

ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN LOBSTER MANAGEMENT BOARD
Ramada Plaza Hotel, Old Town Alexandria, Virginia
TUESDAY AFTERNOON SESSION
January 12-13, 1999
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Lobster Management Board Motions, 1/12-13/99

MOTIONS FROM JANUARY 12, 1999:

Minutes approved with no objection (pending minor editorial corrections).

Motion to adopt the recommendations of the Trap Tag Subcommittee, as modified by the American Lobster Management Board, for inclusion in public hearing draft of Addendum 1.

Motion by Mr. Nelson, second by Mr. Coates.
Motion passes unanimously.

Move that *de minimis* states will be required to adhere to Sections 3.1 and 3.2 of the American Lobster FMP.

Motion by Mr. Adler, second by Mr. White.

Motion to amend by deleting section 3.2.; motion by Mr. Coates

Move that *de minimis* states will be required to adhere to Section 3.1 of the American Lobster FMP.

Move to table until 1/13/99. (passed by roll call vote)

Motion by Mr. Freeman; motion passes (6 in favor, 4 opposed, 1 abstention)

Move to include for public comment for Addendum 1 a *de minimis* criteria of less than 20,000 pounds average for the last 2 years.

Motion by Mr. Adler, second by Senator Goldthwait; Motion carries unanimously

Move to include for public comment *de minimis* alternatives of .5 and 1 percent of commercial landings in 1997.

Motion by Mr. Nelson, second by Mr. Freeman;
Motion carries (9 in favor, 2 opposed.)

Move to establish 20,000 pound limit as preferred alternative for public comment.

Motion by Mr. Adler, second by Senator Goldthwait;
Motion carries by voice vote.

MOTIONS FROM JANUARY 13, 1999:

Motion deferred from previous day:

Move that *de minimis* states will be required to adhere to Section 3.1 of the American Lobster FMP.

Motion by Mr. Adler, seconded by Mr. White, as amended previously.
Motion passed 7-2, with 2 abstentions.

Motion deferred from October:

Move that the Lobster Management Board recommend to the ISFMP Policy Board that it recommend to the Commission that it determine that the State of Rhode

Island is out of compliance with the Lobster Management Plan, as amended, in that it is not fully and effectively implementing and enforcing a required provision of the FMP, viz., the limits on landings for non-trap gear contained in the FMP; and that in order to come into compliance the State must implement said limitations.

Motion by Mr. Colvin, seconded by Mr. Lapointe.
Motion deferred by unanimous consent to January meeting.
Motion withdrawn by unanimous consent.

Motion deferred from October:

Move that the Lobster Management Board recommend to the ISFMP Policy Board that it recommend to the Commission that it determine that the State of New Jersey is out of compliance with the Lobster Management Plan, as amended, in that it is not fully and effectively implementing and enforcing a required provision of the FMP: 1.) the prohibition on possession of lobster parts by fishermen; 2.) the prohibition on possession of female v-notched lobsters, and 3.) the maximum trap size; and that in order to come into compliance the State must implement said limitations.

Motion by Mr. Driscoll, seconded by Mr. Colvin.
Motion deferred by unanimous consent to January meeting.
Motion passed by a vote of 9-0, with two abstentions.

Move to defer consideration of compliance by Delaware, Maryland, Virginia and North Carolina until after the the Addendum is approved.

Motion by Mr. Nelson, seconded by Mr. Bachman.
Motion approved without objection.

Motion deferred from October:

Move that New Hampshire's proposal to substitute the 800 trap system with a two-tiered system of 600 and 1200 traps meets the conservation equivalency provisions of the plan and is therefore approved.

Motion by Mr. Nelson, seconded by Mr. Driscoll.
Motion tabled by voice vote to January meeting.
Motion approved 7-2, with one null vote (Massachusetts).

Move that the Board find the Area 5 proposal conforms to the egg production rebuilding schedule with the understanding that the baseline values may be changed during the upcoming stock assessment.

Motion made by Mr. Mason, seconded by Mr. Freeman. Motion carries (1 abstention by NMFS)

Move that schedule B of the minimum gauge schedule be the preferred alternative for Addendum 1.

Motion made by Mr. Mason, seconded by Mr. Freeman; Motion carries (8 in favor, 1 abstention – NMFS)

Move that schedule C and no action be included as alternatives in Addendum 1 under the minimum gauge increase.

Motion made by Mr. Nelson, second by; Motion carries.

Move that option 4 be included as an alternative in Addendum 1, recognizing that if Area 1 adopts a size limit it be in conformity with the selected alternative; Area 6 has already indicated a willingness to support a similar size limit if it is uniform.

Motion by Mr. Coates, second by Mr. Mason.
Motion tabled until March meeting (next meeting?).

Motion to Table the above motion until the March 1999 meeting.

Motion made by Mr. Mason, second by Mr. Nelson; motion carries.

Substitute motion offered by Mr. Lapointe:

Move to not include option 4 in the public comment draft. Following deliberations of LCMT 1, should their options include an increase in minimum gauge size, the Commission recommends that the LCMT incorporate the schedule of size limit increases consistent with the other LCMT areas.

Substitute motion fails due to lack of approval by original mover and seconded.

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

Motion made by Mr. Gibson, second by Mr. Freeman. Motion tabled until next meeting (with the understanding that the meeting would be held in the New England area).

Move to table the motion until the next meeting.

Motion made by Mr. Lapointe, second by Mr. Coates. Motion passes (8 in favor, 2 abstentions – NMFS, NY)

TUESDAY AFTERNOON SESSION January 12, 1999

The Tuesday Afternoon Session of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington-Lee Ballroom of the Ramada Plaza Hotel, Old Town, Alexandria, Virginia, January 12, 1999, and was called to order at 3:15 o'clock p.m., by Chairman Ernest E. Beckwith, Jr.

INTRODUCTIONS AND ANNOUNCEMENTS

CHAIRMAN ERNEST E. BECKWITH, JR.: Okay, we're going to start the meeting. Our first task is to remind you we're going to run this meeting the same as the other meetings we've been running this week. Each delegation will vote as a state, and Jack explained the rules several times. I'm sure you've all heard them. Amy, why don't you go ahead and call the roll.

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

MS. SCHICK: We have a quorum.

CHAIRMAN BECKWITH: Okay, thank you, Amy. The agenda is somewhat changed from what was mailed out. If you haven't already picked one up, the revised agenda is on the table to my left. And, as you probably know, the National Marine Fisheries Service has issued the Proposed Rules on lobster management in the EEZ. Those Proposed Rules are also on the table over to my left. I would recommend, if you haven't already picked one up, to do that.

And, one of the major reasons is I'm going to ask Harry Mears, during the meeting today, to give an overview on the content of those Proposed Rules, and my intention is to put that right up front, after Agenda Item Number 3, Approval of Minutes, and then we'll move on with the public comment after that. I want to give the public a chance to listen to the Proposed Rules before I ask for general comment. Now, under Other Business, we're going to add one other thing. We have the Rhode Island Mobile Gear Issue as an item under Other Business, and we're going to add a second item and that's an issue in the plan that says that the trap allocations will be per vessel.

We need to talk about that because some states license the fishermen rather than the vessels. Are there any other changes to the agenda?

MR. PHIL COATES: Ernie, I think under Other Business, we would like to include an item concerning the establishment of the boundaries between the areas within state waters. We have some issues we would like to address with regard to the clarification of the boundary between the Outer Cape Area and Area 1, and also the Outer Cape Area and Area 2. We can get to it at that point. I would just like to have that added.

CHAIRMAN BECKWITH: Okay, I'll add that on. And Bruce.

MR. BRUCE FREEMAN: Relative to your remarks, there are no agendas over at the table, and the only agenda I have was the original one that was sent out.

CHAIRMAN BECKWITH: Okay, I was told there were.

MS. SCHICK: It's the same as the ones that were sent to you last week.

MR. FREEMAN: What I'm looking at is the agenda we have for each of the meetings sent out as a Final Notice. That's what I have.

CHAIRMAN BECKWITH: I'm not really sure which one. Amy would be the one that –

MR. FREEMAN: Well, we found one so John Connell and I will share this.

APPROVAL OF MINUTES

CHAIRMAN BECKWITH: Are we all set on the agenda? Okay, I think we are. Why don't we move on, then. Okay, the next item on the agenda is approval of the minutes for the October 27th meeting. Does anyone have any changes or corrections to those minutes? John.

MR. JOHN I. NELSON: Page 51, instead of the word "depth", what I had said, since this is my quote, was "death". Thank you very much.

CHAIRMAN BECKWITH: Okay. I had noticed, in reading my copy, there are several places in there where the wrong word was used, and we can always go back. Some of those are really pretty obvious, and we can always go back and correct those. Are there any other changes?

Does anyone have any objection to us approving these minutes? Seeing none, so ordered and they are adopted.

Okay, that moves us down to the new agenda, the NMFS Proposed Rules, and I'm going to ask Harry Mears to give us an overview of what these rules include. Harry, please.

NMFS PROPOSED RULE

MR. HARRY MEARS: Thank you, Mr. Chairman. The Proposed Rule was actually filed, which is the step prior to formal publication in the Federal Register, was filed yesterday. And the public comment period will last for 30 days, through, I would assume, would be February 11th, after which time the National Marine Fisheries Service will evaluate the public comments during that period and work forward, in consultation with the Commission, to publish a Final Rule, with an implementation date for many of the management measures that are proposed, concurrent with our Lobster Fishing Year, which is May 1. That is the current intent as of this time. I've been trying to determine the best way to summarize the new information in the best way possible in terms of the limited amount of time as a new agenda item.

I think what I'll do is make some brief summarizing comments concerning the preamble of the Proposed Rule, which essentially sets the stage and describes why we're in the situation we are today in terms of a continuation of existing regulations that were initially promulgated under the Magnuson-Stevens Act and a transfer of that federal management authority to the Atlantic Coastal Act.

At the current time the regulations which were passed through the plan developed by the New England Council currently appear in the Code of Federal Regulations, in Part 649. As part of this Proposed Rule action, it will combine American Lobster Regulations with those for Weakfish, Sturgeons and Striped Bass, which technically appear under another section of Federal Regulations, Part 697.

One of the formalities that the Proposed Rule accommodates is the former -- it withdraws the formal approval of the New England Fishery Management Plan for American Lobster. Simultaneous with that withdrawal, it institutes new regulations under the Atlantic Coastal Act, and it certainly does not withdraw federal participation in American lobster management.

In fact, it intensifies it in concert with the discussions we've had at this Board level during the last three years. By virtue of the transfer, it also formally recognizes and increases state responsibility for lobster management, recognizing that a majority of the harvest occurs in waters under state jurisdiction.

Yet it also retains a federal involvement in federal waters, working in concert and consultation with the states, with the Commission, with the industry to achieve and respond to the requirements of the Sustainable Fisheries Act, which were namely to develop a plan to end overfishing of the resource prior to June of 1999.

It very heavily emphasizes the type of deliberations we've seen here within the last three years and intensify with regard to area management with the seven Lobster Conservation Management Teams. It accommodates the conservation equivalency type of approach, particularly in the out years of the management strategy for achieving the egg production goals, which are currently identified in Amendment 3 of the Interstate Plan.

And probably most importantly, it is not a static plan. It recognizes and acknowledges that we are right now in the midst of working with the various industry teams, the lobster conservation teams, and reviewing possible alternatives to management approaches for achieving the egg production goals.

It also acknowledges that the Commission has scheduled a peer review of the lobster resource for the spring of 1999 and that in fact is an essential ingredient to the continuing evaluation of how successful the management measures are throughout the stock rebuilding period.

It also acknowledges the potential for the National Marine Fisheries Service to enter into state-federal agreements at the request of states with regard to trap tag management, and this certainly is very relevant to the type of discussions that we'll hear later on during this Board meeting, either this afternoon or tomorrow morning, with regard to setting the stage for a coastwide trap tag management program.

In terms of the specific measures in the Proposed Rule, they are heavily based upon the comments we've received during that period of time that we had issued draft environmental impact statements.

As part of that procedure, concurrent with our discussing the various lists of alternatives for federal lobster management with the Commission, we took the list of alternatives to public hearing.

We held 13 such hearings between Maine and North Carolina in

nine different states, and we listened to and accommodated what I believe was the overriding majority and consensus of the type views and comments we received during that period.

It was very overwhelmingly the overall public comment in support of what we have now set into process to go forward with the type of area management approach we are about to implement, and a faith that, indeed, and the trust that we can work with industry and achieve the type of management goals we need to accomplish in terms of assuring the long-term sustainability of the resource.

I will just mention three main components of the regulations -- and there are several, but I think I'll just comment on those which I feel should merit the most attention with regard to those that were identified in the draft environmental impact statement.

Number 1, it continues the current regulations which were promulgated through the New England Plan since the period that the plan was adopted by the Council in 1983. It also accommodates recommendations from the Atlantic States Marine Fisheries Commission with regard to area specific management measures that were identified in the Interstate Plan through recommendations to the Secretary.

And certainly, two examples of those type regulations included a five-inch maximum size in Area 1 and also an increase in the vent size in both the inshore and offshore waters off the coast. It also establishes recognizing that we're in the midst of reviewing area management plans on an area-by-area basis.

It caps fishing effort in both what we've referred to the nearshore EEZ and the offshore EEZ. The offshore EEZ specifically is the only area that's comprised entirely of federal waters. The plan refers to it as Area 3, and we did the same in the Proposed Rule.

It sets a trap limit effective in 1999 of 1,000 traps for the nearshore areas and a trap limit of 2,000 traps offshore with a 10 percent decrease in each area in the year 2000. Very importantly, the Proposed Rule establishes a link between the egg production goals that are currently identified in Amendment 3 of the Interstate Plan with an annual specification of additional measures which must be implemented to continue working toward those management objectives to increase egg production and overfishing and ultimately to rebuild the resource.

And once again, beyond these initial two years, the plan acknowledges the dynamics of the area management type of approach and to the type of intensified attention which the plan will require from both the state governments, from the National Marine Fisheries Service and also from industry, probably at a level that we have never seen before in terms of a commitment to work toward the stock rebuilding strategies.

The Proposed Rule will also continue the moratorium on new entrants into the EEZ fishery. We consider this to be a very important ingredient of the new federal regulations. We received very popular support for continuation of this moratorium during our public hearings and also during past discussions of the need to cap effort and to establish an ability to continue the moratorium in federal waters while concurrently we explore techniques and the need, the strong need to establish a similar type of effort-limiting program in state waters at the same time.

I think I will end my summary of this Proposed Rule with that, and

it might be best to entertain questions to further discuss any specifics. I am just trying to make best use of the available time for the topic we have at hand.

CHAIRMAN BECKWITH: Okay, any questions or comments for Harry? Ralph.

MR. RALPH MALING: Yes, Harry, you said that the trap reduction in 2000 would be 10 percent?

MR. MEARS: I was just informed of my error. It goes from 1,000 to 800 to comply with what was established as a template in Amendment 3.

MR. GEORGE LAPOINTE: Having had about 15 minutes at breakfast to look through the plan, these obviously aren't in-depth comments, but I certainly appreciate the tenor of this draft far more than the one a year ago.

CHAIRMAN BECKWITH: Any other comments for Harry before we move on? John.

MR. JOHN MASON: Ernie, what kind of timeframe are we going to be able to discuss this under -- I mean, is this just going to be like a five-minute thing, and then we're moving on?

CHAIRMAN BECKWITH: Well, I don't think we should spend too much time on it now, because when we go through the Decision Document and talk about the area plans, I think then some particular issues of continuity and conflict may come up and we probably should best address them at that time. Jill.

SENATOR JILL GOLDTHWAIT: Thank you, Mr. Chairman. I also want to add my thanks on behalf of the Maine fishing community for your responsiveness to the concerns that were raised in the public hearing process.

And, as George said, we haven't had extensive time to review this, but it looks as though a lot of those concerns were taken into account, and we appreciate it.

CHAIRMAN BECKWITH: Bill.

MR. WILLIAM A. ADLER: I just wanted to speak for the Massachusetts lobster people in this respect and say that from what I've read so far, this is a welcomed document so far, so thank you very much for listening to everybody that said something. Thank you.

CHAIRMAN BECKWITH: Okay, any other comments from the Board on the Proposed Rules? John.

MR. MASON: I think everybody appreciates the effort that NMFS has gone through. I guess I have a concern that I note in just -- I mean, I just got the document like five minutes ago, but I think there will be some concerns raised at least from Area 4 fishermen about that being considered strictly an inshore area and so there being a suggestion of a prohibition from being able to fish both in Areas 3 and 4, at least from the input that we've had from the Area 4 LCMT.

CHAIRMAN BECKWITH: Okay, any other comments from the Board? Would anyone in the audience like to make a comment on the Proposed Rules or any other comments at this time? Just to let you know, there will be opportunities throughout this meeting for the public to make comment, and I'll especially call for

comments when the Board has a motion before them. Before we vote on it, we'll take comments.

Okay, seeing none, why don't we move on to the next agenda item. One thing I neglected to do was to also mention another change to the agenda, and that's Agenda Item Number 7, Review State Compliance.

It appears there are some compliance issues here that the Board is going to have to take action on, and what I would like to do is try to defer Agenda Number 7 as long as we can, and hopefully Jack Dunnigan will finish what he's doing this afternoon and get himself down here, but I understand that we're probably not going to see him before five o'clock.

So, with that in mind, I will probably juggle things around and try to hopefully not have to address this item before Jack is here because I think we're going to need his help.

With that said, let's move on to Agenda Item Number 5 that's listed on the agenda in front of us. And what I'm going to ask for is an update on Area 1 progress. Specifically, have there been any LCMT meetings held since our last Board meeting or any other progress on putting together a plan F-10 for Area 1? It looks like John is going to volunteer.

UPDATE ON AREA 1 PROGRESS

MR. NELSON: Why not, Mr. Chairman. Thank you, Mr. Chairman. We have had a number of discussions with Carl as far as some of the points on where we stood as far as the evaluation of the management measures that are in the plan, and I think there was certainly, on the part of a lot of people, the feeling that those measures were put in the plan to make Area 1 meet its egg production goal.

The review of those measures would indicate that we have quite a ways to go, that they do not meet the level of egg production that we had all hoped they would, that there is some review with some additional data that may change some of the numbers a little bit, but probably not significant.

With that in mind -- and Carl had sent me a letter outlining the situation for us -- I had then sent a letter to Maine and Massachusetts with that information from the Technical Committee and suggesting that we plan to call the LCMT meeting so that we can start further evaluation of measures that would meet the egg production level.

We are tentatively planned right now for the 26th of January, Mr. Chairman, in Portsmouth. We are trying to finalize that time table, but right now -- well, Phil cannot make it unfortunately because he's dealing with groundfish -- we would be able to have representatives from all the states at that meeting, and at that time we would be going over in greater detail what needs to be done.

And we've already received from Joe Idoine a good evaluation of what measures we need to talk about to get the egg production level to where it needs to be, and so that's how we're going to proceed.

CHAIRMAN BECKWITH: Okay, any questions or comments on what John said? Pat.

MR. PATTEN D. WHITE: John, you said that considering

the new measures that are being implemented in Area 1, it didn't change our baseline, or did I misunderstand that? Have they evaluated what the new measures will do to the baseline that we have?

MR. NELSON: That was my understanding, and Carl is certainly right here if he wants to provide additional input. I understood that such things as the escape vent, the maximum size trap, whatever they could do as far as evaluation of trap limits -- have I skipped something -- those types of measures that were going in place -- the V-notch, thank you -- anything that was going to be effective January 1st or March 1st, whatever timeframe that we had in there, had been put into the formula as much as possible to be evaluated and that the egg production numbers came out as they were.

There was some additional information required to evaluate -- and I'm searching a little bit here -- I think it was fecundity and size and that sort of thing, which the states were going to provide that type of information to the Technical Committee. But, the feeling was that that was not going to change the end result significantly.

CHAIRMAN BECKWITH: Okay, any other questions for John? Amy pointed out to me that we should take Items 6 and 7 together rather than just deferring Item 7, so that's what I'm going to do. I'm not going to go to 6 right now.

I'm going to jump to Number 8, Report from the Trap Tag Subcommittee and Penny Howell will give us an overview.

REPORT FROM TRAP TAG SUB-COMMITTEE

MS. PENNY HOWELL: Speaking for the Subcommittee for the Trap Tag Program, we started the process in late November with a survey of options that were sent out to managers and members of the lobster industry.

I don't want to take up a lot of time. I'm hoping that most of the people are familiar with that survey. Eight topic areas were addressed by the survey with a list of issues that are given on Page 2 of the draft proposal, past the introduction and proposal.

The survey lists meant to deal with the issue summaries here, which I'll let everyone read through. Some of the survey opinions were very similar. Some issues, obviously there were a lot of differing opinions.

The subcommittee met alone in early December and drew up a list of options, which is on this document as an appendix, which everyone can read through. Hopefully, most people have seen this.

And, they were reviewed by a larger group last Thursday in Providence, including all the subcommittee members, several managers and members of the lobster industry.

As a result of the day-long round table discussion reviewing the options, we proceeded to refine that option list to the proposal that you see before you starting on page 3, proposed components of a trap tag system. It's 3 and 4.

What I would like to do is just step through this as quickly as possible, giving everyone a chance to review it, but I would just like to add that this proposal builds on long-term experiences in Canada and Maine and the newly proposed regulations in the State of Massachusetts.

Collectively, they have dealt with a broad range of issues relating to industry needs as well as resource management goals, so this document should be treated as an outgrowth of those three experiences.

CHAIRMAN BECKWITH: I would like you to step through each one; and after each item, take questions and comments, please.

Issuing Authority

MS. HOWELL: Okay, taking each bold-faced item in order, beginning with the issuing authority, the proposal is that in state waters, those state licensing agencies shall be the issuing authority.

An adjustment had to be made to each state shall issue tags to its own residents, so those people that fish in more than one state would get tags from their state of residency.

However, in cases where the license holders do not hold a license in the state in which they live, the state in which they fish shall issue tags. Let me just go on to federal waters and we'll back up. I'm sure there will be a lot of comment.

In federal waters the state licensing agency should request issuing authority under an MOU. And in both cases, actual issuance may be made by a private dealer, such as the current condition in Massachusetts, but the licensing agency under any circumstances shall have complete oversight and responsibility for timeliness and accuracy. Comments?

CHAIRMAN BECKWITH: Penny, perhaps you can give a little bit of background as to why the subcommittee selected the proposals that they have here, why they recommended the states issue.

MS. HOWELL: As I said, in almost all cases, and particularly this one, because this was one right up front, it was based on the experiences of Maine and Massachusetts and particularly based on the responses we got from the survey.

This particular issue, especially in state waters, there was a fair amount of consensus. Most of the people answering the survey felt that for the purposes of keeping the licensing predictable, efficient and all in one in place, that the state licensing agency should be the issuing authority.

In federal waters, obviously the complication is whether or not an MOU can be put together in a timely manner that's satisfactory to everyone, but that's yet to be determined. It's just hopeful that that process will proceed in a reasonable manner.

