be the 90th percentile of the distribution of the exploitation rate.

This document also looks at the stock status determination. Currently in order to change the reference points or to change what we use to establish reference points requires an addendum. We have assessments about every five years for the lobster fishery and a significant amount of time is usually between when the peer review assessment results come forward and when the adoption of changes in

reference points are made. There have been delays in the use of up-to-date information.

For options that are in the addendum document, status quo would be to continue on with the reference points that we currently have. The stock status is determined by the comparison of average F and average abundance during the most recent three stock years compared to 1982 to 2003 for Gulf of Maine and Georges Bank and 1984 to 2003 for Southern New England.

We use median abundance and median fishing mortality over the stock-specific fixed time periods as thresholds, and abundance and F targets are one standard error from the mean. If we use these reference points, then the current stock condition for the Gulf of Maine, Georges Bank and Southern New England would all have overfishing occurring.

The Gulf of Maine would not be depleted nor would the Georges Bank stock, but the Georges Bank stock would not be above its abundance target, and the Southern New England stock would be considered depleted. Again, these are the status quo reference points using the Collie-Sissenwine model.

Option 2 is looking at the assessment recommended reference points, and these are the reference points that the technical committee recommends that the board use. These reference points use reference abundance and effective exploitation as the primary descriptors of annual abundance and annual fishing pressure.

The reference abundance is the number of lobsters that are 78 millimeters in carapace length on January 1 plus the number that will molt and recruit into that size group during the year. This size was chosen because it is the lower end of the model size group that contains the lowest minimum legal size, and effective exploitation is the annual catch in number divided by the reference abundance. The stock status for these reference points – the current stock status would be that the Gulf of Maine, Georges Bank and Southern New England, overfishing would not be occurring and the Gulf of Maine and Georges Bank would not be depleted, but the Southern New England stock would be considered depleted. The TC reference point does not recommend a target at this time.

Option 3 looks at the peer review recommended reference points. These also would use reference abundance and effective exploitation as the primary descriptors of the annual abundance and the annual

fishing pressure. The stock status should be determined by comparing the average reference abundance and average exploitation rates for both sexes combined during the most recent three years to stock-specific values.

Median abundance and the median exploitation rate are the target reference points for sexes combined for the years of 1982 to 2003 for the Gulf of Maine and Georges Bank and 1984 to 2003 for Southern New England. Overfishing would be occurring if the average exploitation rate were higher than the stock-specific 90th percentile, the distribution of the exploitation rates, and a stock would be depleted if the average reference abundance during the most recent three years fell below half the median threshold.

The current stock status would be – for the peer review recommended reference points for the Gulf of Maine, Georges Bank and Southern New England, overfishing would not be occurring. For the Gulf of Maine and Georges Bank, they would be considered above their abundance target. Southern New England would not be considered depleted, but they would not be above their abundance target.

The TC does not recommend using the reference points that were put forward by the peer review because they are not precautionary. Particularly the abundance reference point, for the Gulf of Maine and Georges Bank the stock abundance has never fallen below these thresholds that are listed, and Southern New England only was below that threshold for the first two years of the time series.

This means that abundance would need to fall below levels rarely or never seen in the past 22 years to trigger any management measures. This is of particular concern since the median-based reference points serve as rough proxies for two model-based reference points, but their relationship to two model-based reference points is unknown and they suffer from an inability to link stock removals to future abundance.

The next section is the stock status determination criteria. Option 1 would remain status quo. We would need an addendum to make any changes to the reference points or the criteria that we use to establish reference points. Option 2 would be to redefine that stock status determination criteria. This would broaden the range of criteria that can be used to set fishing mortality and abundance reference points and allow the board to change reference points through board action.

The addendum stipulates that the board would have to follow either the assessment advice or the peer review advice when changing reference points. The document also suggests venues for peer reviews. It includes ASMFC internal and external, National Marine Fisheries Services internal and external peer reviews, as well as the TRAC.

All measures in the addendum would become effective immediately upon approval of the addendum if this document went forward. We would also recommend that the National Marine Fisheries Service promulgate regulations contained in the management section of the document. Does anybody have any questions for myself or for Kim to the reference points?

**DRAFT ADDENDUM XVI:
DISCUSSION OF APPROVAL FOR PUBLIC
COMMENT**

MR. DOUGLAS GROUT: As we move forward with this addendum and the development of it is one of the things – there has been a couple things that have been of concern to me. The most important thing is that I personally believe that we should not be sending two options out to the public for consideration here.

I think it is the role of this board to choose from our scientific advice when we have two pieces of advice; in this case one from the TC and the other from the peer review panel. To me this is sort of akin to going out to the public and saying we have a stock assessment where we're using two models; which model do you think? I just think that's the role of the board and the scientific community to decide.

Also in looking at this, the other thing that struck me and that is the peer review's comments concerning the use of a median abundance level as a threshold. I was swayed by their argument that this is probably more appropriate to be used as a target, the abundance levels. I have also been swayed by the technical committee's advice to us that we need to be risk averse at this time in our management. If you're willing, I do have a couple of motions that I would like to make to modify this addendum before we go out to public hearing with it.

CHAIRMAN CULHANE: I'm ready for motions, Doug.

MR. GROUT: **My first motion is that I would move to modify the third paragraph of Option 3.**

If you all look at Option 3, that is the option that describes the peer review recommendation. I would like to modify it to change what the definition of the threshold would be here. The peer review recommended that the threshold be set at 50 percent of the median abundance level. My motion would modify that to make it more risk averse by setting that level at 75 percent of the median threshold level.

The full motion would read move to modify the third paragraph of Option 3 of the biological reference points of Draft Addendum XVI to read "a stock would be depleted if average reference abundance during 2005-2007 fell below 75 percent of the median threshold."

CHAIRMAN CULHANE: We have a motion; is there a second? Seconded by Jim Gilmore. Discussion on the motion? Dave.

MR. DAVID SIMPSON: As Doug pointed out, we're developing a document for public comment. We have very good scientific advice from both the technical committee and the peer review panel. This would be suggesting that we do neither and make up our own, and I think it is premature to do that particularly when as far as I know nothing has been worked up to show how that reference point – what the implications are for determination of current stock status and overall health of the resource is.

