

ATLANTIC STATE MARINE FISHERIES COMMISSION

AMERICAN LOBSTER MANAGEMENT BOARD

October 8, 1999

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The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Atrium of the Crowne Plaza Hotel, Warwick, Rhode Island, Friday, October 8, 1999, and was called to order at 9:10 o'clock a.m. by Chairman Ernest E. Beckwith, Jr.

CHAIRMAN ERNEST E. BECKWITH, JR.: Please take your seats. Let's get started. Jack is going to try to get the music turned off, but I think we can take care of the routine business before we get into the main part of the agenda. This is the Lobster Board Meeting, and the first thing I'm going to do today is have Amy call the roll.

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

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

CHAIRMAN BECKWITH: Thank you, Amy. You all should have a copy of the Agenda. Are there any changes to the Agenda? Any additions for other business? Okay, then we'll proceed.

Okay, the first item on the Agenda, actually the third item, is approval of minutes, and we haven't seen the minutes until this morning, so I think it will probably be very difficult for us to approve them, so why don't we defer approving the August 3rd minutes until the Annual Meeting, in three weeks or so. Is that okay with the board? All right, fine.

We'll move onto the next item. Item number 5 is the State/Federal Agreements, and we had originally decided to have a special subcommittee to do some work on this and prepare some information for the Board to take a look at, but unfortunately budgets and time precluded that from happening, so what we're going to do is have that meeting of the MOU people with the Board meeting today.

We're just going to up and do it all at once. And I'm not quite sure how we're supposed to do this because Penny Hull of my staff is supposed to be the one coordinating that and because that meeting never took

place, she said to me the day before yesterday before I left the office that Harry Mears was going to lead that this morning.

Is that you're understanding? Okay, then I guess Amy will lead it. There you go, Amy, you can lead us.

MS. SCHICK: Yes, Penny and I spoke and I told her that I would sit in on her behalf and start working to the discussion of this. I'd like to briefly go over some of the major issues and why State/Federal Agreements came up.

And there are two very distinct topics that I want to try to keep separate as much as possible in our discussion today. The two topics are the evaluation of historical participation for the four management areas that have elected to go that route in Addendum 1, and those are Areas 3, 4, 5, and 6.

The second issue is the trap Tag Distribution. The trap tag distribution is an annual distribution of tags and there are two separate issues. The first, the evaluation of historical participation is really a one-time thing.

In the first year, reviewing records that are available on individual fishermen, and determining a trap level that is their historic level, and that will be their limit in the future.

The reason why a State/Federal Agreement is necessary is that if individual fishermen fishes in both State and Federal waters, then one option is that they would be required to submit all their records to both the State Agency and the Federal Agency, and then both agencies would do a separate evaluation, and you would have two numbers, and there would have to be some way of determining which number to use; the state evaluation number, or the federal evaluation number.

So what some type of agreement would do is it would enable either one agency to do the evaluation and the other agency to recognize that evaluation and adopt the number that was chosen by the lead agency. So, that's one separate issue.

The other issue is the trap tag distribution, and that's with the annual distribution of trap tags. Again, in this case in state waters, trap tags are going to be required. In the proposed rule, it suggests that trap tags are going to be required in federal waters.

The issue there is to avoid having fishermen be required two tags in each trap; one for state waters and federal waters. So, what an agreement would do is allow having the distribution of one trap tag.

It would be valid in both state and federal waters for people that have a federal permit and fish both of those waters. It would also avoid the duplication of distribution.

If there were no agreement, fishermen that fished both state and federal waters could go to the state agency -- and, let's take the Outer Cape for an example. Let's take a different example, Area 1.

If, in Area 1, a lobstermen went to the state agency, they could get up to 800 tags. They could also go to the federal Agency and get 800 tags for federal waters, which would result in duplication or a doubling of trap tags allocated to an individual person, and that would defeat the purpose of having the cap on traps.

So, those are the two main issues, and the background behind them. And, what I'd like to do today is just to stimulate some discussion amongst the Board on the direction we should take with these two issues.

And, we sent out a memo earlier this week to all the states, asking specific questions about what each individual state would be interested in doing; interested, first of all, in evaluating historical participation for the areas that are going that route; and secondly, interested in the distribution of trap tags, if they would want to be the lead agency or defer to the National Marine Fisheries Service if and when they implement a trap tag system.

So, I'd like to start off with the evaluation of historical participation. We'll get to this later on today, but in the state implementation plans, Delaware, Maryland, and Virginia have all submitted a request for de minimis status, and in that request there's no mention of them implementing a Trap Tag Program.

So, for those areas, it may automatically defer to the National Marine Fisheries Service Program or the Board would have to require those states to implement a Trap Tag System. So, for those states, it might not be an issue at this point.

And Long Island Sound, Connecticut and New York, for Area

6, all encompasses state waters. So, Area 4, it would just be New York and New Jersey that would have the problem of evaluating historical participation with the National Marine Fisheries Service, trying to determine who should take the lead on doing evaluations.

So, with those two states in mind and input from other Board members, is there any feedback on who should be determining the evaluation of historical participation in some of those areas? Does New York have any comments on that?

MR. GORDON C. COLVIN: Well, in terms of Area 4, I think our expectation is that any of the state permit holders that wish to apply for a trap tag allocation for fishing Area 4, that the state would be willing to handle those, regardless of whether they're fishing inside or outside three miles.

Most of them, I think, are outside. I can't speak for New Jersey, but as you know, New Jersey has now come up with a very different proposal for Area 4 that hasn't been brought to either the Board or to the LCMT, and so I think things are a little -- so in the case of New Jersey, I'm not entirely sure what is going to happen, and they're not here, so I can't speak for them. I haven't discussed it with them.

MR. WILLIAM D. ANDREWS: I'm here for New Jersey, representing Bruce Freeman. I'm Bill Andrews with New Jersey, proxy for Bruce Freeman. I guess we recently had our public hearing on the LCMT to plan Addendum 1 for the ASFMC, and there was no support for the LCMT Proposal.

Our New Jersey Marine Fishery Council has developed an alternative, and we present these three alternatives; Alternative 1, which is the New Jersey Marine Fishery Council Plan; the LCMT Plan, Alternative 2, and Alternative 3, which was the National Marine Fisheries Service Plan.

In our State Register we had -- two weeks ago, we had a hearing for that again, either the Alternative 2 or 3 plan, and total support for the Alternative 1, which is the plan developed by our New Jersey Marine Fishery Council. This plan, it --

CHAIRMAN BECKWITH: Bill, could I ask you to speak closer to the microphone? It's very difficult to hear in this room because of the echoes. I think everyone here is going to have to speak very close to the microphones so

the PA system picks it up.

MR. ANDREWS: The Alternative 1 plan would base -- would not put so much emphasis on historic participation evaluations, and sets a two-tier system where there will be actually four different types of permits available, and would have a maximum of either 1,000 or 500 trap tag allocations; or, if someone would have good records, and participated in the Federal Program and would have the records for a higher allocation that could be evaluated with that records, then we would allow them to use those for participation evaluation.

MS. SCHICK: Bill, is New Jersey interested in evaluating all New Jersey residents for historical participation, or is it focusing directly on people with state permits only? Is that the intention, or has it not been discussed?

MR. ANDREWS: We could do that. Basically, under Alternative 1, we think we could do that evaluation. Under the LCMT Proposal, I don't think -- it would be hard for anyone to do an evaluation now, because we don't have any type of records for number of our fishermen.

We don't have any requirement for state permits. Yes, we would be willing to do the evaluation and issue allocations under Alternative 1, and if necessary, what other alternative might come up. We just won't be able to issue any of the tags under our existing regulations.

MR. COLVIN: The way this has been presented, in New York's case you need a state license to take or land lobsters in New York, so there is no one fishing in Area 4, or for that matter, Area 3 who's bringing lobsters back from New York that doesn't have a state license.

So, when I said we're expecting to issue licenses, or issue trap tags to those fishermen in Area 4 who have state licenses, that would involve everybody. There's nobody out there who has just an EEZ license, if they're bringing lobsters back from New York, so the real issue I think is Area 3, it's not 4. There's every expectation on our part to issue the trap tags to everybody that fishes in 4.

CHAIRMAN BECKWITH: Gordon, can I ask a question? There is a possibility that one or two Connecticut fishermen would fish in Area 2 or Area 4, and I believe that the plan says that the states will issue -- the state of residence will issue the tags, so Connecticut could have

to issue a few tags to Area 4 people.

MR. COLVIN: That's my assumption too, Ernie, and I guess I would say that in Area 2, the way we've drafted our regs, if somebody includes Area 2 in the list of areas that they wish to fish in, we would issue them Area 2 tags, and it would be based on whatever the current maximum number was for that area.

MS. SCHICK: Harry.

MR. HARRY MEARS: Our discussion so far is starting to -- as much as we're trying to keep them apart, they're starting to intertwine historical participation issues with management of a Trap Tag Program.

With respect to what our database currently shows by a quick analysis, we were able to identify that of about 3,400 federal permit holders, that at least 2,700 use trap gear.

Now, if we're focusing our discussion right now on Areas 4 and 5, south of New Jersey, the states that have requested de minimis consideration, which I understand are Delaware, Maryland, Virginia, North Carolina --

MS. SCHICK: North Carolina has not submitted a request yet for de minimis. They haven't submitted a proposal. But the ones that we have received are from Delaware, Maryland, Virginia.

North Carolina indicated earlier on that they would be interested in pursuing de minimis, but we haven't gotten a formal proposal.

MR. MEARS: Okay, for states south of New Jersey, our records indicate that about 40 federal permit holders use traps in the EEZ. That's vessel port, so were talking vessel port south of New Jersey.

New York, approximately 80, and New Jersey, approximately 122, and I'm trying to establish what our records indicate for scope or magnitude of the numbers of fishermen by state that are involved in these forthcoming discussions on State/Federal Agreements.

MS. SCHICK: What I'm hearing right now is for the areas in discussion, Areas 4 and 5, which cover both state and federal waters, New York has indicated that they're willing to evaluate historical participation for all New York permit holders and people with federal permit

holders as well in Area 4.

New Jersey has indicated that pending approval of the proposal for trap limits that they have, that they would be willing to review records and evaluate historical participation for all their state fishermen.

The area south of New Jersey are de minimis states, and that would require a review and evaluation by the National Marine Fisheries Service. Ernie has said they have a couple of lobstermen that fish in Area 4 from Connecticut. Would Connecticut be willing to do that evaluation for historical participation?

CHAIRMAN BECKWITH: Yes, certainly, but I think the issue is that if you have fishermen that are fishing in an area from more than one state, I think the problem is what criteria would those states use to determine historical participation for that same area in federal waters, and it could be different. I think that's a problem.

MS. SCHICK: I think that's the next issue that we have to get into. First, I'd just like to ask the National Marine Fisheries Service, right now, according to what we've heard from New York and New Jersey, it would be the states of Delaware, Maryland, Virginia, North Carolina, for Area 4 and 5 fishermen, that would not evaluate historical participation, and therefore, the National Marine Fisheries Service would do those evaluations. Have I captured it correctly and what are your thoughts on that?

MR. MEARS: I think you've captured it correctly, based upon the discussions I've heard. My thoughts on that are that this type of summary would serve two purposes. One, it would provide us with the baseline information we need to go forward to continue potential federal rulemaking on historical participation, in this case Areas 4 and 5, and the expressed level of participation by each state; or the level of participation each state would like to partake in this process.

So certainly, it would be part of the evaluation of how such a system would work relevant to federal permit holders in our case, and would also explain the various roles of the involved agencies in making these determinations.

So, that's one purpose. The second purpose would be that this in turn is giving us needed information we need to compile to further discuss what would conceptually be

involved in the State/Federal Agreement.

Whether it's an agreement, a formal agreement, an informal agreement or otherwise, we still need to determine. But if we're just looking at historical, this is the information that we need to discuss the role of each agency.

With regard to a Trap Tag Program, I believe what I heard is that New York would be interested in issuing all tags, regardless of area fished, correct me if I'm wrong. And New Jersey was the opposite; that they were not interested in issuing tags.

But again, this is the type of information that's helpful for today's purposes to further explore what types of agreements are needed and what those agreements would need to contain.

MS. SCHICK: As a follow-up question and thought, based on what Ernie said earlier, if New York and New Jersey and Connecticut did evaluations for Areas 4 and 5, what type of consistency would be necessary if those states are determining trap allocation for state and federal waters?

Right now we have different proposals, and again, we're going to get into this a little bit later in the state implementation proposals, but Connecticut is planning on going through their logbooks and state reports.

New York has the state landing cards, and I would have to go directly to the proposal. Maybe, Gordon, you can fill me in on that. But, there are slightly different mechanisms being used, and again New Jersey is going to have something different, pending approval of their proposal. What are your thoughts on having, right now, three different systems that might be used?

MR. MEARS: Again, two comments. One is that the variations and the approaches that will be identified with regard to each of those different scenarios in each state would need to be further massaged and specified in terms of the type of agreement that would be needed on how historical participation levels are proposed to be determined.

The other comment I have is that as we go forward with federal rulemaking, one key issue would be that all federal permit holders are treated in an equitable fashion, regardless of their state of residence.

So, we would need to specifically identify the differences that the permit holders would be subjected to in each of those three scenarios, and identify the strengths and weaknesses of the associated approaches and comment and make a proposed rule on the basis of these variations; and at the same time, as I initially indicated, make a case that there is equitable treatment; and number two, as with what we're facing now with the final rule, ensure that what we're doing is compatible with the interstate plan, and with the respect of state agency approaches; and secondly, consistent with the National Standards.

Now, my remarks, and I think remarks made subsequent to this, might be further clarified or elaborated upon by virtue of the fact that we have a member from our general counsel in the audience with us, and as he has a chance to listen to the dialogue and type of issues that are identified, we might be able to take advantage of the varying perspectives and issues that we will need to deal with as we go forward with several rulemaking on historical participation.

CHAIRMAN BECKWITH: Harry, I just was listening to you describe the issue and how you would approach it through your process, and the thought that popped into my mind is can you get all that done by January 1st, the date we're supposed to be issuing tags?

MR. MEARS: I would have to honest and say, no, I don't see how that would be possible.

CHAIRMAN BECKWITH: Could you speculate on how long that would take?

MR. MEARS: There are a lot of parameters here. One is how much we discussed today. Another is what type of follow-up will identify that is needed to, in fact, arrive at the type of agreements between NMFS and the individual states, or between NMFS and the Commission as an umbrella, representing the collective state interest?

I think these type decisions need to be made. I think that process needs to occur. I think that process needs to be expedited to better enable me to answer the question you just asked.

CHAIRMAN BECKWITH: Fair enough, and what I'll probably do is ask you that question again at the end of the day and probably again at the annual meeting. But, I think

that the feeling that I'm getting -- and it'll be further crystallized, I'm sure, by the end of today -- is that it doesn't look like the National Marine Fisheries Service will have the system in place to start issuing tags January 1st.

And then the next question is, well, when could they do that? And that's a very critical question because as you know, this plan states that the jurisdictions will start issuing tags to the fishermen as soon as possible after January 1st, so they can pull their traps and put them on for the June 1st date.

The farther we get into the Year 2000, the more problematic that is for the system and the lobstermen; and as that becomes apparent to us, then it may become apparent that the states may have to do this, at least in the first year, take over the entire tag system.

I mean, someone is going to have issue tags to people that fish in federal waters; and if the Service is not able to do it, then that problem becomes the states' problem because it's their fishermen that are going to want to fish out there.

Sorry, John had his hand up. Go ahead.

MR. NELSON: Thank you Mr. Chairman. Along those same lines, I think you captured a lot what I was thinking, but along those same lines, if the National Marine Fisheries isn't ready January 1st, I was wondering how much wiggle room there actually was and, you know, if Harry understood that maybe that by March or something like that, because as I understand it and as you said, the fishermen will not have to have their tags on until June 1st, so that really does give us a certain amount of leeway to actually issue them now.

You know, we can back step from June 1st and see what the absolute date is that we have to have something in place so that they can be issued properly. But, it might be somewhere around March, and that's just off the top of my head, and so maybe that gives National Marine Fisheries, and maybe some of the states, a little more time, too, to sort this out and have something ready.

So, I don't know if that's feasible or not, and I don't know if Harry thinks three more months would be helpful, but I offer that as a suggestion.

CHAIRMAN BECKWITH: Harry.

MR. MEARS: It would be much easier to respond to John's comments, which I think are helpful and constructive, if we had a final rule. However, we don't; it's still under review. As discussed at the last Board meeting, the date proposed initially for a Trap Tag system was May 1 of this year.

Obviously, we missed that. Secondly, what's in the proposed rule is based upon fixed trap limits; hence, my comment at the last meeting, and also at this Board meeting, of the need to expedite the logistics, through agreements or otherwise, on how historical levels, the participation, are proposed to be determined and to incorporate this as best we can into hopefully expedited rulemaking to make that happen.

Now, when we were saying, as we bring up dates, January 1, three months beyond that, May, June, at this point it's problematical to talk in further detail about the dates without having the agreements at least conceptualized, and then taking the next step in drafting those agreements so that they can be further evaluated and incorporated as necessary, through future rulemaking.

MS. SCHICK: I think some of the discussions lead to a question of there's an implementation date of January 1st, 2000, to implement the trap tag system for the states right now. It sounds like it's going to take longer than that to get a State/Federal Agreement in place, and so there are two options I see at this point, and I'm sure there's other ones out there; the first being to have the states go through their process and meet the compliance date of January 1st, 2000, without a State/Federal Agreement.

A second option would be to extend the deadline a little further to allow the development of some type of State/Federal Agreement and that might prevent further confusion down the line with the state coming up with an allocation and then a year, six months, or however long it takes later, having the National Marine Fisheries Service come out with a possibly different trap allocation number. And, there may be other alternatives out there. Does anyone have thoughts on that?

CHAIRMAN BECKWITH: John.

MR. NELSON: Well, Ernie, while we're not doing specifically a historic participation approach, we are doing

something a little different with our two-tier lobster license system, and we have received communication from the National Marine Fisheries as to what they were looking for as far as further input from us so that we could develop an MOA or some agreement that would allow for an effective and efficient way of issuing tags and agreed upon way of issuing tags.

Our staff has pretty much finished up with that type of information, and we're planning on getting together with the National Marine Fisheries, probably this month, to start evaluating that, and I suspect that if we would have an agreement hammered out, I would hope before December, but let's assume it's by December that internally we have an agreement, then it's really a question of, well, Harry's RuleMaking System going into place, and what time table that would take.

So, I'm not sure what that would take, and I guess Harry would have to address that, but I think we've already started that process, and I'm confident that we'll be able to have some agreement. And we can enact it under our rules and eventually get it formalized by the Federal Regulations.

But, I know Harry is in an awkward position because he doesn't know when the rulemaking is going to take place, and it's probably unfair of us to try to pin him down, unless you give him ultimate authority to just do it, which I'd be happy to talk to you about, Harry.

CHAIRMAN BECKWITH: No, I think we all appreciate Harry's position. I think most of the comments are being made just to give them a message that this is a very urgent problem, and I think he knows that. Mark, you had your hand up?

MR. GIBSON: First, a question relative to logistic capability. Is there a tag vendor that's capable of receiving orders January 2 or something like that, and start issuing tags? Let's get that over that hurdle first.

MS. SCHICK: I'll get into that a little bit later. We did get a couple of bids back for the Trap Tag Program from vendors. There is one in particular that would be ready to take that on, and the proposal set for January 1st, 2000, it may take -- I believe they will be ready to take orders as of January 1st.