CHAIRMAN BECKWITH: Bruce. Penny, why don't you just take the questions?

MR. BRUCE FREEMAN: Penny, relative to the state issuing, was that the fact that the fishermen fish only in state waters or fish both state and federal waters?

MS. HOWELL: No. We tried to set up a situation that would cover every permutation, knowing that obviously there are fishermen out there that do all of the above. In the cases where they fish in two state waters, it's more straightforward.

They go to their state of residency or they go to the state that they fish in, depending on what the circumstances are. If they fish in state waters and federal waters, then the MOU would lay out the details state by state with the federal government, how that

particular fisherman would apply for his tags.

MR. FREEMAN: So that would be an arrangement made between the state and the agency?

MS. HOWELL: That's a legal necessity that that be done that way.

MR. FREEMAN: The reason I asked, this thing is being driven by the states that have a very active and important lobster fishery, the northern end of the range. You get down in the southern end, it's just the opposite.

Almost the entire fishery occurs in federal waters. A very, very small portion or in some instances no fishing occurs in state waters.

MS. HOWELL: I could suggest that in that case the state may choose not to be the issuing authority and leave it in the hands of NMFS, but maybe Harry Mears would like to take -- you know, that's up to how the state wants to handle its fishery.

CHAIRMAN BECKWITH: One of the background issues -- let me just mention it before Harry provides some comment -- is that we wanted to preclude fishermen from having the ability to go to more than one place and obtain tags, perhaps double or triple of what he should have, and that's why the recommendation was that each fisherman would get them from his state of residence, get them from one place.

And obviously we have to accommodate people that only fish in the EEZ, so we do that through the MOU. Now, this system isn't absolutely tight. There are a few special circumstances -- and I think at our meeting it was pointed out that there were some residents of New Hampshire that don't hold a New Hampshire commercial license.

They fish in Massachusetts and hold a Massachusetts license, and obviously they couldn't go to their state of residence, New Hampshire, and obtain their trap tags because they are not licensed in that state. But I think we'll have to identify those particular circumstances and deal with them on a case-by-case basis.

MR. MEARS: A few comments. We identified several areas last week during our meeting in Providence that I think will get continued discussions similar to those we've already identified today and others will surely identify during the remainder of discussions at this Board meeting.

I have two points I would just like the Board to keep in mind in terms of the federal tag system. There's a bullet under issuing authority where it alludes to the fact that this could in fact be by a private dealer, and this pertains to both state and federal waters.

We currently have a tagging requirement for gillnet tags under the multi-species plan where that's done through a private contractor, so certainly that option is as relevant to the federal waters as it could be to the state waters.

The other point I would like to make is the point where we are right now is almost identical to the type of discussions we were beginning to have back in 1995 concerning the administration, the cost and the logistics of a future trap tag program.

And certainly any agreement, any MOU which the National Marine Fisheries Service would enter into would have to be patterned after a scenario whereby there would be a mutual acknowledgement of

what the out-year expectations are for ending overfishing and rebuilding the resource.

CHAIRMAN BECKWITH: Penny, I'll turn it back over to you.

MS. HOWELL: Okay, anymore comments? John.

MR. MASON: I guess this leads me to a question about permitting. Harry, under the plan as you guys have proposed it, if a fisherman fishes in federal and state waters, is he going to have to have two permits?

And, if he is, then how will the number of trap tags that he is allocated be determined? In other words, who would determine that?

MR. MEARS: There's several facets of a response to that answer. One, yes, if they are fishing in federal waters, under the Proposed Rule they will most definitely have to have a federal permit since the EEZ moratorium on new entrants would be continued.

In terms of the issuance of tags and not exceeding the target for a particular area on an area-by-area basis, we again addressed to some extent the need to intensively look at this area of concern during last week's meeting in Providence, plus we also had a discussion of a potential scenario in our DEIS back in March and April whereby we attached an analysis that was required under the Paperwork Reduction Act.

Regarding the type of information a lobsterman who had a federal permit and who had to apply for tags and receive an annual renewal of their permit would have to provide to the National Marine Fisheries Service, one component of that information, in the absence of a NMFS-State MOU whereby one agency only would be issuing the tags, would be the number of tags with the number of tags they would fish in state waters.

In which case, if there's a 1,000 limit, we would subtract that from the 1,000 and issue the remaining number of tags. Now, I'm sure there's ten different hypothetical scenarios on ten different case examples that might be identified in terms of problem areas that might arise regarding particular situations and area lobstermen, but at this point the best I can say is that we are currently evaluating those type situations and we certainly would encourage any type of mutual analysis of the type issues that might arise from the Commission and individual states.

MS. HOWELL: I would like to add to that answer, hopefully to clarify also. The key to this whole tag program is that a fisherman designate up front which areas he chooses as a business decision where he wants to fish.

And he can put down multiple areas, state, federal. Based on that decision that he's made up front, every year he will get tags issued to him reflecting the most restrictive area he has chosen to fish in, and he must abide by those rules everywhere he fishes.

That was the ground rules before we even started. Does that clarify your question at all, John, or do you have more comment?

MR. MASON: Well, I have a followup because if we're going to get into an MOU, it seems to me one of the things we ought to be thinking about is to make the licenses and the tags part of the

MOU, which may avoid double licensing, which, of course, is the purpose of at least ACCSP, if not other things.

MR. WHITE: Also, I think maybe to address Bruce Freeman, because a lot of people haven't had a chance to get into this, there's like two different federal areas between the three mile and the boundary of the inshore ASMFC territory, because in the federal plan now the proposal is that if you declare into Area 3, that's where you have to stay.

You can't fish in Area whatever you happen to be, four. So, part of that trap tag program isn't going to be as complicated as you said because they are not going to be able to do both.

CHAIRMAN BECKWITH: Pat, I couldn't hear exactly what you said, but did you say that if a person elects to fish in Area 3, he will not be allowed to fish in any other area?

MR. WHITE: That's what's in the federal plan, if I'm not mistaken.

CHAIRMAN BECKWITH: Correct, that's what's in the federal plan. I only read it once quickly last night. That is in conflict with what is being proposed here. What's being proposed is the fisherman can fish in any area that he wants.

If he holds a valid license or can obtain a valid license, he can designate to fish in any of those areas, so that's an issue that's going to have to be worked out. Harry.

MR. MEARS: I also just wanted to clarify the situation in terms of an Area 3 fisherman or any other area fisherman in terms of the areas they would so designate. The inability to switch between what's termed nearshore and offshore EEZ areas in the plan would be for the duration of the stock rebuilding period. That's one point I wanted to make.

And secondly, an Area 3 fisherman would in fact have one opportunity to switch to nearshore EEZ fishing. And this was in follow-up to public comments we received during the DEIS period whereby, because of the offshore nature of the fishery, there may come a point where individual fisherman -- and the example of perhaps as they grow older may want to fish closer to land and decrease the risk of fishing at sea so certainly that opportunity is in the Proposed Rule to make that one-time change. But, once having made that change, there would not be an ability to go back out.

CHAIRMAN BECKWITH: Yes, this will be an area that will be a subject of comment, I'm sure during your comment period. Any other questions on this issue before I give it back to Penny? Okay, go ahead, Penny.

Fisheries Include in the System

MS. HOWELL: Okay, the second issue should be easier. Fisheries included in the system, this was the one question in the whole survey response that was unanimous, that both commercial and recreational lobster traps be included in the system, basically because that makes an untagged trap illegal.

And also the feeling that the recreational fishery, even though it complicates the system and actually adds an administrative burden well beyond what they give to the system, it broadens their awareness that they are part of a larger fishery whether they know it or not. Any comment?

MR. MASON: From a law enforcement perspective, has there been any thought as to whether or not the recreational tags should be exactly the same as the commercial tags or different?

MS. HOWELL: Much discussion went in that and we'll get to that. That's the next topic. No, they are not the same and we can talk about it. Any other comment?

Tag Type and Information

Okay, moving on to the next topic, then, tag type and information, the tags shall be plastic truck seal design, because I didn't know what exactly to call them, but these guys, similar to those presently used by the states of Maine and Massachusetts.

Just to summarize a very long discussion, they are cheap. You can print a lot of things on them, and they seem to be very serviceable for the industries that are now using them. Each tag shall be color coded coastwide by fishing year.

The fishing year is defined further down. Colors used by each fishery and area shall be coordinated coastwide annually. Information printed on commercial tags shall be the following: Issuing authority, be it state or NMFS in the case of federal waters only; areas or areas that the tag is valid, including a designation whether it's state or federal waters; the year or years the tag is valid -- we're proposing it be one year only, but that option is open -- and either a permit or license number.

So, the commercial tags will have a fair amount of information, which will require them to be very personalized.

The information on the recreational tags shall be only the issuing authority, the year the tag is valid and some unique recreational designation, like a two-letter code or something that tips off the person looking at the tag that this is a recreational tag.

And, what that does is it makes it so that they can be cheaply printed up. They are not unique to the person buying them. The person buying them gets the ten tags or whatever sent to them without any big formality.

Finally -- and this is clearly a recommendation -- that other necessary information provided to monitoring or law enforcement personnel on paper or electronic files or whatever should be keyed to that four data, so if a particular need needs a person's name or address or something like that, it be put in another format, not on the tag itself, but be keyed to this so that if you know what's on the tag, you can find out the information you need fairly easily. Comments?

CHAIRMAN BECKWITH: I've got a comment. At the very end of our meeting, as we're about to go home, our Providence meeting, we realized that we might have a problem with having enough space on the tags to put all the information we need on there, the problem being if a fisherman elects to fish in multiple areas, if you live up around Cape Cod or somewhere around there, maybe you can elect to fish in three areas, maybe four areas, we have a certain number of characters on the tag to utilize -- I think it was, was it 17 characters, Penny, do you recall?

MS. HOWELL: I think that was -- yeah, but I'm not sure what the definition of a character is.

CHAIRMAN BECKWITH: Yes, but that's something we're

going to have to look into. The issue here obviously is multiple license numbers because those obviously have multiple characters in them, and we're going to have to deal with that somehow. Any other comments? Harry.

MR. MEARS: Just a minor edit. NMFS should not be noted under recreational tags since there's no recreational trap fishery.

MS. HOWELL: So noted. No other comment? John.

MR. MASON: Where it says areas tag is valid, including state/EEZ, there's several areas like Area 4 and Area 2 that have both state and federal. Is the fisherman going to have to decide up front how many of those pots he wants to put outside of three miles within that area or –

MS. HOWELL: No.

MR. MASON: -- if he has an Area 4 tag, will it just say Area 4, and it doesn't matter whether it says state or EEZ?

MS. HOWELL: Area 4 and then whether he holds a license to fish in federal waters at all or whether he only owns a state or vice-versa, whether he's allowed to be in both areas and Area 4. Where he puts his pots in Area 4 is his business decision.

How many pots he tags, how many pots he can put out is based on the minimum, the most restrictive of the areas he's chosen, so that designation just says where he can –

MR. MASON: So, either both or one –

MS. HOWELL: Yes.

MR. MASON: -- you can either fish in state or you can fish both in state and federal?

Transferability of Tags

MS. HOWELL: Whatever the case might be. Any other comment before we move on? Transferability of tags, all tags shall be of a permanent design not transferable once attached to a trap. All traps aboard a vessel must be tagged. That probably should be rewritten to say that states shall pass regulations requiring that all traps aboard a vessel must be tagged, and likewise probably it should have been worded states shall pass regulations that tags must be placed on the trap bridge or main cross member clearly visible for inspection.

Obviously, the second and third bullets there are means of making the non-transferability more definite. The issue here is that it be a permanently attached tag. I'm sure there's discussion.

CHAIRMAN BECKWITH: Bill Adler and then John.

MR. ADLER: This is just a little on the first one you have there. I think this is all workable. The idea is that the tag is of a permanent design and not transferable once attached to a trap. They may move that tag within a given year from one trap to another that they own.

An example is if they wanted to decommission a trap that they have that year, and they want to replace it with a replacement trap, that tag, if they could figure out a way to move it to the other trap without breaking the seal, is that possible?

MS. HOWELL: No, that's the point, not getting into replacement tags. I mean, there is a place for replacement tags, but

the point is when you put a tag on a trap, it stays there. It's not transferable, legally.

CHAIRMAN BECKWITH: But we will cover a way of dealing with that issue.

MR. MASON: Point number 2, all traps aboard a vessel must be tagged. If somebody recovers somebody else's traps and wants to bring them in for that individual or otherwise, this would prohibit that.

MS. HOWELL: Unless he notified the law enforcement officials that he was doing it.

MR. MASON: Or if he removed the escape vent so that effectively the trap was unfishable. In other words, if you had a fishable trap on the boat, then it should have a tag on it, but if you had an unfishable trap on the boat, is it also necessary to have a tag?

MS. HOWELL: That's probably to the discretion of the law enforcement officer.

CHAIRMAN BECKWITH: I think the issue -- and Joe really helped us out on this, and maybe he can jump in here -- the issue was we didn't want any traps being transported on the water that were not tagged because that creates a situation for cheating. Joe, do you want to jump in here?

MR. JOSEPH FESSENDEN: We've learned from the Canadians that have had a trap tag program since 1968, so they have 30 years of experience. And I have talked to a number of the enforcement officials as well as fishermen from Canada.

And, one of their experiences was that people broke the system by putting transferable tags on their traps, taking them out, taking the tags off the traps and setting them.

The major crux of enforcement is going to be the transfer of traps from the shore to the fishing ground. That's going to be a major enforcement monitoring part of the whole scheme. The Coast Guard is already telling us that they are not going to haul gear, especially in Area 3.

So, when those traps are being transferred from the shore out to Area 3, the major enforcement deterrent would be having a permanent tag placed on that trap. And that's the crux of it. If we allow -- you know, I like to work with fishermen and I think it's important to be as flexible as possible, but if you make this a transferable tag, it will allow fishermen to cheat. And, what happened in Canada, the experience the Canadians had -- and we should learn from that experience -- is that there were so many people cheating and beating the system, that it made honest fishermen to compete, they had to cheat and it broke the system.

So a way to stop that is that they passed a very tough regulation that does not allow for transferability, but with that, we've got a lot of ideas on how to work with the fishermen to resolve a lot of these issues, for example, on replacement tags and other issues.

So, we've talked this through. We spent two days, or the better part of a day, certainly, talking about transferability, and I think we can work that out. I know in Maine we're on our third season -- it will be the fourth season -- going into our fourth season now, and we haven't allowed transferability, and we've worked through a lot of

these issues that the fishermen have.

And we're dealing with 7,000 fishermen, you know, which is certainly the lion's share of -- that's a big number for us and stuff, so we've been able to deal with it, and it certainly -- as far as law enforcement goes, we strongly urge the Board to not allow the transferability of tags from trap to trap.

MR. MASON: Mr. Chairman, that wasn't my question at all. I am certainly in favor of the tags not being transferable. My question is if some fisherman, which often happens, picks up a damaged trap, and it doesn't have a tag on it, technically the way this is worded, he would be in violation.

He couldn't even bring that trap ashore to give to some other fisherman, if he knew it belonged to him.

MS. HOWELL: An untagged trap becomes illegal gear; and when you're transporting illegal gear, you better do it carefully.

MR. FESSENDEN: Well, I would like to comment on that, and actually I thought you answered that question, Penny. What we do in our state -- and this should be done throughout the whole range of the resource -- if a fisherman comes across somebody's property and recovers it for him, all he needs to do is contact the Coast Guard or the marine fisheries.

The Coast Guard is standing by on 16, 24 hours a day, 7 days a week, and nobody is going to bust anybody if that person calls in and reports, "Hey, I just found a string of somebody's traps, I'm bringing them in." That covers the person, and that's how we operate in Maine.

MR. MASON: Then that would need to be described in the -- I assume this is going to be an addendum.

MR. FESSENDEN: Well, I personally don't think that that's necessary. I think that that's good law enforcement discretion. It's not good law enforcement to have people be so rigid that they can't use common sense because you would have an amendment, you know, 300 pages long if law enforcement didn't use common sense.

So, I personally don't think it's necessary, and we talk later on in this document about having a workshop of law enforcement and with the industry to talk about these issues and resolve a lot of those fine points, where we can work together and not have problems. That's how I would answer that.

CHAIRMAN BECKWITH: Pat, did that address the --

MR. WHITE: I'll pass on that one.

MS. HOWELL: Comments? Harry.

MR. MEARS: Going back to some earlier comments which were made concerning trap limits and state and federal trap tag programs, certainly, one of the difficulties in writing this Proposed Rule, at least for the federal waters, was to do everything that was possible to set an atmosphere to unable a one-resource one-plan type of situation.

But I do want to acknowledge that until such time we get there and until such time MOUs are developed where they are needed, we in fact would be affecting business practices of lobstermen in individual areas.

As an example, let's say a lobsterman in a certain area was currently

authorized to fish in the EEZ, had a moratorium permit, and issued an application for federal trap tags. Now the way the Proposed Rule is written, any trapped fish in the EEZ must have a trap tag affixed to it issued by the National Marine Fisheries Service.

It also recognizes subsequent potential to enter into MOUs with other states, but as part of this application process, during the early years, until such time we get to truly one-resource one-plan, we would, for example, be asking the fishermen to submit an affidavit on the maximum number of traps they fish in state water so that we can subtract that from the number fished for that particular area.

So, if it was a 50-50 split and there were a 1,000 trap limit, they would certify to us the maximum number of traps they fish in state waters is 500. In the example of where there's a 1,000 area trap limit, we then in turn would issue only 500 federal tags, and they obviously could not fish 501 tags in the EEZ.

So I think the general philosophy here, as we work toward it, is ultimately a true scenario whereby there would be one-resource one-plan, and I think we're making progress in that direction.

But until we get there, including those situations where obviously only two states have trap tag programs, we would be asking not for the number of trap tags obviously issued by the state, but the maximum number of traps fished in state waters.

And we in turn would subtract that from the respective number and issue that number of federal tags. I just want to make that clarification, which is a very complicated issue as you begin to think about it on a case-by-case basis, but I believe this will require in fact a lot of case-by-case decisions and ultimately a consensus on how respectively state and federal jurisdictions will handle the administration of a trap tag program.

CHAIRMAN BECKWITH: Okay, Pat, you had your hand up.

MR. WHITE: More specifically then, Harry, in the case of Maine that now has a trap tag system, and I have the opportunity to fish a thousand traps and I can buy a thousand trap tags, do I not have the ability to fish from the beach out to 40 miles within Area 1 with the same tag system, or are you now saying that I would have to have a different reason for fishing from 3 miles to 40 miles?

MR. MEARS: I would probably defer that to legal counsel. I think a dialogue needs to be established right away, if not immediately, between the respective state agency and the National Marine Fisheries Service to talk about situations such as that and what must transpire for both sides to accept hypothetically a situation where they would recognize either each other's tags and each other's jurisdictions or ultimately just one tag under a potential MOU.

CHAIRMAN BECKWITH: Okay, Jill.

SENATOR GOLDTHWAIT: Thank you. Now I'm beginning to think that I don't understand this as much as I thought I did. I'm not sure why, at least for a state that already has a trap tag system, why anybody, state regulators, federal regulators, would want to have two separate tags, nor am I sure why it would be a very complicated thing, given that we just heard a description of the data that would be on the tag that would encompass any issues from both of those authorities, given that all of the areas, except 3,

have both state and federal water. So, if you're going to fish in Area 1, and you're either going to fish inside of 3 if you have a state license only, or you're going to fish all the way out to 40 miles if you have your state license and your EEZ, and so now I'm losing the thread of why you're going to have to be certifying how many traps you had or why -- if you have a state license and the EEZ permit, you're still going to be issued the same number of total tags.

It just means you can put those traps anywhere from the beach to 40 miles instead of from the beach to 3 miles. So, why would you have to certify what you're fishing or --

MR. MEARS: Again, these type issues we began to at least identify at last week's Trap Tag Subcommittee meeting in Providence. I think no one can argue ultimately, ideally, we don't want two different tags. Why would we?

I think it's common sense to want to minimize duplication both amongst the management agencies and to minimize any burden on the industry fishing in their respective areas.

But, until such time that you have a clear understanding that connects to the management goals of what a trap tag program is achieving in terms of both what happens beyond Year 1 and to Year 2 and to Year 3, et cetera, of the stock rebuilding period, as well as the enforceability issue in terms of the ability to recognize each other's delegation to enforce regulations in respective jurisdictions, that in the beginning we are going to have some hurdles in terms of discussing how to enter into an MOU and what exactly must be in that MOU to minimize the burden.

I would also be very careful to say at this point that it's very difficult for me to respond specifically to any continued dialogue on what happens once you get to three miles without having legal counsel to give some guidance on the type of issues and hurdles which must be addressed in the very near term to minimize the type of burdens which you're referring to.

I think mutually there is an intra- jurisdictional desire not to have several different tags in the same management area, but I believe there is going to be an initial period of time, until you have the necessary MOUs in place, where you are going to very likely have situations of this nature.

MR. MASON: Help me, Harry. Try to make it simple. Is your concern for the period before the MOU is agreed to? Once the MOU is agreed to, can a fisherman just get tags, as proposed in here, from the states or a private entity, and it will indicate Area 4 and he can fish wherever the heck he wants to in Area 4, as long as he has the federal designation on there because he has both the state and federal permit?

Is your concern only for the time before we can get these MOUs drafted, which I hope could be a relatively short period of time, and therefore why bother issuing two tags if it's just an issue of how do we draft the MOU?

MR. MEARS: I think that's a fair assessment, John, in terms of what the ultimate desire would be, but my experience under several different programs and authorities with MOUs is that they are never short, they are never simple.

There's a lot of issues that have to be covered. And, again, I would stress the urgency of any state that wishes to enter into an MOU

type of arrangement, to begin that dialogue as soon as possible.

MR. MASON: Let's not have 12 different MOUs.

CHAIRMAN BECKWITH: Yes, I think what's coming across here is that the Commission should work to standardize an MOU that all states can utilize, and perhaps maybe we have one blanket MOU that you could sign on to.

MR. MEARS: I think Penny might get to that, if I'm not mistaken. I don't know if we covered that last week. I know we didn't, but that was one of the desires of that particular group to perhaps look at, of such a strategy as that.

You could conceivably have one MOU similar to the one we had for statistics several years ago where you have each state signing on.

CHAIRMAN BECKWITH: Bruce, you had your hand up?

MR. FREEMAN: Yes, thank you. I'm somewhat confused, Harry, relative to your original explanation. You indicated that if a fisherman fished both state and federal waters, he would make a declaration of how many traps he fishes in state waters and the remainder would be issued for federal.

In the situation which I'm familiar with, a fisherman may fish state waters for only a short period of time seasonally and then switches operation to federal waters. Now, if he were to make a declaration of the maximum pots he would fish in state waters for a small period of time, he would not be able to fish then in federal waters.

Therefore, in reality he would make a declaration he doesn't fish in state waters, it would seem. I don't understand what you're trying to accomplish by that declaration.

MR. MEARS: You're trying to accomplish that you don't exceed the trap cap fished during anytime during that year. And, yes, that would involve a business decision in terms of how they wanted to split their fishing activity under that particular situation between state and federal waters.