I actually do think unlike a choice of use this stock assessment or that stock assessment, which is a purely technical question that is more properly in the hands of the technical committee and the peer review panel, these are objectives for a fishery and for a fishery management plan. I think it is reasonable to take that out to public comment.

Certainly, you evaluate the quality of the comments and input that you get. If it is run strictly along the lines of I like the management objective where I don't have to do anything; well, you can evaluate the quality of that comment. Hopefully, we would look for a little more complete view of the alternatives and more significant meaningful comments.

This would also give us time to evaluate these alternatives ourselves, which we really haven't had a very complete chance to do. For example, I was going to suggest that we need to include a couple of things in the document, not the least of which is an actual plot and the data that goes with it of this three-year moving average that we're suggesting for a reference point.

I have not seen where that has been produced and provided yet. I had Penny on our staff do it for me so that I have an idea of what these reference points mean in terms of where we have been historically, where we are now. It is something of a smoothing of the very rough figures that are in the stock assessment document, but they're not anywhere in the addendum and I think the public would need to see that.

I don't want to get too far beyond Doug's motion, but I certainly don't think we should be inserting our own off-the-cuff, unanalyzed alternative reference points here. I see no harm in including both alternatives for public comment and evaluate the quality of the comment that we get on both the peer review panel's advice and the technical committee's advice.

MR. DAN McKIERNAN: Question on procedure. Would it be possible after public hearing for Doug to make the type of motion where this kind of a substitute definition would be inserted?

MR. KERNS: Dan, traditionally the board tries to stay within the options that went out for public comment or tries not to deviate from the general direction that those options came from. Boards have deviated from the options that are in the document but not so much that it is sort of completely different than what you went out for. There is sort of a gray area there of whether or not the board would allow that to happen. It would be a decision made by the board.

MR. G. RITCHIE WHITE: I believe where this would be more conservative than one of the options in the peer review option that would be there, it would be allowed. If it was more liberal, I don't think it would be allowed, but where this is more conservative than one of the options, which is the peer review option, I think it would be acceptable.

MR. TERRY STOCKWELL: While this would be more conservative, we don't know how much more conservative. The TC didn't recommend these reference points because they're not precautionary enough so if we substitute the 75 percent I would feel more comfortable if the TC were to review it and get some determination of what it in fact did.

MR. GROUT: Just to make the point that I – in trying to get at this one of my concerns was that the peer review panel's threshold that they set was below the current abundance levels, which I think given the stock levels right now I felt very uncomfortable with moving forward with their threshold, but I did believe

that – as I said, I was swayed by their argument that the median abundance level was an appropriate target.

I believe also that the peer review set the 50 percent level because that sort of seems to be the standard nomenclature that the National Marine Fisheries Service has set for us when comparing it to Bmsy; that half of that is going to be an overfished status. However, Bmsy is a biological reference point. If we were dealing with biological reference points right now, we wouldn't even be having this discussion. We would be moving forward in and saying this is what it is.

The technical committee did the best job that they could, given the absence of a biological reference point, to try and move forward with interim empirically based reference points, so there is somewhat of an arbitrary nature. What I tried to do was be more conservative than what the peer review had suggested and going to the 75 percent level.

MR. MARK GIBSON: Mr. Chairman, I don't have any problem with what Doug is trying to do. In fact, it would be fine with me if this went forward as a third option in addition to status quo. In some ways it combines the best of both worlds. It recognizes the technical committee comments on the risk-averse nature of the peer-reviewed reference point recommendations and creates essentially a third one.

I think the more important issue, though, where David started to come from is that I don't think the public is going to be – it wouldn't matter what we put in here – is going to very well positioned to comment on these because there is no – as David suggested, no graphical presentation of what they mean.

More importantly, there is no projection of stock performance under any of these alternatives. We all know that the real heavy lifting isn't here in determining these reference points. It is going to be another addendum that specifies the measures to rebuild the Area 2 or the Southern New England stock area.

I have seen projections done by the Connecticut DEP and I've seen my own projections, and I know that they're very sensitive to what you assume about stock productivity and recruitment and things like that. If the public doesn't have anything like that to look at, they're not going to be able to comment meaningfully on any set of reference points, whether they're biologically based, empirical or proxies or whatever.

We need to have some projection tool to say this is where the stock is, this particular one, and this is what it is likely to do under the adoption of these reference points. I have said that many times, and I know David has been thinking about that as well. I don't see what the public is going to comment on meaningfully in this. This is pretty heavy stuff for public fishermen or non-fishermen alike to comment on without some substantial supporting information and analyses. Thank you.

REPRESENTATIVE ABBOTT: Mr. Chairman, let me be the first to turn myself in. I don't understand all of this and I'm sitting at the table here.

CHAIRMAN CULHANE: Doug, explain it to him.

REPRESENTATIVE ABBOTT: He has been trying to.

MR. GROUT: I have been able to get a graphical representation of where the different thresholds from the different options have been put together. After I had talked to several people about this and talked to Toni, all of a sudden Kim was kind enough to throw in an extra line on some of the graphs that she had. I believe what this shows is the top line is the – at least on the graph I have here is the median value for Southern New England. Under the technical committee's recommendation, that would be a threshold; and under the peer review panel's recommendation it would be a target.

The bottom line there -- that bottom dashed line is the peer review's recommendation of a threshold line. As you can see, the current abundance level is above that, which to me is of concern given the dramatic drop off in abundance that we've seen in recent years. The other two lines in the middle, one of them is my proposal of the three-quarter level of the median, 75 percent of the median.

Also, there is a line right next to it, which is what they call the 25th percentile. That means 25 percent of the abundance values are below that level, and I think that was one that the technical committee at least had looked at at point in time. I don't know, maybe Kim can comment on that. But at least there is a graphical representation of where we have been and where we're at compared to the various reference points. It doesn't address any projections that David and Mark were talking about because I don't know if we have that ability right now.

MR. SIMPSON: If I could, I think this is the sort of thing we need. This isn't quite it because these are not the three-point averages that are being recommended to us. These are the actual points, so we're not quite there yet. What Penny did was the actual three-point averages to see where we would be, which helps a bit more.