It may take them a little bit longer starting up in

January if they're bombarded with a lot of orders or uncertain programs.

MR. GIBSON: Okay, the second question I had is that it's not clear to me what would be the consequence of the states going forward? For example, this vendor has identified Rhode Island fishermen obtain tags from them for Area 2, start deploying their tags, and some of those will be deployed in federal waters, as well as state waters.

I mean, I don't have a feel for what the consequences are to that, going forward without an agreement, that the federal government would recognize those tags in Area 2.

I can see us doing that, and it would be very easy for Rhode Island to identify a list of authorized fishermen through our license records that have been declared for Area 2.

We could send them to the vendor, they get their thousand tags, that's what the default trap limit is for January 1, 2000, but they would begin deploying those, some in state waters, some in federal waters, and I don't know what the consequence would be if those would be recognized, not recognized.

CHAIRMAN BECKWITH: Phil.

MR. PHIL COATES: Well, I'm not going to answer Mark's question, but I was just going to follow up and recognize that we also don't have at this point a historic participation initiative.

Our situation is a little bit unique, and I just wanted to share it with the Board members, because it might help provide some guidance, and that was we had and 800-trap limit.

We have had it in place for a number of years, and, of course, once the trap tag system came along as of January 1, 1999, we implemented a program with the 800-trap limit for state waters, also consistent with what was then the limit authorized by ASMFC, I think it was 1,000 traps, within the areas off our coast.

We proceeded forward with the development of a Two-Tiered Trap Tag system, 800 for those fishing in state waters, and another 200 for those fishing with both federal and state permits in one of those areas.

So, we ended up many people have been issued 1,000 tags,

200 EEZ-only tags, and 800 state tags, and we did this without much consultation of the federal government, because, quite frankly, they didn't have any authority in that area at this time, because there's no rulemaking.

We, obviously want to get together and say here's what we've done. Now, with the pending 1,000 trap limit in Area 2, and the two 800-trap limits in the Outer Cape and the Area 1, that is going to make things a little easier because then people would be free, I guess.

We'll have to work this out in whatever type of agreement we work out with the Feds to accommodate, you know, somebody might want to fish all their 800 traps out in the federal portion of Area 1, or Outer Cape, or the state portion of the respective areas.

But, I think the fact is we've worked this out and it has moved along pretty smoothly at this point, and we'd certainly be willing to share our information and our experiences with any of the other states.

And, of course, as we move forward, and the trap limits come down, it creates less of a dilemma in terms of where those excess, the so-called EEZ traps will be deplored, and it's very important that we work together on this because this could really fall apart if NMFS decides to embark on its own path, which, of course, they don't at this time.

I understand that they do want to work with the states because they see the obvious dilemma of redundant or duplicate systems.

MS. SCHICK: Okay, I think we're intermingling a lot of the trap tag discussion and evaluation of historical participation discussion, and I'd like to get back to the historical participation discussion, and see if we can try to come to some conclusions on what direction to take.

I posed two questions to the Board and I'll pose them again. Right now, in terms of developing a State/Federal Agreement in time for implementation for January 1st in Areas 4 and 5 is not doable.

We don't feel that it's possible to have that type of agreement in place, to have a system beginning January 1st, 2000. Therefore, the Board has to make a decision. Should we continue to try to develop State/Federal Agreements on how this evaluation will take place?

And secondly, should the Board extend the deadline for implementation of the trap tag program in those areas until historical participation can be worked out through a State/Federal Agreement?

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: Amy, I think the question you just asked was in the context of Areas 4 and 5? So, doesn't this really boil down -- given the direction of the New Jersey Program at this point, doesn't this really boil down to New York and NMFS coming to agreement on how to evaluate historical participation in Area 4?

MS. SCHICK: Correct.

MR. COLVIN: Harry, is there any reason that we just can't sit down and work this out without bothering all the rest of these people and taking up their time?

MR. MEARS: I would hope that as a result of today's meeting we can identify the subsequent follow-up steps that need to be taken either on a NMFS/state-by-state basis, or on a NMFS working with ASMFC basis as the umbrella representative.

Based on what I've heard, it intuitively sounds simpler to work on a NMFS/state-by-state basis. But, I'll withhold that perspective until the end of this meeting at least, but, Gordon, I would say, yes, it does make sense following today's meeting to meet and start to discuss what those logistics would be.

MR. COLVIN: It just seems to me, notwithstanding legal issues, policy issues, or any of the rest of it, that the substance of deciding how you're going to do it, the mechanics, if you will, is really only an issue for the two of us at this point.

CHAIRMAN BECKWITH: Harry, did you want to respond to that before we go on?

MR. MEARS: I can't disagree with that. It's certainly the type of information we need to compile, and the sooner we can do it with the states that are ready and able to meet on this issue, the better.

Obviously, we have an equal concern with working in partnership with New Jersey as well on how long that might be delayed or, if in fact, it might be possible,

given certain caveats that might be a doable as well, but we're at a point now where I don't think we should delay any more than we have to to begin these discussions so that we can get the ball rolling to specifically identify what the elements of these agreements would be.

CHAIRMAN BECKWITH: Mark.

MR. GIBSON: It sounds like Gordon's point was well made, that you should expedite this any way you can with the individual states, but I had some concern about one of Harry's comments earlier that he had some concerns about equity in treating all federal permit holders the same way, and I'm wondering if there's an issue with other areas; for example, Area 3 fishermen who may declare to the state of Rhode Island if they want to fish in both 2 and 3, and how are we going to treat those people versus Area 4 fishermen in a statewide or all the states coming to a unified agreement with the federal government in terms of how to evaluate documentation, issue tags, and so on?

I would support any kind of state-by-state thing we can do, but if there's an issue of equity and treatment of the federal permit holders, then you have to get by that.

CHAIRMAN BECKWITH: Bill.

MR. WILLIAM A. ADLER: Now, I remember that if someone puts Area 2 and 3, they have to go by the Area 2 rules, which probably is detrimental to a guy who really wants to fish in Area 3.

I wanted to know also, since we have a problem of identifying who is in Area 3, at least from the permit position, because the Feds have not issued an area on the permit yet, and, Harry, do you plan to have that in place by the beginning of your season, which is May 1st, that the new permits being issued in May will have some type of an area number on it?

MR. MEARS: This is identified and discussed in our proposed rule and becomes one of the first orders of business once federal management authority is transferred to the Atlantic Coastal Act to arrange for the certificate to designate the various fishing areas.

MR. ADLER: All right, because that needs to be done, too, so that we'll know who -- I mean, you can have a federal permit and you can be fishing in Area 1, 2, Outer Cape, 4, but not be an Area 3 person according to the

historical, and that has to be sorted out by some agency, and I know the state of Massachusetts, at least, has a handle on which people have declared what areas.

But as far as the Feds go, people could come in with a federal permit, and there's no way enforcement can enforce some of the rules, because they don't know which area this person has been fishing in the federal areas. And so, we've got to find out that ASAP.

CHAIRMAN BECKWITH: Gordon, and then Amy.

MR. COLVIN: Mark's point was well taken. I think, however, that it's something that's relatively easily handled within the confines of what I proposed. As far as I understand it, we're still only talking about history in three areas that include federal waters, 3, 4, and 5.

And as I said, at this point the only state that I know of that is directly bordering one of those areas is New York, that's going to be looking at history.

And, if there is an issue with respect to whether there's equal, prospective equal handling, or equitable handling of federal permit holders in Areas 4 and 5, it stills boils down to NMFS and New York working it out.

And I'm not going to sit here and say it's going to be the way we proposed to do it, or no other way. To the contrary, what I'm suggesting is that the sooner that we can get across the table from NMFS and sort out what works for both of us, the better.

In fact, I think that solves everybody's problem at that point. And we're more than willing to do that as soon as possible.

CHAIRMAN BECKWITH: Amy.

MS. SCHICK: On that point, I think for Areas 4 and 5 the point is well taken. The problem enters with Area 3, and under what we proposed before, if the state is going to take the lead on evaluating historical participation, we are just talking about Areas 4 and 5.

Area 3 is entirely in federal waters. The problem is without a federal final rule in place and trap tag system an evaluation system in place, starting January 1st, if a New York fishermen in Area 4 wanted to fish Areas 3 and 4, what's the mechanism for evaluating Area 3 historical

participation, and how is that area designated on trap tags?

Also, in any state that has Area 3 fishermen, starting at the beginning of the year, are they going to have Area 3 printed on their state-issued tags without an evaluation of historical participation, that can't be done.

MR. COLVIN: I agree that we have to get a federal rule in place. That's the issue. What's the issue before the Board this morning, Mr. Chairman? What do we have to act on here?

We can pass a motion urging NMFS to get their rule in place. I don't think that's what the Board has to act on. I think the Board may have to act on deferring the compliance date past January 1st. I'm not sure what we're supposed to be acting on here today.

CHAIRMAN BECKWITH: Well, I'm not sure we're supposed to act on anything. I think what we're trying to do is just to go through the issues about a State/Federal Agreement, so we can implement our program as laid out in Addendum 1, and who is going to make those decisions in terms of allocations, and who is going to make the decisions on who is going to issue tags?

I think we're just going to try to gather as much information as we can so we could go forth with determining how we're going to do those State/Federal Agreements, and hopefully lay out some kind of a time line, and make that happen.

But, I can see as we're going through the process here of gathering information, some other issues are coming up and perhaps the Board may feel they have to take some action, because some of these issues that we're bringing up can't be dealt with effectively within the timeframe that we've laid out for ourselves. I'm not sure, Gordon. Let's see what transpires.

MS. SCHICK: I'd just like to add to that. It seems like for all areas, except Area 3, I feel like we've come to some decent consensus of where we are and where we might go from here.

Area 3 designation on the tags and evaluation system I think is the one pending question and that might be something that we can continue the discussion on and think further on.

If we can move forward with all the areas that cover state waters, and agree to go forward with that starting January 1st, 2000, then we can deal with Area 3, once the final rule comes out.

CHAIRMAN BECKWITH: John.

MR. NELSON: Let me go back. What I said earlier and what Gordon has been saying is that certain agreements, MOA's, that need to be established between states and the National Marine Fisheries Service. I think we've identified those.

We know we have to do that, New York has to, Massachusetts may have to, and so we've identified it, and so now it's the responsibility of the states and the National Marine Fisheries to come up with an agreement on how they're going to do that.

I see the plan doesn't have to be modified to allow that to happen. We just need to do it, and we just need to do it in a timely fashion, and I guess we just need to get assurance that each of those states and whoever else will work with the National Marine Fisheries to come up with an MOA.

And then Harry is in a position where, once those MOA's are approved, he has to go through the rulemaking to have them go into effect, and I think that's just something that's just a logistical thing that when it does happen, it happens, and in the meantime our responsibility is to get together with them and hammer out an equitable agreement.

CHAIRMAN BECKWITH: What I see happening here is that we're talking about issues that the states and the Service should be aware of that have to be included in the MOA's, but it sort of seems that after this is done today, everyone will have a better understanding of what they have to do and what issues have to be included.

But then the states, individually, it appears are going to have to go and work with the Service. It appears to be the way we're going, and that's fine, but I think some other overriding concerns and issues are coming out here, and that's timing of the whole thing, because that's sort of problematic and Gordon raised a point of about perhaps changing dates, and the Board should consider that.

The plan says -- I will try to paraphrase it, and correct me if I'm wrong, but I believe the trap tag system was to

be implemented January 1st. The way that I interpret that to mean is that all the jurisdictions should have the ability to start issuing tags to their fishermen.

As you know, the system doesn't become mandatory for enforcement and mandatory for the fishermen until June 1st. So, we've given ourselves quite a bit of flexibility there, and I don't see any problem sliding on the January 1st date, but it becomes a problem because the longer that slides, the more difficult it's going to be to get the system up and running on June 1st, and I think that's what we all want to happen.

I'd be very apprehensive and probably unhappy if we started looking at pushing the June date back, but I don't feel uncomfortable with doing something with the January date. John.

MR. NELSON: Mr. Chairman, if we decided that we were going to urge that the January 1st date be achieved, but that we understood that some agreements need to be worked out, and therefore we would give some flexibility that -- and I'll just pick the magic date of March 1st, is also acceptable; how do we do that?

Do we have to do another Addendum to the plan, or can the Board just authorize that?

CHAIRMAN BECKWITH: I think -- and correct me if I'm wrong Jack -- we did address that. We did change some dates, as you recall, with Addendum 1. I believe we did specify the trap tag system had to be implemented January 1st, so that is part of Addendum 1, and now part of Amendment 3.

I would expect if you want to change that date, you'd have to do it by amendment; not amendment, addendum. Jack, do you want to speak?

EXECUTIVE DIRECTOR DUNNIGAN: The other boards have handled this kind of situation in a number of different ways. You could, for example, just defer any -- you wouldn't have to go through an addendum process.

You need an addendum if you're going to impose an affirmative obligation on a state to do something. But if what you're going to do is to back off from that or give them a little bit of extra time, there are other ways of getting there without having to go through that extended process. So, I think it's a manageable issue.

CHAIRMAN BECKWITH: Could you tell us what those ways are?

EXECUTIVE DIRECTOR DUNNIGAN: Sure, just defer consideration of compliance, for example. Your compliance date is January 1, but you don't schedule a meeting to consider compliance issues until July 15th.

CHAIRMAN BECKWITH: So we just don't deal with it until we're ready to deal with it.

EXECUTIVE DIRECTOR DUNNIGAN: That's one way that other boards have done it.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: I was thinking in terms of the idea of passing a motion, if that's what is necessary, that simply basically states that the compliance would be considered after the June 1st date, which would basically give everybody until June to try to get going on the thing, and nobody would be held out of compliance until it was looked at after that time to see. It would give everybody a swing time. It was basically what Jack was talking about.

CHAIRMAN BECKWITH: I would prefer to go with Jack's way rather than passing a motion.

MR. ADLER: All right, if that's not necessary.

CHAIRMAN BECKWITH: Okay, Harry.

MR. MEARS: I'm going to attempt to hope to clarify some of the confusion I think we're facing right now with the variety of topics we've addressed so far, and I'm going to try to go back once again to Amy's initial comments and the benefits in trying to separate the historical participation issue from the joint administration of a tag program issue.

With regard to a trap tag program, the stage is already set at least from a federal perspective of the trap tag requirement being in the proposed rule. For agreements on whether or not NMFS will issue tags to federal permit holders, or an alternate arrangement may be identified whereby that could be delegated to a state agency does not require additional rulemaking.

In fact, the proposed rule acknowledges that cooperative agreements can be made with the states to do exactly

that, to distribute tags to federal permit holders, assuming the state wants to do it and agreement can be reached on how to do that.

So, I'd like to just clarify that I don't think we've identified everything that needs to be identified today concerning what we need to address through cooperative agreements, MOU's or whatever name we wish to call these types of agreements.

For example, we currently do not know formally if the state of Maine wants an agreement with NMFS to distribute tags, and what are it's expectations. Similarly, we don't know the answer from Rhode Island, so that would be helpful in terms to try to address at today's meeting and it very much would be in accordance with a list of questions which Amy distributed to Board members on October 6th in terms of what are the state expectations?

Can, in fact, they enter into an agreement with the federal government? And if so, what do they want that agreement to address? So that's one point that I'd like to make.

I would hope that my strong recommendation would be to separate as much we can the joint administration of a trap tag program to preclude a lobsterman having to have two tags on their traps at any point in time.

Now, relative to historical participation, we might or might not need to address that through the formalities of what one might call an MOU or other type of agreement. However, that does require rulemaking from a federal perspective, and would be a logical next step in terms of our having just issued an advanced notice of proposed rulemaking for historical participation.

Now, Gordon's offer before for the state of New York to meet with NMFS to identify how historical participation decisions for Area 4 could be identified is exactly what would be needed to be included into the body of a proposed rule addressing historical participation.

Similarly, we cannot leave, for example, the state of Maine out from historical participation issues in Area 3, because scenario 2 of the Area 3 plan, assuming that it soon becomes embodied in a proposed rule, questions whether or not states have the records, if NMFS does not, to support levels of historical fishing effort in Area 3.

Now, I do not specifically recall if the Areas 4 and 5

plan followed the three-step scenario from Area 3, but those issues arise as well with the Area 4 and Area 5 states.

So, once again, it would seem to me that Amy's memo is a good starting point, and it would maybe help if we first addressed interest in an agreement with NMFS for joint management of a trap tag Program, and then maybe to summarize where we are and what needs to be done for historical participation, and identify whatever follow-up meetings are necessary, either through this Board or separately, on the NMFS/state-by-state basis.

CHAIRMAN BECKWITH: All right, it seems we have a couple different levels to proceed through here. I think one of the points you made, Harry, is that for areas that have a specific limit or cap already that include both state and federal waters, you'd like an agreement as to who is going to issue the tags for the fishing in federal waters. Was that one of the simple things you wanted to point out?

MR. MEARS: In the absence of an agreement, NMFS would be issuing the tags, so an agreement would identify an alternative strategy.

CHAIRMAN BECKWITH: Maybe you can help me understand that. If you have an area that's got both state and federal waters and has a specific limit, say a thousand-trap limit, NMFS would issue the tags for anyone fishing in that area, in both in state and federal waters?

MR. MEARS: NMFS would issue tags only to federal permit holders. However, this is where the comment initially raised by Amy comes in. We need a mechanism to prevent exceeding the area allowed level of traps, combining the state and federal allocations.

So, you certainly need to identify the dialogue or communications which have to proceed between NMFS and the state agency in making trap allocations on an area-by-area basis. That's the way I see it.

CHAIRMAN BECKWITH: The issue is where does a fisherman go to get his tags, and what you're saying is if he's a federal permit holder, he goes to you to get his tags, unless there's a memorandum of understanding, and that would determine who he would go to get his tags from.

MR. MEARS: Correct.

CHAIRMAN BECKWITH: John.

MR. NELSON: Mr. Chairman, perhaps I'm just missing something here, and is Harry just saying that he'd like to get together with all the states to work out whatever agreement they need?

CHAIRMAN BECKWITH: That's the way it sounds to me because, as I said, there are a couple different levels of issues and levels of agreements. Maybe you can roll them all into one.

MR. NELSON: But strictly as far as, well, if a state borders federal waters, then Harry needs to have that state get together with them and work out who is going to issue tags, if they want to, to both the federal and the state holders.

And so it's not the Commission really coming up with some plan on how this is going to be done. It's really the Commission saying, "well, get together with the Feds and work it out". Is that what I'm hearing, or --

CHAIRMAN BECKWITH: Harry.

MR. MEARS: Following up on John's comments, indeed, it would be helpful, if this is the preferred approach, would be for the Board to recognize that NMFS will contact each state individually to determine what the nature of these agreements should be on a state-by-state basis, and keep Amy in the loop, as a staff liaison to the Commission, in the interest of time.

Of course, in following up to our previous discussion, one strawman I raised the last time, which may or may not be relevant in terms of the direction that the states want to go with these agreements, would be for NMFS, for example, to issue tags to federal permit holders who obviously fish in federal waters, for the states to recognize those tags as they're fished in state waters, and then to issue tags to state waters only lobstermen.

That was the strawman. An alternate strawman could be identified, but this is the type of discussion which would occur on this state-by-state basis, and I'm sure there would be extreme variations.

CHAIRMAN BECKWITH: I hope we're not going to make something that's simple, complicated. John.

MR. NELSON: I think we want to keep this simple. Either

we agree -- and I think that's what this all this is talking about, this Item 5, is since there was no committee meeting before, we were just recommending, or there would be a recommendation rather than a formal position from the ASMFC?