MR. FREEMAN: Right, but it seems to me if in fact the amount of tags the state issues is the same as the proposal in the federal, that would be immaterial. In other words, let's say at the present time the fisherman would be issued a thousand tags in the state and would be issued a thousand tags under a federal system, what difference does it make where he fishes?

MR. MEARS: It makes a difference inasmuch as there's a moratorium on new entrants into the EEZ fishery if they are not currently authorized to fish there.

MR. FREEMAN: No, no, in this instance they are authorized. I understand, if they just can fish in state waters, I would understand, but in our instance most everybody fishes in federal waters, and I just don't understand --

MR. MEARS: Okay, again, in that particular circumstance that might relate to New Jersey, I think that discussion needs to occur by yourself. It's very difficult to get on that wave length that --

MR. FREEMAN: Yeah, well, it is different than perhaps you would find in other locations.

CHAIRMAN BECKWITH: Bruce, I might point out that that is in Amendment 3, that you fish by the most restrictive rules.

MR. FREEMAN: Right, I understand that.

MR. BECKWITH: Phil.

MR. COATES: In all due respect to the combatants here, I would just suggest maybe this not go any further because this is not a big issue. Right now the states, if the person has a federal permit, he can do what he wants out there, subject to the existing federal rules.

Remember, this is a proposed rule. So, the operative systems are those that are in place by the states. For example, Massachusetts is an 800 trap limit in state waters, and there is an ASMFC rule for 1999 of a thousand traps.

Therefore, we issued 200 traps for people to use in the EEZ only, and that is under our control under the Sceriotis Doctrine, which exists right now in the absence of a federal rule, so that issue is controlled.

But it doesn't have to get complicated. There's very simple ways to fix this that will accommodate the federal concerns and the state concerns. We even have those category of people because we put a moratorium in 1972 that only fish in the EEZ portions of the LCMTs, so those folks coming in and getting a thousand tags for EEZ -- I guess we've issued some of those, haven't we? -- they don't fish in state waters, and they are just confined to this one area so we have accommodated them.

Now, if the federal rule comes out in contradiction to that, then we're going to have problems, but hopefully we'll have the MOUs wrapped up before the rule goes in effect and the whole problem will be solved.

CHAIRMAN BECKWITH: Right. It's not bad as it appears on the surface. Okay, any other comments before we turn it back to Penny?

Timing of Tag Issuance

MS. HOWELL: Okay, next issue, timing of tag issuance, this was one that did -- there was not a whole lot of consensus and a lot of it had to do with obviously as you go down the coast, the nature of the fishery in terms of the timing changes.

So, in order to get a coastwide system with some semblance that doesn't drive everybody crazy, the proposal is that tags shall be issued annually during an open period, January 1 to May 31, coastwide. Obviously, that's a very long time period, giving a maximum flexibility for the fisherman to obtain his tags in January, in March and April.

June 1 shall be the effective date for tags for each fishing year, so he can have his 1999 tags on his traps in February, but he has to have them by June. Each tag shall be valid for one year, so it will be June 1 to June 1.

That's the timing. In addition to that, license holders may be issued their allotment plus 10 percent to cover routine losses. That's a coastwide percentage overage for routine losses.

It is recommended -- and, again, this is clearly a recommendation -- that states have the flexibility to issue a higher percent over-

allotment to license holders fishing in locations where they can document higher historic routine loss rates.

Obviously, the procedure that each fisherman would have to go through in order to have a routine allotment ahead of time greater than 10 percent would have to be worked out with the issuing authority case by case. Comments?

CHAIRMAN BECKWITH: Yes, I've got a comment. Some of the reasons we ended up with this long period of time, the open period -- well, actually, there are two major reasons. One, coastwide, we're probably looking at, I don't know, 8 to 10 million traps.

I'm not quite sure what the number is, but it's a significant number of traps and the vendor has to have the ability to manufacture and print up those tags, and that takes some time.

We had a person from Stoffel, was that his name, the company that's currently doing Maine to Massachusetts tags, and he was indicating their lead time and production time, so we had to take that into account when we were proposing the open period.

Also, obviously, once the fisherman gets the tags in his hand, he has to have a period of time where he can go out there and put the tags on the traps. Let's take comments on this and then I have another issue that relates to this, which we can cover later. Bruce.

MR. FREEMAN: Was there thought given to a situation where there would not be normally a large loss of traps, but under certain circumstances -- and this is most recently -- we have had some severe gear conflicts where a fisherman perhaps would lose a small percent of his pots each year, but a scallop vessel comes through and he loses 300 pots in a night.

MS. HOWELL: That's a catastrophic loss. That's the next topic.

MR. FREEMAN: You have a definition of --

MS. HOWELL: Yes, that's the next one.

CHAIRMAN BECKWITH: So, basically what we have here is that there will be an initial issuance of tags plus some -- I won't call it overage, but some additional issuance to cover routine losses, and that as a standard will be up to 10 percent.

But there are some circumstances in the fishery where the routine is much greater than 10 percent, and according to this proposal, the states would have the ability to, in those cases, issue more than the standard 10 percent overage.

And obviously, we want to minimize those kinds of things and only utilize them if it's absolutely necessary because that obviously can create conflict within the fishery, hey, I only got 10 percent, but he fishes five miles east from me, and he gets 25 percent overage. Any other comments on this section? John.

MR. MASON: For the point about he could put the tags on in February, let's say that's for the year 2000, he still has to have his '99 tags on the pot until June 1st, so any tags that go on early, there will be two tags on the pot --

MS. HOWELL: Correct.

MR. MASON: -- up until June 1st?

MS. HOWELL: That's right. Joe made the point that that's a good way to tell how old your pot is. John Nelson.

MR. NELSON: That was just a for instance, wasn't it, Ernie, when we talked about '99, having the '99 tag on the pot and then putting the year 2000 on the pot, since we're not going to issue in '99, right? I just want to make sure –

CHAIRMAN BECKWITH: That was my comment on this section and –

MR. NELSON: -- before we jump into this too far. I do have a question on enforcement of that, but I'll wait until the overall presentation is over, if that's all right?

MR. BECKWITH: Yes. Let me introduce a timing aspect of the initialing issuance of the tag and putting the initial trap tag system in place. We're shooting for January 1, 2000, to implement this system, but for the reasons that we had previously mentioned, it's going to take some period of time for the manufacturer to manufacture the tags and for us to get them out to the fishermen and for the fishermen to put them on the traps, so really the implementation of the actual trap tag system in terms of enforcement will not be until June 1, 2000.

I just wanted to make that clear to everyone and we know what we're talking about. Okay, no comments or questions on this section? We can move on to the next one.

Catastrophic Losses

MS. HOWELL: Okay, catastrophic tag losses, as Bruce pointed out, there are several scenarios where catastrophic losses well beyond 10 percent occur out of the control of the fisherman. Catastrophic loss shall be defined as losses above the routine loss rate established by the issuing authority; in other words, 10 percent unless they are in this high-risk, high-loss category.

When a catastrophic loss occurs, an entirely new allotment of tags will be dispensed, printed with a unique design. Replacement tags will be different than your original tag. The original tags at that point will no longer be valid.

If you have applied for a catastrophic loss and gotten replacement tags, your original tags now no longer are valid and must be fished along with a replacement tag. In the event that replacement tags are not immediately available, it is recommended the license holder be allowed to fish new pots with only a letter of exemption until new tags are reissued, with the suggestion that this time period not be open-ended but something to the extent of two months.

The supplier assured us that getting these replacement tags, since they can be batch printed, should be a much easier process than getting the original tags.

And finally, the states shall have the authority to invoke emergency measures to suspend trap tag regulations in the event of an area-wide catastrophic loss, again, with a duration not to exceed two months; in the case of a hurricane, large area-wide where the whole system would just be overwhelmed with so much lost gear. Comment?

CHAIRMAN BECKWITH: John.

MR. MASON: Is NMFS willing to go along with that last bullet?

MR. BOB ROSS: The proposed rule does allow for discretion. We do not specifically -- because this has only been developed in the last week, we do not have anything that specifically identifies catastrophic loss.

We do have an option to document losses, and it's at the discretion of the Regional Administrator to issue additional tags.

MR. MASON: I guess my question is does that bullet need to say both the state and NMFS will have the authority to invoke emergency measures, or if the state invokes an emergency measure, let's say for Area 4, that NMFS will go along with that in the EEZ portion of Area 4?

MR. ROSS: I think maybe that's another MOU issue that has to be resolved as part of this process. In the rule, we do allow for additional tags if justified. I think a catastrophic loss would constitute justification.

MS. HOWELL: That could be reworded just to say the issuing authority.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: Well, I think what they are getting at in that last one was it's not to issue new tags right away. It was if we have this catastrophic storm, what the states will be doing is suspending, during the catastrophe, they would be suspending the trap tag regulations until things straightened out.

And I would suggest the simple way would be that somewhere in the federal wording is that the Regional Administrator, in consultation with the state, may suspend temporarily the trap tag regulation, something along that line where if you've got this hurricane, or in this case up our way, the same northeaster disaster, that you can do it.

And I think that's workable. You can just put wording in that gives the Regional Administrator that authority.

Additional Considerations

MS. HOWELL: Anymore comment about catastrophic losses? There were several considerations that came up in discussion and in the survey, especially because several respondents to the survey very graciously wrote out what they felt were impediments to a workable system or things that absolutely needed to be added and considered in order to make a trap tag system successful.

So, that's what's under this title of Additional Considerations. And, I don't know what form it will take, but a lot of these are recommendations. The first and foremost in the mind of the fisherman obviously is the cost.

Each issuing authority shall determine which costs shall be included in its program. States issuing tags in the same management area should attempt to standardize costs as much as possible so as to avoid widely divergent tag costs within the same area; in other words, maintaining the area designation as a fishery and try not to undermine that. Are there any comments on this topic? Gil.

MR. GIL POPE: Just one question. What's the approximate cost of that tag in your hand?

MS. HOWELL: The approximate cost of this tag, the tag itself is, what, four cents or a nickel? That's not what it will cost the fisherman because it's got to be printed. It's got to be shipped, and it's got to be administered. Right now Maine charges –

MR. WHITE: Twenty cents.

MS. HOWELL: -- twenty cents. Massachusetts charges sixteen cents. It's pennies, put it that way, cheap.

CHAIRMAN BECKWITH: But, a state may elect to include other costs with the cost of the tag to cover law enforcement, administration, monitoring, whatever.

MS. HOWELL: The point was also made, too, that the more tags that are printed -- in the case, for instance, of Maine, they have economy of scale, and the more you print, the cheaper it gets per tag, which means that if you've got a ten cent add on, in their case the law enforcement, it's not that much money because the tag itself becomes cheap whereas a state that's not issuing very many tags can't really do that unless they join forces and become a larger entity.

That brings up just briefly the specter of the recreational tags. Recreational tags are losers. It costs more to ship it to the fishermen than they are going to pay you for the tags. You can't even pay postage. But, in order to keep them in the system and to keep the system workable, if you lose a dollar and a half on each recreational fisherman, it has to be recouped someplace else.

MR. POPE: They wouldn't be shipped to them, would they?

MS. HOWELL: The implication is that it would be shipped. It's got to be shipped from the manufacturer. I suppose if you make them come in and get them, that would save you the shipping cost. Yes, there's ways of economizing.

Hearing no more comment, I'll move on. These now are in the recommendations, but it was an outgrowth of the discussion that there was a lot that needed to be done to make sure that this program was up and running from the very beginning in a workable manner.

Under the topic of Program Administration and Coordination of Law Enforcement, it is recommended that all regulatory agencies determine and coordinate the following elements in order to ensure the success of a trap tag program coastwide:

What information is needed by regulatory agencies for efficient system administration? In other words, how are they going to track their fishermen? How are they going to make sure that fishermen aren't buying tags from six and seven different places?

How are they going to make sure that they are getting their tags out in a timely manner? What information is needed for effective law enforcement? What kind of information do law enforcement agents need? What do they need to have up front, and that sort of thing?

How should this information be collected so that it can be shared among agencies in a timely manner? This is the usefulness of this program. Collecting this information in a consistent manner coastwide is what's going to make this program successful and very useful to the fishery coastwide.

What information should be archived and how is this best

accomplished? Who gets to keep all the numbers? Who gets to process them? These kinds of things need to be discussed. Comment? John.

Enforcement Standard

MR. MASON: Thank you, Mr. Chairman. Gordon is very, very concerned about this issue, and he has a recommendation that he hopes the Board will consider. He believes that the addendum that will identify this tagging program needs to have a uniform coastwide enforcement standard for how this system will be monitored.

It will put each one of us in awkward positions if it's done differently in different areas. So, he's hopeful that how this system will be enforced will be developed as a uniform enforcement standard in the addendum, and that one of the things that will be required in all areas will be the pulling of traps.

CHAIRMAN BECKWITH: If I can ask you a question, John. What else should be included in the standard for enforcement other than just everyone pulls traps?

MR. MASON: I think that that probably needs to be another subcommittee, Mr. Chairman, similar to the subcommittee -- at least, I know that's Gordon's position right now, that he would like you to set up a committee to draft a set of enforcement standards that would become part of the addendum.

CHAIRMAN BECKWITH: Any comment to that proposal? Okay, noted, and what I intend to do is to have a motion to adopt the recommendations as modified or as added by the trap tag subcommittee to be included in the Addendum 1 document that's going to be sent out for public comment.

MR. MASON: Ernie, I don't know if Gordon had a chance to talk to you yesterday or not, so I'm a little –

CHAIRMAN BECKWITH: No, he didn't talk to me.

MR. MASON: One of the questions he was concerned about was the trap tag system going to try to be part of Addendum 1 or should it be a separate addendum because of the amount of work that might be necessary, such as the MOU and that kind of thing, to make it a separate addendum and had people thought about that?

CHAIRMAN BECKWITH: Well, I certainly haven't thought about it. I thought it was going to be part of Addendum 1. That was my intention. If the Board wants to entertain anything else, let's hear it.

Actually, we went through this with a lot less comments and concerns than I thought that we were going to have, and I think that's a credit to the trap tag subcommittee; certainly a credit to both Amy and Penny. They orchestrated a very difficult subject and did a good job. Bruce.

MR. FREEMAN: I'm assuming when you talked about enforcement, the Coast Guard was involved in that discussion; because relative to John's comments, we've heard from the Coast Guard that they are not going to pull traps.

And, John, if what you're saying is you think it's advisable that everyone pulls them and pulls them the same way, we have a major problem.

MR. MASON: That's why Gordon thinks it needs to be discussed.

MR. FREEMAN: Well, I'm asking was the Coast Guard included in this or not at this stage?

MS. HOWELL: Yes, they were included in the process from the very beginning.

MR. FREEMAN: Okay, good.

MS. SCHICK: Just to note, we did send out the survey and did contact them about all the meetings, but they were not present at our meeting last week in Providence. So, they have been informed that we're working on a trap tag system. They returned the survey, but they didn't participate in last week's workshop.

MS. HOWELL: The pulling of traps is obviously an open question. The Coast Guard has stated its position. I'm interpreting John's comment through Gordon to indicate that that position that they have needs to be dealt with and discussed.

This brings us to the last topic, just to wrap this up, Program Public Outreach. We also felt that this was something that should be laid out in black and white as much as possible, and it's something that Joe Fessenden referred to earlier.

The need for informational workshops shall be held for state and federal regulatory staff, law enforcement agents, the LCMT members and other industry members to develop widespread understanding of what this is supposed to be accomplishing, what we're out there trying to do, what we're not trying to do through this program, so that concerns, situations where a fisherman is being put in an unnecessary frustrating position can be dealt with.

The suggestion is that the workshops be coordinated through ASMFC and held within the first year of program implementation, right up front, and thereafter every two years to correct and improve the program, so this program doesn't remain static, and then amendments as needed are made from the very beginning and then onward. Any comments? John.

MR. NELSON: This probably is my opportunity to raise a question, Mr. Chairman and Penny. I agree with everything you have presented, and I think you have done an outstanding job and congratulations for the team effort.

But for a state that is going to experience a cost associated with this because we have probably a good number of recreational people and a limited number of commercial people; again, it's a program that we're going to -- you know, it's probably going to cost our state money.

We are not going to have large economies of scale unless we're swallowed by our neighboring state, which I'm sure that would be --

MR. COATES: So move.

MR. NELSON: I was going to say I'm sure that they would like upon that as a reasonable approach. There are two things I just want to mention in our considerations of this.

One is when we talk about the coordination with law enforcement - and the backup information you have here on Appendix 1 under Number 8 lists a whole series of things, and I think that's appropriate for everyone to take a look at because we're talking

about additional equipment such as boats and whatever and training for enforcement people to go out there and do this and how that money is going to be appropriated, where it's going to come from.

Maybe it can come from the tag program, but not from ours because we won't have enough tags sold to do that. The second thing is I continue to hear from our law enforcement that there is a flaw associated with tags, and I think we probably need to have some process in place or understanding on how to deal with this.

I'm just throwing that out for consideration. I'm not looking for a solution right now. It's the opinion of our law enforcement that when the law enforcement person is on the boat, has the traps hauled up, and, you know, obviously just checks and says, okay, tag, tag, tag, no tag, tag, tag, what do you do?

There is one that has no tag on it, and the guy says, "Oh, it was on there when I put it in." Their feeling is that no judge will convict him of fishing without a tag. So I think we need to probably draw upon experiences that have taken place out there.

Is there an allowance for that type of thing to take place? Do you have two strikes and you're out or what? But, that's the feeling that our folks have that you cannot prove that that tag did not fall off, that the guy was not fishing improperly, just because a tag is missing.

MR. FESSENDEN: Well, when you become a law enforcement officer, you're given a tremendous amount of discretion, and certainly training is an important part of that, the use of that discretion, and that's why I included into this that an important component is training, training for officers and talking about those types of situations.

What we do in Maine, if we catch somebody with -- well, first of all, most of our trap tag enforcement evolves around getting information that people are fishing untagged traps. So what we do is go out and verify their traps are indeed untagged.

And it's not a situation where there just happened to be one trap missing in a string. You know, clearly, it's a clear violation. We would watch the fisherman, and if he hauls the traps, he baits and resets them, that's the intent as far as we're concerned for court to prove that he's violating the trap tag program.

If a person hauls traps up, he sees the tags are missing, that's when it's incumbent upon him to immediately notify the authorities. You know, it's just a matter of getting on the radio and just saying -- especially when you think you're being set up because if you're being watched, the enforcement boat is not too far off, and they are going to go alongside the fisherman and find out what's going on.

But if that person sees the traps are untagged and baits the traps and resets them, he's basically fishing untagged traps. And certainly within our jurisdiction in the state, we don't have any problem at all with that type of intent.

Now, if the tag just falls off the trap -- and it happens -- the law enforcement officer has discretion and certainly if it wasn't a problem fisherman, I wouldn't even be concerned about it. I would just ask the fisherman to retag his trap, and I think that's where training comes into it, John.

CHAIRMAN BECKWITH: Just to follow up on Joe's comments, that's one of the reasons for the initial over-issuance.

He'll have in most cases 10 percent extra tags. Now, he will have to make the decision whether he's going to fish 10 percent more traps initially or he's going to keep some tags on his boat to take care of these kind of circumstances. That's his decision.

MR. NELSON: And again, Ernie, I just raised that so that it's a uniform approach. I think that's what needs to be done because if the conservation officer or a law enforcement officer is on the boat and the fellow comes up and pulls his traps and somebody is out to get him, and he just pulls it now and there's no tags on half a dozen of them, you know, what's going to be -- how are you going to deal with that? And I think it has to be uniform however it's dealt with.

CHAIRMAN BECKWITH: Okay, we've heard that from at least two Board members so far, and I think that's something we can certainly include in Addendum 1, that there will be a uniform -- we recommend there be a uniform approach towards law enforcement, and obviously we've got to work out what kind of standards we're going to utilize to achieve that.

So, we can add that to this document that we have here and when we adopt it, it will become part of Addendum 1 and go out for public comment. I had a hand here and then I had Bruce. Bruce.

MR. FREEMAN: I want to go back to a statement, Penny, that you made relative to hauling, and it's not clear in my mind what you mean by hauling when enforcement is checking these pots. Do you mean randomly go out on the water and haul strings of pots, or that fishermen would be compelled each year to haul all their pots in and see if they are tagged and then put them back out?

MS. HOWELL: Obviously, the second scenario is not going to happen. I can't imagine the Coast Guard would start that kind of program. I didn't mean anything specific by it.

MR. FREEMAN: Okay, I just -- well, the point is I've heard both scenarios from fishermen and it just needs to be very clear as to what is intended, and perhaps I would ask --

MS. HOWELL: There was no intent to have any kind of annual census of every single trap the fisherman owns or fishes except for certain -- well, I don't know, Joe should probably address this.

MR. FREEMAN: Then I would ask Joe how Maine or how Massachusetts deals with that? Do you require all the traps to be inventoried each year or not?

MR. FESSENDEN: No, we don't. The trap tag is issued to the fisherman on an annual basis. It's incumbent upon him to tag his gear. A lot of them will tag their traps actually as they fish them in the water.

We have a March 1st deadline, so they have got from January 1 to March 1 to tag their traps. They have a two-month window. And as they go out and haul, they go through their gear and snap those tags in. It doesn't take any time at all to snap trap tags into the traps.

There's no provision for an onshore trap count. We do by regulation have a little kicker in there that if we feel somebody is trying to exceed the trap limit through our build-down program, which it was in effect -- actually, our build-down program is being eliminated with Amendment 3.

We had a provision in there for an onshore trap count, but that's being eliminated with Amendment 3, which now is a 12/10/8 build down. Before that we actually had a seven-year build down in our program. And we felt if people said, "Well, I have got 2,000 traps," we had a little caveat in our regulation that would require him to actually show us the 2,000 traps.

We never pulled that card but we did have a regulation that allowed us to do that. But now with Amendment 3, that's not required. So, I don't believe it's necessary at all, to ask fishermen to bring gear in.

MR. FREEMAN: And while I have the attention, Phil, you operate that the same in Massachusetts? There's no requirement?

MR. COATES: Under our previous untagged lobster permit limit, lobster trap limit, we used the technique -- well, I had suggested a technique for our enforcement people whereby once it's determined somebody may be fishing over the limit, then you take the officer who has been the spending most time in an administrative position and you take him out in the field and you ask him to go aboard and verify that the individual is either violating or not violating the regulations.

Three weeks later the lobstermen commit suicide and you have solved the problem. But, the more practical way we dealt with it was through complaints. Now, if somebody did get complaints, then they would investigate.

Under the previous system, the untagged lobster limit, trap limit, we did not have a great deal of enforcement. There were some people probably violating the rule. But it would be our intent, once we implement the trap limit in March -- I think that's our date because we haven't done it yet. It's in the process of going into place -- then we will follow basically the same procedures that the folks in Maine follow whereby we will not go out and start randomly pulling gear.

It will be in response and probably boarding in response to a complaint that somebody is fishing out of compliance and probably some surveillance to ascertain where the person is fishing and what gear he's got out.