We just have to keep in mind, as we discuss this, that this is to go out to public comment. It is not to make a decision today. We don't have to choose one of these alternatives today. My understanding of receiving public comment and what you can do following that comment is that anything within the range of alternatives that were brought to public comment are fair game for the board to consider. What Doug is suggesting wouldn't be fair game. It doesn't rule it out.

I would be okay, generally speaking, with including it as a third alternative. The only thing that makes me queasy is it was literally – it was not analyzed, it was not arrived at in any technical fashion. That is my reluctance to even agree to include this as a third option. All of these have an element of being – well, the most polite word is subjective. I won't say arbitrary, but I guess then I just did, but they're subjective.

They're not objective management reference points that you would get from a biological assessment. The point that Mark Gibson made about the need for projections, that is a dire need. I don't know how we can begin to plan to move forward without a projection of where a given management alternative will take us.

I do plan to make a motion at some point here this afternoon to that effect. I know it can't be done before this hearing, if this goes to hearing. We may not even be able to do it this winter, but I think we need to request the time of the appropriate staff to get that done. I do think there is a lot here for the public to consider.

Based on even one of the comments today and other comments I've heard before, I think the board itself could stand some time to reflect a little bit on the alternatives that are being suggested with the benefit of some of these graphics with three-point moving averages that are not quite as jumpy as what is projected there. Let's look at those alternatives along with the public and then come back in February and decide what way to go with lobster management.

MS. KIM McKOWN: I just wanted to comment that the current status of the stock, which is the last three years, that average is up there. It's the solid line all the way on the right and averages those last three years. I do have plotted the actual abundance in the past.

CHAIRMAN CULHANE: Are there any other comments from the board? We have a motion in front of us. Well, if there aren't any other comments and nobody is offering to amend the motion, I think we're ready to call the question. I'll give you 30 seconds to caucus on this.

(Whereupon, a caucus was held.)

CHAIRMAN CULHANE: Okay, I'm ready to call the question. All in favor please raise their right hand; all opposed, same sign; any null votes; any abstentions. **The motion fails.** Doug.

MR. GROUT: Mr. Chairman, if you will allow me, I stated my concern that I don't believe that we should be taking two out to public hearing. I know Dave is not in favor of what I'm going to propose. If I could get a second, my second motion would be eliminate one of those options so that we go forward with only one option to public hearing.

I honestly feel that we need to – as is one of the stated purposes of this is this a decision that the board should make. It is one of the sections of this addendum. **At any rate, I would like to move to strike Option 3 under the biological reference points from the addendum. That's Option 3.** Do I have a second?

CHAIRMAN CULHANE: Pete, is that a second?

MR. PETER HIMCHAK: Yes, I would second it and I had a comment.

CHAIRMAN CULHANE: Okay, we have a motion by Doug Grout; seconded by Pete Himchak.

MR. HIMCHAK: Mr. Chairman, I'm trying to understand this process. I recognize that you have to do an addendum because you're adopting new reference points, but the concept of going out with the TC's recommended version and the peer review panel really causes me some angst there. I think would it not be appropriate for the board to decide to accept the new reference points and not go out to a public hearing with this? That's my concern. We're not going to have a public hearing on this in New Jersey, but that's the way I'm looking at this.

MS. KERNS: To change reference points we have to do an addendum. To do an addendum does not mean that states have to have hearings. The addendum would just be out for 30 days and then we would come back with any written comment that was received, but states are not obligated to have hearings with an addendum.

MR. HIMCHAK: Mr. Chairman, if I might, yes, I realize that, but again the way it is being proposed now, we have three options on reference points; the status quo and two additional ones. I realize you don't have to go out to public hearing, but it invites the public to comment on the dueling reference points, if you will.

MR. SIMPSON: I guess in effect Pete is making the point that we already have to take alternatives to public comment. I think it would be awfully premature for us to eliminate what the peer review panel's advice was. I think we need more time to reflect on it. I think we need more data and more information ourselves presented, as Mark pointed out and as I've mentioned, to evaluate it ourselves, even.

I see no harm in taking it to public comment. I'm looking back at Addendum VIII that talks about targets being biological points that identify desirable conditions in the fishery, thresholds are biological reference points that identify situations where corrective management action is required to sustain a stock at minimal acceptable abundance.

One of my problems all along with the technical committee's advice was they didn't offer up a target. What does represent a desirable condition in the fishery? All we have is a threshold. I mean, that is a specific reason why I certainly would not want to throw out the peer review panel's advice. I think it is too early to do that. We don't have enough information ourselves to dismiss it. I'm opposed to the motion.

CHAIRMAN CULHANE: Any other comments? Okay, are you ready to vote on this motion? All in favor raise their right hand; all opposed, same sign; any null votes; any abstentions. **The motion fails.** Dave.

MR. SIMPSON: I have one little thing that I need to make a motion to delete the last paragraph on Page 8 following Option 3. That is the portion in italics that sort editorializes why the technical committee does not agree with the peer review panel. I think that is

prejudicial to the public comment. My preference is to remove that.

The alternative would be to include the peer review panel's review of the technical committee recommendation, which points out that it was the weakest part of the assessment. Rather than have the back and forth, **I would move that we strike the editorial that is in italics on the bottom of Page 8.**

CHAIRMAN CULHANE: We have a motion by Dave Simpson; seconded by Sarah Peake. Any discussion on this motion? No discussion, are we ready to call the question? All in favor please raise your right hand; opposed; null votes; abstentions. **The motion passes.** Terry.

MR. STOCKWELL: Mr. Chair, I want to go back to a little bit earlier discussion. I like the intent of Doug's motion. I was just very uncomfortable with the arbitrary assignment of the number. What would we have to do to have the TC look at this option and assign a number that would be precautionary enough?

MS. KERNS: Well, I guess there could be two options. The first option would be that you would delay moving forward on this document until the February meeting and allow the TC to meet sometime between now and February, comment on it and get a little bit more direction on exactly what you want to see from them and they could come back.