Are we just recommending then that each state meet with the National Marine Fisheries so that they can work out an agreement on how to issue tags?

CHAIRMAN BECKWITH: That appears to be the course we're going down but maybe we could provide a little more cohesiveness to that.

MR. NELSON: As long as we keep it simple, Mr. Chairman.

CHAIRMAN BECKWITH: Yes, right. What I was thinking was that for the areas that have a specific limit that include both state and federal waters, then it would be very easy for us to go around the table today and determine how we want to do that.

Do the states want to issue all the tags for the area for both people that fish in federal and state waters, or do we want to split it up, which seems complicated to me, or have the Feds issue all the tags?

That's a basic issue. From my perspective, it's not a big issue for us in Connecticut. We've only got a couple fishermen that fish in federal waters, but if we're going to issue tags to our fishermen that fish in state waters, we'll issue them to all of the fishermen, including the ones that fish in federal waters.

It's just as easy for us to do it. That would be my preference. John, do you want to give your preference so we can see what -- all the people chime in -- we can take that issue and put that away.

MR. NELSON: On that particular issue I think that the state of New Hampshire would be interested in having the mechanism in place so that the state issues the tags to both the state and federal permit holders.

And any other details unique to New Hampshire, we would just work out with an MOA with the National Marine Fisheries.

CHAIRMAN BECKWITH: Mark, how would you prefer to do it?

MR. GIBSON: For Area 2 it would be our preference to

identify all those fishermen with an intent to fish in Area 2, regardless of whether they are federally permitted or state permitted, or what.

We would identify those and send them on to an ASMFC-identified vendor and get their tags from them. Area 2 would be handled that way. I'm more somewhat confused about fishermen declaring in Area 2 and 3, but I guess the lesser of the trap limits would apply, so they would be lumped in with Area 2 as well.

So, that would be one little twist to that, that anybody who declares for both 2 and 3, since 3 is totally federal waters, they would have to abide by the lesser of the two, and it seems they would have to come in under that umbrella as well.

CHAIRMAN BECKWITH: Yes. I guess I missed -- when I said the states would issue the tags, I misspoke. It appears that we're going down a road where we're going to have a vendor do that, but I think what we would do was the states would make the authorization to the vendor so that the vendor would understand what to issue. Bill.

MR. ANDREWS: For New Jersey, we're completely opposite from Connecticut. We only have a few fishermen in state waters and the majority is outside in federal waters, and we'd prefer that the National Marine Fisheries Service or the vendor issue tags.

CHAIRMAN BECKWITH: Phil, you had your hand up?

MR. COATES: Yes, I think we can deal with the three inshore waters, Area 1, Area 2, and the Outer Cape, pretty easily through the system, I think Mark described, with the vendor handling that.

Our particular dilemma is going to be with regard to Area 3, and I was looking, as Harry was describing the scenario, and then I heard somebody mention another scenario.

Let me explain our dilemma, and I don't want to take up a lot of time on this, but I think it's kind of interesting. We have a record of all fishermen, going back to everybody that has a lobster permit, whether it's an inshore, off-shore, whatever.

They're supposed to, under Massachusetts law, report their landings, and I think there may be additional information whether it's a trap or non-trap and things

like that as required reporting, going back 30 years, or God knows when.

NMFS has issued, in our view -- and when NMFS went through their recent rulemaking that issues federal lobster permits, in our estimation, they issued as many as two or three hundred permits to people as Massachusetts residents who did not have any record of any lobster landings in Massachusetts.

They had permits, perhaps, but they did not have lobster landings. The great majority of those are probably mobile gear fishermen, so we'll deal with that. But, some of those folks probably fish with pots, and I'm just wondering if we're going to be negotiating how to deal with historic participation and perhaps numbers of pots being fished without a baseline at this point, but we may have to deal with that.

Maybe there is a baseline in the Area 3 Plan, I can't recall. It's going to be an interesting situation. There's people that are, you know, asking for historic participation, and the records from the only record keeper, which is us, show no landings or no record of any landings.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: If I may, first of all, I think you're in the right direction if you for just a minute forget Area 3. And if you have the states all sit down with the Feds individual and say, "We'll issue the trap tags for all of the area that is state water, federal water, but is basically an inshore thing." Okay.

The consideration would then have to be a situation where you have a fishermen that has a state and a federal permit, so therefore he can fish in both of the federal and state part of that area -- what tag do you give him - - versus the one that just has the state permit, and you don't want him out in federal water, what tag do you give him?

And, the person that has just the federal permit, no state permit, but just fishes in this area now. He's not in Area 3. He's still in Area 1 or a 2, or in Outer Cape, but he just has a federal permit, no state permit, what tag do you issue to him to keep him out there?

I know that's a dilemma we've got, and so I'm identifying three different variations within one particular inshore

area that will have to be worked out. That would have to be worked out, how that tag system works.

But, I think that moving along with simply having a state sit down with the Feds and say, " Look, Fed, we're going to issue the tags for this particular area that gets you off the hook", and work out an arrangement similar to what New York was describing to do, because they have historical participation, work out the detail, and I think that's the right path to take rather than have the Feds involved in those inshore areas.

CHAIRMAN BECKWITH: Yes, we should try to make this as simple for the fishermen as possible. They should know clearly where they have to go to get their authorization for the tags. There shouldn't be any confusion over that. Pat?

MR. PATTEN D. WHITE: Thank you, Ernie. Before our commissioners says all the legal things, from a fishermen's point of view I don't understand the problem and I'm concerned about the vendor direction that we're going because as a fishermen I really appreciate what's happening in the state of Maine with the tag money being designated funds going toward enforcement, and hopefully later on maybe even research or something.

I hope we can keep the option open of the states being able to administer the tag program. But, I also don't see -- at least with the tags that we use now, there's room enough on there to put EEZ, or some stamp of allowing me to fish out to at least 40 miles, and I think there's room enough on there, and I'm not going to get into the logistics of it now for an Area 3 fishermen to even to put, if they are then qualified for that, to put some stamp for Area 3 on it.

It seems a fairly practical and easy solution to it, but I would certainly hate to see the state of Maine lose the option of issuing those tags because of the money we get out of it.

MR. GEORGE LAPOINTE: The state of Maine will not lose the option of issuing those tags. That's an easy answer for that. I've been talking to Joe Fessenden over the course of the last weekend and what we need to do is just make an appointment with Harry to work this out.

It's an entirely workable situation to designate EEZ for those people who are federally permitted and we can also accommodate those fishermen in Area 3. The only

difficulty I had with what Harry talked about today was he once mentioned joint administration and once joint management, and we intend to do the administration through some kind of cooperative arrangement.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: As I said before.

CHAIRMAN BECKWITH: I just wanted to give you the opportunity to comment further if you wanted to. All right, I hope the Service found that helpful, but it appears that the states are going to contact the Service directly and work out the MOU's. Harry.

MR. MEARS: The only other comment I might make at this time would be that the points that were identified in my October 7 correspondence with you, Ernie, are the type of issues that will likely pop up during these discussions, some of which are fairly important.

Others are minor, and others, perhaps, might not be relevant at all, but these are the types of issues that we'll need to look at.

MS. SCHICK: The memo that Harry just referred to is in the packet of materials that are in front of you today.

CHAIRMAN BECKWITH: Amy, are there any other issues you want to discuss with MOU?

MS. SCHICK: My understanding is that from this point on the states will be working directly with the National Marine Fisheries Service and the Commission staff will take a peripheral roll, will be interested in what proceeds between the states and the National Marine Fisheries Service on these agreements, and we'll assist in any way we can. My understanding is that now the states are going to directly work with the National Marine Fisheries Service.

CHAIRMAN BECKWITH: Okay, there's still one thing that we probably cannot deal with today, but that's the issue of timing, and we already spoke about being a little bit flexible with the January 1st date, and obviously we can do that just by deferring dealing with it, but there's got to be some recognition that we can't let this thing go too far or it won't happen by June 1st, and obviously the Service is pivotal in this, and they're going to have to let us know as soon as possible so we can determine how the timing of this scenario works out.

If it doesn't, then the Board will have to consider other alternatives or options, I guess. I don't know if the Board wants to give any thought or discussion today about timing of this, or we'll just let it go and see what happens and then deal with it at the subsequent meetings.

Harry, do you think by the annual meeting we can make some progress on having a better feeling for where we may end up with this?

MR. MEARS: I appreciate the earlier comments where other Board members acknowledged how difficult this must be for the NMFS member on speculating on questions such as these. I would expect that should be the case.

CHAIRMAN BECKWITH: Okay, George.

MR. LAPOINTE: I had a question about Harry's 7 October memo, and if people have addressed it, I apologize. Item Number 4, Harry, the cost of tags should be equitable for federal permit holders regardless of state of residence. What does that mean?

Maine charges 20 cents, don't we, Joe? What if another state charges 25, or 22, or 19, how do you interpret that?

MR. MEARS: That would be the type of issue that would have to be addressed internally by us from a policy and also legal perspective concerning any variation and cost among federal permit holders on the basis of their state of residence. I'll defer to General Counsel if they want to make a comment.

MR. GENE MARTIN: Yes, to be compatible with National Standard 4, which these rates would have to be compatible with, which requires that state of residency shall not determine benefits or advantages or disadvantages under federal rule, then we'd have to make sure that there's an equitable cost applied to getting these permits for the federal, parts of federal permit holders.

MR. LAPOINTE: That's going to be trouble. I mean, what do you charge, Phil?

MR. COATES: 16 cents.

MR. LAPOINTE: Ours is 20. I mean, are they going to increase their cost four cents? Are we going to go down two?

MR. COATES: It shouldn't be.

MR. LAPOINTE: I quite agree it shouldn't be, but I'm trying to figure out exactly what that means. Is that equitable that he charges 16 and I charge 20?

MR. MARTIN: Well, that's what would have to be worked out in these meetings, and we'd have to make that determination to see what level of expense that might be for a fishermen in a given year.

MR. COATES: 160 versus 20 dollars, or whatever, right? Well, I'm thinking of 1,000. I don't think in the scheme of things that's a relevant difference.

MR. LAPOINTE: No, I think -- I didn't even think it was an issue at all until I read Item Number 4 on this memo. I don't think it should be a big problem, but trying to get either your state or mine to change our cost structure is going to be a tough thing to do.

MR. COATES: I mean, I wouldn't object to a ruling by the Feds that says everybody has to charge Maine's standard and utilize the money accordingly, but I wasn't able to do that.

MR. LAPOINTE: I like that idea, too.

CHAIRMAN BECKWITH: There are at least two states that I know of at this table that are limited in what they can charge for the tags by state statutes. And it's different.

MR. LAPOINTE: Which is what? What are you limited to?

CHAIRMAN BECKWITH: Ours is the cost of the tag plus 3 cents. I think Gordon has a definite 20 cent limit. Okay, are we through with this agenda item? Any other comments on MOU's?

Okay, moving on is Review of the State Plans. Since we haven't had the opportunity to go over the state plans, and they are included in the packet which we got this morning, what I'm going to do is ask Amy to go over the state plans for us and point out any issues or problems.

What I'd like to do today is approve state plans that we have here before us because I know at least in the state of Connecticut we have to go forth with our regulatory process, and it would be very helpful to us to know that our state plan is approved. Mark.

MR. GIBSON: Just a request. I have to step out at eleven for about an hour. I was wondering if you could order the review of the state plans either so that we could look at Rhode Island's or postpone it until after lunch?

CHAIRMAN BECKWITH: We can do yours first, if you like.

MR. GIBSON: That would be fine.

MS. SCHICK: The packet in front of you, there's a couple of things -- Jack is passing out some more information. There is a packet that has the proposals for Connecticut, Delaware, New Hampshire, New Jersey, New York and Virginia in the information sitting in front of you.

These are the ones that I had gotten earlier in the week. Rhode Island and Massachusetts brought copies of their state plans today. Jack is handing those out, along with a table. There was a memo sent out to all the Board members in August that identified several questions that states should address in their implementation plans.

The main purpose behind that memo is to make sure states were thinking about what they needed to do to implement Addendum 1 by January 1, 2000. What you're getting in front of you right now on this table is a more comprehensive list of issues that are included in Addendum 1.

All these issues are not compliance issues, but they are provisions that have been included that the Board may want comments on from all states. So I know in many cases the state reports did not include all the information that's listed on this table; therefore, as we go through each state report, if the state director or state members could fill in information as they know it, that would be appreciated.

We'll start with Rhode Island, and since I haven't read the proposal, I'll just defer to Mark and have him explain what the proposal says, and then also if he can go through the provisions that are on the table and walk through what has been put in place.

MR. GIBSON: Okay, I guess Rhode Island's proposal is being passed out. It's fairly brief. I tried to address in a fairly short time yesterday the three main issues that were identified in Amy's August 18th memorandum to the Board.

With regard to trap limits, Rhode Island is going to be adhering to the Area 2 Default Trap Limit Schedule, which is the 1,200/1,000/800. That's fairly simple. We have already established the 1,200 trap limit.

We will conduct a public hearing this fall. Our rule-making process requires us to conduct a public hearing following council action. There would be about a 30-day period for public comment; Department approval, filing with the Secretary of State.

We will conduct public hearings probably in November. Our council will take actions to implement the 1,000 trap limit, effective January 1, 2000, and then we will adjust it to 800 the following year.

Given that Area 2 has a default trap limit schedule, there isn't any need for us to evaluate historical participation information for that area. What we will do this fall is we'll identify all Rhode Island license, either through our multi-purpose license category or our lobster license category, and probably now we will also identify or notify the landings permit holders of a need to declare their intent to fish in Area 2.

If those individuals declare in the affirmative for Area 2, we would provide that list of authorized fishers to the identified tag vendor, and they would be allotted or allowed to obtain a thousand tags from that vendor.

As has been discussed earlier, we need an agreement with the National Marine Fisheries Service to recognize these Area 2 tags in the event that there are federally permitted fishermen who do not have necessarily state licenses, either a multi-purpose or a lobster license, so that remains to be worked out.

We see this process as pretty simple, provided that there is an external vendor for us to deal with. We do not have legislative authority to collect fees or do anything like that relative to lobster trap tags, so we would rely entirely on the Commission's ability to identify this vendor.

We can identify the authorized fishermen, submit that list to the vendor, have the tags issued. The vendor would need to supply us back the information on the tag sequences issued to these authorized fishermen, which we would make available for our enforcement agency, as well as the National Marine Fisheries Service through whatever agreement we come up with them.

We intend to resubmit our legislative package, which will contain in it a request to cap commercial fishing licenses in general. We do not have that anymore. The three-year moratorium elapsed, so our license categories currently are open.

We are planning to ask for a cap, which would include the lobster fishing licenses. Trap tag, I think I've covered that. In terms of the trap tag System, we would ask for a 10 percent routine replacement provision so that they would receive essentially 1,100 tags instead of 1,000.

We will also respond to catastrophic loss requests. A fisherman who has been authorized to receive an initial allotment would have to contact us in writing, establish the conditions under which this catastrophic loss had occurred.

We would then, if in agreement, we would then notify the vendor that they were eligible for a replacement set of tags, which upon issue would invalidate the original set. I have identified a schedule for which Addendum 1 would come on line.

Some of those items have already gone into effect; the rectangular vents, 1,200 pot limit, the maximum trap size, the comparable circular vent criteria. In October -- it shouldn't say October 1st, it should say just October -- in late October, we're going to hold an Area 2 LCMT informational meeting so that we can inform fishermen as to Rhode Island's activities in this area.

In November, we would notify all of the Rhode Island license holders and solicit area designations from them so that we would be able to identify that pool of individuals who intend to fish Area 2, or are currently fishing Area 2.

We will conduct our public hearings on these proposed regulatory changes. That will be followed by Council action, and that's the time lag we need in order to get regulations in effect for January of 2000.

We'll be providing, sometime in December probably provide an authorized list of Area 2 fishers to the tag vendor that the Commission has identified. Our regulations would become effective in January 1, 2000. That's the trap tagging requirement; the mobile gear possession limits on the Black Sea Bass Pots, and the reduction in the trap limit to 1,000.

And then I have indicated that in general, in February through May sometime, these authorized fishers would presumably begin obtaining tags from the vendors and begin deploying them.

I didn't have the benefit of this checklist of what was passed out earlier, but we can go down those fairly quickly if that's where you wanted to go.

MS. SCHICK: Mark, in terms of issuing the tags, are tags going to be issued to the license holder or to the vessel?

MR. GIBSON: License holder.

MS. SCHICK: And is there a plan to have the trap tag requirement on recreational tags as well?

MR. GIBSON: Yes, that's noted in here. I forgot to say that. We would notify by mail at the same time we're notifying all the commercial license categories, the recreational licenses as well.

MS. SCHICK: There's another recommendation in Addendum 1 that a controlled date be established for Area 2. Does the state have any intention or pursuing establishing some type of control date?

MR. GIBSON: We are intending on submitting a legislative package which would establish caps on the commercial license categories, as well as restructuring the license categories. We have already done that, and that was not received favorably by our legislature, and it's not clear to me that it would be necessarily received the next time.

If the legislature is not of an opinion to cap commercial fishing licenses, I could see us running afoul of them of trying to establish control dates, whereby we would treat one group of license holders differently than newer license holders.

So, the department certainly has an interest in capping overall lobster fishing effort in the state. That has not been received favorably by the legislature at this point.

MS. SCHICK: Another follow-up question. Is there a mechanism to issue replacement tags? There is something in the addendum that says if a lobsterman wants to rotate their gear or change their gear, they can bring in old

tags and have additional tags, replacement tags issued to that lobsterman, and I know in your report it says the agency does not anticipate receiving any additional trap tags?

MR. GIBSON: Well, I talked about issuing an additional 10 percent for routine replacement. Is that what you're talking about? We don't anticipate-- it's not that we don't anticipate, we won't receive any additional trap tag fees is what I said in there.

Since we don't have the authority to collect them, we're not going to receive any additional fees through this process which could be budgeted for enforcement and our lobster research or data management programs.

I guess it's not clear to me the nature of your question about routine replacement versus catastrophic loss is.

CHAIRMAN BECKWITH: I guess I can help you with that, Mark. We've included that in our draft regulation. Basically, our fishermen have told us they want the ability to take some gear out of the water that's damaged or if they want to clean it, they want to rotate it, so what we're going to do is they can take those traps out of water, clip the tags, bring them in to us, and then we would authorize the vendor to issue them replacements on a one-to-one basis. But, it would be done through the vendor.

MR. GIBSON: Yes, I don't see any problem with that. We have a vendor identified that we're in business with.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: I am hoping that a discussion of that issue will be done with the meeting at the Mystic Meeting time between the fishermen and Law Enforcement on the transferability issue, because the idea of almost every lobster fisherman that sets gear in the spring, piling in to the Division with a bunch of clipped tags of traps that are being retired in December, in order to get a replacement tag to place temporarily on a brand spanking new trap to be set in April, that will also have the new, that year new tag on it as well; but because the new tag is not valid until June, he can't set his brand spanking new trap that wasn't in existence last year with the brand new tag and be legal in April, because there's no way that he can take the old tag off and temporarily put it on.

So, I can picture thousands of lobstermen, maybe not in your state, but thousands of lobstermen filing in with cut off tags, saying, "I need 200 replacement tags ASAP, right now, or within a month, but they're not my new next-year tags. Those are coming anyway, but because I've got to set brand spanking new traps in April, I need some temporary old tags or something to hold me until the June date."

And, I think there needs to be a little discussion on how to fix that problem, because having a division go through that process for the new traps might be a big deal. So, I'm hoping that will be solved in Mystic.