And then, they will spend some time with him while he hauls the gear and we can see how he's doing in terms of trap tag compliance at that point. That's probably the most efficient way to avoid having to -- it wouldn't make much sense for us to go out and willnily haul gear, and I don't think the Coast Guard would be too enthusiastic about that.

But I think the Coast Guard is going to be willing to convey our officers or if necessary through an MOU, NMFS agents or whoever out to wherever they have to go to insure the same kind of compliance in either the outer portions of the inshore LCMTs or Area 3.

MR. FESSENDEN: I just want to make this point that -- and this is kind of hard for some of my peers in law enforcement to understand. We have a trap limit but we don't want to have to -- for example, say the trap limit is a thousand traps, we don't want to have to prove somebody is fishing 1,001 traps.

All we want to have to prove in court is he's fishing untagged traps. So, it works well for us. It's impossible for us to go out and underrun somebody's gear and see that he's got a thousand and one

traps.

It's not impossible for us to go out and find that he's got 20, 30, 40 traps that are untagged, and that's what we're charging him for. And if your law enforcement turns it around, like a lot of people looked at this, well, we have got to go out and haul thousands of traps a year, that's not the case.

Most of the traps that we haul we confiscate because they are untagged. That's what's happening. And, it's really important, if industry wants this to work, they have to get behind law enforcement, they are going to have to get behind management and help us make it work because this whole program is very marginal.

But if we want it to work, it will work. And I think all law enforcement is just a tool to help the program making it a success. I would like to have the Board members that have anything to do with law enforcement, to encourage their law enforcement directors and stuff to get involved in this and try to make this program work, because that's an important buy in.

Right now there's not a big buy in on law enforcement, Coast Guard, federal law enforcement, either. I mean there's not a big buy in on this whole program. And the only reason I'm on board at all is because the Maine lobstermen came to our Commissioner four or five years ago.

A number of fishermen came and said we need a trap limit. We need to get a trap cap going on in Maine. And they asked law enforcement can you do it, and we said, well, if you want this, we'll try to make it work, so that's why we're at the table trying to make it work.

So, I would encourage you directors to encourage your law enforcement, if we're going to have this thing, we've got to make it work. So, instead of trying to look at the negative, try to look at the positive. So, I'll stop my editorial.

MS. HOWELL: Phil.

MR. COATES: Yes, and I want to emphasize a very big positive with regard to the Maine program that the Massachusetts program currently doesn't have, and it's a bit disconcerting to us. When those lobstermen came to the Maine enforcement and the Maine DMR and said we need a trap limit, the response was, well, that's fine. You know, we've got to fund this and everything else.

And so that's why you see this difference in the trap tags. I think it's twenty cents in Maine, but their actual cost is a dime. Isn't it ten cents that goes to law enforcement?

MR. FESSENDEN: We get a percentage of it.

MR. COATES: Yeah, a percentage of the difference in the price and our tags are sixteen cents because, of course, we're only three-quarters of a million or something under a million. Maine might have three million at this point, I don't know.

There's a big difference and it's a volume basis. But, in Maine they have revenue coming in to fund the costs of enforcement. Our folks kind of low-balled it and that's unfortunate, but I think they are going to wake up to that realization.

So, when we're talking about standards for enforcement -- and I don't want to get in trouble with my folks back home and Bill and everybody, but it certainly is something that ought to be considered

in terms of trap tag costs, whether or not this revenue source should be built in help the enforcement agents do their job.

You know, it's fairly intensive. To do this thing right, it's going to be fairly intensive because there's always going to be people who are going to play games. I mean, we have people now that are probably fishing far more than the appropriate number of traps in state waters.

And, you know, they are not intending to comply. I mean, there's no way we're going to constrain them to 800 traps or a thousand in state and federal waters, so the challenge and the gauntlet has been thrown, and the challenge is going to be in the hands of our enforcement people to deal with this.

But, they have got no revenue source. The other alternative, if in fact we put in standards that said, you know, there needs to be the kind of energy put into the system as they have done in Maine, is to urge that the legislatures underwrite the costs of enforcement through some kind of a direct appropriation, if in fact that can be done.

And, of course, that's an issue that could be somewhat daunting, but if it's a compliance measure in the plan, it makes it a lot easier. So we might want to be imaginative in terms of crafting some kind of enforcement standards, uniform enforcement standards that might be of benefit to the agencies that may have trouble getting these resources.

CHAIRMAN BECKWITH: Any other comments to this issue? Lance.

DR. LANCE STEWART: I just had a couple of strange ones, but I wondered if any of the law enforcement observations have seen a scenario where traps may have been detagged as a set up procedure for enforcement?

You know, pot buoy slashing is a common anti-competition technique. I can't imagine why detagging traps might not be another adversarial type of situation where this tag trapping program provokes animosity in the industry. Is that surfacing as an issue?

MR. FESSENDEN: Well, we haven't seen it. In Maine, if anybody tampers with a lobster trap, it's a mandatory three-year suspension of their lobster license. So when they have to haul a trap aboard and whack a tag out of it, it takes a little time, and if they are observed doing that, they are going to lose their license for three years, which is pretty severe.

But we've actually thrown this scenario back to the legitimate fisherman that if he's fishing untagged traps, he's going to have to bait and set the traps, we keep telling the legitimate fishermen if you find your traps that have been detagged, get on the radio and as soon as you do that, that covers you.

So that word is out in the industry, so it's taken the incentive out of somebody to detag somebody's traps, so I think it's an important thing just to get that out within the industry.

DR. STEWART: That's my next question. Mechanically, what's the attachment mechanism? How universal is that between the states?

MR. FESSENDEN: Well, it's a snap seal. Penny can pass it

around.

DR. STEWART: It's like an escape vent or is it a –

MS. HOWELL: No, it looks like this.

DR. STEWART: Oh, it's a regular snap. Are these electronically bar coded to prevent counterfeiting?

MR. FESSENDEN: They are not bar coded, but the manufacturer does have a security system on those, and, for example, you can't buy them without any printing on them.

So there's a security system in place for them. They are not a hundred percent because they are cheap. But at this point we're satisfied with them. We haven't had any issues.

CHAIRMAN BECKWITH: They are also patented.

DR. STEWART: Patented, but a plastic manufacturer could easily reproduce these? I'm just raising the question.

MS. HOWELL: Didn't the State of Florida put some sort of a printing on it that made it hard to counterfeit for that purpose?

MR. FESSENDEN: I'm sure it could be counterfeited, but it hasn't been a point for us. Maybe when we get down to real low trap limits, that might be a concern for law enforcement, but at this point I think we've just got to get the system going up and rolling and work the bugs out later.

CHAIRMAN BECKWITH: Okay, any other comments? All right, as I said earlier, what I'm going to ask the Board to do is to make have someone make a motion to adopt the recommendations of the Trap Tag Subcommittee.

But before we do that, I think we should go through the recommendations and determine which of these are going to be compliance criteria requirements. And I can give you my assessment or my impression.

I think, to go back to the proposed components of the trap tag system, I think the fisheries included in the system should be a requirement, tag type and information, transferability, timing of tag issuance and catastrophic losses. Any comments to that or any additions or anyone see it differently?

Oh, and add the law enforcement standard. Yes, I think it's important. We haven't worked it up yet. I'm not entirely comfortable we include it as a potential compliance criteria at this time. We can always do that. Can we do that after we go to public hearing and come back when the Board addresses this to adopt it finally? Maybe we'll be ready to do it at that time. What does the Board think?

MR. MASON: Well, nobody has seen it yet so obviously it makes it difficult. What are your thoughts in terms of -- are we approving this whole thing at this meeting to go to public hearing?

CHAIRMAN BECKWITH: Yes. John.

MR. NELSON: I think the compliance issue ones that you have outlined seemed to be reasonable. The only one I would question and perhaps need a little bit more elaboration on is the catastrophic tag losses. Why would that be a compliance requirement?

MS. HOWELL: Ernie, do you want me to add any comment?

CHAIRMAN BECKWITH: Yes, if you have an answer while I'm thinking, go right ahead.

MS. HOWELL: Because it deals with replacement tags and their orderly issuance. If fishermen are fishing several areas and everything, you really need to kind of standardize who gets replacement tags and how, and especially that they replace the original tags, that everybody kind of does that the same way as much as possible.

MR. NELSON: But is that a compliance necessity or is that –

CHAIRMAN BECKWITH: That's for us to decide.

MR. NELSON: Well, that's my question.

MS. HOWELL: The only danger would be that if states or areas decided to really deal with replacement tags in an entirely different way, that segment of the fishery would just be dealt with differently in any kind of big loss.

And to the extent that that creates a problem for fishermen that are either in and out of that area or those fishermen get an advantage that their neighboring fishermen don't get, it undermines the system. Now, it's a judgement call whether that's a big deal or not.

CHAIRMAN BECKWITH: Any other comments to that issue? Bill.

MR. ADLER: Thank you, Mr. Chairman. I would think that it would be a compliance thing that if a state decided just to scrap the whole thing for an inordinate period of time, that might be constituted out of compliance, which I don't think they will do it.

I don't think it will be a big deal, but that would probably protect against something like that. But, I don't think -- you know, you're only going to take it to public hearing, right?

CHAIRMAN BECKWITH: Pardon?

MR. ADLER: You're going to take this to public hearing, right –

CHAIRMAN BECKWITH: Yes.

MR. ADLER: -- and then make a decision?

CHAIRMAN BECKWITH: This is for public comment. Yes, we've had two good points made here on this issue. John, you had your hand up?

MR. MASON: Yes, two points. One is that Gordon would prefer to have this be a compliance issue going out to public hearing and then decide that if we didn't want to after public hearing as opposed to the way you proposed it, Mr. Chairman.

And, the second question is was there any discussion about pooling our needs from the company that is currently supplying the two major buyers to address some of John Nelson's concerns? In other words, could ASMFC contract with the current tag manufacturer so -- as I understand the way Maine does it, the fisherman pays Maine and then Maine pays the company -- so that we could get a uniform tag price that would benefit both the company and each of us who are participating? Was that considered or discussed at all?

CHAIRMAN BECKWITH: Let me just point something out and you could go from there. My understanding is the cost of the tag itself to manufacture is about eight cents. The fishermen that

buy these tags in Massachusetts pay sixteen cents, I believe.

And the reason for that is because a vendor administers the whole thing, so the additional eight cents is a cost to the vendor. Also if a fisherman wants to purchase from the vendor, utilizing a credit card, that's an additional 3 or 4 percent cost to the manufacturer.

Now, Maine charges 28 cents, Joe, or 30 cents, whatever?

MR. FESSENDEN: No, we charge 20 cents a tag, and they cost us a little over 8 cents a tag, so 12 cents goes for administration, management and law enforcement.

CHAIRMAN BECKWITH: Right, okay.

MR. FESSENDEN: But Stoffel did say that they would work out something when they look at the big picture. If we look at the buying power of 7 or 8 million tags, they would look at that and possibly offer discounts to the states.

CHAIRMAN BECKWITH: Well, I think in terms of a business approach, almost anything is possible. This proposed plan gives the flexibility to the states to choose whatever direction they want to go in on this. Okay, any other comments? Ralph.

MR. MALING: Yes, on putting this on that I think for public hearing, catastrophic losses should be on there. The fishermen are going to bring that up so if you've got something laid out beforehand, you can get a decent conversation going.

But if you don't have it on there, they are going to be coming out of the wood work saying well, you didn't take care this, you didn't take care of that, so I believe it should be in there for that reason, just so the industry -- well, you can wait for the compliance date afterwards, but I think it should be in the document.

CHAIRMAN BECKWITH: Okay, John, you had a comment?

MR. NELSON: Yes, I think we all agree it should be in the document. Probably, Ernie, if we could, maybe we should asterisk it or something like that and just say this may or may not be a compliance measure, and that way we could have the discussion pro and con associated with that.

CHAIRMAN BECKWITH: Certainly. Okay, are we ready to try to move this? No more comments? Would someone like to make a motion to adopt the recommendations of the Trap Tag Subcommittee as amended during this meeting?

MR. NELSON: So move, Mr. Chairman.

MR. COATES: Second.

CHAIRMAN BECKWITH: Phil Coates seconds. Any discussion on the motion?

MR. FREEMAN: Ernie, I can't see all that from back here, but is there --

CHAIRMAN BECKWITH: I think we'll have someone read it for you, then.

MS. HOWELL: **Motion to adopt the recommendations of the Trap Tag Subcommittee as modified by the American Lobster Management Board for inclusion in public hearing draft of Addendum 1.**

CHAIRMAN BECKWITH: Okay, any other comments or discussion on the motion? Okay, are we ready to vote on it? Amy, do you want to call the vote?

MS. SCHICK: The State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Yes.

MS. SCHICK: Rhode Island.

RHODE ISLAND: Yes.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes, with reservations.

MS. SCHICK: Delaware.

DELAWARE: Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: Virginia. (No response)

NORTH CAROLINA: Yes.

BECKWITH: It appears the motion passes.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MS. SCHICK: I apologize, I didn't have my list in front of me.

CHAIRMAN BECKWITH: Well, that was a major issue and we dealt with it quite well. And as I said earlier, I think that's due to the hard work that the Trap Tag Subcommittee put into that. It made it easier for us to get through this very difficult issue. Charlie.

MR. CHARLIE LESSER: I'm relatively new here to the Board, the first meeting. Is Delaware Bay exempt from Area 5 by the line across the Capes, the same as Chesapeake Bay, or are we not, if you look at the diagram?

CHAIRMAN BECKWITH: There was an issue about Cape Cod Canal that came up, too.

MR. COATES: We have to solve the dilemma of the Cape Cod Canal.

CHAIRMAN BECKWITH: Oh, you have?

MR. LESSER: It would make a big difference to us because most of our lobster fishermen who have lobster are inside the Bay on the breakwaters. We only have one or two that fish outside.

But it makes no difference the way I'm listening, but it would be nice to know if we have to go back home and tell them of that.

CHAIRMAN BECKWITH: I believe the areas are bounded by latitude, longitude or LORAN lines.

MS. SCHICK: It seems unclear to me right now. It just says along the coast of North Carolina, Virginia, Maryland, Delaware, New Jersey, back to the point that's referenced in the plan. The diagram appears to cut off the Bay.

MR. LESSER: Well, that's where they fish. We only have a few rocks in the Bay and they have been hauled in.

CHAIRMAN BECKWITH: Charlie, I think we're going to have to get back to that issue. What I would like to do -- I see Jack is here so we can proceed with our agenda, but I would like to take a five-minute break and then come back. So we will be back at 5:35.

(Whereupon, a short recess was taken.)

DE MINIMIS

CHAIRMAN BECKWITH: Okay, let's get started again. The next item on the agenda is going to be Item Number 6, de minimis, and we're going to have a report. The PRT dealt with the issue, and, Amy, you're going to give the report on de minimis.

MS. SCHICK: Yes.

CHAIRMAN BECKWITH: Do you have a handout?

MS. SCHICK: There's a handout and it's a decision document on de minimis specifications to the Lobster Board from myself. I have extra copies up here, if someone doesn't have a copy.

What I'd like to do first is just give a little bit of background. In Amendment 3 there is Section 3.5.1 that deals with alternative state management regimes. It mentions that a state can apply for de minimis status, but there's no other information on what the definition of de minimis is, what the criteria might be, what's the procedure to apply for de minimis, and then if a state was granted de minimis, what requirements that state would have to follow and implement.

So, in this document in front of you there is a table that has American Lobster commercial landings by state and year, and it has a few summary statistics at the bottom that might be used as criteria for de minimis status.

And also attached are de minimis requirements for some of the other fisheries management plans that the Commission has on tautog, bluefish and American shad, just as a reference.

North Carolina has submitted a request for advice from the Board on how to apply for de minimis status and what criteria they would have to meet to be granted that status.

And so the first question that the Board has to address is should Amendment 3 allow states to request de minimis status before discussing the details of what specifications would be set forward on de minimis. If the Board agrees that de minimis is something that should be included in the plan, we can proceed through this document on what those criteria ought to be.

CHAIRMAN BECKWITH: John.

MR. NELSON: Maybe partially in answer to Amy's question is another question, and that is don't we normally have de minimis as a routine feature of our FMPs and therefore it would be in there, and so really what we're discussing is what are the specific aspects of de minimis for the Lobster FMP? Is that more correct?

CHAIRMAN BECKWITH: Right, yes, it is more correct and it is referenced in 3.5.1, and it provides the opportunity for the states to submit proposals for de minimis. The issue is we have no criteria to determine what the criteria should be for de minimis and what de minimis applies to, which particular compliance criteria in the plan they would not have to implement if they were granted de minimis status.

Defining De Minimis

MS. SCHICK: So, the first item would be defining de minimis, and the alternative put forward is the definition that's contained in the ISFMP Charter, and that definition is that the ASMFC Interstate Fisheries Management Program Charter defines de minimis as a situation in which, under existing conditions of the stock and scope of the fishery, conservation and enforcement actions taken by an individual state would be expected to contribute insignificantly to a Coastwide Conservation Program required by an FMP or an amendment.

And the analysis is to take no action, and by taking no action the charter isn't as readily available as a plan and by putting this definition into the plan, it would be clear to any reader of the American Lobster FMP what the definition of de minimis was.

So, the Board could adopt the proposed language and dispel any confusion as to how the term is used in the American Lobster FMP.

The second item is criteria for de minimis, and different plans use different criteria. What I've done here is try to take some of the options that other FMPs have used, and that's weight limits, a percentage of coastwide commercial landings and decided what time period should be used in determining the criteria.

So what I've done is given an idea of what 1 percent coastwide commercial landings in 1997 would be, and you can also look at the chart, and it shows the percentages that each state landed as well as maximum landings, minimum landings and average over different time periods.

In terms of weight limits, 40,000 pounds was less than 0.05 percent of the landings. The states of Delaware, Maryland, Virginia and North Carolina would all fall below the 40,000 pound criteria.

And a weight limit criteria, that estimation would stay constant throughout the time period, so you wouldn't have to constantly be changing and figuring out what the coastwide landings were to determine your percentage of landings. So, weight limit is a static limit that would be easier to determine if your state meets that criteria.

Percentage of coastwide commercial landings would allow for any magnitude shifts in catches. Your state would be proportional to what the commercial landings are, so 1 percent would be fluctuating every year and that would take into consideration any changes in the fishery. So, those are the two main options presented.

CHAIRMAN BECKWITH: Okay, any comments on the proposals? Bill.

MR. ADLER: Thank you. What would happen, what would they not have to do or what would they have to do if a state was declared a de minimis status? What does that mean? They have no rules or what rules do they have, et cetera, et cetera?

CHAIRMAN BECKWITH: That's what has to be determined. Would you want to do that first before we set the criteria? Okay, I've heard a few yeses to that. Do you want to do that that way, the other side of the room here? Yes, I think you probably would.

Requirements

MS. SCHICK: If you jump down to Number 4, it's really wide open as to what requirements a de minimis state would have to follow. If you look at the plan in Section 3.1, which are the coastwide requirements and prohibited actions, it applies coastwide and cannot be changed without an amendment to the plan.

You could also include portions or in entirety the measures applicable to all states and areas along the Atlantic Coast, and that includes permits and licensing which the trap tag system would fall under, escape vents on traps and the maximum trap size.

Then another section of the plan is the lobster management areas, and finally monitoring and reporting are all options that the Board could choose to include in requirements for a de minimis state.

CHAIRMAN BECKWITH: Okay, do we have any comments or recommendations? Perhaps, maybe the first place to start is with the seven -- I think there are seven basic requirements in the plan that are required for all states, prohibit possession of berried or scrubbed lobsters, meat, spearing, V-Notch, ghost panels, minimum gauge size, mobile gear, landings. Do we want to exempt a de minimis state from those, some of those?

MR. LAPOINTE: I would think for these critical elements, that we specifically do not want to exempt de minimis states from those fundamental issues.

CHAIRMAN BECKWITH: If you have the plan, those are on Page 22, Section 3. We have a comment from George that he thinks we should not exempt de minimis states from those seven basic requirements in the plan. Any other comments in support or contrary? Mark.

MR. MARK GIBSON: Given that question, is it your opinion that this Board can exempt a state from one of those items, even though the plan calls for an amendment in order to do it? I guess I'm questioning --

CHAIRMAN BECKWITH: Well, that's a question I asked Jack at the break. We're looking for some kind of direction. Mr. Dunnigan.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Thank you, Mr. Chairman. Sometimes having a legal background, you understand where Mr. Clinton comes from in looking at words. You know, one way of looking at that first sentence under Section 3.1 would be to say that the measures in the section are required for all states and can only be changed by amending the fishery management plan is really addressing the issue of can you or can you not, for example, change the minimum size from 3-1/4 to 3 and

3, or can you change the specific specifications in Section 3.1.5 about panels.

It doesn't necessarily say that you can't decide what is covered by the term "all states", and I think that if you wanted to go that way, that's how I would try to argue it is that you may have the ability in the right case to say that a particular state is not covered by these things without actually changing what they are.

In other words, you're leaving the same size limit in place and that's faithful to that language in Section 3.1, at the beginning. What you're doing is picking up on the de minimis language that was specified later in the plan but not fully fleshed out to address the question of who is really covered by the term "all states".

CHAIRMAN BECKWITH: Let me follow up, Jack, and ask you another question. If we do determine that a state qualifies for de minimis, they can be exempted from the items in Section 3.1, can that be on a case-by-case basis or would it be uniform across all states?

For instance, maybe a state like North Carolina, because they are so far south and their fishery is so small, and the probability of someone trying to run berried lobsters or whatever down there would be extremely low, but as you move farther north, the probability or the possibility becomes greater, can we look at it on a case-by-case basis?

EXECUTIVE DIRECTOR DUNNIGAN: I think the Board may find itself in that position where it is making some discretionary judgements here about the amount of risk that you're willing to undertake. You know, it's one thing to say, well, nobody is ever going to run lobster parts down to North Carolina.

On the other hand, we used say nobody is going to run horseshoe crabs up to Pennsylvania either. And, you know, these things tend to happen. On the other hand, in the horseshoe crab situation between the states of Delaware and Pennsylvania, they were fairly creative in taking steps to try to close that down.

And given that we have a lot of flexibility and adaptability in the way that we've responded to problems, we might perhaps find a way to respond to it when it happens without having to be overly broad right now.

CHAIRMAN BECKWITH: Yes, Bill.

MR. ADLER: Mr. Chairman, I don't believe the federal plan has a de minimis status department, and since a lot of the fishing down that far is in federal waters, anybody with a federal permit, I would think, still has to go by whatever the federal rule is on lobster, is that true?

EXECUTIVE DIRECTOR DUNNIGAN: Yes, if it's a federally permitted vessel -- I haven't read the proposed rule, but that would be my assumption.

MR. ADLER: All right, so the de minimis status would have to do with the state and its rules on lobster, but any vessel out of one of those states that is catching lobster and is in federal waters would still be held bound by the federal rule because they would have a federal license and be out there.

EXECUTIVE DIRECTOR DUNNIGAN: I would presume that to be the case. And by the way, that almost helps to make the

point because if that's the case, you know, the whole theory behind de minimis status is to let states off the hook for implementing rules that really aren't going to accomplish anything and aren't worth the administrative energy that it requires to get them there.