The other option that I believe would be a possibility is that the TC could quickly give you a review and then the board could have a conference call specifically to just look at this addendum with the comments of the TC on Doug's revision of the peer review.

MR. STOCKWELL: Well, given that the TC doesn't recommend the reference points because they're not precautionary, I'd like to know – I mean, if we're going to go out to public comment and we're going to have a range of alternatives, we ought to have two viable alternatives. Right now we have one, and it is going to make for a very awkward meeting. With that in mind, I'm in favor of your second recommendation. I don't know whether or not you want it in the form of a motion or whether, Mr. Chair, we might be able to do it by consent.

CHAIRMAN CULHANE: Well, I think I would like to see that in a motion because I would like to see if that was the preference of the board.

MR. STOCKWELL: Sure enough. **I would make a motion, then, that the TC review Option 3 and provide the board with reference points that are precautionary.** I need some help wordsmithing this.

CHAIRMAN CULHANE: Dave, are you offering a second?

MR. STOCKWELL: I think we need a little bit of polish in this motion up here.

MR. SIMPSON: No, I'm not. When you say you're asking the TC to review Option 3, do you mean to review the stock assessment peer review panel recommendation?

MR. STOCKWELL: Well, on the bottom of Page 8 it specifically says the TC doesn't recommend these reference points because they're not precautionary, particularly the abundance points; so if we're going to have a third option in a document that is going out to public hearing, we might as well have it viable. Doug's proposal, in your words, was just pulling a number out of the air; so if we're going to insert a number in here and make it a viable alternative, we ought to have one that passes technical muster.

MR. SIMPSON: Excuse me, but Option 3 is the peer review panel's expert advice on what we should do, and that's the problem with the editorial being added into the document is that it prejudices the board and the public if they see it against an option that the peer review panel of experts provided. I think if we going to set a precedent here it would be to ignore a peer review panel's advice. We're up to our eyes in response from the technical committee of the peer review panel's advice. We don't need more time for that; we have it already.

MR. GROUT: I would be willing to be the seconder on this motion if we refined this to say "provide the board with advice on what would be a precautionary abundance threshold".

MR. SIMPSON: Mr. Chair, their advice has been codified in the document. It is Option 2; that's their recommendation.

MR. GROUT: But the difference is that Option 3 sets a target of the median reference abundance level, so what I'm asking is –

CHAIRMAN CULHANE: Could we finish the motion before we get into a discussion on the motion?

MR. GROUT: Absolutely, you're right, and so I have seconded it.

CHAIRMAN CULHANE: Okay, we have a motion by Terry Stockwell and seconded by Doug Grout. Now we can have discussion. Dave.

MR. SIMPSON: I'll say what I just said; the technical committee and the stock assessment committee developed what they felt were reasonable thresholds, reasonable advice. They gave us that. The peer review panel reviewed it. They provided their own input to us. The technical committee has come back and commented on that. You have what the technical committee thinks. All this would do would be to delay action on lobster management, which I got the very clear message in August we did not want to do.

MR. GROUT: And our point here is that we see that Option 3 isn't a viable alternative because our own technical committee is saying that it needs to be more risk averse. I would contend that we would be delaying management action because we're going out to public hearing if we were to go forward with this document as is with one option that says that Southern New England is not depleted and another option that says that Southern New England is depleted.

Having that mixed message, it would be very difficult to start immediate management action via the LCMTs with that mixed message as to whether we needed to start moving forward with actual management actions and just not setting the reference point. That's my opinion and I think this would be an appropriate thing to do.

MR. SIMPSON: What you're talking about is the decision we will make in February after we have public hearings; what should our reference points be? We already have that conflict. It is public information that the peer review panel holds one set of beliefs, the technical committee holds a different view. That is out there now.

I think the most sensible thing to do is to simply keep moving this along. Some will agree with you and some won't on the board whether one reference point or another is precautionary enough, and we will decide that in February. Let's get this out here; let's get a little more information and a couple of figures and tables to go with it to inform the board, to inform the public and make a better decision that we will be comfortable with in the end rather than debate which is better now. That's for February.

MR. McKIERNAN: Will the improvement of the information, specifically the depiction of the current status and trends, will that be in an updated document or will that just be in a PowerPoint presentation somewhere? In other words, who and when will be people be able to see the kind of graph that we saw for a few moments?

MS. KERNS: If I can get the TC to produce those graphs for me, I can include them in the document if the board directs me to do so. I can reference them and include them. I just need the TC to produce them, so I would turn to Kim to see if she can produce them.

CHAIRMAN CULHANE: Kim is nodding her head that she could produce them so we'll have them included in the document.

MS. KERNS: But that is only for those three-year averages. We do not have projections to put in the document.

CHAIRMAN CULHANE: Any more discussion on this motion? Harry.

MR. HARRY MEARS: Mr. Chairman, there is obviously some discomfort in terms of the form and shape that this addendum should be in terms of when we take it out for public comment. I'd like to ask a question to pick up on the last comment that it would only be the three-year averages but not the projections.

I guess what I'd like to hear is – from my own belief, if we did have the projections to the best of our ability, it certainly would be that much more information we would be taking to the public and I think that much more we can learn from their comments. I guess my question would be, number one, are projections possible for each of the three options; and what is the feasibility of those projections being done in a reasonable timeframe?

MS. KERNS: As the board knows, we had hoped to have projections with the University of Maine Model. We ran into some problems with the projections' portion of the model. We're not exactly sure what those problems are, and so currently we have not addressed them. It would take some time from the stock assessment committee, which would actually mainly be work for Genny to work on those projections.

She is currently working on assessments for other species and wouldn't be able to work on those

projections for some time. We probably wouldn't have projections available until at least August for the board, using the University of Maine Model.

CHAIRMAN CULHANE: Any other discussion? Okay, I want to call the question on this motion. You can caucus while I'm reading the motion: Motion to have the technical committee review Option 3 and provide the board with advice on what would be a precautionary abundance threshold. Motion by Mr. Stockwell; seconded by Mr. Grout.

(Whereupon, a caucus was held.)

CHAIRMAN CULHANE: Is the board ready to vote? All in favor please raise your right hand; all opposed, same sign; any null votes; any abstentions. **Four and four; the motion fails.** Dave.