CHAIRMAN BECKWITH: You've actually talked about a couple things that are sort of intertwined, but the issue of transferability has come up, and I believe the Board did -- there was some discussion at the Board level that the Board would consider that again at some date in the future.

I know you talked about, and perhaps some other members did, about having the Law Enforcement Committee, maybe perhaps a subcommittee of the Board members or advisors or someone meet with them just to rehash the whole issue of transferability again.

MR. ADLER: That, supposedly, as I talked to Joe, they're hoping to get some little group off to the side at the Mystic meeting.

CHAIRMAN BECKWITH: Well, maybe you can help me with my memory, Amy, but have we formalized establishing a group to do that? I don't think so.

MS. SCHICK: We haven't yet. There had been some discussion of doing that at the Mystic meeting. Due to some budget constraints, I've talked with Dieter, and we're going to try to do that shortly after the New Year at one of our meeting weeks.

There's some discussion about a Law Enforcement Subcommittee meeting, I believe, at the February meeting week, and we may try to do something there.

MR. ADLER: Okay. Just knowing that this problem is going to come up this March and this April when the guys go to set brand spanking new gear and try to set it legally, and so something may have to be done to allow that at that time.

CHAIRMAN BECKWITH: Okay, what I'd like to do -- well, are we finished with Mark?

MR. NELSON: Yes. Do we move for acceptance?

CHAIRMAN BECKWITH: Yes, that's what I'd like to do. First of all, Amy, are there any outstanding issues with the state of Rhode Island that are not meeting the requirements in Addendum 1 or Amendment 3 as proposed by Mark in his plan? So, in your opinion, they've met all the requirements?

MS. SCHICK: Correct.

CHAIRMAN BECKWITH: Okay, John, you want to move?

MR. NELSON: **I move to accept Rhode Island's implementation plan for Amendment 3.**

CHAIRMAN BECKWITH: Is there a second to that? Second by Bill Coates. Any discussion on the motion? Does anyone object to approving Rhode Island's plan? Without objection it's approved.

What I'd like to do is take a 10-minute break, so why don't we come back at 11:05?

(Whereupon a short recess was taken.)

CHAIRMAN BECKWITH: Okay, we will resume reviewing the state plans, and which one you want to do next, Amy?

MS. SCHICK: Okay, we can start through the packet that we have here, and the next state is Connecticut. Ernie, how much detail do you want me to go into on the state proposal? Would you like to comment on it, because I know you've had some updated changes to it? I'll transfer it over to you.

CHAIRMAN BECKWITH: What we did, we were rushing to put together our state proposal to meet the October 1st deadline, and quite frankly, we hadn't thoroughly thought through everything; and subsequent to that, we've really fleshed out our plans, and I've got that here in front of me.

Let me just go through our plan and tell you where we are. First of all, as I said, we do have our plan fleshed out, and we are planning to take this out to two public meetings; the first on October 20th, the second

one on October 21st.

And, this is part of our regulatory process, and we plan to have all the necessary regulations in place to implement the system by January 1st, so these two meetings are the first step in the process.

Let me just run through our plan, because there is more detail than what we have now than what we had submitted to the Commission, and I will give you an updated plan when I get back in the office, Amy, probably Monday.

But, let me just give you a brief overview of what we're going to do. We're going to create two management areas in Long Island Sound. There will be a special management area, which we're going to call 6A.

As you know, Long Island Sound is Area 6, and Area 6A will be in extreme Western Long Island Sound from Loran Line 15/190, which is the Fairfield/Bridgeport town line, all the way west to the New York border, and it will encompass all the Connecticut waters there.

What we're going to have is a special management program for that area. As you know, the trap allocations for Area 6 are going to be based on the historical participation, and a fisherman would be allocated traps based on the number of traps that he fished during a base period, which is January 1, 1995 to June 8, 1998, and we will determine his number of traps fished from two documents; one, the commercial logbooks that they submit to us, and we can determine from the number of traps hauled and a trap haul set over days, how many traps they're fishing.

And, we'll also look at their license applications during that time period, and the fishermen indicate on their license application how many traps they fished. What we will do is our allocation will be based on the maximum number of traps during that period, either from the license application or the maximum number of traps from the logbooks.

So, whatever gives the highest number, that's what they will be allocated. So, that's for all of Area 6, with the exception of Area 6A. Area 6A will have a trap limit of 1,000 traps, so anyone that's currently fishing, when we look at what they've fished from the base period, based on the logbooks or the license applications, if the number of traps they're fishing is greater than 1,000, they will be limited to 1,000.

If they're fishing less than 1,000, they're trap allocation will be based on their historical number from those two documents. We will maintain the 1,000 trap limit for two years, and in the third year that would drop down to 800 traps.

This trap limit for that area would reduce the number of traps fished by 28 percent in that area. We're going to establish a buffer zone, which will be approximately a one mile area from the eastern boundary of Area 6A west, and fishermen that have a history of fishing in Area 6A, but do not elect to fish in 6A, because they don't want the 1,000 trap limit, would be able to fish their historical level in that buffer zone if they do qualify.

I might also point out to you that if a fisherman elects to fish and qualifies to fish in 6A, he will be limited to that number of traps, the 1,000 or 800, no matter where he fishes in Connecticut waters. So that limit follows him no matter where he goes.

Also, we have a situation where we have a number of license holders that have indicated on their licenses the number of traps that they fished, but in review of their logbook information, they did not fish during that base period.

What we've decided to do, instead of excluding them from the fishery and essentially saying their license is not valid, and we would be essentially taking away their ability to fish in the future if we didn't give them a trap allocation, we have decided to give them 50 percent of the number that they've indicated on their license application, up to a maximum of 800 traps.

Say, for instance, a person indicated that he was going to fish 1,500 traps during a base period, but didn't fish at all, but held a license during that period, we would give him a maximum of 800 traps.

And, we will have an appeal process, and the only basis for appeal of historical participation or the allocation of traps would be that the Department erred in determining the number of traps fished, or if they were in a fishery or not.

All traps have to be tagged, both the recreational and commercial. We kind of indicate where the tag has to go,

based on the criteria established in Addendum 1. Any untagged trap can be confiscated by the Department.

Fishers cannot possess untagged traps on the water. All traps have to be tagged. As I mentioned earlier, when Mark brought up the issue, we're going to allow a one-to-one replacement for damaged gear or gear that needs to be rotated.

The fishermen can surrender their tags to the Department, and on a one-to-one basis we'll authorize the vendor to replace the tags, but they'll be charged the original full fee.

We're going to allocate an initial 10 percent overage for the trap tags to accommodate routine annual loss, but in one area of Area 6, known as the Race, we're going to allocate an initial overage of 25 percent for routine losses, and this is an area subject to very extreme tidal velocity.

It's heavy commercial and military traffic. Submarines can go through there and periodically take a guy's gear away. But the fisherman is going to have to -- we're going to have to qualify people from the logbooks that they actually fished in that area.

In the event of catastrophic loss, which we defined as a loss greater than a percentage in the initial percentage allocation, which would be at 10 percent or 25 percent, fishers will be re-allocated their entire number of traps authorized, plus a routine overage, and they'll have to pay for the whole thing.

One other thing we're going to propose is a limit -- currently a fisherman can haul another fisherman's traps in Connecticut waters if he has a written permission from that fisherman in the case of injury or for illness.

What we're going to do is put a 21-day limit on hauling of another fisherman's traps. And, the reason for that is we want to preclude dealmaking where one fisherman may have an allocation, maybe he wasn't an active fisherman, where he, under the table, sells his allocation to someone else, gives him a letter that allows him to haul the other guy's traps.

Obviously, they'll have two different tags, and we want to preclude fishermen from doing that, so we're going to propose that for a regulation change also. Amy, tell me what I missed?

MS. SCHICK: I think you covered everything. The only issue that I would raise is in Addendum 1 it states that the 10 percent replacement or routine loss rate would be established, and an alternate routine loss rate could be established, pending approval by the Board, so the 25 percent overage in the Race should be included in the motion that the Board would make in favor of this proposal.

CHAIRMAN BECKWITH: Let me just give you a little bit of background on that, and we quite frankly do not have our data on losses in the Race. This is based on what we heard at the LCMT Meetings and also from our fishermen.

What they tell us is their routine losses in the Race run from 25 to 50 percent, so we're going with the lower limit, at least at the outset, anyway.

MR. GIL POPE: Just one quick question. Your 21 days, if somebody really gets hurt badly, is 21 days really enough? I understand why.

CHAIRMAN BECKWITH: Yes, I'm really glad you point that out because I didn't quite tell you the whole story there.

MR. POPE: A broken leg or --

CHAIRMAN BECKWITH: It's 21 days with the written permission from the other fishermen. If they want to exceed 21 days, they have to make a request to the Commissioner, and the Commissioner will evaluate it on an individual basis, and make a determination whether it's a valid request. John.

MR. NELSON: Ernie, on the information I had here -- and maybe you said it -- you do address recreational?

CHAIRMAN BECKWITH: Yes. They get 10 tags. All traps have to be tagged. There is no provision for catastrophic loss for recreational fishermen.

MR. NELSON: Thanks. Move acceptance of the Connecticut proposal for Addendum 1 with the 25 percent for replacement in the Race.

MR. LAPOINTE: Second.

CHAIRMAN BECKWITH: Okay, any discussion on the motion? Gordon.

MR.COLVIN: Just kind of for the record, Mr. Chairman, as you know and as we have discussed, the Area 6A Proposal did not come out of the LCMT process and is something additional that has come along since then, the final details of which have not yet been completed; and pending that, it will be my position to abstain on the motion until I'm in a position to know more about that. Thank you.

CHAIRMAN BECKWITH: Yes, I just want to point this out. This was not a proposal from the LCMT creating a special management area. As a matter of fact, there was a special LCMT Meeting in mid-June just to discuss this issue, and the majority of the fishermen on the LCMT did not support creation of the separate management area.

But the agency is proposing to go forth with this because they feel that this is the right thing to do for a couple of reasons. One, the majority, if not almost all of the fishermen in that area, want this limit, and it is more conservative than what the plan requires.

The plan just requires for Area 6 to have a cap based on historical participation. What this proposal would do would create a reduction of approximately 28 percent in the number of traps fished in that area. It's going to be a very, very hot issue at our two public meetings, I can tell you that.

I know Gordon's people, not his people, but fishermen from New York are going to come over enmass, and it's going to be a very uncomfortable hearing, and I'm unfortunately going to be the one running that. Eric wouldn't do it.

MR. POPE: Was there a reason why you didn't deal with it in a separate issue?

CHAIRMAN BECKWITH: I don't follow you.

MR. POPE: Well, in your plan that you're submitting.

CHAIRMAN BECKWITH: Deal with it as a separate issue?

MR. POPE: Yes, or is it mandatory that this part of it be included in your plan?

CHAIRMAN BECKWITH: Yes, it is. As lobster in most states goes to the highest levels of state government, and this is the Agency's position right from -- I'd say

the governor's office down, this is what they want to do.

Any other discussion on the motion? Okay. Does anyone object to the motion? Actually, why don't we take a vote, because Gordon wants to abstain? Okay, is there anyone objecting to the motion and would anyone like to register that abstention from voting? Gordon so indicated and the National Marine Fisheries Service also. Okay, without objection and abstentions noticed, the motion is approved. Thank you.

MS. SCHICK: The next plan is for Delaware. Delaware has requested de minimis status for 2000. If you look on the second page of their report, it shows that the annual landings are both well under 40,000 pounds, that the average is somewhere around 11 or 12,000 pounds.

The criteria is having an average landings for the previous two years of less than 40,000 pounds, so they're clearly below that. Right now Delaware has regulations in place that satisfy Section 3.1 of Amendment 3, which is the seven coastwide requirements, and, therefore, they're in compliance with that component of de minimis. So, according to my review, they are eligible for de minimis status.

CHAIRMAN BECKWITH: Any discussion on Delaware's request for de minimis status?

EXECUTIVE DIRECTOR DUNNIGAN: Just for the record, could we clarify what that means in this case? What specific provisions of the Fishery Management Plan are they being excused from having to implement?

MS. SCHICK: It's contained in Section 4 of Addendum 1. The plans says if de minimis is granted, the de minimis state is required to implement at a minimum the coastwide requirements contained in Section 3.1 of Amendment 3.

And in this case, Delaware has implemented those measures. Any additional components of the FMP which the Board determines necessary for a de minimis state to implement can be defined at the time de minimis status is granted.

For all other components of the plan, the Board will specify by motion which measures a de minimis state must adopt.

EXECUTIVE DIRECTOR DUNNIGAN: So, in effect then,

granting the de minimis status to Delaware would mean that that state would only have to implement the mandatory measures that are applicable to all states, and they would be free from anything else unless the Board specified that today?

MS. SCHICK: Correct.

MR. NELSON: Move to acceptance of Delaware's request for de minimis.

MR. COATES: Second

CHAIRMAN BECKWITH: Seconded by Phil Coates. Any discussion on the motion? Is there any objection approving the motion? Seeing none, the motion passes and it is approved.

MS. SCHICK: The next state plan is from New Hampshire, and, John, would you like to go over your plan, or do you want me to go through it?

MR. NELSON: Sure. Well, let me go over it, and let me use your charts on it, Amy, to make sure I don't miss anything associated with that. We don't deal with the black sea bass. They don't get past Massachusetts, so we haven't had to deal with that.

We would plan to issue the tags probably via the vendor concept. All the commercial traps would be tagged. All the recreational traps would be tagged. We were looking at a 10 percent routine loss.

The issuing and effective date, we have begun the rule-making process and we're anticipating that in January we would have our rules in place.

And, I'm assuming that we would have developed whatever mechanism we need with the vendor, so that the tags would be ready to be issued in a timely fashion, so they would all meet the June 1st timetable.

Parties receiving the tags, as you can see, we issue to licensees. Again, the mechanism to replace tags, we were looking at the 10 percent allocation. I think that what Bill has brought up is something that still needs to be evaluated, but once that process is in place, we would plan I think doing it through the vendor system, notifying the vendor of the appropriateness, so people, I think, would have to plan a little bit ahead on when they wanted to replace their traps.

Our regulations are also looking at the catastrophic tag loss and how to deal with that, and I don't have the details of that, but we are planning on addressing that.

Enforcement is already in place, circular escape vents are already in place. And the historic participation aspect, we, as you know, are not necessarily taking the historic participation. We are taking the tiered approach for the commercial licenses. The recreational has a 5-pot limit.

We will be working with the National Marine Fisheries to make sure that's a cooperative effort between state and federal waters. So far, we have not had any problem with that system in the state waters, and actually less people have participated in the full commercial license than we anticipated, and so, therefore, New Hampshire is actually probably fishing much less traps than what the plan calls for. I forget what Scenario D is.

MS. SCHICK: That's in the evaluation process where a fishermen could submit lobster sales receipts, bait receipts, trap receipts, and the request was made that states and the LCMT's develop a mechanism of translating that type of information into a trap allocation for historical participation.

MR. NELSON: Okay, well, I don't think that really pertains to us since we have fixed numbers associated with our licenses. And appeals, well, you know, we don't believe the quality of mercy is not strained, but we don't have an appeals process.

And, we have a monitoring program in place and a reporting program. I suppose we could request de minimis, but I guess we went at this time in the spirit of cooperation with our two giants to the bordering states. Any other questions?

CHAIRMAN BECKWITH: Bill.

MR. ADLER: John, have you fixed the glitch in your licensing system, your two-tier system, the glitch whereby you have open access to the smaller category, smaller trap limit category, you have open access there, and, therefore, that can expand, that's one thing.

And the second things was you had no requirement that would prevent one of the bigger category guys from hiring 2, 3, 4, 5 sternmen, each sternman going in and getting

one of the open access licenses, and thereby being able to fish the tier-one limit, plus the sternman's individual limit added on so that that boat would be handling a thousand, plus what's the second tier, 600, so you'd have two sternmen, he could fish 1,200, that would be 2,200 traps on that boat because of that open pot there, having to do with the second tier. Did that get fixed yet?

MR. NELSON: Well, we did not have any glitches in our regulations, but we do recognize the ability of people, if you're issuing licenses the same as what Massachusetts does, that people could fish whatever numbers are allocated to them.

We do feel that that is not what we want to have happen, and so we are addressing that in our rulemaking, yes.

MR. ADLER: Okay, you understand what I'm getting at. In Massachusetts, by the way, it is per vessel, so you can have -- if you have two licenses on one boat, each license normally would be 800 per license? Not so.

It's 800 on that vessel, which means you can have as many licenses on the boat as you want, but there's only 800 traps that can be set from that boat.

MR. NELSON: Okay, in all seriousness, we are looking at that to make sure that the multiple license issue does not take place, and, you know, we will address that. Do I move acceptance of my own plan? **I move acceptance of New Hampshire's plan for implementation for Addendum 1.**

CHAIRMAN BECKWITH: So seconded? Gil seconds it?

MR. ADLER: Okay, you second it. I'll approve this; for Massachusetts I'll approve this. But the idea is with the understanding that I would like them to proceed with what they said they're proceeding with, which is fixing, adjusting or fixing this thing.

MR. NELSON: Well, Bill, there are a number of states that issue trap tags to licenses. I was always under the impression that that was Massachusetts, too, but thank you for correcting me. You must have corrected that recently.

MR. COATES: Just recently.

MR. NELSON: Just recently. So, was that kettle and pot? Oh no, that's another thing. So, you know, it's an issue

that all the states that issue to licensees need to be aware of and deal with, and I guess it's only New Jersey and Massachusetts now that have corrected their glitch, and whatever. All right, fine.

I'll back off from that last statement, strike it from the record. And we are aware of it. We will deal with it as the state needs to deal with it. As far as I can point out, I don't believe that was a compliance issue at all.

MR. ADLER: Well, it's just that we allowed -- you know, we said you could do your different thing from the per vessel rule, but --

MR. NELSON: Yes, but we did not -- and I don't want to argue the point here --

MR. ADLER: No, no argument.

MR. NELSON: This is something that is totally different. This came up as an overall issue that states who issue to licensees needed to be aware of and how to fix that so you didn't have multiple trap limits on a vessel, and I think we're all aware of that. We want to deal with that in a proper fashion so it does not occur, and we're going to look at dealing with that.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: A couple of points, Mr. Chairman. Number one, the issue of license versus vessel is not problematic in the areas where you're working with history. So those states that have license holders going with history don't have the same issue on the table.

Point two, most of the states are putting on the table as plans, implementation plans at this point, proposed regulations, regulations which are not final, and which, as we know, are likely to change as they go through the regulatory adoption process within the states.

So we need to recognize that we will need to revisit these approval motions after the states adopt regulations, and I think that speaks to the specific issue in question here.

Thirdly -- and this has been bothering me since we started this morning -- I think one of the issues that comes out every now and then during our discussions this morning, and I think it has just come out here, is the

issue of whether we are considering or ought to consider in our approvals of implementation plans under Addendum 1, the underlying issue of whether these implementations plans address or don't address or need to address the issue of effort increase or effort caps or effort reduction.

My understanding is that those issues are not part of this discussion at all. And if any state's proposal is such that there might be an effort increase associated with it, that that's an issue for another day, not today.

Am I right about that? But it's still very much an issue. So, for example, when we approved Rhode Island's Plan earlier, knowing that there is no longer any limit on the number of licenses that the state might issue, and that therefore the proposal is all well and good and consistent with Addendum 1, but has limited ability to control the growth and effort that might occur, that's irrelevant today, but it will become relevant at some point in the future.

MR. COATES: Amen.