And, if what you're saying, Bill, is that most of the problem areas out there are going to end up being covered by the federal rule and federally permitted vessels anyway, it seems to me you could argue that that only helps to make the case to allow de minimis status to happen in these circumstances.

CHAIRMAN BECKWITH: Okay, John had his hand up and Pres was second.

MR. NELSON: Well, Ernie, I don't want to go beyond -- I think right now we're talking about 3.1 and 3.2 where it specifically says required for all states and all areas. That terminology is used in both of those headers, but under 3.3 we start getting into measures that may change from time to time and that does not have the same type of language in there, and I wonder if that's where we're really talking about as more applicable to de minimis status? I'm just throwing that out for discussion purposes.

CHAIRMAN BECKWITH: Yeah, I think there wasn't any question that the things that are in 3.2 would be applicable, de minimis would be applicable to them. The question was the items in 3.1. We have decided to tackle the difficult ones first and then we would move on to the other ones.

MR. NELSON: Okay, because 3.1 and 3.2 both basically say the same thing about the measures. 3.3 is the only one that I saw that started talking about different -- it doesn't say it must be applied to all states and all areas.

MR. LAPOINTE: Pres Pate, I want to ask a question. If you were a de minimis state, what would you want to be exempt from?

MR. PRESTON PATE: Let me make a statement and in the process maybe will answer that question.

MR. LAPOINTE: I would appreciate that.

MR. PATE: Given the nature of the regulations that apply to the harvest of this very valuable and very political and socially sensitive resource, I agree with George's analysis that it's difficult to exempt states from the compliance requirements of the plan.

And I think it's going to be difficult to look at it on a state-by-state basis and have that flexibility written into the plan. So the answer may very well lie in the criteria that you use to grant de minimis status, and the 40,000 pound figure that is in one of the alternatives being less than 0.05 percent of the landings, that's still a lot of lobster, in my estimation.

And I would not particularly want a state exempted from the requirements for harvesting that amount of lobster or any other resource that is similar to this. But it certainly gets to a point of practicality that there is a limit that can be set as minimum for a state to be exempted from everything.

And looking at our situation, one pound in five years, folks, and to make North Carolina go through the rulemaking effort that's going to be necessary to put measures into place to comply with the plan, when we harvested 36 pounds last year and no indication that that trend is going to change in the years to come, seems to me to be a

bit unreasonable.

So, to answer your question, George, I would prefer to be exempted from them all, but from a management standpoint and as part of the Board, I would like to see the criteria set so low that the opportunity to abuse those exemptions or to endanger the resource because of the exemptions would not be there.

MR. LAPOINTE: And when we've used de minimis at other times, we've exempted states from reporting requirements and some of those ongoing activities, but we've not exempted them from minimum size limits and things like that.

So, I mean, I see a distinction there. There's a more fundamental discussion on de minimis that we started talking about yesterday with herring, and it's the case with lobster.

When we have states with de minimis status in species that have both a recreational and a commercial component, Delaware, for instance, always gets beat up -- Charlie Bergmann is not here so I can use his name -- because of their small commercial fishery, but they have a big recreational component, and we use the de minimis with other fisheries in that regard, too.

We might in the long term think about a different interpretation where we don't have New Jersey -- there are states with recreational fisheries, but by and large it's a solely commercial fishery, and we may want to look at it differently. And I just started thinking about it yesterday so I haven't thought about it more than that.

CHAIRMAN BECKWITH: Jack, you had a comment?

EXECUTIVE DIRECTOR DUNNIGAN: Yes, two points, first, relative to George's example. I think the more typical pattern has been that we have exempted states from the application of specific substantive measures but required them to continue monitoring and reporting as a way of keeping track to make sure that things were not getting out of hand.

The other thing I would point out in terms of what's really important for lobsters is I think there is still a federal law that establishes a minimum size that will apply everywhere in the United States of America regardless of whether or not the State of North Carolina, just to pick on Pres for no particular reason, has a state rule that requires the same thing.

MR. COATES: Not quite. I believe a state could conceivably land lobsters out of conformity to the minimum size if they so chose as long as they didn't transfer across any state boundaries, and as long as they didn't fish in the EEZ.

I mean if a state is solely contained within its waters, if there was such a situation, that's the only exception I can see.

CHAIRMAN BECKWITH: Harry.

MR. MEARS: I just wanted to ask Jack if he was referring -- I wanted a clarification perhaps from the comments Jack just made relative to the federal law, whether that was associated with the Lacey Act or the Mitchell Act?

EXECUTIVE DIRECTOR DUNNIGAN: Mitchell Act.

MR. MEARS: Mitchell Act. So that pertains to a commerce provision across international boundaries from Canada to the United States.

EXECUTIVE DIRECTOR DUNNIGAN: I don't believe so.

MR. MEARS: It's everywhere?

EXECUTIVE DIRECTOR DUNNIGAN: Yes.

MR. MEARS: So it's almost like a Lacey Act provision across state lines?

EXECUTIVE DIRECTOR DUNNIGAN: Well, not quite.

MR. MEARS: Okay.

CHAIRMAN BECKWITH: It's a difficult issue obviously. I think we've got both sides of the issue. George, do you believe that even after Pres made his case, would you still like to require all states to comply with the seven basic items that would require an amendment to change, or would you consider exempting states on a case-by-case basis?

That's where Pres ended up, I guess. He said that if we made the de minimis criteria so low, that it would probably preclude people from abusing it. That's both sides of where we are at the moment.

MR. LAPOINTE: For those coastwide requirements and the prohibited actions -- and, again, because those are things I think that should continue to be coastwide, and I guess I differ with Jack a little bit on what we've done about monitoring.

Understanding it's a burden to put regulations in when they first get put in, but once you have those prohibited acts in, then it's done. I seem to remember that when I was the Commission the last time, the State of New Hampshire put regulations on red drum because people were worried.

I don't think too many red drums have been caught. And they did it once and it's on the books, and I don't think that's that big a deal. And, we don't want to exempt states from annual reporting which maintains their de minimis status, but there are reporting requirements about landings, and my sense is that's where we've used de minimis in the past.

CHAIRMAN BECKWITH: Any other comments to the issue? Bruce.

MR. FREEMAN: The point that George made relative to what states have been asked to do to protect resources from some other geographical area, the red drum is a good example, but there's other things.

Spanish mackerel, king mackerel, where the probability of catching those, for example, in the Mid-Atlantic area is quite small, but nevertheless rules have been put in place to prevent illegal landings occurring from outside the area.

In fact, states up to I think Massachusetts perhaps have those in place as well. So, there is an argument for having minimum sizes in place and, for example, egg-bearing females, whatever the case may be in order to protect the resource so that those animals would not be landed in some other geographical area simply to circumvent the law.

CHAIRMAN BECKWITH: Okay, Charlie, and then Jill.

MR. LESSER: We would not oppose being required to implement the requirements in 3.1 and 3.2. 3.3, if I interpret it correctly, they would be applied by the Federal National Marine

Fisheries Service or would that be obligated on the state?

We wouldn't necessarily want to contribute to 3.3 in a de minimis status. 3.1 and 3.2 we don't have any problem with.

MR. LAPOINTE: If those guys are fishing on the seven rocks you have in Delaware Bay, how many traps are they fishing?

MR. LESSER: They are only allowed 50. We've got a 50 pot limit. We do have one lobsterman that fishes offshore.

MR. COATES: He's under federal jurisdiction.

MR. LESSER: Yeah, he would be under federal jurisdiction but still meet the coastwide requirements. We don't have any problem with that.

CHAIRMAN BECKWITH: Amy pointed out to me what the difference is between 3.1 and 3.2 and beyond. 3.1 can only be changed by plan amendment. 3.2 and beyond can be changed by plan addendum. We could do that now. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Just for your interest, if nothing else, I wonder how Maryland reacts to Section 3.1? Is that a problem for you to maintain those 3.1 regulations?

DR. ROBERT BACHMAN: I don't think so. We're prepared to go along with management recommendations and we have proposals outlined to do so.

EXECUTIVE DIRECTOR DUNNIGAN: And have we heard from Virginia?

CHAIRMAN BECKWITH: No, we have not heard from them, and that was what I was going to say. Let's actually look and see how much of an issue or problem that we have here. And if you'll remember, that thing was passed out at the last meeting.

It looks like Delaware would need to implement the biodegradable ghost panel. Maryland would have to do the spearing and the ghost panel. Virginia, it looks like they have to do all of those measures.

We haven't heard from them. There's no one here at the meeting. We don't know if they have anything in place. And North Carolina would have to implement the parts, the spearing and the ghost panel to be in compliance with the plan.

So, that's where we are. We heard from Maryland that they would be willing to implement the requirements. Is that --

DR. BACHMAN: That's right, we have our regulations drafted up and ready to submit them.

CHAIRMAN BECKWITH: Okay, Delaware? You only have one thing that you have to do.

MR. LESSER: We are half in compliance, does that count?

CHAIRMAN BECKWITH: Half, no.

MR. LESSER: We have about four that we have to implement and that procedure is already started.

CHAIRMAN BECKWITH: Oh, I didn't see the bottom part. Yeah, I wasn't looking below the black line. You would have to do V-notch, maximum trap size. Yes, there's more than what I ran through for all the states.

Actually, let's see, Maryland would have to do -- let's see, let's run

through them again. Well, actually, Bob, you said you were willing to do them all so there's no reason –

DR. BACHMAN: We have gone down the list. We have picked all of them off and we have them in draft proposals ready to submit.

CHAIRMAN BECKWITH: Okay. Delaware, Charlie, you would be willing to put them all in place?

MR. LESSER: All seven, yes.

CHAIRMAN BECKWITH: Okay, no problem, then. Virginia, we don't know. And that leaves North Carolina.

MR. PATE: We're willing to do it, Ernie. I don't want to give the impression that we're not. In fact, it's stated in my memo to you that we are. It's a matter of practicality, and I think it applies to de minimis status designation in every plan that we have.

If you're not going to exempt the states from some of the landing requirements or the requirements in the plan, as some have said you should not, and you're not going to exempt them from certain reporting requirements, why have de minimis status in there as far as the plan? It's useless.

I mean, how much better example can you get for somebody getting de minimis status than a state that doesn't land but one pound of the species in five years? I mean, it's not that big a deal. We can go through the rulemaking effort once and every time it changes, we will have to go through it again, and we'll comply. It's just a matter of cost efficiency and return for our investment, which is de minimis.

MR. COATES: What are we doing, 3.1 to 3.2? CHAIRMAN

BECKWITH: Okay, Board, how do you want to proceed? I guess we have a few options.

MR. LESSER: 3.1 and 3.2 in, the rest are out.

CHAIRMAN BECKWITH: 3.2 and the rest are out.

MR. LESSER: 3.1 and 3.2.

CHAIRMAN BECKWITH: In order to move this along, does anyone have a motion they would like to offer for discussion purposes? Bill.

MR. ADLER: **I'll make a motion that the states that apply for de minimis status still are required to adhere to 3.1 and 3.2 of the ASMFC Lobster Plan.**

CHAIRMAN BECKWITH: Is there a second?

MR. WHITE: Second.

CHAIRMAN BECKWITH: Seconded by Pat. We will get the motion up on the Board in a minute. Any discussion on the motion? I'll give you a minute to think about it.

It's up there. Did everybody read it? It says move that de minimis states are still required to adhere to Section 3.1 and 3.2 of the American Lobster Plan. Charlie.

MR. LESSER: Ernie, if a state doesn't declare an interest, are they exempt from the whole plan?

CHAIRMAN BECKWITH: No.

MR. LESSER: All states, South Carolina, Georgia, Florida, Pennsylvania?

CHAIRMAN BECKWITH: I think so.

MS. SCHICK: It's only the states that are specified as being within the management unit and that's Maine through North Carolina.

MR. LESSER: So the other states are exempt?

MS. SCHICK: Correct, because they are not included in the management unit.

MR. LESSER: Okay, that might be an out for Pate.

CHAIRMAN BECKWITH: Jack, question. In order to change the management unit, we would have to amend the plan because one way of solving Pres's problem is just to change the management unit and not include North Carolina?

EXECUTIVE DIRECTOR DUNNIGAN: Well, Mr. Chairman, this is quick and on the fly, but there's a clean way to do it. The way your lawyer will tell you that he would prefer you do it would be to amend the portion of the plan that says which states the plan applies to in the first paragraph of Section 2.3.

I suppose an argument could be made under adaptive management -- the adaptive management section, if you don't have it in front of you, on Page 27, Section 3.6, says that the Board may vary the requirements specified in this amendment as part of adaptive management in order to conserve the lobster resource.

And then it goes ahead to say specifically which sections can be changed, but that's not an exclusive list there, the reference to Section 2.5, 2.4, 3.2, 3.3, and 4. So you could perhaps make the argument that Section 2.3 is subject to the adaptive management procedures and could thereby perhaps change the application of this plan to the states of Virginia and North Carolina if you wanted to, without going through the amendment process. Did that make sense?

CHAIRMAN BECKWITH: No.

EXECUTIVE DIRECTOR DUNNIGAN: You mean you didn't understand what I said?

CHAIRMAN BECKWITH: No.

EXECUTIVE DIRECTOR DUNNIGAN: The question was if you all were to decide that you wanted to let, for example, North Carolina out of this management program, would you have to amend the plan to do it? The cleanest way is to amend the plan.

However, you could make an argument that the adaptive management language is broad enough to allow you to do it by addendum.

CHAIRMAN BECKWITH: Even though it doesn't specify that particular section?

EXECUTIVE DIRECTOR DUNNIGAN: Correct. And, in our adaptive management sections, we've always been careful to do this, to allow it to apply as broadly as possible. We then go ahead in most plans and say specifically -- just to avoid any question, specifically you can change A, B, C and D, but that's not an exclusive list.

In other words, it's generally intended to apply in every circumstance except where it's prohibited. And I think you could make a credible argument based on the language that's in here that adaptive management would allow you to vary, if you wanted, the requirements of the first paragraph of Section 2.3.

CHAIRMAN BECKWITH: We have an alternative to follow this course of action in the short term; and then when we do amend the plan -- and we probably will. There's a few other issues. I don't know when we would do it, but then we could clean it up.

EXECUTIVE DIRECTOR DUNNIGAN: So, again, Mr. Chairman, I'm not telling you you should do this or not do it. I'm saying that if I were your lawyer, it would pass the red-faced test in terms of saying you could do this by addendum. I would take that case. I might want to get paid up front, but I'd take that case.

CHAIRMAN BECKWITH: Okay, we have a motion on the Board. We can proceed a couple of ways. We can deal with this motion and then proceed with another motion to, through adaptive management, change the management area, or we can have a substitute motion and deal with it differently. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Both.

CHAIRMAN BECKWITH: Or we can do them both. What's the pleasure of the Board? Pres.

MR. PATE: I'll offer a substitute motion, if it's in order, and that is to amend the plan through the addendum process to exclude North Carolina from the management area.

(Whereupon, the motion was seconded from the floor.)

CHAIRMAN BECKWITH: That second was awfully fast. What I was going to say, before we have a second, let's look at your sister just to the north of you. They landed 2,000 pounds I think. Do we want to include them or just include --

MR. PATE: I'll include them if that's appropriate.

CHAIRMAN BECKWITH: I don't know if it's appropriate. I put that out there for the Board to consider. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, Pres, rather than do that by a substitute, a substitute would take this motion off the Board and substitute your motion. This motion will also apply to help to define de minimis for other states that are willing to go ahead and implement Section 3.1 and 3.2.

And so I think it's appropriate to have both in there and rather than just use this as a vehicle to address the North Carolina and Virginia issue, put both of those things in there.

And, remember, this is not a final decision, and so it's better to be as inclusive as possible and describe some of the choices that you'll make after you get some comment.

CHAIRMAN BECKWITH: With that said, Jack, help me with the process here. You could withdraw your motion. We can go back to the original motion, deal with that and then you could make your motion. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Or you could just move to amend by adding the provision and that the addendum include a revision to Section 2.3, taking Virginia and North Carolina out of the plan.

MR. PATE: But that would mean I would have to support what's up there now if I added.

EXECUTIVE DIRECTOR DUNNIGAN: That's true.

CHAIRMAN BECKWITH: It's out there, but we could do them separately.

MR. PATE: No, that's fine, just add it to this one to keep it simple.

CHAIRMAN BECKWITH: Well, we have to get the approval of the maker and the seconder on that. Okay, so we can treat this as a friendly amendment, if it's okay to the mover and the seconder?

MR. ADLER: For what?

CHAIRMAN BECKWITH: Well, to add some language. Why don't we just put it up there so we can all see what it is, and we can take it out if you don't like it. Let's get some words up there.

EXECUTIVE DIRECTOR DUNNIGAN: I would suggest to do what I think Pres wants to do, that at the end of -- after American Lobster FMP, you put in a -- and not in the substitute, in the main motion up above -- after American Lobster FMP, semicolon, and that the addendum include a revision to Section 2.3 to eliminate Virginia and North Carolina from the FMP.

MR. ADLER: That's not acceptable to me.

EXECUTIVE DIRECTOR DUNNIGAN: Okay.

MR. ADLER: A separate motion to that effect we can talk about.

CHAIRMAN BECKWITH: Okay, so it's not acceptable and we're back to the original motion, I guess. Okay, I'm hearing something over here. A couple of courses of action -- probably the cleanest way is just to treat it as two separate motions rather than having a motion to amend because it puts us right back with the problem that's bothering Bill.

Why don't we treat it as a separate -- let's deal with this, and then we can go on. Any other discussion on the original motion? Harry.

MR. MEARS: One thing we have not addressed in terms of de minimis situations would be the final part, number 4 on the discussion paper, concerning monitoring and reporting and to what degree that might or might not be extremely relevant to future decisions for monitoring and reporting requirements as developed through the ACCSP. I would just like to alert the Board to those situations that have caused the most problems in the past concerning de minimis situations have dealt with reporting requirements for de minimis states, particularly for those species plans that involve -- and while that's not currently relevant to lobster, I believe the issue of whether or not monitoring and reporting facets of this plan should be excluded from being requirements for de minimis states should at least receive consideration before the vote.

CHAIRMAN BECKWITH: Yes, if I understand this, we're only dealing with Sections 3.1 and 3.2. Monitoring and reporting are in subsequent sections.

MR. MEARS: Right, but this says de minimis states will be required to adhere to 3.1 and 3.2; and by virtue of this motion, if it were passed, they would not be required to adhere by monitoring and reporting requirements. That's as I read it. Monitoring and reporting is under Section 4, correct, of the plan?

EXECUTIVE DIRECTOR DUNNIGAN: Yes, I don't think it's implied, Harry, that states that are determined to be de minimis or granted de minimis status are necessarily going to be relieved of everything except 3.1 and 3.2.

That will probably depend upon the nature of the application that the state makes. In other words, a state will come in and say we have de minimis status and therefore we wish to be excused from, and then they will list whatever provisions they want to be excused from.

So it's not implied in this motion that if you're de minimis, you're exempt from everything else. What is implied in this motion is that even if you're de minimis, you're still going to have to do 3.1 and 3.2.

MR. MEARS: Okay, just one more followup question. The case could not be made by a de minimis state by virtue of this motion that in any case without amendment of the plan, they would not be required to adhere to monitoring and reporting requirements, is that correct?

EXECUTIVE DIRECTOR DUNNIGAN: I couldn't hear you.

MR. MEARS: Could a case conceivably be made, if this motion were passed and eventually were incorporated into the plan, that a de minimis state, as the plan reads, would not be required to adhere to anything but Section 3.1 and 3.2? I hear you saying that would not be a valid contention.

EXECUTIVE DIRECTOR DUNNIGAN: No, the state would have to make its case with respect to each of the management measures that it wanted to be relieved of.

CHAIRMAN BECKWITH: Phil had his hand up and then I'll take you, Bruce.

MR. COATES: Can we offer a suggestion here? We've been conferring in the corner. Well, we haven't conferred with New York yet, but they are going --

CHAIRMAN BECKWITH: Just keep it simple so I can understand it.

MR. COATES: How about we just require adherence to Section 3.1, if our southern states agree to stay in the program? Now, that's the most sacred of the sacred precepts, and it's just berried lobsters, lobster parts, spearing and biodegradable panels in there, but that's no big deal because nobody uses pots down there, and the minimum size and no limits on mobile gear. That's it, and the V-notch, such as it's defined.

You won't see any V-notched lobsters down there. And, you know, that's a minimum suite of management measures, and we'll get out of this mess with trying -- is that acceptable?

MR. PATE: It's not that big a deal. I think if we're going to do that, we might as well take the de minimis provisions out of the plan.

MR. COATES: That would be the de minimis.

MR. PATE: They are meaningless.

MR. COATES: That's all you would have to worry about as opposed to withdrawing from the management unit.

MR. PATE: That's fine.

MR. COATES: Could I make that as an amendment, we just drop the 3.2? I make that as a motion to amend.

CHAIRMAN BECKWITH: Well, if it's a friendly amendment, and Bill and Pat, is that okay?

MR. ADLER: That is acceptable.

MR. WHITE: Yes.

CHAIRMAN BECKWITH: Just so we all understand, if this motion passes, we will not consider another motion to change the management area, is that correct, where we are? Okay, any further discussion on the motion?

The motion is moved that de minimis states will be required to adhere to Section 3.1 of the American Lobster FMP. Move that de minimis states be required to adhere to Section 3.1 of the American Lobster FMP. Bruce.

MR. FREEMAN: I think we're getting too complicated here. The issue of reporting is going to come up later. It seems more reasonable to go through the plan as to what's required and then have North Carolina come back with a proposal as to what seems reasonable that they could do, because you're going to get into this reporting, and in every instance where you have de minimis, it doesn't relieve anyone of reporting.

It just relieves them of reporting more often than once a year. And so there's going to be some requirements, and it could well be that during this evening -- and, Pres, I suspect you'll be here for the summer flounder -- to think about this discussion, and I am sure you can come up with a much better motion than this one to take care of your concerns.

I just think a little time, a little thinking, by tomorrow I think this perhaps could be resolved.

CHAIRMAN BECKWITH: Okay, we have a motion on the floor. Are there any other comments to the motion?

MR. FREEMAN: **I would move, Mr. Chairman, that we table this action until tomorrow.**

(Whereupon, the motion was seconded from the floor.)

CHAIRMAN BECKWITH: All right, we have a motion to table until tomorrow, and we have to vote on this motion. Is there any discussion on the motion to table until tomorrow?

REPRESENTATIVE DENNIS ABBOTT: Would you repeat what you just said?

CHAIRMAN BECKWITH: What we have is a motion to table to time definite tomorrow, that motion up there, and we have to vote on that, and I am going to give people time to caucus.

Okay, are we ready to vote on this? Any other discussion? What we'll do is take a voice vote on this. All those in favor, say Aye; those opposed. Well, we're going to have to count it, then. Amy,

go ahead, please. Since we had dissension, let's take a minute to caucus. Okay, I think we're ready. Amy.