MR. SIMPSON: I have a note that on Page 10, under Option 2, the second paragraph, it strikes me that the same definition is getting repeated twice; one for the Fmsy and the other for Bmsy. I think there is a correction that needs to be made. The definition seems to be for Bmsy and not Fmsy.

I would suggest that in addition to fixing that we replace the reference to Fmsy with Fthreshold and Ftarget as defined under the most recent stock assessment. I could not find anywhere in the Lobster FMP where there is a reference to Fmsy. I might have missed it. That is a technical fix that I'm suggesting. I don't know if Kim wants to comment on it or Toni.

MS. KERNS: I derived it from one of the goals of Amendment 3 and it is to fish at maximum sustainable yield, I believe. It is not an actual reference point. What these two paragraphs are designed to do is to give the document and the board the broadest general category that we could sort of come up with so that you have as much flexibility as possible when considering what to use to develop reference points. It doesn't lock you in and that's why it does say some reasonable proxy thereof. That is where it comes from.

MR. SIMPSON: Okay, I would be comfortable if Kim and the rest of the technical committee and Toni took a look at it, made sure they were comfortable with it and it was an accurate description of the F versus Bmsy. It is just something I found confusing and I thought was an error, but I understand what Toni was trying to do with it. If they could look at it again and fix it if they felt it needed to be, that would be great.

Okay, what we have talked about in the past is related to the peer review panel's advice that we bring in other information to help guide us in lobster management and assessment because it is a very difficult species to assess. There is pretty clearly unease with the reference points that we're considering.

Another one of the things from Addendum VIII that I thought would help us in that regard is this idea of the other indicators; **what they refer as the traffic light approach.** What Addendum VIII says is that one of the shortcomings of the recommended biological reference points is that the status of each stock is solely based on comparison with a relatively recent 22-year trend; and in order to corroborate this comparison, trends for a suite of indicators have been examined for the same period, 1982 to present.

These indicators were chosen as measures of fishing mortality, stock abundance and fishery performance. This multiple stock indicator approach or the traffic light approach tends to minimize bias uncertainty by putting equal weight on many indicators and therefore it presents a truer picture of overall stock status. **I would move to include the traffic light approach from Addendum VIII in Draft Addendum XVI as a supplement to guide management of American lobster.**

If I could, if you recall from Addendum VIII, I don't know if you can all see it here, but there is sort of a three-color pattern that gives you a graphic depiction. I think Patty gets credited with this type of approach, so the technical committee was looking at the literature, and it is I think well founded in fisheries science as a concept of bringing in as much information as you can to inform management.

The reason I want to include it is that I think everyone recognizes that some of these reference points may say, well, you don't have to do anything, but I think if you will look at some of these traffic light signals of how the overall stock is doing, it would beg for more conservation. There are a number of good indicators that they developed and I would hate to lose the ability to rely on those other sources of information to guide us. That's the rationale for my motion, if I can get a second.

CHAIRMAN CULHANE: Is there any objection to including that in the addendum? I don't see anybody objecting to it. Doug.

MR. GROUT: Not necessarily an objection; I just was going to ask Kim why the technical committee

didn't include this kind of a process in this particular assessment update while they have used it previously, from what I understand. It is, okay, very good.

CHAIRMAN CULHANE: **Okay, if there is no objection, Dave, we will include that.** Toni.

MS. KERNS: Dave, if I can just ask, do you just want that language to be included? Is that it, it is just pull it directly from Addendum VIII and move it into Addendum XVI or do you want something else?

MR. SIMPSON: No, I think that would be good. I frankly leave it to your discretion whether you would include these or not. I think it is better not to include the actual tables, just the text because you will distract the public comment. I think just that idea that there are other things out there that we can look at that are very informative.

CHAIRMAN CULHANE: Okay, is there any other discussion on Addendum XVI? If not, I would like to entertain a motion to move this for public comment. Bill.

MR. WILLIAM A. ADLER: **I would like to move that Addendum XVI as adjusted here be moved to public comment.**

CHAIRMAN CULHANE: As modified?

MR. ADLER: As modified.

CHAIRMAN CULHANE: Thank you, Bill. Do we have a second? Pat White seconds. Any discussion on the motion? Are we ready to call the question? All those in favor please raise your right hand; opposed, same sign; abstentions; null votes. **The motion passes.** Bill.

MR. ADLER: I just want to ask that these charts that Toni has, the ones that show the differences, that they be included in the presentation because I think they're very clear to the public; you know, the pretty colored green, red and whatever. Thank you.

MS. KERNS: Who would like to have public hearings for this document? For those states that do have public hearings, I would like to formally request that your TC member please be present at the hearing when we're considering setting up those dates.

DRAFT ADDENDUM XV

CHAIRMAN CULHANE: Okay, thank you. Now we are on to Draft Addendum XV, and this is to consider final approval. Toni.

MS. KERNS: Draft Addendum XV went out for public hearing during September and October. This addendum document looked at responding to concerns from the Area 1 LCMT that effort was shifting into the Area 1 federal waters. There has been increasing effort since 2000 in the Area 1 Fishery, and this is due to regulatory constraints from other fisheries as well as potential shifts from non-trap effort into the trap fishery.

LCMA 1 LIMITED ENTRY IN FEDERAL WATERS

The Area 1 LCMT members recommended to the board that we set up a qualification for federal permit holders in Area 1. The document states to qualify to fish in Area 1 federal waters, we would need a valid federal permit, proof of fishing in Area 1 prior to January 2, 2009, and proof of purchasing trap tags for any one year between 2004 and 2008. Then the states with MOUs with the National Marine Fisheries Service that have fishermen that fish in Area 1 federal waters would review their state trap tag orders for 2004 to 2008 and provide the National Marine Fisheries Service with that data by a time-certain date that we would need to establish today.

We had five hearings for this. Three of those hearings were in Maine. There was one attendee at the Rockland hearing; there were zero attendees at the other two hearings. There was one hearing in New Hampshire with eight attendees; one hearing in Massachusetts with five attendees. We received two written comments.