CHAIRMAN BECKWITH: Yes, that's a good point, Gordon. Where are we?

MR. NELSON: We've got to approve the plan.

CHAIRMAN BECKWITH: Oh, yes, we're discussing New Hampshire's Proposal. Is there any other discussion on the motion? Okay, does anyone object to approval of the motion? Seeing no objections, the motion is adopted and passed.

MS. SCHICK: The next state plan is for New Jersey, and Bill Andrews is here from New Jersey in place of Bruce Freeman, and he explained a little bit about the proposed trap limits that they may put in place in New Jersey, but I may have Bill go over that again briefly about the three alternatives that were taken out and the one proposal that's come before the Board today.

MR. ANDREWS: Okay, actually, there are four types of permits, A, B, C, and D, that we have proposed. A type A permit would be one for fishermen with a federal permit. They would be required the '91 to '98 participation, and also have 2,000 pounds of landings in New Jersey within the participating period.

The type A permit person would receive 1,000 pots, or if they can document with acceptable documentation more than 1,000, they would be viewed under historic participation.

The type B permit would be offered to those that have participated in the pot fishery before the 1991 deadline.

It would be 1980 to 1990. They would have to also provide the 2,000 pounds of landings by pot sold in New Jersey within that period and they would receive the maximum of 1,000 pots.

The type C permit would be offered to otter trawl vessels who have a federal permit for lobster, and during the period of 1980 to '98 they would have to document 500 pounds of landings in one year of lobster in New Jersey, and they would receive a maximum of 500 pots.

The type D permit would be with someone without a federal permit, but would have a state permit within 1980 to '98 period, and would have landed 2,000 pounds of lobsters in New Jersey, and they would receive an allocation of 500 pots.

Let's see, the three alternatives were published in the State Register as September 7th. We had hearings on September 22nd. As I said before, all comments were in favor of the Alternative i; therefore, that's the one we're considering, which would be able to be implemented by January of 2000.

If we can reach an agreement with the National Marine Fisheries Service and have a provider for the issuing of tags, we can probably have an enforcement date for tags on the pots by June of 2000.

Would you like me to go over the list here now at this time, or would you like --

MS. SCHICK: I just want to ask you a question on that point. Is this intended to be a proposal for conservation equivalency?

MR. ANDREWS: We have nothing to base that on. We don't have any information on the number of traps that can fish now, or that would be fished on these three alternatives, except for the federal proposal, you know, which would be a lot higher than what we're looking at here.

It's our feeling that once we get the applications in and review them, we'll have more of an idea of where we set the number of traps, the number of fishermen that will be

in the fishery, and our level is what -- we have 1 percent of the coastal Landings, 1 percent are probably in New Jersey waters, and we're probably looking at 100 to 150 possible applicants, and less than that will be accepted, I think.

CHAIRMAN BECKWITH: Bill Adler.

MR. ADLER: Just out of curiosity, what happens to somebody that comes in that was pot fishing and didn't have 2,000 pounds of lobster, what does he get for an allocation of traps?

MR. ANDREWS: He would get nothing. He would get no allocation. He has to be -- a commercial fisherman in New Jersey should have over 2,000 pounds is what our committee felt, so he would not receive any allocations. We do not have any recreational activity.

MR. ADLER: Well, I was just thinking about some part-time guy who is commercial, but he's not a big guy, and he would be basically told he's out of the fishery?

MR. ANDREWS: Correct.

CHAIRMAN BECKWITH: Phil.

MR. COATES: Yes, a question, Bill. With regard to the type C license, that's based on otter trawl performance. Now, is the outcome of this the opportunity for the individual to fish a maximum of 500 pots or continue to trawl and land lobsters caught by trawling, or are you precluding the use of trawls as a means of landing lobsters?

MR. ANDREWS: They couldn't do both at the same time.

MR. COATES: No, they could fish either 500 pots or still land lobsters taken by trawl?

MR. ANDREWS: Correct.

MR. COATES: Okay, thank you.

CHAIRMAN BECKWITH: Any other questions for Bill? Gordon.

MR. COLVIN: Bill, can I clarify that last one? Does that mean that they have to pull their pots out of the water while they're trawling, or can they still have them fishing in the water, take a trip trawling, and then pull

their pots the following day? That was unclear to me, too.

MR. ANDREWS: They can't have the trawl gear on board. I think that maybe if they want to convert over, it's a possibility, yes.

MR. COLVIN: They could be fishing pots. The pots could be in the water fishing at the same time they're trawling, but they would have to pull them on a different trip?

MR. ANDREWS: Yes, under these regulations, that's what would happen.

CHAIRMAN BECKWITH: Harry.

MR. MEARS: I have a question for Bill. Under this Alternative 1, you indicate that this was the alternative that was favored during your public hearing process?

MR. ANDREWS: That's correct, yes.

MR. MEARS: So, I assume, then, that you're type A, type B, type C that pertain to federal lobster permit holders would relate to state regulations on activities of those individuals in state waters of Area 4 and 5?

I'm a bit confused, in terms of by virtue of being a federal permit holder, they, at the present time, would in fact have authorization to fish without these type of criteria in the EEZ, so I think what I'm hearing here is that the state then proposes to implement additional regulations that would impact upon their activities in state waters. Is that correct?

MR. ANDREWS: That's the way it is, yes. This is our means of developing an allocation upon reaching an agreement with the federal government so that they can issue the trap tags in federal waters, and after our review this is a basis for us to develop an allocation procedure, yes.

MR. MEARS: Okay, so we'll need to discuss this further, but one final follow-up question. If they do not qualify under the New Jersey scenarios to receive any trap allocations, can federal permit holders, who are residents of New Jersey, still land in New Jersey?

MR. ANDREWS: No, they wouldn't. That means they would be able to land -- like an otter trawl vessel that

doesn't qualify, they wouldn't be able to use the pots. They would be able to use their federal permit to land the 100 lobsters per day.

We also have more restrictive for other types of gear, such as gillnets. There are limits to six per person per day. So, the federal permit holder, if they know what gear he's fishing, would have a different number of lobsters to land.

CHAIRMAN BECKWITH: Gil.

MR. POPE: Yes, in looking this over, I see two words. I see recent participation as '91 and historic as 1980 to 1990.

MR. ANDREWS: Right.

MR. POPE: So, it was in your judgment that recent was just 10 years, and that historic, you have to go back 20 years?

MR. ANDREWS: That was our Marine Fishery Council. The LCMT Teams developed the '91 to '98 guidelines, and then our Marine Fishery Council put in back to 1980 for the fishermen that had dropped out prior to 1991.

CHAIRMAN BECKWITH: Amy.

MS. SCHICK: Just a comment on that point. In reviewing this, the different scenarios, taking a landings' amount, over 2,000 pounds or over a thousand pounds, in translating that into a pot application is applicable under Scenario D of the evaluation process.

The one difference from the Area 4 proposal and from what's in Addendum 1 right now is going back to that 1980 date. The reference period for Area 4 was '91 through '98, I believe.

I'd have to check the exact date, but going back to 1980 as a reference period was not included in the Area 4 plan, and I believe that's something that the state would have to apply for conservation equivalency to use an extended reference period.

MR. ANDREWS: I just wonder can we go back to the LCMT Team and reconvene them to look at this other alternative?

CHAIRMAN BECKWITH: Yes, we don't have to approve your

plan today. If you want to go back to the LCMT, we can revisit it at a later date. But, yes, I do have some concern with that, also, because I think one of the goals of the plan is to maintain the cap effort; and if you go back that far, then there's ability to have an effort increase by having people that participated in the fishery a long time ago come back into the fishery. John.

MR. NELSON: Along those same lines, Ernie, just a quick question. Type B seems to be looking at, as Ernie mentioned, people who have been out of the fishery for eight or nine years, and do you folks have an idea about how many you're really talking about?

MR. ANDREWS: Probably about a half a dozen, you know, maybe less than that. But, they're very vocal.

MR. NELSON: They're what?

MR. ANDREWS: Very vocal. They're the ones that go to the meetings.

CHAIRMAN BECKWITH: Okay, would you like to take this issue, as pointed out by the Board, back to the LCMT, or back to your state for further deliberation?

MR. ANDREWS: Yes, I think that that would be the way to go, I believe.

CHAIRMAN BECKWITH: Then we will not take any action on it today. John.

MR. NELSON: Just again along those same lines, on type D, that also has the date of 1980 to 1998, and if that's an issue, we want to just make sure they understand to address that.

CHAIRMAN BECKWITH: Harry.

MR. MEARS: Mr. Chairman, if I could just make a comment for the record, the National Marine Fisheries Service has extreme apprehension over the one category that would prevent federal permit holders residing in New Jersey from landing in New Jersey, and certainly as such this would diverge from our otherwise strong goal of making state and federal regulations compatible, and I would hope this issue can be ironed out through discussions and communications through the LCMT.

CHAIRMAN BECKWITH: Okay, any other comments on the

proposal before we move on? Okay, let's go on to the next one.

MS. SCHICK: The next proposal is from New York, and, Gordon, would you like to walk through the proposal?

MR. COLVIN: Sure. New York's proposal is based on regulations which are in draft and are still undergoing internal review and perfection within the Department, have not yet been approved or advertised for public comment, so there will be some additional changes and refinements, both before and after the public comment process.

With respect to the issues on the table, what John sent to Amy was a very brief excerpt of a portion of the regs, and there are other issues that they do address and will address. The Black Sea Bass Pot Fishery limits will need to be addressed, and it will probably be addressed not in this set of regulations, but in our Fish Pot Regulations, which are separate.

Yes, the state plans to issue tags, as I indicated earlier this morning. There will be a requirement that all the traps be tagged aboard a vessel. Skipping down to replacement tags, at this point we are not proposing a replacement tag mechanism beyond the catastrophic loss, but we do expect that to be an issue that we will seek, explicitly seek public review and comment on during the comment period, and that may change.

Catastrophic tag loss is in the draft regulations. Enforcement provisions, our current laws do allow the officers to haul and inspect trap gear. We will not be able to provide for any substantial increase in enforcement effort as a result of the trap tag program. We may find other means to do that.

I believe the Enforcement Section also contain provisions recommending permit sanctions for non-compliance. Quite apart from all of this, the Department is in the process now of completing a policy, which is almost like a point system on driver's licenses for suspensions and revocations of various commercial fishing licenses and this will be part of that policy.

Circular escapement is being addressed, not in these regs, but in a separate rulemaking that's on going now, involving Crab and Lobster Pot Regulations, so that's being addressed there. I believe that the Area 4 and Area 6 limit and evaluations are addressed by the regs,

Amy, and I think that's the last of the issues that are applicable.

CHAIRMAN BECKWITH: Any questions for Gordon? Harry?

MR. MEARS: Gordon, would you know offhand how any state permit holders who fish in Long Island Sound or Area 6 who are also federal permit holders?

MR. COLVIN: Offhand, I don't, Harry. That question has been asked and answered. It's not many, because we have learned that there are essentially fewer than a half dozen who are fishing in Area 2.

There's hardly anybody out there. And so, the only people that are really applicable here are people from, say, Montauk who fish far enough south to be in Area 4, so they might have gear in Area 6 around Montauk and around into Area 4. I don't think there's too many, but, again, you're talking only a handful.

MR. MEARS: Has there been any discussion that you're aware of, either during the public hearings or perhaps LCMT Meetings, on the situation where federal permit holders would have to abide by the stricter of federal or state regulations regardless of where they fish?

MR. COLVIN: They're well aware of that, and the regs that John has drafted have a mechanism in it for declaring which areas you wish to fish in and identifying, depending on what you declare, which regs are going to apply because they're the strictest. That's built in already into the draft.

CHAIRMAN BECKWITH: Any other questions for Gordon? Gordon, I have one. I'm just curious about your comment about the limits about on black sea bass. What are you thinking of there?

MR. COLVIN: Well, I think it's fairly straightforward in the addendum that fish pots, if you have pots that are potentially both, they have to really be one or the other, and a fish pot has to comply with the non-trap gear limits.

And we'll have to probably address that because we probably have some. I neglected to ask Bill whether they had yet started to work on it. I know it's a big issue in Jersey.

MR. ANDREWS: No, we haven't seen anything on that.

CHAIRMAN BECKWITH: Okay, do we have a motion to accept New York's proposal? John.

MR. NELSON: So moved, Mr. Chairman.

CHAIRMAN BECKWITH: All right, do we have a second? Second from Maine, George. Is there any objection to approving the motion? Seeing none, the motion passes and is approved.

MR. ANGEL: Just a quick question. What happened with New Jersey? I must have missed -- What was the final outcome?

MR. COATES: No action.

CHAIRMAN BECKWITH: We took no action because they had to bring some issues back to their LCMT.

MR. ANGEL: Okay, great. Thank you.

MS. SCHICK: The next state proposal is from Virginia. Again, they are requesting de minimis status. On the second page there are landings for the last ten years, and the total landings is in the order of 1,200 pounds, which is well below the qualification criteria for de minimis status.

In their report, they say that they will implement the coastwide requirements contained in Section 3.1 of the addendum; and if the Board wishes any further sections of the addendum or the amendment to be implemented in Virginia, that would have to be specified by a motion if a de minimis status is approved.

MR. NELSON: Move acceptance, Mr. Chairman, of Virginia's request for de minimis status.

CHAIRMAN BECKWITH: Do we have a second? Move approval, as Jack is correcting us, move approval of the request.

MR. NELSON: Right. What am I saying, "acceptance"?

CHAIRMAN BECKWITH: Move approval of --

MR. NELSON: Move approval.

CHAIRMAN BECKWITH: Okay, do we have a second? We have got a second from Bill Coates. Okay, discussion on the

motion? Harry.

MR. MEARS: The comments I have for the Virginia proposal, in hindsight, are also relative to our vote on the Delaware proposal; namely, that by virtue of being recognized as a de minimis state, my understanding, as has been indicated earlier, is that those states must then pertain to the regulations contained in Section 3.1 of Amendment 3; and without qualifying what the requirements are for a de minimis state, this would, by definition or by virtue of that vote, not require those states to implement a lobster permitting and licensing system to implement escape vents, nor to have trap limits, and I believe that needs some discussion to verify that that's, indeed, the intent of the Board.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: To the same issue, Mr. Chairman, just to go a little bit farther. Amy, could you just -- because I don't have it in front of me -- again tell us what the coastwide requirements are specifically that they need to comply with?

MS. SCHICK: It's the prohibition on possession of buried or scrubbed Lobsters, the prohibition on possession of lobster parts, prohibition on spearing lobsters, prohibition on possession of V-notched female lobsters, the requirement for biodegradable ghost panels in the traps, the minimum gauge size, and limits on landings by fishermen using gear methods other than traps.

MR. COLVIN: Amy, have we taken a hard look at the proposed regulations that both states have provided us that are offered to conform to those requirements, and are all of those provisions covered by both of them?

MS. SCHICK: In Delaware, I know for a fact that they are all being implemented. In Virginia, I believe there were a few deficiencies, and I would have to read through this carefully to see if they had been addressed.

They had written in their letter that their intention is to implement those, but again I think that would be pending regulation, and we would have to see the final version of those regulations to determine whether or not it's really in there.

MR. COLVIN: Because I'm looking at something that says "New Sections Added", so that's what is already in the Regulations then. It's not what they're adding now,

which does not, for example, include V-Notch provisions and does not include anything about biodegradable panels that I see.

MS. SCHICK: Right, the letter says that the regulations that are attached are the current regulations, and in a subsequent sentence it says that Virginia will implement the coastwide requirements contained in Section 3.1, so that indicates that that is still pending.

MR. COLVIN: One last question, if I could. The minimum size provisions in our plan, are those applicable to landing, possession of both?

CHAIRMAN BECKWITH: Gordon, 3.1.6 just says the minimum size for American lobster shall be no lower than 3-1/4 inches carapace length, so I would interpret that to mean you cannot possess or land.

MR. COLVIN: I think I have, and Delaware's only addresses taking. It doesn't address possession, just to point that out.

CHAIRMAN BECKWITH: Okay, what we will do is we'll have to contact them and tell them that, I would assume. We have approved their plan, but we weren't aware of that deficiency, and we'll have to inform them that they have to correct that, because obviously it would not -- I mean, even though we did approve it, we would not have approved it if we knew that. John.

MR. NELSON: I think, Mr. Chairman, when we talked about de minimis before, and it certainly was my intent in Virginia -- and I thought Delaware was already in compliance -- that they would be adhering to our compliance issues of 3.1.

And in the case of Virginia, they said that they would implement them, so I'm going on that value, that statement value; and certainly all of them, all the issues associated with de minimis status are conditional, of course, upon them complying with the requirements in Section 3.1 of the plan.

MR. COLVIN: I stand corrected, Mr. Chairman, it does address possession in the Delaware regulations.

CHAIRMAN BECKWITH: Okay, well, then, forget what we said.

MR. COLVIN: I still think we need to address Virginia.

CHAIRMAN BECKWITH: Okay, Bill.

MR. ADLER: Amy, did you say that Virginia's current rules or the one's they're putting in address the non-trap requirement in 3.1? I didn't see it listed here. They said they were going to do it, but I don't see it listed here.

MS. SCHICK: What is included are the current regulations, and they say that they will implement all provisions of Section 3.1 if de minimis status is granted, so that would be pending.

MR. ADLER: All right, so it's pending that all of the issues, including that one, is in it, because it's not the ones they're adding now?

MS. SCHICK: Correct.

CHAIRMAN BECKWITH: I just point out to the Board that when we're dealing with these states that are requesting de minimis status, we do have the ability to require additional measures, in particular escape vents and maximum trap sizes. I just point that out. We certainly can do that.

EXECUTIVE DIRECTOR DUNNIGAN: The only place that would be an issue would be in state waters, because, presumably, the federal government will have that required in the EEZ. So it's a question over whether you believe that there will be a reason to impose minimum trap sizes in state waters of the Commonwealth of Virginia.

CHAIRMAN BECKWITH: Well, it's not a big issue in terms of the resource, but perhaps in terms of law enforcement it could simplify things. Well, I'm not seeing anyone making any moves or motions to correct anything or change anything that we've done, so why don't we move on?

Are there any other issues or discussion on Virginia's de minimis? Gordon.

MR. COLVIN: Can I offer a friendly amendment, subject to confirmation that Virginia's Proposed Regulations conform to the coastwide requirements of Amendment 3.

CHAIRMAN BECKWITH: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: I guess my question is we're approving a plan here, we're not approving any

regulations, and what they have said in their letter is their plan is to implement those. It seems to me that that would be redundant.

You're saying you're going to approve what they have said they are going to do on the condition that they do what they say they are going to do. It is implicit in the motion.

MR. COATES: Is that out?

CHAIRMAN BECKWITH: Not seeing a second, Gordon, I guess we'll just go on. John.

MR. NELSON: Well, I was just going to say we've had the discussion and we understand what we're asking of de minimis states. If we need to have it in the motion, approving de minimis status with the understanding of being in compliance with the requirements in the 3.1, we were going to add that type of language in there.

Obviously, we all agree with that, so, you know, if it helps for clarification, I would put that language in. **Therefore, it would be move approval of Virginia's request for de minimis status, with the understanding that they will be in compliance with the requirements of Section 3.1 of the Amendment.**

CHAIRMAN BECKWITH: Okay. All right, any further discussion on the motion as modified? Harry.

MR. MEARS: From a NMFS perspective, I do have apprehensions or continuing reservations about waiving Sections 3.2 and 3.3, from de minimis states; and as such, I will abstain from this vote.