MS. SCHICK: Okay, the State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: No.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Yes.

MS. SCHICK: Rhode Island.

RHODE ISLAND: No.

MS. SCHICK: Connecticut.

CONNECTICUT: No.

MS. SCHICK: New York.

NEW YORK: No.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes.

MS. SCHICK: Delaware.

DELAWARE: Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: North Carolina.

NORTH CAROLINA: Yes.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MS. SCHICK: The vote is six in favor, four opposed.

CHAIRMAN BECKWITH: The motion passes. The motion is tabled until tomorrow. Bill.

MR. ADLER: Mr. Chairman, I would like ask should we also be taking up tomorrow the number of pounds or whatever it is that is required, the low number, to be de minimis, or is that going to be taken up at same time, or are we going to keep on going on that one today?

CHAIRMAN BECKWITH: Well, actually, let me get a little assistance from the Board. I'm not sure where this leaves us, and there's a number of other issues that have to be decided upon, the minimum criteria and some other things, other parts of the requirements we have to look at, too, and determine which of those apply in a de minimis status.

We can do part of that now or would the Board prefer to deal with the whole issue in total tomorrow? Any other comments on how we should proceed? Someone says keep going? We've got 25 minutes. Yes, Jill.

SENATOR GOLDTHWAIT: I would suggest that that discussion, despite its lack of resolution, probably leaves us able to decide on the de minimis criteria tonight.

CHAIRMAN BECKWITH: I'm sorry, I couldn't hear the whole thing. Do you want to do it tonight?

SENATOR GOLDTHWAIT: I want to do it tonight.

CHAIRMAN BECKWITH: Okay. So, you want to deal with the -- when you say criteria, you mean what you have to achieve to qualify for it, and not necessarily look at the other requirements in the plan. We can do that tomorrow.

Okay, is that an acceptable task for us tonight? Okay, I guess that's what we're going to do. Why don't you pick it up again, Amy, and refresh our minds as to some of the alternatives that you have here.

Criteria

MS. SCHICK: Okay, under Number 2, Criteria for De minimis, I presented three alternatives. One is a weight limit, and I suggested 40,000 pounds based on what was landed in Delaware, Maryland, Virginia and North Carolina, and that was a 0.05 percent of the coastwide landings.

The other option is to go by a percentage of the coastwide commercial landings, and what I've done is looked at 1 percent, a half a percent and 0.1 percent of what the 1997 landings were to determine what that poundage would be just as reference.

Some plans have used an and/or situation where you set a weight limit and/or a percentage limit, so the Board has those options. The table tries to outline some of the maximum landings by state, minimum landings by state, some averages and percent landings just to see where the different states might fall off under different criteria.

CHAIRMAN BECKWITH: Okay, we have some alternatives that Amy has presented. Any discussion on those or any other alternatives to be considered? John.

MR. NELSON: Well, Ernie, we're just picking for the public hearing now, so, I mean, we want to have a range in there so isn't it probably appropriate to have all of them in there? Why not have all of them in there for the public hearing, or is that too complicated?

CHAIRMAN BECKWITH: Well, if we do that, we should have a preferred alternative. I mean, is it that much of an issue that we need to go through that?

MR. NELSON: No. I think, for example, we've used 1 percent in a number of the other plans, and I think that that's appropriate to have that as the outer range, Ernie, anyway. As I was saying, I think 1 percent is what has been used in a number of other FMPs.

That certainly could be used as the outer range, and then you could go down to whatever you need to go down to.

CHAIRMAN BECKWITH: Would you propose the lower limit to be not a percentage but 40,000 pounds?

MR. NELSON: Sure.

CHAIRMAN BECKWITH: And then, what other alternatives should we have? We've got the two extremes, should we have something in the middle? Gil.

MR. POPE: I was wondering if anybody in here thinks that 40,000 pounds is too much?

MR. PATE: Yes.

MR. POPE: So he feels that 40,000 pounds is too much, so –

CHAIRMAN BECKWITH: Well, it's on the floor for whatever people want to propose here.

MR. POPE: 20,000, I mean, are there any alternatives?

CHAIRMAN BECKWITH: Whatever you want to include, this is just going to the public hearings. It's not final yet. You can have whatever you choose to put forward. You can one or you can have a range. I would like to keep it as simple as possible. If you have too many options, you get a whole scattering of comments. Bill.

MR. ADLER: I make a motion that **we take to public hearing that the criteria is less than 20,000 pounds per year as the preferred option if you list anything else**, but I'll just make that as a motion right there, 20,000, to take to public hearing, 20,000?

SENATOR GOLDTHWAIT: Second.

CHAIRMAN BECKWITH: Okay, let me just make a technical correction or observation. The addendum doesn't have to go to public hearings. What the motion should probably say is to include in the addendum for public –

MR. ADLER: Okay, I get you, that's correct, approving the addendum that the de minimis status is 20,000 –

CHAIRMAN BECKWITH: In the draft addendum.

MR. ADLER: -- in the draft amendment, less than 20,000. I'm trying to get that number in there, okay, less than 20,000. Do we have to put a year in there?

CHAIRMAN BECKWITH: Yes, we should have a qualification year.

MR. ADLER: You mean per year?

CHAIRMAN BECKWITH: For the last previous year or –

MR. ADLER: Average of the last two, does that work?

CHAIRMAN BECKWITH: Okay.

MR. ADLER: Okay, **average for the last two years**, remembering that what we're doing here is hopefully taking the most restrictive in this addendum, which still is possible to moderate if for some reason we feel later that it needs to be moderated. Is that correct, that procedure?

CHAIRMAN BECKWITH: Yes. Let's see what we have up there. Before we take any comments, is that motion acceptable? Is that what you want up there?

MR. ADLER: Mr. Chairman, does that cover what you brought up?

CHAIRMAN BECKWITH: I mean, I'll leave it to Jack to give us some direction on that. We have to have a 30-day public comment period on whatever we draft as the addendum, so I guess that would be appropriate.

MR. ADLER: Okay.

CHAIRMAN BECKWITH: Okay, any comments on the

motion? John.

MR. NELSON: Bill, this is your preferred alternative? You want to have this go out as the preferred alternative, and are we still going to have options for the public to have a range to look at, which is what Amy has got in there, which ranges anywhere from - well, I guess, 20,000 is now the bottom up to 1 percent.

MR. ADLER: Well, yes, that would be a preferred option. And if you wanted to put in some other alternatives, that's something else. I would, however, not support getting too carried away with the percentages, like up to 1 percent.

I would prefer something in the range of that up to certainly less than 1 percent, based on these figures here. If you wanted to put other things in –

MR. NELSON: Well, certainly, I would prefer less than 2 percent, but nevertheless just to show who the major players are here, I think, Mr. Chairman, that I've got a message.

I think, Mr. Chairman, that we ought to adopt that as the preferred alternative and have two other alternatives. One would be 0.5 percent and one would be 1 percent of the last year's –

CHAIRMAN BECKWITH: Do you want to make that as a motion, John?

MR. NELSON: -- total commercial landings.

CHAIRMAN BECKWITH: Well, actually, we have to deal with this one first, unless you want to amend this.

MR. NELSON: Unless Bill wants to just add that on to the motion.

MR. ADLER: No, but I'll let you make a motion after that and ask –

MR. NELSON: I might use 2 percent after that, Bill.

CHAIRMAN BECKWITH: Okay, we've got a motion on the floor. Any other comments to the motion? Any other discussion on the motion? Shall we vote on it?

Let's try a voice vote, first. All those in favor, say Aye; those opposed; any abstentions. Unanimous, it passes, wonderful. John.

MR. NELSON: Thank you, Mr. Chairman. I would move, then, that **we include for public hearing alternatives of 0.5 and 1 percent of the 1997 landings**, commercial landings.

MR. FREEMAN: Second.

CHAIRMAN BECKWITH: Motion by John and seconded by Bruce. Okay, is there any discussion on the motion?

MR. ADLER: Yes. I would like to ask how many states would put this into de minimis; if it was 0.5 percent, how many states would qualify for that?

MS. SCHICK: Four states would qualify.

MR. ADLER: Four more states?

MS. SCHICK: The total of four, Maryland, Delaware, Virginia and North Carolina. It shows on the table. If you look at the last line, it shows the percentages.

CHAIRMAN BECKWITH: Pat.

MR. WHITE: I don't know what our caucus will do, but I would oppose this because I think it would be far more appropriate to have it continue on in poundage, and I think John's original idea of having 20 to 40,000 pounds would be more appropriate. But I can't support this as a percentage.

CHAIRMAN BECKWITH: Okay, any other discussion on the motion? Seeing none, shall we move to a vote? Let's try the voice vote; and if that doesn't work, we'll do a roll call.

Okay, all those in favor of the motion, signify by saying Aye; those opposed -- I'll tell you what, let's just call it by state and that way there's no confusion. Go ahead, Amy.

MS. SCHICK: Maine.

MAINE: No.

MS. SCHICK: New Hampshire

NEW HAMPSHIRE: Yes.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: No.

MS. SCHICK: Rhode Island.

RHODE ISLAND: Yes.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes.

MS. SCHICK: Delaware.

DELAWARE: Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: North Carolina.

NORTH CAROLINA: Yes.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MS. SCHICK: The vote is nine to two.

CHAIRMAN BECKWITH: Okay, the motion passes. Do we want to indicate a preferred alternative? First of all, are we through with alternatives?

MR. NELSON: I think we did. The first one was the preferred alternative.

CHAIRMAN BECKWITH: It wasn't included in the motion. We had discussed it but --

MR. NELSON: Well, I thought the discussion was that that was the preferred.

MR. ADLER: It was our discussion, but it wasn't included in

the motion. Do we need to make that in the form a motion?

All right, we'll make a motion that that first motion -- **the 20,000 pound motion is the preferred motion going out to comment.**

MR. FREEMAN: Preferred alternative.

CHAIRMAN BECKWITH: Preferred alternative.

MR. ADLER: Preferred alternative.

SENATOR GOLDTHWAIT: Second.

CHAIRMAN BECKWITH: Okay, we had a mover and a seconder on that. Is there any opposition to this motion? Seeing no opposition, so ordered. The motion passes.

Procedure to Apply for De Minimis

MS. SCHICK: I'm going to go through the procedures for applying for de minimis. I think it will be pretty straightforward. It's similar to all the other plans, and it's already partially included in Amendment 3.

What the procedure would be is that states would specifically request de minimis status each year in their report to the Board. The Plan Review Team would evaluate the request as a part of the FMP annual review process.

The PRT would make a recommendation to the Management Board, and then the Board would make a decision either granting or denying the de minimis classification. And in that process, the Board could specifically specify which management measures would be required by that state if it were outside of Section 3.1 that was included in the former motion.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: Very quickly, you just read off what a state does to get its de minimis status, correct?

MS. SCHICK: Correct.

MR. ADLER: Okay, and did I hear that one of those was that they have to report to somebody?

MS. SCHICK: Correct. As a part of the plan, every year a state has to submit an annual report, so when the state would submit an annual report, they would submit their request for de minimis status.

MR. ADLER: Does that include explaining why they should continue to be de minimis; i.e., showing their catch, or in other words reporting their catch?

MS. SCHICK: Correct.

MR. ADLER: So, it actually, without having a part in the plan here that they have got to report, they still have to report in order to keep their status?

MS. SCHICK: Correct.

CHAIRMAN BECKWITH: Pres.

MR. PATE: Given what we've discussed here today, Ernie, it may be helpful to have, as part of the requirements for requesting de minimis status, a clear statement of what the state hopes to achieve, what parts of the plan they are requesting to be exempt from.

CHAIRMAN BECKWITH: Now, is there any other discussion on the procedures to apply for de minimis? Do we need a motion to include that in Addendum 1, or can we just adopt it, if I see no opposition to it? Can we do that, Jack, just adopt it if there's no opposition? Okay, so moved and let's include that in Addendum 1.

Well, we've got five minutes to go, and I don't think we should probably open another issue because it will take us longer than that to finish. Is there anything else that someone would like to talk about in the next five or six minutes? Pat.

MR. WHITE: The voting status in herring now, even though people were declared de minimis, they were going to be allowed to vote back on the Board, and is it the intent of the Board to continue that same –

CHAIRMAN BECKWITH: That is the way it is in all other plans, I believe.

MR. WHITE: But isn't the reason that it is in all other plans is because of an extensive recreational fishery in that plan?

CHAIRMAN BECKWITH: I don't know. Jack, do you want to help us out here?

EXECUTIVE DIRECTOR DUNNIGAN: Not necessarily. You know, what the individual circumstances are is going to be different in every plan. A de minimis state is covered by the plan and is subject to compliance action even if it violates the provisions of its de minimis status.

And because of that, the feeling of the Commission has always been that they deserve the opportunity to have a seat at the table, and so that's why de minimis states, because they are technically in the plan, even though they have been excused from implementing some of the requirements of it, continue to be members of the Board and continue to have the opportunity to vote.

MR. POPE: It's just as much a matter of respect than anything else, too.

CHAIRMAN BECKWITH: Okay, any other issues the Board would like to deal with tonight? Phil.

MR. COATES: I was going to ask about the boundary issue. What I need to do is to alert you we're proposing changes in three areas, and I think we're going to have to get the maps, and they are in the copy of the memo from Jim Fair to me, copied for distribution to the Board tomorrow.

But I just wanted to alert you it includes the area around Provincetown, the area south of Monomoy Island, and one other area, the Cape Cod Canal, which isn't listed on the amendment, but I'll submit that tomorrow morning for consideration.

CHAIRMAN BECKWITH: Bill.

MR. ADLER: Thank you. I would just like to ask Amy, remember I called about converting the lat/long lines that separate Outer Cape and Area 1 back to LORAN lines just to make sure that they correspond exactly in the division between Area 1 and the Outer Cape, right off the tip of Cape Cod Bay.

Tomorrow, since we'll be discussing this, could we have an answer on that for tomorrow and/or one of those navigational charts

present that we can look at, if possible, for that area? Do you know where I am?

MS. SCHICK: Yes. I can briefly comment that I spoke with Frank Lockhart, and he said that those conversions were meant to be exact conversions in latitude/longitude, so if there were any differences between the previous LORAN coordinates and the latitude/ longitude coordinates, that that was an error. The intent was to have the same coordinates but in latitude/ longitude.

MR. ADLER: Okay, is there any chance that we can have one of these navigational charts here tomorrow? Do you have any? Well, it might make it a little simpler to discuss some of this stuff, but if possible, if you happen to have one, you know. Thank you.

CHAIRMAN BECKWITH: Okay, seeing no other issues, if there is no opposition, we will stand adjourned until tomorrow morning.

(Whereupon, the meeting recessed at 6:55 o'clock p.m., January 12, 1999.)

WEDNESDAY MORNING SESSION

January 13, 1999

The Wednesday Morning Session of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington-Lee Ballroom of the Ramada Plaza Hotel, Old Town, Alexandria, Virginia, January 13, 1999, and was called to order at 8:00 o'clock a.m. by Chairman Ernest E. Beckwith, Jr.

CHAIRMAN BECKWITH: Welcome to the Lobster Board again. What we're going to do the first thing is call the roll to make sure we have a quorum. Amy.

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

MS. SCHICK: We have a quorum.

CHAIRMAN BECKWITH: Thank you. One of the first things we're going to deal with this morning is a motion that was tabled to consider the requirements for de minimis states. And I didn't write down the way it was written. Amy, did you write it down exactly? Maybe we can just read it so that every has it fresh in their mind and then we can deal with it.

MS. SCHICK: I believe the motion was just to table the issue until today.

CHAIRMAN BECKWITH: Okay, that's pretty simple. I'm going to turn it over to Amy because she has prepared the de minimis decision document, and she can walk us through a couple of alternatives. Amy.

MS. SCHICK: We began the discussions yesterday of what the requirements should be if a state is granted de minimis status, and there was a motion that was tabled on including Section 3.1 only. I believe that was the motion.

The alternatives available are to decide which portions of the plan should be included and required by a state that's granted de minimis

status, and we spoke about the coastwide requirements that were in Section 3.1, the measures that are applicable to all states along the Atlantic coast, and that was Section 3.2; and the lobster management areas is Section 3.3; and then monitoring and reporting would be Section 4.

CHAIRMAN BECKWITH: Okay, I think this is a very simple motion so we can deal with it from memory while Jack sets up. Let's take it up. Any comments on this motion, any discussion? Go ahead, George.

MR. LAPOINTE: Personally, because I was responsible for making this an hour-long discussion yesterday, Pres and I spoke last night about what we're trying to do with de minimis status and particularly with a state like North Carolina with all 36 pounds of landings over seven years; and the fact that Pres wonders why he's on the Board and wants to get off, so he's not actively seeking to be in the decision-making process.

And I don't know how to handle this state by state, but it seems like with the regulations they have in place, the minimum size, the prohibition on parts, the prohibition on berried lobsters and the protection afforded by the Snowe Amendment, that that's enough for North Carolina to do, and we want to be sure that they keep that in place and they don't liberalize.

Isn't that the essence of de minimis? I mean, it seems like we ought to be able to craft something. I talked to Charlie, and I said, "Do you have a concern about this?" He said, "Yes, I want to stay on the Board" because of some strong interest in the lobster fishery in their state.

And that's fine, but for a state like North Carolina that doesn't want to stay on the Board, intends for the fishery to stay even sub-de minimis with the 36 pounds, it seems like they have done enough and we should be able -- if we in fact have them keep what they have in place now, the protection afforded by the non-trap sector provisions and some kind of requirement that if they change their lobster regulations, they just talk to us about it, that seems sufficient.

CHAIRMAN BECKWITH: Bruce.

MR. FREEMAN: The other aspect, George, is the reporting and North Carolina has that reporting system in place, so annual reports would probably be necessary.

If you recall, our other de minimis, it's really reporting. We simply relieve the states from having to report the catch on a weekly basis.

But the fact that North Carolina does have a very good reporting system in place, and if we would be able to monitor that at least annually to see if all of a sudden there is a tremendous increase in landings, we would recognize that. But, I would agree with George that the real provisions that needed to be in place, North Carolina has and the ones they don't have have to do with pots, size, placement, escape panels, and I don't think there's ever been a lobster pot set in North Carolina in state waters.

So, it seems to me we're requiring them to do a lot where in fact the fishery doesn't exist and won't exist. If they saturated the state waters with lobster pots, they are still not going to catch anything. Their entire fishery historically has been an otter trawl fishery occasionally from deep offshore waters, all in the EEZ.

CHAIRMAN BECKWITH: Well, what we're trying to do -- there's a couple of approaches to this. What we, of course, started on was to craft a motion for de minimis that applied to all states. Maybe North Carolina has got a special circumstance.

And I guess the decision before the Board is do we want one motion that deals with all states or do we want to treat North Carolina or some other state separately. George.

MR. LAPOINTE: If we use the 20,000 pound standard that was passed as a motion as a preferred alternative, could we set up a process whereby those states that want de minimis status could just apply, and then we could look at the regime they have in place?

We would set up a standard that says they have to apply and tell us what they have in place and what safeguards they have, and an agreement about if they in fact change their regulations in the future, their lobster regulations, they need to talk to us.

It sets up a standardized process, treats the states fairly, and then we don't get into -- we'll have time if we want to look at what the various states have in place.

CHAIRMAN BECKWITH: Well, I'm following you part way. We talked about process yesterday, and we could make whatever adjustments that are needed, but the issue is once a state applies for and is granted de minimis, the question is what criteria do they have to put in place or what criteria do they not have to put in place?

And that was the essence of the motion that was up on the Board which was tabled. I think Harry was first, and then we'll get you, Bruce.

MR. MEARS: Just thinking forward when requests for de minimis come in, would not the request identify those parts -- I mean, certainly we could, in the plan, establish those parts that would not be eligible in any event for consideration as de minimis requests.

But, on top of that, wouldn't a de minimis request specifically identify those parts of the regulations for which, call it a waiver or exemption or whatever, be requested, and we would have a discussion on that basis on a request-by-request basis? I'm asking, I don't if that's --

CHAIRMAN BECKWITH: Yes. The answer to that is yes and that's the way the process works, but the issue that we were discussing were the requirements in 3.1.

I thought what the Board was doing was they were saying was even if your granted de minimis status, you still were required to implement those seven measures in 3.1. The rest of it works the way that you had said and described. Bruce.

MR. FREEMAN: I was thinking procedurally. I mean, the motion on the floor could be withdrawn and we could start afresh with -- it would seem to me, looking at -- I have in front of me the plan, 3.1 and 3.2; 3.2 deals with permits, licensing, escape vents on traps and maximum trap size.

So, from the standpoint of North Carolina, there are no lobster fishermen nor have there been any lobstermen fishermen fishing in North Carolina waters to anybody's knowledge.

So, in this instance, at least it applies to North Carolina, I don't see

the need for any of the provisions in 3.3. In 4 it also talks about reporting, and so long, again, as North Carolina reports annually so we can monitor what's going on, it would I think meet our requirements.

The issues I think at hand really deal with the 3.1 where we talk about the prohibition of scrubbed lobsters, minimum size, V-notch -- well, V-notch is an issue. That's under 3.1.

I know North Carolina doesn't have V-notch, and if you are going to have to put a regulation in, Pres, it makes no difference whether it's a small regulation or a large regulation. So it may be more reasonable to have North Carolina indicate what it will put in place under de minimis and then state by state agree this is what's necessary for the plan.

I suspect, although Jack Travelstead is not here, that Virginia has an identical situation. I don't recall any trap fishing in state waters in Virginia. As you go up the coast, it gets a little different. We start to have some inshore fisheries, some small catches. And as we progress further to the north and east, then the state catches tend to increase.

CHAIRMAN BECKWITH: So, basically what you're saying is with your proposal, you're suggesting is if a state is granted de minimis, it's granted based on what they propose to be exempted from --

MR. FREEMAN: Yes.

CHAIRMAN BECKWITH: -- and then anything in the plan that is a requirement is on the table, and they can possibly become exempted from --

MR. FREEMAN: Right, I see it --

CHAIRMAN BECKWITH: -- and then the Board would decide?

MR. FREEMAN: As George indicated, use the 20,000 as a trigger that would allow a state to apply for de minimis and then they would have to approach the Board with those items that they would want to be exempt from or those items they would put in place and be exempt from the rest.

And it would be up to the state to make that presentation. Some states may have the de minimis 20,000 pounds and would want, for whatever reason would want to comply with everything else. It would be their option.

But the onus would be on that state, and then Pres could make his case for what he has in place now, and we could agree that that's sufficient and then we go on.

CHAIRMAN BECKWITH: Okay, Jack, are you ready to put that motion up on the Board? Any other discussion on the motion? John.

MR. NELSON: Ernie, do we need to modify this motion, then? If we're going to have a state -- if a state is going to be able to be exempted from various portions of 3.1, for example, then probably we need to modify this to, instead of saying be required to adhere to Section 3.1, can we leave it vague and say be required to adhere to the various components of 3.1?

That is vague for the public hearing, but I think that's where this

discussion is going. And if we're going out to public hearing, do we need to have this as definitive as it is right now?