REVIEW PUBLIC COMMENT SUMMARY

One of those comments was that we should include state tags to qualify for the Area 1 LCMT for the EEZ waters, and this is due to a difference in the regulations in New Hampshire that allows an individual to own a federal permit yet purchase trap tags for only state waters. In other states, if you own a federal permit, your trap tags are automatically set up to give you EEZ on those tags; and if you have state permit, then you also get authorization to fish in state waters, but in New Hampshire you can elect state waters or federal waters if you so choose. Other comments included that the document reflected the

intent of the LCMT. One comment just said to delay moving this addendum forward. Those were all the comments that I received on this addendum. Are there any questions?

DISCUSSION OF FINAL APPROVAL OF ADDENDUM XV

MR. GROUT: Mr. Chairman, thank you, again. As Toni just pointed out, we had a comment at our public hearing that in our state you can elect to just get state trap tags even though you have a federal permit. There are two people in our state that elected that because they have elected not to fish in federal waters.

I don't quite understand why we had the flexibility, but my predecessor has allowed that and so be it. Given that this is an addendum that is dealing with trying to control additional effort in Area 1, **I would like to make a motion to strike the words "EEZ" in Option C in Section 4.1 of Addendum XV.**

MR. STOCKWELL: I'll second that.

CHAIRMAN CULHANE: We have a motion seconded by Terry Stockwell. Discussion on the motion? Terry.

MR. STOCKWELL: Mr. Chair, I've talked to Doug about this and attended all the LCMT meetings. This clearly was the intent of the LCMT not to be exclusive. They went through painstaking attempts in their qualification process to make sure that folks who are in the fishery right now remained in the fishery. We've spoken to members of the LCMT and our lobstermen's councils and they're good with this concept.

CHAIRMAN CULHANE: Any other discussion? Are we ready for the question? All in favor please raise your right hand; all opposed, same sign; null votes; abstentions. **The motion passes.** Doug.

MR. GROUT: Unless there is further discussion, I would like to move to adopt Addendum XV as modified today.

MS. KERNS: The board needs to decide the date in which you would give your trap tag data to the National Marine Fisheries Service.

MR. GROUT: Well, I will make another motion. I thought we were going to do this after we approved the addendum. As Toni pointed out, we needed to provide a timeframe for providing trap tag data to the

National Marine Fisheries Service for compliance with this. **The date that I would like to propose is February 1st so I would like to move to send state reports of lobster trap tag orders for fishing years 2004-2008 to the National Marine Fisheries Service by February 1, 2010.**

CHAIRMAN CULHANE: We have a motion; is there a second? Terry Stockwell seconds. Discussion on the motion? Are you ready for the question? All in favor please raise your right hand; opposed, same sign; abstentions; null votes. **The motion passes.** Bill.

MR. ADLER: Yes, just before a motion to approve the addendum, I did have a question and it may be solvable. On Page 5, Qualification B, I understand that apparently to qualify you must possess or qualify under all A, B and C? Okay, now does the federal permit for non-trap have an area on it because it says proof of LCMA 1 designation on the federal lobster permits as of whatever the date? Does a non-trap federal permit have an area on it?

MS. KERNS: Well, if you were a non-trap fisherman, you would not have purchased trap tags. To purchase trap tags you would have to be designated as a trap fisherman.

MR. ADLER: So it would be on the federal permit because they purchased tags; is that how it would work?

MS. KERNS: During that time period they would have purchased trap tags and they would have been a federal permit holder, so it would be on their designation as a trap tag purchaser. You wouldn't be a non-trap fisherman.

MR. ADLER: Okay, just as long as that doesn't all of a sudden disqualify somebody that probably should because they didn't have B. They may have C but they didn't have B; you know, as long as that is covered I just wanted to check. That's all.

CHAIRMAN CULHANE: Doug, are you ready to make your motion now?

MR. GROUT: **I move to adopt Addendum XV as modified today.**

CHAIRMAN CULHANE: Motion by Doug Grout; seconded by Bill Adler. Discussion on the motion? Okay, I would like to give the public the opportunity to comment on this. Is there anybody in the back who would like to comment on this before we

consider final approval? Is the board ready for the motion? All in favor please raise your right hand; opposed, same sign; abstentions; null votes. **The motion passes.** Okay, Agenda Item Number 4 is discussion of Outer Cape Cod Regulations.

DISCUSSION OF OUTER CAPE COD REGULATIONS

MS. KERNS: As the board knows, the Outer Cape Cod Management Area is soon to have two sets of regulations. Starting on July 1, 2010, the state regulations will differ from the federal regulations. The National Marine Fisheries Service has put in place a maximum 6-3/4 and a change to the v-notch definition of 1/8 of an inch with or without setal hairs. The state regulation for the Outer Cape Cod does not have a maximum size, and the v-notch definition is 1/4 of an inch with no setal hairs.

To give the board a little bit of information on how the Outer Cape Cod Fishery looks like, there are 74 fishermen with trap allocations. There are just over 30,000 traps allocated to those fishermen. Twenty-four of those fishermen hold federal permits, so those twenty-four fishermen will be obligated to comply by the federal rules while the state fishermen will not.

The fishermen within the Outer Cape Cod then will be fishing on different measures. Therefore, those with state-only permits will be compromising the conservation efforts of those fishing with federal permits. This also has the potential to exacerbate the animosity between the fishermen to include each other within the Outer Cape Cod as well as the animosity that already occurs when the Outer Cape Cod fishermen are fishing next to the Area 1 fishermen.

This is due to the fact that Area 1 has the zero tolerant v-notch definition and a five-inch maximum size and a differing minimum size. Some of the biological concerns are that these measures are being put in place by the National Marine Fisheries Service to improve the brood stock protection and egg protection for the Gulf of Maine waters where Outer Cape Cod fishermen fish.

The memo that was passed out earlier this afternoon states that the TC has concerns for the 514 area, and this is the Gulf of Maine and that's the northern portion of where the Outer Cape Cod fishermen are fishing around Provincetown. The TC had recommended that the board take action and change management measures to protect that brood stock in Area 514. We stand with this conundrum where the

state will have differing regulations starting this summer.

CHAIRMAN CULHANE: Thank you, Toni. Does anybody have any questions or discussion?