CHAIRMAN BECKWITH: Okay, any other discussion on the motion? All right, seeing none, let's move on. Does anyone object to the motion? Any other abstentions, other than the service? Okay, the motion passes with one abstention.

MS. SCHICK: We'll move on to Massachusetts. That state plan just was passed out today. I haven't had a chance to look over it, so I'll turn it over to Phil to walk us through the Massachusetts proposal.

MR. COATES: And I'll turn it over to Jim, but before I do, though, I'll just say that our one page item here is certainly not our plan. That's just a quick thing that Jim Fair put together when we realized we were way late

on this whole process, and I'll ask Jim to run down through the issues, through the various components of the compliance components.

I did want to mention something about sea bass pots, the amendment and the addendum, the provision in the addendum regarding configuration of sea bass pots as non-trap gear. I assume the implication there is they are non-trap gear because the escape vents associated with the sea bass pot are not in compliance with the specifications for a lobster pot.

However, if our sea bass pots have lobster escape vents, then we could classify them as lobster pots, and therefore, escape that particular provision. These would meet the maximum size, yes, and the other trap specifications. Okay, Jim.

MR. JAMES J. FAIR, JR.: Okay, I again apologize for the brevity of this memo, but basically that's because we've done just about all of the rulemaking already, and I think we're in pretty good shape on most of these issues.

Regarding sea bass, as Phil said, we have the opposite problem from -- when Maryland made the proposal originally, they were talking about a large Sea Bass Fishery with a small lobster bycatch. We have the opposite problem.

We have a large Lobster Fishery that occasionally lands some sea bass, and we have a small Sea Bass Pot Fishery that's managed as a Pot Fishery with it's own separate regulations.

If they have a lobster license, and they do happen to catch lobsters in those pots, they obviously can land them, and as Phil said, we can address that problem by making the pots comparable with the lobster pot.

For those fishermen who don't have lobster licenses, obviously the bycatch is zero. So, I don't think the non-trap bycatch limits that are addressed here would be a problem for our sea bass fishermen, anyway, but we will address that the next time we address our Sea Bass Pot Regulation.

I'd like to just go down through these points, rather than talking to the memo, because it really didn't address many of these. We have been issuing tags for the last year. I think we've learned a lot.

I think our intention is to go forward pretty much in the same mode again next year. Our experiences with the vendor have been fairly good. The tag that we have selected has worked out pretty well with one exception, and that being the increased tendency for fishermen to use these high-pressure washers on the wire pots, and use them out on the water.

So, they have been reporting a lot of trap loss, tag loss, associated with that practice, and some of them have learned how to deal with that and others haven't, but that's an issue that we should probably at one point or another take up with the tag manufacturer, because these tags obviously are designed to break under a fairly low pressure, and that really isn't necessary for this purpose.

We could have a tag without that weak link in it, and I believe at some point, if they're selling millions of these things instead of thousands that they would be willing to go through the R&D to develop a stronger tag for us.

Yes, we have the regulations in place that require the tags. Recreational tags will be tagged. Recreational traps will be tagged this year; however, we have no mechanism in place yet to get the tags to the recreational fishermen, and we're talking to the vendor about that, and I talked to Ernie about that on a couple of occasions, and I think there are some interesting proposals that have been made by the vendor to get these.

Basically, getting 10 tags to 12,000 people is going to be an enormous problem. Whether you use the mail or whether you make them come and get them, or whether we buy them and give it to them; no matter what we do, it's going to be a problem, but we're talking to the vendor about that.

The routine loss rate of 10 percent has worked out pretty well for us. Other than the problem I mentioned at the beginning, we haven't had a lot of trap loss. Most of the guys bought enough tags to allow for some routine losses.

Those that didn't, those that tried to save a few dollars and buy less tags than they needed, in a couple of instances ended up in a situation where they had to go back to the vendor and buy more tags.

That created a delay for them, and if they land on the

vendor when they're printing the Maine tags, for instance, they have to wait a month. So, we've encouraged everyone to buy what they need. If they buy what they're fishing, plus 10 percent, usually that will take care of it.

The tag issue and it's effective dates, we have been issuing the tags last year the months of December, January, and February, and we require them on the pots by the 1st of March. The plan has a different date in it of June 1st, and obviously, we're moving in that direction.

However, both of these scenarios have associated problems, and I think we still need to talk about some of the issues that Bill is mentioning as far as new gear going out in the spring, and some way to allow for that.

By making them put them on in the middle of the winter, we thought we would avoid that problem. At least any tags would be going on, either new gear as it went out in the spring, or on existing pots in the water, but it's a problem both ways.

We are issuing the tags to license holders, but only allow 800 per vessel. We have made it relatively easy to get replacement tags for routine losses. And if a person has gone through his whole allotment, if he bought 800 plus 80 replacement tags, and he lost them all, if he comes in with broken tags, we can replace them immediately.

If he sends them in the mail, we can mail him replacement tags back. We had the vendor give us 5,000 generic replacement tags, which we made as part of his bid. When he bid on the price, that was included in the price of the bid.

So, we're able to turn around routine losses relatively quickly. Obviously, that again only would take place if a person has gone through his whole allotment and then continues to lose tags.

It's been more of a problem in some of our pot fisheries with small pot limits, like the Conch Fishery, to be honest with you.

Catastrophic tag loss would be handled in one of two ways; whether by suspending the regulations, for instance, for a Halloween Storm like we had several years ago or by completely re-issuing new tags. We haven't had

to do that.

As far as enforcement, I think that's been addressed by our Division of Law Enforcement in an adequate fashion. We are not in a position to do wholesale hauling of gear, but they have devised other methods of enforcement that I think are equally as effective.

We have the circular escape vent, and the Area 2 trap limit is also in place. The Area 2 control date, we have a general moratorium on new licenses; however, we don't restrict access to any specific area with those licenses.

So, for instance, the fisherman that is currently fishing in Area 1, if he so chose could move to another area and begin fishing there. So, I guess to answer that, no, right now we have no control date, specifically for Area 2.

But, there are no new licenses available; and in most cases, new licenses are issued fairly close to where the old licenses was; I mean, through a transfer process. So, we have no plans at this point to limit which of these areas a person can fish in, as long as they declare which area it is, and we authorize that on their permit.

The allocated trap limit is in place. We have no plans to evaluate historical participation at this time, because none of our areas require it. We have four areas that we need to look at.

The only one that has historical participation in their plan is the Area 3 plan, and we believe that would be handled more effectively by the National Marine Fisheries Service.

We do have a way to establish historical participation if that becomes necessary. We do have a long-term database on catch and effort for each lobsterman going back in paper records over 30 years and in an automated database going back at least 10 years.

So, yes, we could evaluate historical participation very quickly for any of these areas if that becomes necessary.

We have no appeals process because we have no trap allocations at this point.

I think our monitoring and reporting programs are adequate to address this fishery, and we wouldn't be making any changes there until ACCSP is finalized and would begin that process.

CHAIRMAN BECKWITH: Okay, any questions? Mark.

MR. GIBSON: On that allocation of tags that your division obtains, which you supply in addition to the other 10 percent, do you require them to bring in broken tags? They can come in and say they're all lost, we don't have any?

MR. FAIR: We have set it up so that if they do that, it's automatic, that they come in, they give us the broken tags, and we just replace them. If it's something other than that, we have set up a process that they would have to go through.

In other words, they would have to file some sort of a gear conflict report with the Division of Law Enforcement. There would be some -- This hasn't happened yet. We haven't had to address that yet. But, in other words, it would have to be documented to our satisfaction that they had, in fact, lost these tags.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: This raises a question I've been curious about, and I raise it with Jim, but I guess anybody else who is dealing with the issue of re-issuance of tags that are clipped off. I believe the tags are supposed to have the permit or license number on them. How do you do that?

MR. FAIR: Well, this is our first time through, but what we've done is have the manufacturer issue us a generic tag, which is a different color, and it has a serial number on it.

So, each tag has an individual number on it that we can record against the individual license holder who gets it. So, we've had to establish another database actually for these tags.

And again, usually it's half a dozen or something like that, and instead of going back to the vendor and waiting for a month, we just felt this was a much simpler and easier way to deal with it.

MR. COLVIN: The reason I'm asking is because I think that it's pretty clear here in the addendum -- is there anything in the addendum, Amy, that exempts tags issued under these circumstances from the requirement to have the permit or license number?

And I understand that experience to date may be with small numbers of tags, but based on some of the things I've heard, conceivably this could involve very large numbers of tags in terms of gear turnover and stuff like that that fishermen may be thinking about doing.

This is, by the way, why it's not in our proposed regs at this point, because we had these questions and we didn't have good answers to them as yet.

CHAIRMAN BECKWITH: Gordon, I think it's only a problem if the states are going to issue the tags. If they go through the vendor, the vendor can print up the tag with the appropriate license number on it, but in the case of Massachusetts and Maine, they would be re-issuing. That would be a problem.

MR. COLVIN: Well, I guess then I'd ask this question. Did any of our discussions with any of the prospective vendors identify as an option the issuance, essentially this spot issuance of tags on a one-for-one turn-in basis? I wasn't aware that it did.

MS. SCHICK: It did not specifically for the vendor to do those one-for-one exchanges. There was a provision for the vendor to supply replacement tags or extra tags to the state agencies, if the agencies requested that.

CHAIRMAN BECKWITH: My staff was telling me, when they talked to the vendor, just one vendor, about this issue, and the vendor said they could do that, but they had to issue them in minimum numbers. I think they said ten.

MR. COLVIN: Did they talk about a surcharge?

CHAIRMAN BECKWITH: No. John.

MR. NELSON: There is a cost though, apparently -- well according to what we have in here, the entire new allotment would be issued at the cost to the fishermen. And the other thing that I noted in here that might help is that it says if the replacement tags are not immediately available, the state could issue a letter of exemption for 2 months, up to 2 months. So I guess that what that means is if you had a catastrophic situation and the vendor couldn't do it.

MR. COLVIN: That's not what we're talking about.

MR. NELSON: Oh, okay.

CHAIRMAN BECKWITH: Gil.

MR. POPE: Just a quick question on the amount of time. Say, we're talking about on the spot, it's instantaneous, but if you went with a plan where you were to have to call the vendor, order the tags, or the person, is it fairly quick?

Are we talking about weeks, or you talking about days, or something like that? You don't know? That was one of the things I guess that Amy had talked about earlier, that she didn't really know, especially if they're swamped with the amount of tags.

CHAIRMAN BECKWITH: Yes, well, we've talked to the vendor, but maybe Maine or Massachusetts can respond to that, because I think Maine faxes an order in every week, and what kind of turnaround time do you get on the tags?

COL. JOE FESSENDEN: It takes about 2 weeks, at least 2 weeks to get the turnaround. And under 2.3.5, under the last paragraph, we kind of deal with a replacement tag under that section, and it works fine for us with the serial number similar to what Jim outlined.

It's the same process, and the fishermen were happy with that program. It actually was suggested by a fisherman, Jay Smith from Kittery. He used to be from Kittery and came up with that idea.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: Yes, I think the bottom of 2.3.5 addresses the ability to do it that way. I think the question here is when that's done and issued, and then someone looks at 2.3.3, and they go, yes, but these new tags don't have the areas, they don't have the permit number and license, so the tags that were just issued under 2.3.5 aren't right under 2.3.3.

And I think that was Gordon's point too, I think. And, obviously we can't wait 2, 3, 4 weeks for two tags, or whatever they're trading in, so I don't know how you'll fix that flexibility to -- unless in 2.3.3 it were to have some wording that basically said or the state issued emergency tag in lieu of it, you know, something like that that would allow that tag to be a little bit different because it was a state-issued special tag or something like that. That's what is not there, this little glitch.

MR. LAPOINTE: Recognizing those differences, can't we just see how states' experience goes and correct this the next time we have a correction go around? I mean, I don't see it as that big of an issue.

MR. ADLER: Fine with me. It's just that we're out of compliance.

CHAIRMAN BECKWITH: I mean, I don't think anyone is going to hold your feet to the fire on that. I think this is a brand new system, and we're going to put it in place, and I think we'll probably find there will be things we'll have to adjust and change, and we'll just take care of that as we encounter them. John, did you have a comment or question?

MR. NELSON: No, I was just thinking about the "hold feet to the fire" type of thing, but nothing at this time, Mr. Chairman.

CHAIRMAN BECKWITH: Okay, we've heard a presentation from Massachusetts on their proposed plan. Are there any other comments or questions of Jim, or Phil or Bill? Okay, Amy, do you feel from your review that they meet all the requirements?

MS. SCHICK: Correct.

CHAIRMAN BECKWITH: Okay, it appears to meet all the requirements. Would someone like to make a motion to approve Massachusetts' plan?

MR. NELSON: So moved, Mr. Chairman.

CHAIRMAN BECKWITH: So moved by John.

MR. LAPOINTE: Second it.

CHAIRMAN BECKWITH: Second by George. Okay, is there any opposition to approving Massachusetts' plan? Seeing none, the plan is approved.

MS. SCHICK: We have one more plan that was submitted by Maryland. Jack distributed this to everyone just a few minutes ago. The Maryland plan requests de minimis status for the Year 2000. On the front page it shows the landings from state waters and the landings from the EEZ, and the landings from state waters on average for '97 and '98 would be 500 pounds, approximately.

And this is the first time I've really had a chance to look over this proposal. I'm just looking over it to see if everything from Section 3.1 is included in the regulations.

I believe all of the provisions of Section 3.1 are covered in the regulations that they currently have in place, so that provision of de minimis would be accomplished by the regulations that they currently have.

MR. WHITE: Move that we accept it.

CHAIRMAN BECKWITH: Just so no one misunderstands, there are some regulations they have in place and the rest of the requirements are proposed for the Year 2000. Okay, we had -- do we have a motion to approve? Pat and --

MR. COATES: Second.

CHAIRMAN BECKWITH: -- second by Phil Coates? Any discussion on the motion? John.

MR. NELSON: Again, as you pointed out, Ernie, most of the regulations are proposed to be in compliance with 3.1, so as long as the motion says, as we did for Virginia, with the understanding that they would be in compliance with Section 3.1 of the Amendment, I think that would be acceptable.

CHAIRMAN BECKWITH: Okay, the maker and a seconder, you don't have any problem with that, do you? No problem? Okay, it's included. Any other comments on the motion? Is there any objection to approving the motion? I see no objections, but the Service is abstaining, and the motion passes.

MS. SCHICK: A proposal has not been submitted for North Carolina to date, nor for the state of Maine, but we could ask Mr. LaPointe.

MR. LAPOINTE: My memo is briefer than Jim's is. I apologize. I've been negligent. I will go through this list. Our Black Sea Bass Pot Fishery, we limit to those people who hold mastodon permits.

We, like New Hampshire, are lucky that we don't have a Black Sea Bass Pot Fishery at this time, and it's not applicable. The state issues tags. They are required of all commercial and recreational traps.

We are switching to a 10 percent replacement for routine tag loss. We're going to switch our issuance or affective date to the 1st of June, but we have had a trap tag issuance since March of 1996. The tags are issued to the license holder.

There's a mechanism for trap tag replacement and catastrophic tag loss. We do do tag enforcement. We've had some big cases of late, which involve counting literally every trap that a lobsterman has, and we put our circular escape vent in on the 1st first of June with our rectangular escape vent that would increase size.

And, on the issue of historical participation, I'm going to discuss with staff if we want to, if fact, address that issue for our Area 3 fishermen from the state of Maine, but we've not done that yet, Mr. Chairman.

CHAIRMAN BECKWITH: George, I would assume you're going to write --

MR. LAPOINTE: I will write this stuff, I apologize.

CHAIRMAN BECKWITH: Would the Board like to take action on Maine's plan as described by Mr. LaPointe?

MR. NELSON: Just a question, Mr. Chairman. George, how about an update on monitoring and recording?

MR. LAPOINTE: Monitoring and recording of?

MR. NELSON: Lobster catch, et cetera, et cetera.

MR. LAPOINTE: It hasn't changed from when we last reported.

MR. NELSON: What was it? I can't remember, what is it?

MR. LAPOINTE: I don't know exactly, to tell you the truth. Do you think it's deficient?

MR. NELSON: Probably. No, I was just asking. Subconsciously I would have thought that, but I would never have voiced it.

MR. LAPOINTE: We have increased our fishery's independent monitoring in the last year and plan to continue to do that.

MR. NELSON: Move acceptance of Maine. Move approval of Maine's --

CHAIRMAN BECKWITH: I've just been advised by the Executive Director that we should not move anything that is not submitted in writing. so we will defer consideration until the annual meeting. Okay, that's it, all the plans? We are getting to the end.

Item number 7, Trap Tag Contracts, and, Amy, why don't you run us through the information that you've gotten compiled to date.

MS. SCHICK: This information is also in front of you right now. The Trap Tag Product Specification was sent out to 11 different companies. We got names from the National Marine Fisheries Service, Maine, Massachusetts and Connecticut on possible vendors, and so that was sent out to 11 vendors.

We got response from four of those vendors. One was a no bid, and on the front page it summarizes what each of those bids were. The first one was American Casting and Manufacturing Corporation. They didn't quote on a price because they weren't able to estimate the amount of paperwork and processing requirements for issuing 1 to 50 tags, but they gave current price ranges that they have, which are 20 cents each for 1,000 tags or 5 cents each for up to 100,000 tags.

They estimated that orders less than 50 tags would cost around \$2.00 per tag, and 100-to-200 tags would cost about a \$1.00 per tag. 500 tags would cost 50 cents.

For Qualitex, Incorporated, the price for tags under all the scenarios was quoted at 25 cents. Remember, there were three scenarios presented to the vendors. One would be following a system similar to the Maine Program, a system similar to the Massachusetts Program, and then the third scenario would allow states to elect which system to follow, either the Maine Prototype or the Massachusetts Prototype, and how much would tags cost if there was a combination.

So, for Qualitex it would be 25 cents per tag in all cases, and they commented that the security plan would consist of a room with a lock, dedicated computers, and hot stamp printer for the program.

The third or final came in from Stoffel Seals, and they're currently the vendor that supplies trap tags to Maine and Massachusetts. Under scenario one, it goes through specifically what the agencies would be required

to do, and what the vendor would do in distributing trap tags.

The cost per tag for the commercial fishery would be 9 cents per tag, and the cost to the recreational fishery would be 15 cents per tag.

Under scenario two, which is similar to the Massachusetts system, again, the agency would submit a list of the eligible fishermen to Stoffel, and Stoffel would accept orders and collect payments from the individual fishermen, and the details of the ordering process were outlined in their letter.

The cost per tag would be 14 cents for the commercial fishery and 20 cents for the recreational fishery. And, under scenario three, it would be the same price as quoted for scenario one or two. Basically state agencies could elect whatever type system they would like to pursue, and those costs would apply.

And that's all the bids that we've received to date. At this point, the Board should make a decision on which direction to go. If they would like the Commission to enter into a contract that all states could sign on to to secure these prices for the trap tags, or what direction the Commission should go in pursuing this.

CHAIRMAN BECKWITH: A question for you, Amy. I'm just going to focus on the Stoffel Seal at the moment because that seems to be the most attractive bid. Did their price assume that all the states would sign on?

Obviously, there are two states that are probably going to maintain there own -- well, actually one state will maintain there own system. But, is it necessary for all states to sign on to get this cost, I mean the price?

MS. SCHICK: It was estimated that Maine would continue on with their own individual contract. And the bid was based on the possibility of states, New Hampshire south, and also we know Massachusetts currently has a contract, and that may or may not change in the future -- in their letter in response, it doesn't say that all states would have to sign a contract, and it was explained in the letter that it was just a possibility that all states would sign on. So, I would double check with the vendor, but my understanding is that it wouldn't matter if all states signed on or not.