CHAIRMAN BECKWITH: We can substitute, modify, whatever. Jill.

SENATOR GOLDTHWAIT: Thank you. If I'm right in understanding that this effort is to avoid putting an onerous requirement on a state to pass a lot of regulations when they don't really have a fishery, are there any states which would potentially be de minimis where this has to be done by statute rather than regulation?

And if there are not, would not a single regulation that referenced Section 3.1 of the ASMFC Plan do the job? And, is that a big deal or not?

MR. PATE: A regulation is a regulation. It doesn't matter what the substance of it is. Procedurally, we have to follow the same process.

SENATOR GOLDTHWAIT: Right, but is that a cumbersome procedure in your state?

MR. PATE: Not necessarily.

SENATOR GOLDTHWAIT: So, I'm not sure why we're agonizing over this to this extent.

CHAIRMAN BECKWITH: We have a motion up. We can change it, substitute it, we can vote on it. Is there any other discussion on that motion? Bill.

MR. ADLER: Mr. Chairman, are you planning to take this to public hearing?

CHAIRMAN BECKWITH: The purpose of this is to include it in Addendum 1 for public comment.

MR. ADLER: All right, what I heard from John about something which was basically watered down a little -- and not bad, but watered down a little -- of this saying "various components of", this is the more restrictive of the two.

You could take this to public hearing, this particular thing, and then if you have to modify it down to various components of, you could do that at a later time.

CHAIRMAN BECKWITH: You certainly can. Okay, unless anyone has any other modifications to this, I think we're probably ready to vote on this.

The motion is moved that de minimis states will be required to adhere to Section 3.1 of the American Lobster FMP. Pres.

MR. PATE: Ernie, just to further comment to Jill's point -- and I guess we're down to our argument, principle now. I was hoping that we wouldn't get to this point, but we have.

And regardless of what energy and resources have to be expended to passing a regulation, there is a matter of practicality and a matter of credibility in North Carolina for the rules that we put in place.

And when we go forward with a rule to have V-notched lobster or rules that regulate the trap requirements, inevitably somebody is going to look at me and say, "With all the work that you have to do to manage striped bass, red drum, speckled trout, fluke, shrimp, crabs, oysters, clams, why in the world are you wasting your time

with lobsters?"

And I have to say, "Well, you know, we've just got to do it". And my point all along has been there's got to be a standard for de minimis when you're landing only 37 pounds of lobster in six years, that you don't have to go through that and face those questions.

So, I'm going to vote against the motion, obviously.

CHAIRMAN BECKWITH: All right, what I will do is call the question and I think I'm going to have Amy read the roll by state. Go ahead, Amy, please.

MS. SCHICK: The state of Maine.

MR. LAPOINTE: We're caucusing.

MS. SCHICK: Okay, New Hampshire.

NEW HAMPSHIRE: Yes.

MR. LAPOINTE: You can put a yes vote now, too.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Yes.

MS. SCHICK: Maine.

MAINE: Yes.

MS. SCHICK: Rhode Island.

RHODE ISLAND: No.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: Abstain.

MS. SCHICK: Delaware.

DELAWARE: Abstain.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: Virginia. (No response) North Carolina.

NORTH CAROLINA: No.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MS. SCHICK: Seven to two with two abstentions.

CHAIRMAN BECKWITH: Okay, the motion passes. Maybe you can give us some help on this. The next item we're going to deal with was what -- maybe we've already gone where we have to go, but the next issue was to deal with which requirements, other than 3.1, would de minimis apply to?

And I would assume de minimis could apply to any other requirement in the plan, and the state would have to, when they submit their request for de minimis, they would have to indicate which of those requirements they were seeking exemption from. Is

that where we want to go with this?

MR. FREEMAN: But I would suggest that the reporting requirement, Ernie, would be necessary, not that it would have to be reported monthly, but we need to know what the catches are at least on an annual basis, even in those states that declare de minimis. Otherwise, we don't know if there's any change.

CHAIRMAN BECKWITH: Right, and that's the way it is in every other plan.

MR. FREEMAN: Yes, but that needs to be very clear, though. It doesn't relieve a state of reporting. It may relieve them from reporting weekly or monthly, but not of reporting at least annually.

CHAIRMAN BECKWITH: Right, and that will be included in Addendum 1. I think everyone agrees that's a necessary requirement. Is there anything else that we need to talk about on this subject? Have we covered everything on de minimis?

REVIEW OF STATE COMPLIANCE

All right, why don't we move on, then. The next agenda item is Number 7, Review of State Compliance. And, we deferred two motions at the last meeting, a motion on Rhode Island and a motion on New Jersey, and we've received correspondence from the State of Rhode Island.

Mark, would you indicate what the state has done since the last meeting?

Rhode Island

MR. GIBSON: You have a copy of the letter from me to Ernie which summarizes the action our agency and the Marine Fisheries Council has taken, as well as a copy of the new regulation related to lobster landings by gear other than traps.

The regulation went to public hearing in November, was passed by our Marine Fisheries Council, has been filed with the Secretary of State by our agency and went into effect in early January, so it is in effect now; the regulation in question on the landings of lobster taken by gear, methods other than traps, and again attached to the letter is a copy of the regulation 5.18.

CHAIRMAN BECKWITH: Okay. As soon as Amy comes back, I've got to ask a little direction. We had a motion that was deferred, and I'm not quite sure what the procedure is. Can we withdraw the motion? Is that the proper procedure? George, what do you think?

MR. LAPOINTE: I don't know the exact parliamentary procedure, but if we have a motion to -- well, a motion to withdraw a motion, that sounds pretty pitiful.

CHAIRMAN BECKWITH: Well, I think Jack is with us again.

EXECUTIVE DIRECTOR DUNNIGAN: Under procedure, the motion that was on the table in October is now on the table, and you need to dispose of it one way or the other. You can defeat it or it can be withdrawn by unanimous consent. It can be passed. It can be amended.

Essentially, it's on the table as any other motion would be.

CHAIRMAN BECKWITH: Okay, do you have that motion to put up for us to take a look at?

EXECUTIVE DIRECTOR DUNNIGAN: We thought we did, but we can get it back up there.

CHAIRMAN BECKWITH: It's in the minutes. Why don't you read it for us, Amy. It's in the minutes of the last meeting.

MS. SCHICK: The motion was move that the Lobster Management Board recommend to the ISFMP Policy Board that it recommend to the Commission that it determine that the State of Rhode Island is out of compliance with the Lobster Management Plan, as amended, in that it is not fully and effectively implementing and enforcing a required provision of the FMP, the limit on landings for non-trap gear contained in the FMP, and that in order to come into compliance the State must implement said limitations.

MR. ADLER: Is that a motion?

EXECUTIVE DIRECTOR DUNNIGAN: It is a motion that's on the floor.

MR. ADLER: And it was passed?

CHAIRMAN BECKWITH: No, it was deferred. The action was deferred until this meeting. Essentially, it was tabled and now it's back on the floor.

MR. LAPOINTE: Can we simply just call the question and because of the action, just vote it down?

CHAIRMAN BECKWITH: We can do that. That would be the simple way to it.

MR. LAPOINTE: Call the question.

CHAIRMAN BECKWITH: Bruce.

MR. FREEMAN: It would seem me from a procedural standpoint, for looking at this in the future, just simply to withdraw that motion rather than to defeat it.

MR. MASON: Well, we can't because the maker of the motion isn't here.

MR. FREEMAN: Okay, that takes care of that.

CHAIRMAN BECKWITH: Someone said the maker of the motion isn't here. Who made that motion?

MR. MASON: Gordon.

EXECUTIVE DIRECTOR DUNNIGAN: It doesn't matter.

CHAIRMAN BECKWITH: It doesn't matter. Okay, with a little help from my friends here, is there any objection to withdrawing this motion? Seeing no objection, it's so ordered. It's withdrawn.

New Jersey

Okay, we also had a second motion that was deferred, and that dealt with the State of New Jersey. Does everyone have their minutes? If you don't have them, I'll read the motion.

MR. NELSON: What page is it on?

CHAIRMAN BECKWITH: It's on Page 2 of the minutes. I'll

read it: Move that the Lobster Management Board recommend to the ISFMP Policy Board that it recommend to the Commission that it determine that the State of New Jersey is out of compliance with the Lobster Management Plan, as amended, in that it is not fully and effectively implementing and enforcing the following required provisions contained in the FMP: 1) the prohibition on possession of lobster parts by fishermen, 2) the prohibition on possession of female V-notched lobsters, and 3) the maximum trap size; and that in order to come into compliance, the State must implement said limitations.

Bruce, we didn't receive any correspondence from you. Can you update us on where you are?

MR. FREEMAN: Yeah, there's several things that we have. The lobster laws in the state are partly statute and partly regulation. We don't have authority over regulating the entire fishery.

Senator Bassano, we have written and requested, spoken to him to withdraw the statute so that we can put regulations in place. So far that has not occurred. I think in order to move this, expedite this from New Jersey's standpoint, Ernie, it may be useful to essentially move on this motion and then have the senator with ammunition to indicate the legislature must act.

CHAIRMAN BECKWITH: Okay. Is there any other discussion on the motion? Okay, then we will call the question. I'm going to take a vote on this because it is a compliance issue. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Can I have 30 seconds?

CHAIRMAN BECKWITH: 30 seconds? Jack needs 30 seconds.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Chairman. The Commission's rules provide that when a management board makes a determination like this, it gets transmitted to the ISFMP Policy Board and the Policy Board has 30 days to meet and consider it.

In order to have an efficient administration of business, there are a couple of ways that we can do this. In previous circumstances, the staff has withheld transmitting the recommendation to the Policy Board until 30 days prior to the next meeting so that if you were to pass this today, rather than have to call a Policy Board meeting within the next month, if we waited a couple of weeks to transmit that, then we would be able to forestall a meeting of the Policy Board and the Commission until the March meeting week, which may be more efficient than having to have this meeting and then a meeting in the second week of February and then another meeting in March.

So, I guess my question to you would be if you pass this motion, is there any objection to the staff withholding the transmittal of this to the Policy Board until February 15th?

MR. LAPOINTE: Absolutely not.

CHAIRMAN BECKWITH: It's possible we'll take action on a few other states here also, and we would have to consider what course of action we want to follow for those also. We might take the same course or we might take a different course, but in this particular circumstance this is what you're recommending for New

Jersey?

EXECUTIVE DIRECTOR DUNNIGAN: Yes, if there's no objection from members of the Board, but I want this on the record before you vote on it. If there's no objection from members of the Board, it would be my intention to transmit this to the Policy Board on or about February 15th so that the Policy Board and Commission consideration of this would occur during the March meeting week.

MR. LAPOINTE: There will be Board objection if you don't do that because we don't want another meeting between now and March.

CHAIRMAN BECKWITH: Bruce.

MR. FREEMAN: I would certainly agree, but I would also indicate it would be useful, if that motion passes, to send a letter to the State of New Jersey that this Board has taken action because we need something to prompt the legislature to move.

EXECUTIVE DIRECTOR DUNNIGAN: We could get that letter out this week. And, Bruce, we would work with the New Jersey Delegation to do that in the most efficient way possible.

CHAIRMAN BECKWITH: Okay, I think we're ready to all the question. Amy, would you call the vote, please.

MS. SCHICK: The State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Yes.

MS. SCHICK: Rhode Island.

RHODE ISLAND: Yes.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: Abstain.

MS. SCHICK: Delaware.

DELAWARE: Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: North Carolina.

NORTH CAROLINA: Abstain.

MS. SCHICK: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MS. SCHICK: Nine in favor and two abstentions.

CHAIRMAN BECKWITH: Okay, the motion passes, and the staff will take the action as mentioned in terms of the letters. Jill.

SENATOR GOLDTHWAIT: Mr. Chairman, there was another request from the State of Rhode Island in their letter stating what their status was. Is that going to be scheduled on this agenda?

Delaware

CHAIRMAN BECKWITH: Yes, that's under other business. Okay, the next compliance issue on the agenda is the State of Delaware; and according to the cheat sheet that Amy put together for us, there are six requirements that Delaware has not implemented to date.

Charlie, do you want to tell us where you are on those? Let me read them off, or do you have this sheet here? Charlie, are you with us?

MR. LESSER: Yes. Oh, I thought you were going to read something?

CHAIRMAN BECKWITH: Oh, okay. Well, Delaware, according to our list here -- you can correct us if it's wrong -- you have not implemented the biodegradable ghost panel, limits on non-trap -- landings for non-trap gear, the V-notch.

MR. LESSER: Permits and licensing we do have.

CHAIRMAN BECKWITH: Yes, permits and licensing, they do have, okay. The maximum trap size?

MR. LESSER: That's pending. We have to do that one.

CHAIRMAN BECKWITH: And the escape vent, 1-15/16?

MR. LESSER: That's pending. Yes, but those five we are scheduled to publish those restrictions in our state register as of this Friday. Thirty days hence we have the public hearing. Thirty days after that they become effective. So, essentially, it will be another 2-1/2 months before those are in effect.

CHAIRMAN BECKWITH: Okay. Technically, you are out of compliance with the plan, and it's the Board's prerogative to determine whether they want to take action at this time, and I would entertain a motion to that effect or discussion on the issue, obviously, first. Bill.

MR. ADLER: I think it might help Delaware if they got a letter saying that they would be out of compliance. It might spur the right decision after the public hearings just to make sure that they get in compliance. Do you think that would help?

CHAIRMAN BECKWITH: Well, we've certainly done this in some other circumstances where states were in the midst of the rule-making process and the same situation as Delaware is, and we have voted on that and passed a motion of noncompliance and sent the letters to the states.

MR. LESSER: It would not be a help in our case because it would just cause a reaction of letter writing of why we're out of compliance from the governor's office if he gets a letter.

I'm not pleading our case of not to be found out of compliance, but the process will take its time and that would cause an extra round of letter writing, but it's up to you.

We don't think there would be any objection. We'll be lucky if anybody shows up at the public hearing because we only have one active lobsterman in the state.

CHAIRMAN BECKWITH: Bob.

Maryland

DR. BACHMAN: Since Delaware, Maryland, Virginia and North Carolina could conceivably, eventually be considered to be qualified for de minimis status, although we're in the process right now to comply with all of the requirements, as I stated yesterday, there's still the possibility that it might be to our benefit, for one reason or another, to want to opt for de minimis status.

So, it's kind of difficult for us to make a decision, and probably in the same case there, Charlie, at this particular time until we get a ruling as to, you know, what are the requirements and the specifications for de minimis status.

So, at least, I would kind of like to be consistent here. I prefer not to have to deal with a letter which we would probably be in compliance by the time all of the process went through, so we will be making our decisions one way or another, depending on how this thing goes.

So, as long as that's not any problem with Charlie, you know, we may be able to take all of these at the same time. How you want to proceed with –

CHAIRMAN BECKWITH: I think that's an excellent point. Before we take any action on any particular state, why don't we run through each state and just see what the status of their regulations are and what those states plan on doing.

And, Bob, I understand what you just said about really not knowing where you are at the moment, but I think yesterday didn't you say you were in process of moving on some of these things?

DR. BACHMAN: Yes, would you like me to go down a list of where we are?

CHAIRMAN BECKWITH: Sure.

DR. BACHMAN: The cheat sheet isn't exactly correct in that we do have a prohibition on spearing lobsters, but actually that's in a different part and that's probably why you didn't pick it up.

And we have proposed regulations here to cover all of the rest of the items, provided that's what we want to do with respect to pot size and ghost panels and that sort of thing.

And it all depends as to whether or not which is the best way to do what we're required. When you had both 3.1 and 3.2 in there, that would require us to do certain things about the pot sizes. If we're only required to adhere to 3.1, and we don't have to worry about the pot dimensions and that sort of thing, that might want us to go another way, depending on who might be objecting to changing the size of the pots.

But, by and large, what I would call the apple pie and motherhood items there, we're prepared to go along with either way.

CHAIRMAN BECKWITH: Okay. I don't believe we have anyone here from Virginia, do we? No. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: We should later in

the morning. Rob O'Reilly is scheduled to be here.

CHAIRMAN BECKWITH: All right, Pres, do you want to add anything to what you said yesterday?

North Carolina

MR. PATE: Well, the memo to you from me sets out the rules that we have in place, the minimum carapace length, the egg bearer prohibition and the escape vents for lobster pots. There are some provisions in 3.1 that we do not have, obviously.

And, if we must go to those as part of the de minimis recognition, once we get to that point, then we will. I have no intention of moving forward immediately with those because of other responsibilities we have for rule making.

We have a very aggressive package to deal with for implementation of a recently passed act in North Carolina that's going to consume all of my commission's time and energies and mine and my staff for the next four months, so we're at least that far off in initiating anything to implement the provisions of 3.1. But we will do it, if that's part of the de minimis recognition.

CHAIRMAN BECKWITH: Okay. Well, I think you now have a good idea of where the states are, and perhaps we ought to talk about timing here for a moment. I would assume that -- maybe I shouldn't assume it, but I would expect quite a few of the states are going to ask for public hearings on this addendum, and that will require some time.

I guess under the rules or charter, we're only obligated for the addendum to allow a 30-day comment period, but I think the hearing process -- and I expect a number that we're going to have to get involved in -- will probably exceed more than 30 days.

And, so I'm not sure -- give me some help here, Amy and Jack, what is your expectation? Could we have the results from the hearing and have a final for Addendum 1 to approve in March? Are we looking at the spring meeting because that has bearing on this issue as to when we deal with it?

MS. SCHICK: I think that depends on two things. First of all, it depends on the Board approving a Public Hearing Document today. And the second thing is how many states are going to request hearings to be held on the addendum

CHAIRMAN BECKWITH: We have a very full agenda today, and I'm somewhat concerned we won't be able to finish, and we won't know that until we get into this meeting a little farther. What I plan on doing is taking a break at around 10 o'clock and assessing where we are, and then we can make a decision.

What we can do is defer this until later in the meeting, or we can defer this issue, knowing that some of the states really would have to know what the de minimis requirements are going to be and have to go through the whole process to see what's going to be finalized.

At that point they could apply for de minimis and if it's granted, then they would not be out of compliance with the provisions as they are today. So, those are some courses of actions. I would look for some direction and feedback from the Board on how we should proceed on this. John.

MR. NELSON: I think you summed it up very nicely, Mr. Chairman. You know, we would be between a rock and a hard

place if we don't know what de minimis actually is. Until we've done the public hearing, then, they can't apply for it.

So, can we defer this until we have gone through the public hearing process for the addendum and then discuss the need for compliance? And if that's agreeable, I would move that.

DR. BACHMAN: I would second that.

CHAIRMAN BECKWITH: Okay. Let's see if Jack can get it up on the board and see what it looks like.

MR. NELSON: I guess the only question I would have, Mr. Chairman, is whether we would want to defer it until after the addendum is approved?

CHAIRMAN BECKWITH: Okay, **move to defer consideration of compliance by Delaware, Maryland, Virginia and North Carolina until after the addendum is approved.** Any discussion on the motion? Harry.

MR. MEARS: Even though we'll probably discuss this later on during the Board meeting, could we just, for the sake of this motion, discuss the timeframe for the public hearing and addendum being processed?

CHAIRMAN BECKWITH: Well, I sort of tried to do that a few minutes ago. We're not really sure. If we finish today, if we approve the document for public hearing, we're not quite sure how many states are going to require public hearings.

It would be a real reach that we could get all the public hearings done and have the comments incorporated for the March meeting. Do you feel that way, too, or do you think it's possible? If we can't get all that done by March, we're looking at the spring meeting in May. John.

MR. MASON: Given the other thing that Gordon is interested in having some kind of an enforcement thing which he suggested that you get a group together for, it seems to me that March is a real stretch.

CHAIRMAN BECKWITH: Okay, any other comments on the motion that's up on the board? Okay, is there any objection to this motion? Seeing none, the motion is so ordered and it passes.

Let's move on to the next agenda item. We're down to Agenda Item Number 9, and Carl has been sitting patiently since yesterday, for the Technical Committee Report.

TECHNICAL COMMITTEE REPORT

MR. CARL LOBUE: I'll try and move through this pretty quickly, considering your agenda. The report is broken down into four parts that are on the agenda; and if it's okay with the chairman, what I would like to do is leave the report on vent sizes until right before the discussion, which will come up when we go over the addendum.

CHAIRMAN BECKWITH: You do not want to do it now, you'll do it later?

MR. LOBUE: Yes, it will just take a minute and it will probably be more appropriate to do it then.

CHAIRMAN BECKWITH: Sure.

MR. LOBUE: In its last report to the Management Board, the Technical Committee expressed concern at the lack of monitoring and reporting provisions in all the LCMT proposals as well as in Amendment 3.

At that time I was charged with compiling an outline of what information the Committee felt was needed to improve the precision and timeliness of the assessment process.

Basically, I think someone said they didn't want to be flying blind without this information, and I guess it had never been -- it's nothing new, but it hasn't ever been formally presented.

As far as recommending that some version of the following outline become mandatory, the Committee could agree only on the following two statements. As far as the observer programs, licensed lobster fishers must participate in at-sea observer programs if asked to.

This is basically to help the states improve statistical coverage, and it's similar to the provision in the federal plan, obviously watered down, but basically we have some problems sometimes getting people to take us out.

And, as far as reporting, mandatory reporting, the lobster industry, fishermen and dealers must comply with reporting requirements adopted by the states, National Marine Fisheries Service and/or ACCSP.

The reporting and monitoring would improve the precision and timeliness of stock assessments. As far as reporting, with the exception of one state, the Technical Committee felt that at a minimum the following data should be collected from all commercial lobster fishermen each month:

License number, obviously, to link it to existing data on boat, crew, port, et cetera, that's collected on a license application. What total number of traps you had in the water last month; what percent of traps were wire, wood, single/double parlor; what was the number of days you fished last month; what was the average number of traps you hauled per day last month; what was the average trap soak time last month; what was the number pounds landed last month; what areas did you fish in last month.

And when I say area, I mean at a minimum lobster management area, but it would be much better if we provided them with some sort of map with a statistical grid whose boundaries did not cross National Marine Fisheries Service statistical areas or management areas, so this way we could smoothly put them together when we do the assessment and not try to have to split them.

What percentage of your total monthly landings came from each area and what percent of gear was fished in each area? Some of these questions would be modified for non-trap fishermen to reflect the use of mobile gear versus trap gear.

One committee member had expressed concern that although the information listed above is important, the feasibility of implementing a reporting requirement in the State of Maine should be weighted against its real need because of the number of license holders.

The more frequently the reports are collected, the fresher the information is in the minds of the fishermen and the more readily available the data is for analysis. Of course, you could take this

following system and have them report quarterly and still break it down by month, or annually, which some states already do.

Of course, in an ideal scenario, a more detailed breakdown of catch and effort would be requested. This outline of data needs is no way meant to undermine efforts of ACCSP. Rather, it is meant as an interim measure until ACCSP is on line.

With that in mind, we hope the Board members are doing all they can to get ACCSP up and running as soon as possible. Although several members wanted to collect additional information from fishermen, some of those additional data are not things that typical fishermen would record while fishing and would likely require significant alteration of fishing practices.