MR. PATRICK AUGUSTINE: Mr. Chairman, what kind of a major problem does this create for enforcement, a real nightmare? Is it a concern or does anybody care?

MR. JOE FESSENDEN: Well, this issue was brought to our attention this morning to our law enforcement meeting. We discussed it for quite a while. It does pose a problem for law enforcement. We voted unanimously not to support this. It is going to make it very difficult for law enforcement.

Already around the Outer Cape you have Area 1 with zero tolerance; one, basically v-notch over size, five-inch over size, and this would create problems for Area 1 fishermen; and certainly within the federal license holders, problems for them, versus the take of these lobsters legally in state waters, so they don't support it.

REPRESENTATIVE SARAH K. PEAKE: Mr. Chairman, I would agree that it is an unfortunate situation. I would agree that maybe it creates an enforcement problem, but I would disagree that this organization should step in to do something about it for several reasons. One is I think the process by which the National Marine Fisheries Service made the rules change perhaps was flawed, and I know that the Outer Cape lobstermen are certainly looking into and pursuing challenging on a procedural basis or whatever basis they choose to the change in regulations that affect them. That is still out there. This isn't a settled matter yet.

Secondly, as everybody in this room well knows when we talk about changes in regulations, especially ones that were formed under the LCMT process, we're talking about affecting people's livelihoods. As somebody – I will be right up front – who lives in that area and knows many of these fishermen and their families on a first-name basis and sees how they fish and what their challenges are in the harbors on the Outer and Lower Cape, I would exercise caution and ask that if enforcement is an issue, that we put our efforts in the area of brainstorming around what enforcement options are before we look to rule changes.

We can and I certainly think we should offer to support enforcement efforts, but let's look at how we

can do that in a positive way. I would also respectfully disagree with the statement that the state-only regulations are compromising conservation because as the Georges Bank stock, that they do fish off of, has been measured since the Outer Cape lobstermen were tasked over a decade now with developing their plan, gave up much at the time – and I know the Outer Cape lobster permit holders who are here can explain this in a more detailed manner than I can, but what they gave up to arrive at the regulations as they are today, it has been working.

The stock is healthy. They are fishing it in a way that is sustainable, and on many levels I believe, respectfully, that they deserve an award for what they have done. For us now to be discussing this, I guess my bottom line on this is that I would discourage this organization from taking any type of action certainly at this time, give the Outer Cape lobstermen their opportunity to work this out with NMFS, because that's really who their fight is with or who their gripe is with. While it is important for ASMFC to be aware of the issue, I don't think that any action is warranted at this time. Thank you.

MR. PATTEN D. WHITE: Just a question; I thought in our discussions earlier that part of the Outer Cape was in Area 514, which two stock assessments has come out as being in a stock decline.

MS. KERNS: That is correct, Pat.

MR. ADLER: I don't want to engage in 514 issues right now. I will at a later time, but, yes, they have that gray area there, but they're going under their rules, and it is not a big enough deal to affect the stocks, either the Georges Bank stock or the Gulf of Maine stock, with the little section that they work in.

I just want to repeat what Representative Peake had said that these fishermen did what you asked them to do. They went through the LCMT process. They came up with their rules; it passed muster here; you put it in. As Representative Peake said, it is working. If enforcement is part of this problem, first of all, even if they change some of these rules, you're still going to have different rules because that is the way it is.

There are going to be different rules. I think attacking it from an enforcement perspective can be done without changing these rules. A simple example – and I've given this a number of times over different species of rules and problems when – as an example, a scup has three different rules in the same harbor because of good reasons.

The idea here is that you look at the permit and you see what the number is on the permit, and the enforcement officer simply pulls out the book for that particular area and goes through its production of are they legal or not legal. Another thing is this can be a state matter if we need to work something out. We do not need the Atlantic States to come up with something.

It can be done on the state-level basis; because if there were changes to be made, they would probably be more stringent, which a state can do without addendums and the ASFMC involved because this area is a state-only area. It doesn't encompass other states, so I would just let this thing work itself out, let the Outer Cape people deal with the National Marine Fisheries Service overt this thing and perhaps get together with enforcement on trying to address the enforcement side of the problem that the National Marine Fisheries Service did have with this. That is where I would leave this for now. Thank you.

MR. STOCKWELL: I certainly have no intention of getting involved in the Commonwealth's business, but I do have a question. In your presentation, Toni, you said there are biologic concerns. Was that on behalf of the TC or just general thoughts? If they were general trends and after listening to Representative Sarah speak here, I think it may be of some value for the TC to take a look at this.

MS. KERNS: The TC has not taken a look at this directly. We've sort of have had some discussions, and they're concerned with the 15-year decline in abundance in Area 514 and that it was basically at an all-time low, as well as just discussions that we have had in the past with sort of competing management measures in side-by-side waters and whether or not the conservation effects are taken away when we have those.

We have had those discussions when discussing zero tolerance and with the 1/8th so it comes from that information as well, but they haven't directly looked at it and could if the board directed them to do so.

REPRESENTATIVE PEAKE: Terry, in that vein I will say I've made aware by some of the fishermen that there was increased sea sampling in 2009; so I think once we get the results of that sea sampling – we don't have those yet – we'll have a better grasp on exactly what size the lobsters are, how many are v-notched. Maybe it will give us some indication if they're Gulf of Maine or Georges Bank lobsters. I think the data will be forthcoming. We don't have it right now.

CHAIRMAN CULHANE: Any more discussion at the board? Doug.

MR. GROUT: To the state of Massachusetts and their representatives, you've asked that we let the state of Massachusetts work this out. Given the concerns that the Law Enforcement Committee have and the potential concerns in 514, I would appreciate it if you would, at future Lobster Management Boards, provide us with an update on how these things are transpiring to be worked out to see if things do progress to be worked out.

REPRESENTATIVE PEAKE: That seems reasonable.

CHAIRMAN CULHANE: Anything else from the board? Is there anybody in the public who would like to make a comment on this at this time?

MR. JOHN TULIK: Good afternoon; my name is John Tulik. I'm a captain with the environmental police for Massachusetts, a coastal captain. I worked that area. Now I'm in Gloucester. I sit on the Law Enforcement Committee with the good colonel from Maine. Right off of P-town, currently there is an intersection with three lobster management areas.