CHAIRMAN BECKWITH: I think it would be very helpful to

have the Board members indicate which states would plan on going with this central contract like this, and will you raise your hand so we can get an idea?

Okay, I guess virtually all states are going to do it, then, other than the state of Maine. They're going to do it their own way. All right, well, that's helpful to know. John.

MR. NELSON: Quick question, Mr. Chairman. Why is there a difference for commercial and recreational as far as the cost? Why isn't it just one cost?

MS. SCHICK: The reason for that is when the letter was sent out to the vendors, it was with the understanding that recreational tags may cost more, because you're mailing such low quantities of tags.

The vendor would be responsible for mailing the tags to the individual recreational fishermen, so the increase in cost accounts for the increase in mailing for small quantities of tags, for small orders.

MR. NELSON: Okay, thank you.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: I would like to suggest that when the contracts are worked out, that there be some type of a stipulation in there on how fast the return will be. I think Maine ran into this problem the first year they had it.

It had some glitches in it, and they worked it out, and perhaps if you could check with whoever negotiates the things, could check with how Maine handled the glitches they developed. It had to do with backlogs, with guys not able to get them on time, so there was something in there that I think we should make sure is in the contract, and if you check with Maine on what were the problems, and how did you resolve them, and, Jim, if you had any, too -- you might check with Jim, too, just to make sure it's covered.

CHAIRMAN BECKWITH: Phil.

MR. COATES: A point Jim identified with regard to the one problem with the Stoffel tags, and that is the fact that they have this weak link built in, and you look at their prospectus here, they have three different, it looks like three different -- one is a triangular, one is

a parallelogram, and -- well, those openings just before the probe, or whatever it is there, and I don't know what it would take to have them eliminate that, but that's something I think we'd like to see disappear, because it does cause them to be more prone to loss when they're pressure washed or people jump up and down on them.

CHAIRMAN BECKWITH: Gordon had a hand up.

MR. COLVIN: Mr. Chairman, have we discussed the procurement administration possibilities here? Have any of those details been thought through or discussed? I don't recall a discussion of that at the Board level as to where we would go from here.

For example, absence some alternative approach, my expectation is that based on the way business gets done in New York, notwithstanding submission of this information to the Commission, we would be required to independently solicit proposals from prospective suppliers and independently contract with them for their services.

And, presumably, those companies that had previously responded to the Commission's request would respond in an equivalent fashion to New York as one of the entities that was included in the original request for proposals that came from the Commission, but I'm at a loss to see any alternative procedure for procurement, and I haven't heard anything on the table.

CHAIRMAN BECKWITH: I'm not quite sure what you're asking, Gordon, but let me just make a few comments, and I think it probably addresses some of your concerns, too. One of the things we looked at in the state of Connecticut is if we go with a Commission contract, the state would be actually purchasing nothing.

And one thought is that since we're purchasing nothing, there isn't any requirement to go through a lowest bid process, a competitive process, but then the issue raised was, but Connecticut fishermen are still going to be required to go to a specific vendor, and how do you know that you've done the best for them, you've secured the best cost for them?

Also, the issue came up was if we bid through the state, there are some state contractors that could've had an opportunity to bid, and I didn't know of any when I gave Amy a list, but I didn't turn it over to our Purchasing Department, either.

So that was another issue that came up; could Connecticut vendors object to the way we went about doing the whole tag system? Those were a couple of concerns I have had.

MR. COLVIN: Can I ask one more that I think I've heard from you, Mr. Chairman; that there exists the possibility that some of us may be looking to secure a higher price per tag than these proposals and to utilize the balance for in-house administrative costs? And how does that get worked into a situation where the state is at arms length from the contract?

CHAIRMAN BECKWITH: That is another problem that we have in Connecticut, because our state statute allows us to charge 3 cents over the cost of the tag, so, say, for instance, if we went with Stoffel Seal here, we could have the vendor collect 17 cents a tag, and then return the 3 cents a tag to the state of Connecticut.

We could do that through state statute; it gives us the ability to do that. But, what's the mechanism for doing that? Since now someone is collecting money on behalf of the state and then returning it to the state, there is a whole audit accounting system that's got to be followed, and it's, quite frankly, very difficult. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Not only that, but do you have any assurance that once the vendor sends that money to the Treasurer of the state of Connecticut, that it's ever going to show up in your budget?

CHAIRMAN BECKWITH: That's not a worry at the moment.

EXECUTIVE DIRECTOR DUNNIGAN: Really? I think it's going to be a very common worry in a lot of states.

CHAIRMAN BECKWITH: Well, I mean, that's an issue that each state has to deal with. There are mechanisms in Connecticut where any new fees have to go into a special dedicated fund, but I don't know if that would qualify as a new state fee. John.

MR. NELSON: My comment was to Jack. If our Department gets new revenue, it goes into their overall fund, and we'd have to go through a -- since it's not something that's in our budget right now, our two-year budget, we would actually have to go to the Fiscal Committee and then Governor Counselor to get approval to add it to our budget. So, it is a process that we'd have to go through, but we can do it.

CHAIRMAN BECKWITH: But in order to address the issue that Gordon brought up and I commented on, even though there would be a central contract that the Commission would execute, I don't know how we would sign on to that.

Whether it's got to be any official contract between us and the Commission, I don't know that. But the other point is that, but definitely if we're going to require a selected vendor to return monies to the state, then there's got to be a contract with that vendor at minimum, I would assume, and I don't know if the Commission would have to get involved in it. Gordon, you wanted to go on with that?

MR. COLVIN: Yes, I haven't really thought this through, but if the notion is that the Commission is going to have a contract with a vendor to perform services, what then do the states do in terms of any relationship to the Commission, and, Jack, can you kind of lay this out?

How is this going to work mechanically? What do I go tell my fiscal people tomorrow about how this is going to work, how is this proposed to work?

EXECUTIVE DIRECTOR DUNNIGAN: I think that's one of the things that you have to decide is sort of how you would like it to work. We have an overall arrangement with a particular vendor or more than one vendor.

If, as it's being planned in some states, the funding never comes through your budget, you never end up having to go to your fiscal officer and ask that question, and there's a significant decision for each of the states to make here about whether or not there's an advantage to you in doing it one way or the other.

MR. COLVIN: You're talking about entering into a contract between the Atlantic States Marine Fisheries Commission and --

EXECUTIVE DIRECTOR DUNNIGAN: Correct. And that is as far as that would go. The agreement that we would have with the vendor is to provide a certain suit of services at your request to you, and all it would do is establish a level playing field for everybody so that each state wouldn't have to negotiate a separate deal with the vendor.

The deal would be set in one overall agreement with the Commission on behalf of its member states, but then each

individual state would come in under that agreement and negotiate its particular arrangement.

For example, if you want them to handle the administrative services as opposed to you, that would be provided in the contract. But you would have to opt for which of those services you want.

The only thing that our contract would establish is an umbrella. It's the same as -- and if I can go back to my federal days here, it's the same as the General Services Administration -- and you probably have these in your state agencies -- negotiating umbrella contracts with vendors for computers.

GSA doesn't actually buy any computers. If they have the contract with Compact or Dell, or whomever, and at that point you go in under the state contract and tell them how many computers you want, whether you want them with 3 gigabyte hard drives, or 50 gigabyte hard drive, you pick all the options that are set in the Master Agreement.

CHAIRMAN BECKWITH: Jim.

MR. FAIR: I think it makes sense to decide really which way you want to go with this proposal. The way it was bid on these sheets makes a lot of sense in terms of the two existing systems, and I think that if there's a blanket contract at the Commission level, I think it should be basically establishing a source for fishermen to get tags from.

I think if a state chooses to operate it as part of their licensing system, I think it's more appropriate for them to buy the tags from the manufacturer and to sell them to the fishermen. Then the revenue stays in house, and you can deal with it.

But if you have to set up all of the administrative procedures for establishing fees, charging fees, and accounting, and everything else; quite frankly, it turned out in our case, that those administrative procedures were far more difficult than to simply forgetting about the revenue and letting the fishermen go directly to the vendor.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: I just want to bring up a couple of notes on these tags. First of all, when I talked to the Stoffel guy at the last meeting, I asked him if there was going

to be -- if these figures were going to go up based on the fact that now we want more writing on each tag, as per the Addendum, than what was on it before, and he said no.

The fact of whether the cost should go up if we make it stronger, I didn't get an answer, but we ought to check on that, because the complaints that we were getting over the pressure wash, we also had complaints from New York fishermen who boil their traps. Instead of spray wash them, they boil them, and they were popping off when they were boiled, so I don't know.

The other question is if we approve this system and this way of going, and the transferability glitches are worked out, are we bound after this year, I guess. I don't know how to handle it. For instance, if the transferability debacle is worked out, and it comes out that let's just say the tag has to go on the vent from now on in order to do the transferability thing, does this require an amendment to change the flexibility of this thing? I don't know the --

CHAIRMAN BECKWITH: I think you are being farsighted here, but I think we're getting ahead of ourselves.

MR. ADLER: I just don't want to tie the knot here too tight that we can't adjust something because, oh, gee, we didn't allow for that. That's all.

CHAIRMAN BECKWITH: Well, it's already done, What is in the plan is in the plan. I think the issue before us is how do we go forth with a contract, at least in the short term, and if there are things that we want to include in the contract that require changes to the plan, we'll have to deal with that at some future date.

Amy, I've got a question for you. When they submitted this, is this a bid for a one-year period or a multi-year period?

MS. SCHICK: It was not specified. That was something that we would have to follow up on.

CHAIRMAN BECKWITH: John.

MR. NELSON: Ernie, in regard to the contract issue, it probably isn't something that we should try to solve right now. I would feel more comfortably going back to our business office and asking them, unique to our state process, what do we have to do in order to order tags

through this company, if that's the way we're going to go. And then we could come back, all the states could come back, if we do that, and then come back to the Board and see if we have solved that particular problem.

CHAIRMAN BECKWITH: Yes, I think some of us have already done that, and we've come up with problems we haven't solved, and we've got to go back home and try to figure these things out. No, I think you're right.

We all have to determine what we can and can't do, and what kind of requirements we have to follow. But, let me ask Amy again a question. Amy or Jack, what kind of a timeframe are we looking at here in terms of executing a contract and getting it in place for January 1st?

Can you back up from January 1st and tell us what kind of timeframes are we talking about, what the Commission's requirements are, what the vendors requirements are? And how much lead time would a vendor have to have before he can gear up and start punching tags out after the first of the year?

MS. SCHICK: I can respond to the vendor aspect. We would have to contact the vendor and see how much lead time they would need from the time a contract is signed to when it can actually be implemented and tags can be printed.

And I can follow up with the vendors and find out that information, and bring any questions that the Board has on what that contract would look like, or other provisions of the contract. I can talk with the vendors and bring that information back at the annual meeting.

CHAIRMAN BECKWITH: Okay, now in terms of the Commission doing a contract with the states, we don't know how that's going to happen. I guess the states have to go back and determine what they have to do, if anything, to contract with the Commission, or whether it's an MOU, or whether we just say, "yes, we're going to do it".

EXECUTIVE DIRECTOR DUNNIGAN: Essentially, that is correct. Again, what role the Commission as an institution is playing here is still not totally clear. All we have done so far is to go out and solicit input from some potential vendors.

That may or may not require an agreement between us and some vendor at some point. We need to think about does

there need to be only one? Can there be a couple? Let me sort of follow through here.

Now, essentially what we've done so far is an informational activity on your behalf. Now, the Commission could do a lot more, but that is really up to you, you know. What responsibility do you think we can do that's going to be helpful to you, or what is it that is just going to be administratively a lot easier for you and your fishermen to do yourself?

I can't prejudge that. You've got to tell me that. But, in terms of administrative capabilities, we can respond very flexibly and quickly to whatever it is we can do to provide a service and make the system work better.

CHAIRMAN BECKWITH: Well, there has definitely got to be a formal contract between somebody and the vendor so we can get the product we want at the price we want at the time we want, and have recourse against the vendor if he doesn't provide the services and the product.

Whether the states do it separately or through the Commission, there has got to be some mechanism and vehicle to do that.

EXECUTIVE DIRECTOR DUNNIGAN: If what we're looking for here is a businessman to make an offer to provide a service to you, he can do that and it doesn't cost him anything.

If what you're looking for is a businessman to be committed to doing something so that we can have recourse if things don't work out, all of a sudden we start talking about an order of magnitude difference in the type of business relationship we have, and they're going to want some money up front for that. And that's all doable, but not something we've ever planned for before.

CHAIRMAN BECKWITH: Well, I can give you my perspective. This is a big deal. If we don't get this system in place and have it working, the sky is going to fall on our heads, and we have to have assurances, and we have to have recourse, I think. That's my opinion. Phil.

MR. COATES: My understanding of this process -- and I must admit I haven't been following it as closely, probably because we've already done it, is you're trying to bring together the collective buying power of the states to negotiate a price on tags, which you've done.

The guy said, "This is my estimate of the cost per tag, if in fact my assumption is this many people get aboard, this many potential tags are sold", because when they talked to us, they said, " This is the price for this many hundred thousand, this is the price", and I'm sure if Maine we're here, they could say the same thing.

I know that's a significant reduction from what we're paying now. We're paying 14, 16 now? 16 now, and I think you quoted the price at 9? So, that's reflective of his perception, that there's a lot of buying power by bringing everybody together. So, be that as it may.

And, the other thing, as I understand it, was that some states don't have the flexibility in the short term to deal with this process of procurement, so they're looking for the Commission to act as the common procurator and save, you know, a lot of red tape and procedure problems. Is that correct?

CHAIRMAN BECKWITH: I think you're absolutely correct, and let my just interject. Our purchasing process is very long and protracted, and if the Commission approach isn't going to work, we have really got to know that right away, because we have to start our own purchasing process.

MR. COATES: So, there is both, I guess. There's an element of both, and I think a vendor -- Jack raised a good question, but if there are states that are absolutely dependent on ASMFC as the buyer, or, as it were, the contractor, then that's going to be more of a problem than the issue of us going to the vendor and saying, "Well, we like your product, and we can assure you that most of the states will go with the blank tag or the blank tag", and they already know that they've got the two biggest states that are already on board, so he's pretty much -- you know, I think that they're just saying, "It would be easier for us, from the standpoint of our business procedures, to know who is going to be in this game so we can gear up accordingly, and this is the price we can generate these things for you".

As far how you would set up the mechanism, I mean, we're fine going the way we are, but we want to buy into the system if it'll help in terms of expediting the second part of this thing, which is avoiding the state's process in terms of slowing down the procurement, because these things have to be done fairly soon.

And now we're within the 3-month window, and I can see

this becoming a real problem. I can see us all meeting here on December 31st saying, "Well, is the contract signed?"

CHAIRMAN BECKWITH: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Phil, you used the words ASMFC as the procurer, and I'm not sure I understand. I don't think the intention is for Laura Leach to write a check and the Commission go out and buy 35 gazillion tags. So, we're not the procurer. The fishermen I thought were going to be buying the tags.

MR. COATES: I'm sorry, I used the wrong term. Yes, basically, the fishermen are the ones that are going to contract with the producer, right?

EXECUTIVE DIRECTOR DUNNIGAN: Not necessarily. I mean if --

MR. COATES: I mean, they're the ones that are going to get the tags from -- the idea is to get the tags from the vendor, right, and use our system, which basically we just say, "Go ahead. You meet these requirements, you issue the tags to the fishermen, we audit your performance to make sure you're doing the things you said you would do, and you charge the additional cost necessary to maintain the security, and guarantee that the distribution takes place the way it's supposed to."

EXECUTIVE DUNNIGAN: I'm not sure that every state has decided that is how they're going to do business.

CHAIRMAN BECKWITH: John and then Bill.

MR. NELSON: Ernie, we just have before us information, we have bids before us. What ASMFC has done is really do the first thing that most of the states have to do, and that is get quotes in from suppliers.

Now, for the state of New Hampshire, as long as these numbers, 14 cents plus whatever we want to charge, is the cost of the tags, then I was under the assumption that we would then just purchase these tags, or make an agreement with this company, and we were going to have the fishermen directly purchase them from that, and that would be the process.

And, I've got roughly three months to kind of get it in place, and I think our system is somewhat flexible so I can do it within that timeframe. But, I'm not sure where

the problem is here. I can't see that we're asking ASMFC to do anything more.

CHAIRMAN BECKWITH: That is the issue. What approach are we going to follow? The approach that you just laid out, the Commission sends out bid requests and gets a best price, and then each state goes and has a contract with the vendor, because not only are you going to want to get the tag, but you're also going to want to get them to give you data on some timely basis, he wants some assurances on delivery time, there's a lot of other details.

The question is who takes care of those details? Is it done through the Commission, or does the Commission just get us the price and then we go and then contract with the vendor? It's a big, big difference.

In one scenario the state has no contract with anyone. The Commission has the contract. And the second scenario is that we have a contract directly with the vendor.

MR. NELSON: I'm looking at the state of New Hampshire dealing with the vendor.

CHAIRMAN BECKWITH: Well, the state will deal with the vendor. The question is how are they going to deal with them legally, by contract or --

MR. NELSON: Well, by contract.

CHAIRMAN NELSON: Well, I think that is a decision the Board has got to make, how to approach this. Bill.

MR. ADLER: Jim, now we're in a situation where the state does not buy the tags and resell them, like Maine does. We have the fishermen do the actual thing. Does Massachusetts, do we have some type of a contract with Stoffel as such?

MR. FAIR: It's a very simple contract. Basically, it established the price that they were going to charge, and then the security system that surrounds how they issue the tag so that they had to convince us that they wouldn't be selling duplicate tags to anybody and things like that.

MR. ADLER: And then the little hand off of giving you some spare tags?

MR. FAIR: Right.

MR. ADLER: That was the deal?

MR. FAIR: That was part of the bid, right.

MR. ADLER: And that's it?

MR. FAIR: Yes.

MR. ADLER: And the other thing, while I've got the mike, is you are going to still allow in this thing states to opt for either one of the ways of going, right?

CHAIRMAN BECKWITH: Yes. Harry.

MR. MEARS: To the extent that it is helpful, we have a situation similar to what Jim just described, except we don't get on hand the extra delivery of tags with our Gillnet Tagging Program. So, I guess we're more similar to Maine.

We receive the money, yet we only charge, or the contractor only receives payment for the cost of production and manufacture, and what I was going to contribute, under the ASMFC umbrella concept, if the states were interested in that, they could perhaps identify what deliverables or tangibles they wanted as a result of that agreement, and perhaps -- I'm sure Stoffel, or whoever the vendor might be, would be very open to providing whatever periodic reports on whatever frequency might be requested in terms of the negotiation.

CHAIRMAN BECKWITH: Any other comments to that? I think we've got to make a decision on direction here; perhaps not today, but soon, because we're going to be running out of time. We can take a couple courses of action.

One, we can generally determine what kind of approach we want to take, and let me lay out the two approaches. One, the Commission does a very comprehensive contract with the vendor, and it covers everything, the product, the security system, the data that has to be provided back to the individual states, and the states really enter into no formal contract with the vendor and perhaps no formal contract with the Commission, and the fishermen deal directly with the vendor.

The other scenario is sort of a hybrid system that John brought up is the function that the Commission serves is just to secure and negotiate a best price for the states,

but then the states individually negotiate for the details of their system with the vendor and have a contract with the vendor.