Lobsters may be kept or tossed over based on a single second off the lat/long scale. One of these areas is the Outer Cape area, so now you're going to add two different standards within the Outer Cape LMA compounded with this crossroads right off of Provincetown. I'm only going to say one word and it's "transfers" at sea, and we have it happening now at the crossroads.

I can see one fisher fishing alongside another with a state permit and another with a federal permit bound by two different sets of regulations in the same area. I'm just going to finish by saying lobsters aren't sedentary. They come down from Maine, many of them. Many of them are caught in Area 1 and tossed over to be taken in the Outer Cape or some other area. I get complaints of that all the time.

There is zero tolerance, v-notch, 30 percent, 40 percent, 50 percent off the Cape and they're tossed back. I believe – correct me if I'm wrong – that the catch in Area 1 went down 30 percent but rose 50 percent in the Outer Cape. With these five or six different sizes, it's going to turn the crossroad area Bizarre World into the Twilight Zone.

MR. DAVID YOUNG: My name is David Young. I'm an Outer Cape lobsterman. I'm also secretary of

the Outer Cape Lobstermen's Association. I would like to thank you for the time to speak here. I will make it brief. We all know that there is currently going to be two sets of rules in the Outer Cape Zone.

I would like to point out that the state permit holders as well as the dual permit holders have been under the most restricted plan out there. We have undertaken a 20 percent trap reduction not from the 800 but from the affected traps fished. We went from a potential 75,000 traps down to somewhere between 26 and 27,000. I don't believe the 30,000 number we saw earlier is accurate.

I would like to point out some differences between the federal-only and the Outer Cape lobstermen, including the federal and state dual permit holders. The offshore permits numbered are 87. Their average trap allotment is 1,790. Their average pounds are almost 70,000 pounds per permit.

The inshore fleet, which includes the 27 dual permit holders and the state-only permit holders, there are 73 of us at last count. Our average traps are 367 because of the trap reduction plan we took in place in order to keep the big lobsters and also the current v-notch definition we have. Our average pounds are around 15,000 pounds.

In turn we feel that our management plan as set was painful. We went along with it because at the time the stocks needed it. Our assessment was down. We went through it and our stocks have rebounded. We are puzzled that NMFS has decided to go with this rule; however, we understand that for the ease of enforcement in their area it works.

Unfortunately, for the 27 guys with the smaller allotment of traps because they are also under the most restrictive rule of the state which limits their numbers of traps they have, their operations can't support this. I would hope that people realize that these guys are smaller in nature. They're fishing the most efficient way they can. On average, you know, I have 800 traps. My father qualified for the traps. I took over the business. For myself, I could probably take it, but for the smaller operations they cannot.

They're one breakdown away from going out of business. I hope that this board would realize the differences and also allow the LCMT process to work. You know, we went through the LCM process. We came up with a plan.

It worked and now we're just kind of skirting around the LCMT process, and we're going to go through a

state process again and go through a public hearing in that aspect of things, which we have already done in 2007; the only difference being they're asking for a seven-inch gauge instead of the 6-3/4 inch gauge.

At that meeting we laid all the facts down and it was pulled off the table because it was too harsh. I just hope that people realize that the trap reduction that we took was severe. It wasn't off the 800. Most of the guys are ranging from operations of 150 traps up to 800. There are only ten of us with 800.

I really hope that people understand the hardship that these new rules are causing these people. In the future I hope that we can count on the LCMT process to voice our concerns, to better our management plans when need be and not for the ease of enforcement. For us it is pretty simple. If you look on the back of our licenses, they have a buoy color. Yellow and blue is mine.

They have the allotment of traps that I'm allowed to fish because we all have different allocations. Why don't we also put on the size limit of 3-3/8, whatever the enforcement needs in order to recognize what they have to look for when they board my boat? As far as that, thank you for your time.

MR. McKIERNAN: Just to clarify, I think Mr. Young was making a comparison between the Area 3 Fleet and the Outer Cape Fleet.

CHAIRMAN CULHANE: Thank you, Dan. Any further discussion on this item? Okay, at this point this is an item for board discussion. Without any further action on it, I don't think we need to do anything more. People have expressed a desire to keep informed of what is going on with this issue.

We've have some discussion in regard to the lateness of the hour and the fact that we still have two more items on the agenda. Without objection from the board, what I would like to suggest is that we take these last two items, the discussion of non-trap gear landings and the discussion of a cancer crab fishery, and move them off to the February meeting. With that, I would like to close this meeting unless there is objection from the board.

MR. SIMPSON: No objection, certainly. I had intended to make a motion to request that the technical committee begin work on projections. Is that necessary at this time to see that that gets done?

MS. KERNS: Were you okay with the timeline that I gave you earlier today?

MR. SIMPSON: Yes, I think you said it probably would be August; is that right?

MS. KERNS: At the earliest, August.

MR. SIMPSON: Okay, yes, as long as it is on the TC's list. Actually we want it tomorrow; actually we wanted it yesterday, but we understand that there is a lot of work to be done by a limited number of people; so I'm good. Thank you.

CHAIRMAN CULHANE: I do have one hand in the back.

MR. MIKE TYLER: Mike Tyler; I'm a member of the LCMT Area 6. I would just like to make a comment that you didn't offer up public comment for the first agenda item there.

CHAIRMAN CULHANE: Mike, the reason why I didn't is that was an item that is going out for public comment and that is why we didn't take comment from the audience on that. That will be going out to the public. The public will have ample opportunity to comment on it at that time.

MR. TYLER: So that means there is no public comment once again?

CHAIRMAN CULHANE: No, that means there will be public comment. The document is going out and it will be open to public comment at that time.

MR. TYLER: All right, I feel it is a little shortsighted of this board to not allow public comment. I think it is shortsighted.

ADJOURNMENT

CHAIRMAN CULHANE: Okay, thank you, Mike. With that, I will consider this meeting adjourned.

(Whereupon, the meeting was adjourned at 5:40 o'clock p.m., November 3, 2009.)