And those are two ways I see us going; and if the states are going to get involved in contracting with anyone, other than an agreement with the Commission, then we've got to know that right away, because that takes time. Perhaps we can't answer all those questions, today. Phil.

MR. COATES: I'm not sure if I can express this properly, but I'm trying to think of the former scenario and what we need to do to make the relationship between the fishermen getting the tags; in other words, making that legally binding so that -- I don't know if the plan has to be amended or what that says any fishermen fishing under any of the authorities of any of the states will have to procure tags, blah, blah, blah.

You know what I'm trying to say? Can a fisherman say, "you know, there's nothing in the state law, the state regulations that require me to have trap tags. It's just something ASMFC is making me do".

We need to create -- I just don't know how to express the need to create something here that makes sure that a state or fishermen can't say, "You don't have any legal authority to bind me to this relationship, because that's ASMFC that has set up this price, and I know I have to have tags", but I think there's just some loose ends that need to be tied up.

CHAIRMAN BECKWITH: I think I know what you are saying. Well, correct me if I'm wrong, but each state is going to have to have, if you don't already have, regulations that require the fishermen to have a tag on the trap. Now the issue is where does he go for the tag?

And the way that our regs are going to be written is that he either gets them from the Agency or an Agency-authorized vendor. So, yes, we would limit his ability to secure the tags. But I think you have to do that, because if you don't have the control over it, then you don't have control over this system.

MR. COATES: I mean, that's probably all that needs to be done, Ernie. Maybe I'm making a mountain out of a molehill, but I just don't want to find out at the last minute that the whole state is exempted.

They didn't get around to it, or they weren't inclined to do it, and there was nothing to legally bind that final process together so that there was an absolute -- you know, they had to get the tags and get them on there.

Somebody could object to the price or something and make that a point; "Well, State, they're not operating through state procurement procedures, how can you do that?" I mean, these are just -- they are loose ends that need to be tied up.

CHAIRMAN BECKWITH: Yes, those are some of the problems that we were wrestling with about this system, too. Gil.

MR. POPE: Thank you, Ernie. When the ASMFC asked about the price per tag and then talk to Stoffel about their tag prices and stuff, did you mention an overall giant amount of tags, and this guy is expecting this overall giant amount of tags, and if he doesn't get that, say, at the end of the first year, second year, whatever, he's kind of disappointed in this, is he expecting a certain amount of tags and that everyone go with him, and that it's going to be 14 cents, or 20 cents, or whatever, 9 cents, or whatever, based on a certain giant amount of tags?

And, is that going to change after a year or so? I mean, is this over a long period of time, or is this just a general thing, because --

CHAIRMAN BECKWITH: I think Amy can answer that.

MS. SCHICK: The request for information didn't have any timeframe on it. It didn't say it would be for a one-year contract or several-year contract. In terms of the number of tags that were estimated, it was estimated that the maximum number of tags would probably be around 3 million, but it also stated clearly that it depends on the number of participating parties, and it clearly went through the states from New Hampshire down through North Carolina, and also included an estimate from the National Marine Fisheries Service on how many tags, the maximum number of tags that could be issued to each agency or jurisdiction, and then an estimate of a more likely number of tags that would be issued, and it's all broken down by agency and maximum and probable number of trap tags.

MR. POPE: And I know Mark had told me -- this was brought up before, but I just wanted a quick question about, was it the time? Yes, if you contracted with this

person for 9 cents and it is going to take 6 weeks per tag, or have another guy who says he can do it for 25 cents, but it's a two-day thing, I mean, will all of these companies be able to supply them in about the same amount of time? The two-week, two weeks, I think, was one of the things that that fellow from Maine mentioned earlier.

CHAIRMAN BECKWITH: Did you put any criteria in?

MR. POPE: Do any of these states have past performance, say dates of how long it actually took for the tags to arrive?

MS. SCHICK: In the distribution of tags, in the Product Specifications Form it does request that the supplier be able to ship the number of tags within a certain amount of time. What was requested was seven calendar days or ten calendar days, depending on the scenario, and one scenario was 2 weeks.

The Stoffel bid specifies how long it would take them under Scenario One, which is similar to the Maine Program. Their response time would be two weeks. Under Scenario Two, which is similar to Massachusetts, it would be a 3-week response time.

The bids that we got so far, Stoffel was the only one that clearly outlined what they planned on doing, the timing associated with those things. The others were estimates of tag costs, and there weren't many details about how the system would operate, and what would be incorporated, so follow-up with those vendors would be necessary to figure out the details of going through those other vendors.

CHAIRMAN BECKWITH: Okay, what course of action does the Board want to take today? We can give the Commission some direction on how we want to proceed in terms of the contract, or we can defer it until the annual meeting and go back and talk to your purchasing and administrative people and see what kind of requirements you have to meet, and then come back and make a decision at the annual meeting.

But we can't defer making a decision on contracting too much longer, because the states going to run out of time, if we have to do any individual contracting. John.

MR. NELSON: Ernie, apparently we don't have all the information that we need right now, so I think that we're

looking at having that information at the beginning of November with the annual meeting, so I think that's what we should do.

CHAIRMAN BECKWITH: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: I understand what John is saying. My question is what information is it that we need to get for you as opposed to what information do you have to go home and get? I mean, if it's, basically, you need to go home and figure out where you are with your state administrative structures, you know, Amy can take vacation for the next three weeks.

If there is more running around that she needs to do, let us know what you would like us to do to make that a more productive discussion.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: Jack, one thing I'd like is for you to think about this. On the assumption that some or all of us would not want to be involved in the financial transactions with the vendor, but simply to require our fishermen to go to a vendor and get the number of tags that we authorize them to have and recognizing that the fishermen need some sort of service guarantee, and that we need to be protected by and they need to be protected by, exactly what kind of a relationship would the Commission be able to enter into with a vendor that our regulations would force our fishermen to go to and get their tags from?

And I think I may be talking more to my lawyers than to my fiscal people, as I indicated before. But, that's what I need to know from you. What would you propose, if you know what I'm asking?

EXECUTIVE DIRECTOR DUNNIGAN: The answer to Gordon's question was the Commission -- I don't want to overstate this -- the Commission can do anything you want to, but it has to be paid for.

So, I mean, I couldn't go out and buy 3 million tags and just give them to you to give to your fishermen unless we could find the \$300,000 that it is going to cost.

CHAIRMAN BECKWITH: I don't think Gordon is saying that. I think he is saying, and it's the same preference that we have in Connecticut, that we don't have to get involve in any financial transactions with this system, and that

you would take care of all the contracting details necessary to make this system happen, and all we do is make sure our regulations are in place that tell the fisherman that he's got to go to authorized vendor, a vendor authorized by the Department. And that's how the system works for us. We put all the burden on you. Bill.

MR. ADLER: If it would be helpful, could perhaps the states that are looking into this have a copy of how the Massachusetts contract with the company worked, and maybe even the one Maine, they could take it back, and they could ask their legal counsel, if they can't figure it out, they could ask, "Can we do this? Is there a problem, or how could we change something like this so we could do it, and have something to go by?" It's just a suggestion.

CHAIRMAN BECKWITH: Just to make a point of clarification, under the scenario Gordon and I were talking about, the Commission doesn't have to spend any money. They just execute the contract for us.

EXECUTIVE DIRECTOR DUNNIGAN: Somebody will have to spend money if you're going to tie a vendor's hands to required performance. They'll advertise and give you all the bids you want, but if you want them committed to doing something, I can't imagine that a good businessman would do that without having somebody spend something up front.

CHAIRMAN BECKWITH: Well, the money will start coming in on January 1st, and he doesn't produce unless he gets the order and the money from the fishermen.

EXECUTIVE DIRECTOR DUNNIGAN: Well, you know, the money starts coming in on January 1st, except I couldn't tell that vendor this afternoon that all the states are going to have their regulations in place on January 1st. I suspect some states won't have their regs in place on January 1st. There is no guarantee, therefor.

CHAIRMAN BECKWITH: You're absolutely right, and that was an issue we talked about earlier today. When is this system really going to get in place? Well, Board, we can go back home -- I think you've heard a lot of the problems brought up and a lot of the issues.

If you don't think you have all the answers, then we should go back and try to get answers to those questions, but if you want to do that, then you have to come prepared at the next meeting to make a decision on the

trap tag system, because there won't be any time after that. Gordon.

MR. COLVIN: Respectfully, Jack, I asked you a question, and your answer was, "I can do anything you want." What I really need to know is whether there is a likelihood that the Atlantic States Marine Fisheries Commission can enter into a contract with one of these companies that guarantees that those companies will perform consistent with performance requirements that are outlined in the contract if their member states send lobstermen to that company with a certification that authorizes the issuance of trap tags to their lobstermen?

The states are not involved in the financial transactions, they're not involved in any kind of a service contract, which is really what we're talking about now, and to the degree to which the terms of a contract need to be monitored and assurance that they are adhered to, the Commission puts itself in that position.

If you can say "yes" to that question, then I can at least go back to Albany tomorrow and sit down with our lawyers and our fiscal people and outline options. But I need to know whether that is one of them.

EXECUTIVE DIRECTOR DUNNIGAN: I think that clearly is an option. What it would take to do it, I don't know because I haven't sat down and talked to the vendor. All I have to go on is what's before us today, their written response to our initial request for expressions of interest, really, is what it was.

So, can I give you an ironclad guarantee that we would be able to negotiate something that is going to bind them? No. Do I suspect it can probably happen? I think so. It's clearly an option. And that's I suppose something we can be doing over the next couple of weeks is put as much flesh on that for you as we can.

MR. POPE: Ernie, just a follow up on what Gordon has said, once we've gone through that process, and you tell your fishermen, "Well, you go deal with that guy", what if he isn't performing?

Are the fishermen to be put at risk either in their fishery, or in the risk of non-compliance to the state, because that particular gentleman can't live up to what he said he could when he advertised as a businessman through this thing?

That's another thing that -- there's got to be some kind of provisions as well for his non-performance. I know it's --

EXECUTIVE DIRECTOR DUNNIGAN: I wonder if somebody in Massachusetts could tell us what would happen if your vendor went bankrupt tomorrow and a fisherman calls you up at home, Jim, on Saturday morning and says, "I need a hundred tags, and these guys aren't answering their phone today." I mean, this is just a practical question. What kind of guarantee do you feel you have?

MR. FAIR: We don't have any guarantee. Our contract, as I said, is just bare bones. It established where they go and how much they pay, and other than that it was just all of the issues surrounding the security of the system and how we relate to them. All I can say is that our experience with this particular vendor has been fairly good. I think they have been very responsive to problems like that, and I think they know what it takes to do this program, and I think they've bid accordingly.

Obviously, could they handle this right now? They probably can't. I mean, there is an economy scale, and I'm sure they don't have the people and the equipment in place right now to handle all of us all at once, because when our fishermen put in an order right now, if they put it in while they're printing the Maine tags, they don't get it for three or four weeks, because that's just the way it goes.

Once they set up to do all the Maine tags, they do them all. And, at the same time, they have set aside a block of time for us when they do all of our tags during our renewal period, but I think they know what it takes to do this program, and I think they certainly have the ability to do it. How do you tie their hands, I don't know.

EXECUTIVE DIRECTOR DUNNIGAN: And your regulation says that a fisherman must go to this named company, or does it say they must go to a company certified by the DMF?

MR. FAIR: The regulation says that they have to have a tag in their trap, and they have to buy the tag from a vendor that's selected through competitive bidding. When they get their license, they get an order form with the license.

MR. COATES: If they go bankrupt, to answer your

question, we just wind up like the rest of the lienholders. There's nothing you can do when somebody goes bankrupt. They can't, you know, all stand -- but there are mechanisms to deal with that.

For example, one of these tags manufacturers produce these serial numbered tags, like this one contractor says, they issue 25 million of these tags for a specific purpose that go on, I guess, railroad cars, packages in railroad cars; you could as a fail safe, an emergency action, have -- all right, to not lose the continuity of the program, you could say, "Okay, we're going to go to you, and we need to go to somebody else now on an emergency basis and get 50,000 serially numbered truck seals so we can just give those out to somebody". I mean, there are ways of dealing with that.

EXECUTIVE DIRECTOR DUNNIGAN: You haven't had fishermen calling up in the middle of the night saying, "I can't get tags"?

MR. COATES: Yes.

EXECUTIVE DIRECTOR DUNNIGAN: That doesn't happen?

MR. COATES: Sure, it happens.

MR. FAIR: It happens very seldom. It has happened a couple of times. Usually, it's because they haven't followed up on it, or in one case an order was lost and they didn't follow up, but I think the most anyone has had to wait is about 3 weeks, and that was again during the period when the bulk of the Maine orders were in there.

EXECUTIVE DIRECTOR DUNNIGAN: I guess what I'm worried about more than anything is what we see in a lot of times when we impose new gear requirements, which is sort of what this is, and the fishermen go out and they come back and they say, "That twine is not available anywhere between here and Florida for the next 6 months". We've heard that over the years all the time.

MR. FAIR: We're going to have problems no matter what we do, because some people aren't going to adjust their routine to allow for this. The people that ordered them when they were suppose to, in December, and the people that ordered enough, that they had enough, they knew what they needed and they ordered it, haven't had any problem.

The people that try to chisel and save a few bucks, and

the people that waited until the last minute, you know like the day before they want to go fishing to order them, those are the people that have the problems, and those people are always going to have problems no matter what you do.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: When I ordered mine, we got from the rules, basically, that said order between here and here, and we can guarantee that delivery. If you order after that time, they put a different date down as to how long it was going to take to get it.

And so you knew that if you took care of that within their time zone, and I've got to say that they came right on time, that they were all right. There was another glitch where one guy got somebody else's tags, which, you know, you'll have those things happen.

But pretty much, you got your little box, and you just filled out the form from the state, sent it in, and it came out, and they were pretty good. But as I said, you check with Massachusetts and Maine with any of the glitches, and make sure that you mention those glitches up front.

CHAIRMAN BECKWITH: Gordon.

MR. COLVIN: To take Bill up on his earlier offer, it would be helpful to me if I had the Maine and the Massachusetts contracts, if they would be willing, or through Amy, to distribute them, and if there are things in them that raise legal concern, that those would just be redacted if there are any questions raised, but it would be helpful to me since they are examples of the two different scenarios, and we could run them by our folks as well.

MR. POPE: That's a good idea.

MS. SCHICK: I have that information already, and I'll make sure that everyone gets a copy.

CHAIRMAN BECKWITH: Okay, have we gone about as far as we can with this today? Does everyone know what they have to do for homework? We're looking at two different scenarios in terms of the Commission involvement, the minimal involvement, and also a maximum involvement, where they do the whole thing. So you know the kind of questions you have to go back and get answers from your

fiscal and administrative people.

MR. ADLER: Is it necessary, at this time, to make a position as to which dealer you're going to accept and work with or does that come later?

CHAIRMAN BECKWITH: I'm glad you mentioned that because I was going to raise the issue. We've only gotten three responses, I guess, three positive responses. Do we want the Commission to go further with that, to solicit some additional bids? Are there any other vendors that you haven't contacted, Amy, or have we exhausted all of them?

MS. SCHICK: I've exhausted the list that's been given to me thus far. On the back of the first page of this packet is the list of vendors that we actually sent the information to. If anyone knows of additional vendors and they submit that information, we can resend the information out and see if we can get any additional bids, if the Board wishes.

MR. ADLER: Top Me in Maine. Were they not available for this, Top Me?

MR. SCHICK: I didn't have that name.

MR. ADLER: Just as an offer to see what he could produce in this way.

CHAIRMAN BECKWITH: I guess I would say if anyone knows of any other vendors that aren't on this list, why don't you submit them to Amy? Well, actually if we want to consider any additional bids, we've got to do it between now and the annual meeting, I would think.

So, you have to get them to Amy soon, like the first part of next week. If not, it almost seems --

MR. ADLER: Do they have to be U.S.?

CHAIRMAN BECKWITH: I don't know.

MR. ADLER: There's a Ketchum Company, and they keep sending me piles of these things saying, "Look at what we make".

CHAIRMAN BECKWITH: Ketchum is on the list.

MR. POPE: I have a very quick question. Has Law Enforcement had a problem yet with tags looking different from different vendors, or would it be easier for Law

Enforcement if they all looked exactly the same?

CHAIRMAN BECKWITH: At the moment, it's all the same vendor. I think that's the direction that we're moving in. All right, I think we're all getting really hungry, I know I am. Is there anything else we want to deal with? Bill.

MR. ADLER: Is this under other business?

CHAIRMAN BECKWITH: Well, first of all, no, not yet. Is there anything else to deal with on the trap tag issue? You all know what you have to do. You know we've got to make a decision the next time we get together, and I guess we're not going to direct the Commission to go back out and bid again, unless you have some additional vendors you want to get to them, like Monday or Tuesday of next week.

If not, then we'll go with what we have here. And the next meeting, we can indicate which of the vendors we want to go with. Okay, other business? Bill.

MR. ADLER: I just wanted to know if there was any possibility that an agreement could be made between the National Marine Fisheries Service and the states' Environmental Police Agencies, so that in the management of the inshore management areas, money, as well as approval of letting Environmental Police Officers from the various states enforce the lobster rules out into the federal waters, at least in the inshore management areas, rather than having the Law Enforcement Agencies basically stop at a certain point.

They might need some help from NMFS, but they also might be able to relieve the Coast Guard from having to take command of enforcement procedures from 3 to 40, I'm saying? This is just the inshore areas. And is it possible for NMFS to, if they haven't already, get into some contract to enforce all of these rules in your waters but with State Environmental Officers? And will you pay them, because we need money? Is that already done?

MR. MEARS: Yes and no. There are Law Enforcement MOUs individually with the states between NMFS, the Coast Guard, and the State Agency. They do not include responsibilities under the Atlantic Coastal Act. Of course, we're not managing under the Atlantic Coastal Act yet.

This was a topic, oddly enough, Bill, at the Easatauket

Law Enforcement Workshop, I think it was back in 1995. And, there was a decision made that they couldn't really contemplate any sort of situations like we're facing today under the Atlantic Coastal Act.

But there are MOUs, there is limited funding through Dick Livingston's shop in Gloucester, with selected State Enforcement Agencies. I do not know the specifics of those agreements, or the funding that's involved.

MR. ADLER: All right. I'm going to have to refer this then to the Enforcement Group because this is one of these things where we are talking about tags and trap limits, and everything else, and the Environmental Police Officers from the various states need the ability to go beyond the 3-mile zone, and the money to do so, whatever that means, so that they can enforce this.

This will help NMFS. This will help the Coast Guard, since the minute the word is out that the Environmental Officers can't go out the 40 miles, but you have to wait for the Coast Guard, then the whole thing is a joke. Some states have it, but some states may not.

CHAIRMAN BECKWITH: Phil.

MR. COATES: In the absence of rules to the contrary on the federal sector, there is nothing to prevent Environmental Police from, at least in Massachusetts, from enforcing, as they do the shrimp rules, lobster rules, beyond the 3-mile boundary.

And, do they get paid? They would have gotten paid if we had charged 25 per tag, instead of 14, Bill. But, anyway, that's another story. But, and there is an agreement in Massachusetts that we can certainly look to exploring that addition within the -- I could ask our Law Enforcement people to look at that, but it is within their capability now to follow somebody out through federal waters.

CHAIRMAN BECKWITH: I think most of the police have dual authority, at least most of the Marine Police do.

MR. COATES: Yes, cross-deputized.

CHAIRMAN BECKWITH: All right, anything else under other business? Okay, without objection, let's adjourn.

(Whereupon, the meeting was adjourned at 1:55 o'clock p.m., October 8, 1999.)

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