Rather, at-sea observers would record the following information, size distribution, sex composition, ovigerous condition, cull status, shell condition. There's a bunch of these and since you have them in writing, I won't keep reading through them.

At-sea observer programs are much more useful when sampling trips are frequent enough to cover all seasons, fishing areas and fishing practices. When this is the case, the information reported by the fishermen can be extrapolated using the sampling data to give a much more accurate picture of the fishery.

In addition to the above information, at-sea observers are in the position to collect additional information for special studies as the need arises. Are there any questions on that?

As far as the stock assessment update, data has been formally requested from each state to be used in the upcoming stock assessment. I expect that each state will come to the January 26-27 Stock Assessment Subcommittee meeting with this data, and we hope that we will all work together to get this information in the form needed for the cohort analysis.

This is not exactly a straightforward process because of the amount of missing information in some areas and the switch to federal logbooks for landings from several areas. At the next meeting we will also discuss preparation of the trawl data for the preliminary DELURY analysis.

It is not yet clear to me who will be charged with doing these analyses. The Stock Assessment Subcommittee is awaiting terms of reference for the assessment. I just received a draft of them yesterday from Amy. I guess it was two days ago, now.

At the time of Mark Blake's resignation, the Stock Assessment Subcommittee, formerly the Parameterization Subcommittee, was left without a chairperson. Soon after I became Chair of the Technical Committee, I appointed a chair of the subcommittee; however, he has since resigned his short commission and I expect to appoint a new chair at the next meeting in two weeks.

Since a majority of state-appointed Technical Committee members are new, there needs to be some time spent on getting everybody familiar with the existing datasets, the details of the assessment process and the mechanics of the assessment modeling.

Considering the yet unresolved EPR parameter issues -- that's egg per recruit -- a lack of consensus on the assumptions of the egg-per-recruit model, a charge from within the committee to thoroughly examine the historic trends in effort and fishing mortality rates for a time series predating 1982, which is as far as the last assessment

went, and the number of new committee members, there may be deadline problems with the March-April assessment as was outlined in October.

I will get a better feeling for the timeframe after our meeting on the 26th and after seeing the final terms of reference. I just had one aside on those meeting dates. Yesterday John mentioned the next Area 1 meeting was going to be on the 26th, and I guess I'm -- in the letter that he had mentioned yesterday I had sent to the Area 1 Team, I've got a copy of it here.

My last statement in that I said that I'm encouraged that the states of New Hampshire and Maine have recently filled the vacancy that they have had on the Lobster Technical Committee; and once up to speed, these new people should be available to assist the Area 1 LCMT by providing more timely responses to technical and biological questions than was previously available to this team.

I'm just concerned that the Area 1 Team is going to go ahead with another meeting and the technical people from Massachusetts, Maine, New Hampshire and the National Marine Fisheries Service are going to be at Woods Hole at the same time. Are there any questions?

MR. MASON: Ernie, I know Gordon is very, very concerned about getting this assessment moving, and I think compounding the problem with multiple meetings, I guess -- John, does that meeting on the 26th absolutely have to be then, because I know the Technical Committee meeting has been scheduled for a while?

MR. NELSON: Well, as anything, we're flexible in life, and I'll check with my counterparts and see if we can come up with a date that allows technical support to be there because we do want to have technical support there, and it will probably work out better if it happens after the Technical Committee has met so that any new parameters have been evaluated by them and they can provide that update to the LCMT.

So, I guess my early announcement of the 26th is somewhat in a state of limbo, and we will do it as early possible in February.

MR. ADLER: I would like the Technical Committee to be able to take a closer look at that vent increase because I don't believe that the Technical Committee is giving enough credit towards the egg production.

You know how you do one of these things and then it's worth so much towards the 10 percent, you know, we're supposed to get to. And I just don't think that the 15/16 vent is being given enough credit for what it's going to do to letting their keepers out, and I would just request that the Technical Committee take another close look at that because of that concern.

MR. LOBUE: There's a relatively good dataset that was provided by Jay Krouse formerly of Maine on the vent sizes, and it's pretty liberal as far as how many animals are released. But as far as egg production, it depends on the maturity schedule in that area so in some areas we have an earlier maturity schedule.

In other words, more of the animals that would be squeezing through that vent, the just legal animals, are mature so they would

get a higher benefit from increasing the vent size than in some areas where the proportion of mature animals at that size isn't as high.

That's why you don't see as big of an increase in egg production values, even though those animals are getting away.

MR. ADLER: Well, whatever. The point is that in this game that we all seem to be playing with these, you do this and you get this many points, I don't think somehow that -- I still don't think that that thing is getting enough credit for what it's going to do out there as far as helping the cause, basically.

That was my one concern. And the second thing, while I've got the mike here, is back on the monitoring and reporting. I see here the list of the things that the scientists would like to get information from the fishermen, and what was the fishermen's response to that as to whether they could provide those things or not?

MR. LOBUE: Some states are already actually doing that, just not on a monthly basis.

MR. ADLER: No, the fisherman, what was their response?

MR. LOBUE: I haven't talked to any fishermen.

MR. ADLER: May I suggest that the lobster summit that is being conducted, the mini-one at the end of January in Hyannis and the two-day one in Maine, is right on this subject.

MR. LOBUE: I'll be up in the one in March. MR. ADLER: Okay, that's very important. I think that this is a perfect chance to put your ideas out, interact with them as to what they can give you, what they can't give you, but you'll also get your point across as to we need this.

MR. LOBUE: This is relatively simple compared to what they are going to have to do when ACCSP comes on line.

MR. ADLER: Well, we'll see. Thank you.

CHAIRMAN BECKWITH: Yes, John.

MR. MASON: Ernie, to that point, several industry members were involved with the development of the ACCSP portion of this thing, and I think if you'll look at what came out of that in the ACCSP document, you'll find that it's very, very similar, and the industry was directly involved a year ago.

MR. ADLER: We'll see.

CHAIRMAN BECKWITH: I have a question for you, Carl. I had asked you and I also had sent out a letter to all the Board members asking that their states provide you with information on what is currently being collected and monitored in the state, because I think a very important part of really scoping and structuring any kind of a monitoring program is obviously to see what's currently being done. Have you gotten that information?

MR. LOBUE: Yes, if you look back and see the document, Attachment 1 -- that should be on Page 5. My document is a little different than yours -- that's basically the results of that. Basically, I canvassed all the states.

If there's any problems -- I didn't hear from the National Marine Fisheries Service back on that so they didn't review that. But basically this is the result of compiling that information from all the

states. I didn't intend to go through that. If you want me to, I will. Basically, I wanted you to have it on record.

CHAIRMAN BECKWITH: No, you don't have to go through it now. We can deal with that later, but I just wanted to make sure it was here. Bruce.

MR. FREEMAN: Carl, in your report under the stock assessment update, that first paragraph, you talk about not being clear as to who is actually going to do the analysis. Is that still an unknown?

MR. LOBUE: That is still an unknown. We will be having a meeting on the 26th, and maybe some of that will be hashed out.

CHAIRMAN BECKWITH: I think one of the important things we have to do is get a stock assessment subcommittee chairman, and we're currently working on that. Once we get the chairman, I think then Carl will have some assistance and they can together determine who is going to do what or at least make the plan for conducting one.

MR. FREEMAN: Obviously, this is a very important issue, and I just hope it would be resolved.

MR. LOBUE: Yes. In the past it was the National Marine Fisheries Service who really did all the number crunching for the last assessment; and from what I understand, they just don't have the time this go around to do that.

CHAIRMAN BECKWITH: Jack did send a letter to Mike Sissenwine, requesting assistance for the stock assessment, and Mike did write back. Was that letter sent out to the Board members, Mike's response and Jack's letter?

MS. SCHICK: I don't believe it was, but I can send that out to the Board. It's my understanding that the National Marine Fisheries Service is intending to participate as much as possible in this lobster assessment. In the past, both Paul Rago and Joe Idoint were critical components of doing these analysis, as well as Bruce Estrella from Massachusetts.

My impression from all three of those people is that they are willing to participate in this assessment through the Technical Lobster Committee.

CHAIRMAN BECKWITH: Okay. I'll take Mark, Jill and then John.

MR. GIBSON: On this stock assessment, the last paragraph, would you expand a little bit on this charge from within the committee about examining historical trends in fishing mortality rates.

MR. LOBUE: Basically, that comes from what I'm hearing from you and from Vic Crecco of Connecticut, and I understand there will be two reports available to us shortly, which review Rhode Island's information on this subject and Connecticut's information on this subject.

I think that it may be useful to do a similar analysis with more extensive datasets that may be available from the State of Maine so that we're looking at a bigger picture of the fishery rather than just - - you know, basically we're a small section. We're more an exception to the rule so let's do a similar analysis with whatever data is available for the other area.

CHAIRMAN BECKWITH: Any other questions for Carl on monitoring and stock assessment? We are going to cover monitoring later on in the meeting. We had Jill and John.

SENATOR GOLDTHWAIT: Thank you, Mr. Chairman. There has been discussion before, but I don't know whether it took place in the Technical committee, about the possibility of sampling reporting rather than a report from every fisherman, particularly in Maine where we such a huge volume, and now that we have a zone system that covers our whole coastline, it would not be a difficult matter and there are willing fishermen who would report in from the entire coastline with good geographical distribution.

Was there discussion in the Technical Committee of that option, or has it been decided that this must be a report from every fisherman?

MR. LOBUE: Basically, if you go back to the first statement, there wasn't a consensus on this basically because of the State of Maine, and that's why we had left it to must comply with reporting requirements adopted by the states.

Basically, that's the information we need, and if you can come up with a way of getting it that's statistically sound and that it is felt represents an accurate picture of the fishery, then we're open to that.

MR. MASON: Yes, Mr. Chairman, procedurally what we've done, when ASMFC has been involved with a stock assessment, is that the stock assessment subcommittees of the various technical committees have been the ones responsible to do the assessment, which has then been peer reviewed.

Is that your current plan? The reason I'm asking this question is that as you know Carl works right down the hall from me so he and I have been talking about this, and we're all sort of trying to get an understanding of whether or not we need some outside help, what do people think? I guess maybe I'm asking Amy whether we need some outside help to beef up the stock assessment subcommittee from the current membership or if we still need to sit and think a little bit more and talk about that?

MS. SCHICK: It's our intention to follow the process for Stock Assessment Peer Review that was adopted by the Commission, and I have extra copies of that report if anyone is interested in looking at them. The intention is that the Stock Assessment Subcommittee will conduct the stock assessment and do all the analyses and prepare a report for peer review.

If the Stock Assessment Subcommittee is having a difficult time getting all the information processed, then the Board may want to consider, or the Technical Committee may want to consider adding more people to that Stock Assessment Subcommittee.

CHAIRMAN BECKWITH: We certainly have the ability to do that, and I would highly recommend that if the Technical Committee and Stock Assessment Subcommittee think they need that, then we should definitely proceed along those lines.

MR. MASON: Yes, I guess then my final request would be recognizing -- and I think we all do -- the importance of the 26th and 27th meeting, hopefully that all the various staff members from respective members of this Board who are going to have to provide information and be there, be given the ability to do that between now and then.

CHAIRMAN BECKWITH: And that's going to be at Woods

Hole, you said?

MR. LOBUE: Yes.

CHAIRMAN BECKWITH: Any other questions for Carl? Harry.

MR. MEARS: Yes, the issue of mandatory reporting or at least increased ability to have at hand data from the industry seems to be a very popular topic during our March-April hearings on our DEIS, and at that time we stress the importance of minimizing duplication for reporting, especially for permit holders that have both state and federal permits for lobster, and we continue to maintain that position in our current proposed rule, stressing the need to come to consensus on the reporting issue through the Atlantic Coastal Cooperative Statistics Program.

I would strongly encourage that rather than leave this meeting today with kind of an acknowledgement that there seems to be lack of consensus on how strong the need might be for mandatory reporting, it's really an important issue from my perspective as we go with forward with area management, and I'm just curious in terms of what the next step is to resolve this standoff on agreement concerning what the reporting requirements should be from the lobster fishery?

CHAIRMAN BECKWITH: I think we're going to deal with that later today, hopefully.

MR. MEARS: Okay, good.

CHAIRMAN BECKWITH: Any other questions for Carl on the two items he's covered so far?

MR. LOBUE: Okay, the next item that came up at the last Board meeting is the New Hampshire proposal for a two-tiered trap system. On January 4th a letter from John Nelson, as well as a letter from myself, was sent to the Technical Committee members asking them to reexamine the New Hampshire two-tiered trap proposal.

The question of whether this proposal met the conservation equivalency of an 800 trap limit with no limit on the number of available licenses was posed. Without the numbers of actively fished traps by each fisherman and without being able to predict the number of new license holders, it was not possible to quantify whether this proposal would meet the conservation equivalency of an 800 trap limit in terms of the number of traps in the water.

Regardless of this limitation, the Technical Committee was asked for a vote on this issue. Without a quantifiable criteria, however, the following votes and comments are based on opinions of the Technical Committee rather than the results of a quantifiable analysis.

There were a total of eight votes on the Lobster Technical Committee, seven states plus the National Marine Fisheries Service. There were five votes in favor. However, four of these members had some concerns about the proposal. These concerns are that:

1. The vote assumes that the full time/part time split of 70/30 is accurate, and they hadn't taken into consideration if that split would have been different.

The board needs to recognize that the limits on the number of traps

each fisherman can fish without limiting the number of fishermen does little to control the total effort in the fishery, and this is why the two proposals seemed equivalent to an 800 trap limit with no limit on the number of licenses.

New Hampshire, as well as all states, should seriously consider taking measures to limit the fishery to at most the existing number of licenses for all commercial license tags. In addition, if license sales are limited now and then become wide open again in the future -- for instance, if the fishery is not declared overfished anymore -- it could undermine any progress made by these initial effort controls.

Just an aside on this, I was just reading on the flight in that the Alaska Board of Fisheries in March '97 rejected a proposed trap limit on the Brown King Crab Fishery for this very reason that there was no proposal for a limit on the number of licenses.

There were several issues in that decision, but that was one of them. There were also some positive comments on the proposal. One, it closes the full-time category to new licenses and sets a ceiling for expansion from individual fishermen.

And two, it addresses the diversity in the fishery in terms of the scale of different fishing operations. There was one vote against the proposal because it could jeopardize the success and therefore the future reduction potential of the Area 1 Plan, which hasn't come out yet.

There was one abstention because a strong relationship between the number of traps in the water and the fishing mortality rate has not yet been established. And one state did not respond.

I see next on the agenda is action on this proposal. I just wanted to mention that when I read the addendum, we had talked the last time about changing the definition for V-notching, and I was told that that couldn't be put into the addendum.

There seemed to be some agreement at least with law enforcement and from up in Maine on doing that. I just didn't want the Board to forget about that.

CHAIRMAN BECKWITH: Any questions for Carl on the New Hampshire Proposal? Pat.

MR. WHITE: I don't know if my questions are appropriate now or when we get into the discussion of the conservation equivalency with Carl's analysis and into the discussion with Mr. Nelson.

MR. LOBUE: I'm going to put off the section on vents until it comes up.

MR. WHITE: Well, I'm not talking about vents. I'm talking about the --

MR. LOBUE: Well, I'm basically done if you want to move on.

CHAIRMAN BECKWITH: Yes, we're going to move right into it. Actually what I was going to do was give John an opportunity to make any additional comments, if he so chose, and then we will put the motion up. The motion that was deferred from the last meeting, we'll put up on the screen, we'll read it and then we'll take discussion, comments and questions.

MR. WHITE: All right, I'll defer my comments until after Mr. Nelson.

NEW HAMPSHIRE CONSERVATION EQUIVALENCY

MR. NELSON: Well, thank you, Ernie. I appreciate the Technical Committee taking the time to go over it more in depth, and again I apologize for not having been able to have a staffer at the very first Technical Committee meeting.

It probably would have avoided a lot of the confusion that arose, but I was at another meeting and my other person had already retired, so we didn't have enough people to send to all the obligations that we had.

Considering the other one was groundfish that I was at, I probably should have gone to the lobster one. But nevertheless, I think that the comments of the Technical Committee are pretty much on target.

Even though it was a five to one and one in favor of the proposal, they reflect the concerns that the State of New Hampshire and I'm sure other states have had, that, number 1, unless we put some limit on the majority of the fishermen that's below really what we have in the plan -- and I'm not criticizing the plan -- it merely will escalate the number of traps in the water.

And I think states that have already had the trap control limits in place have seen increases take place by the people that were not fishing that much before. As a matter of fact, according to the newspapers in Maine, the increase that they have experienced from those people that were not fishing up to 800, that increase is more traps than what New Hampshire could fish as a maximum.

So, that is a problem and I think that's something that we all have to probably look at in the future and see what we can do to try to limit that even further. We have tried for many, many years to close our fishery to new licenses, and it was only through the last legislative session that I was able to get basically a closure on the people that really are full-time fishermen. And, Dennis, if he needed to, could address that further, but unfortunately we have a lot of folks in our legislature. Number 1, unfortunately, we have a lot of folks in the legislature and also we have a lot of folks in the legislature --

CHAIRMAN BECKWITH: Freudian slip, right?

MR. NELSON: No, actually, I did state that. We have a lot of folks in the legislature that therefore have independent thoughts, live-free-or-die approach to life, which is not bad, but it complicates trying to control things.

And so we have not been able to get a full limitation in place for many years. And as we have in the plan, the plan does not call for that. But in recognizing that there is a need to avoid the stampede for more traps, that's why we put a lower level on the vast majority of fishermen, and I think that that is working.

So far we've only had about 25 full-time licenses issued, and basically what they have got to go through is they have got to bring in verifiable information and that includes -- it can include their internal revenue forms, and it has in a number of instances.

People bring in their forms and present them to us, and we've also

had their landing slips, go back and verified with the dealers to make sure there's no problems with artificial landings slips.

So, we have been very restrictive on that, and I think the message certainly is out. And as far as we can see, we're going to probably be below that 70/30 split. So, I think we will be more restrictive than what the plan calls for, and I would look in the future to try to do additional measures.

It was interesting, and it's something that the Board probably needs to look at or the Technical Committee probably needs to look at first, and that is the relationship between the number of traps in the water and fishing mortality.

And if that's not something that has a correlation, then maybe we need to revisit that, and I'm not advocating loosening trap limits, but I'm just saying maybe that's something that we're putting a lot of energy towards something that doesn't give us the real bang for the buck. So, I'll leave it at that, Mr. Chairman.

CHAIRMAN BECKWITH: Okay, Dennis.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. As John alluded, the New Hampshire Legislature was involved in the two-tiered lobster bill. The department, which the legislature doesn't always agree with, came forward with a bill in which they proposed to institute a two-tiered lobster license system.

We were not exactly pleased with that at the beginning, but many of the local lobstermen came to testify before our committee. And during the course of the testimony, by the time the testimony was all given and the bill was heard, I think there was only one person that was in opposition to a two-tiered license system, and he would have been one of the limited license holders who would be allowed only to fish 600 traps.

I think that we're providing limited entry. John has told you that there will only be 25 people in that category at the present time. I think this system should be given the opportunity to work. I think New Hampshire is a small state. I think you would have the opportunity over the next couple of years to see if it does achieve the desired results because we are such a closed area.

It was our desire and the fishermen's desire in particular to prevent a buildup of traps in the water. Many lobstermen came before us and in very impassioned speeches were concerned about coming down from their numbers of 2,000 traps, 2,000 plus traps, having to come down to 1,200 and see the water fill up with other people coming into the area and fishing it in gross numbers.

I know that figures and liars sort of either go together or they don't go together, whichever way you want to make it appear. But it appears to me that this year just in gross numbers we could minimize the number of traps in the water by 78,000.

When you go to an 800 trap limit, with our numbers as we have in our two-tiered system as proposed, we would still be on paper 18,000 traps below the required limit, and I think that's significant.

And again, we were ahead of the curve. We passed this bill last year in the legislature last spring, so we could have 83 percent of our fishermen fishing 40 percent below the requirements for this year.

The legislature is not in favor of keeping everyone out of the

industry. I'll not sit on a committee and say that we're going to limit entry. I think that if I decide tomorrow that I want to become a lobsterman, I think I should be able to become a limited lobsterman.

I just think that that's the way it should be. But I also think we have to conserve the resource and we'll take whatever measures that are necessary in that regard. And I think I'm speaking for the entire legislature that doesn't want to be frozen out of the system.

And I can't remember who in the back said yesterday that the value of the license becomes a greater thing when you start limiting the entry. So, I would ask you to go along and give New Hampshire the opportunity for the next couple of years to try this system.

We passed it into law. I've reluctantly given -- I won't say I, but the legislature has given John Nelson the authority to manage the license holders, allowed him to set the trap limits to keep in conformance with the Atlantic States regulations, and I think that we can do that very well and prevent a buildup in traps that we saw in our neighboring state. Thank you very much.

CHAIRMAN BECKWITH: Okay, I had Phil and then Carl had his hand up.

MR. COATES: Thank you. I guess I got an answer to my question with regard to the lower tier, the 600 maximum. This is an open access fishery. I do have some serious concerns about that. I just note that probably -- I don't know about Maine, and we haven't done a recent survey in all honesty, but I believe that the average number of traps fished by the 1,200 or so active lobstermen in Massachusetts is well below 600.

I think it's on the order of about 450 with obviously a very wide range and probably the same kind of tiering as seen in New Hampshire. We attempted to implement basically the Canadian type of tiering that John has now implemented some years ago and didn't meet with success with it.

It's a desirable way to go, but I think that one of the things you're going to have to look at is certainly the issue of allowing open access at the lower end, particularly at 600 traps which is something that we'll probably be looking at is the lower or the upper limit for everybody within a few years, based on the knowledge that we have gained from our Canadian neighbors and others that indicate that even 600 or 400 traps is probably, in terms of having any meaningful effect on fishing mortality, probably limits that are far too excessive.

But, at this point I will have to confer with my colleague to my right, because I know he has some concerns. But I understand that the Technical Committee passed this with some of the reservations that I've just expressed.

And I think, because of the fact we abut each other, even though we did, Maine and Massachusetts were unsuccessful in creating the so-called triangulation effort there to delineate the boundaries for Areas 1 and 1A. I understand that this is a step in a positive direction.

CHAIRMAN BECKWITH: Carl.

MR. LOBUE: I would just like to ask Harry and Bob maybe if they could point out -- I've tried to digest the federal plan last night, but I think that it's basically a moot point for any New

Hampshire license holder who is also holding a federal permit? Is that true?

MR. MEARS: It certainly would be very troublesome to what's being proposed in the proposed rule in terms of area management.

MR. LOBUE: They would be restricted to 800 traps as of the year 2000, if they hold a federal license and fish in Area 1?

MR. MEARS: In the year 2000.

CHAIRMAN BECKWITH: Okay, I had Bill Adler, Pat and then George.

MR. ADLER: All right, my concern here, several concerns -- first of all, are there any provisions that would allow the guy in the upper level to move down or the guy in the lower level to move up in a tier system -- I don't think there is -- where a guy can build up to being a big guy from a little guy? Is there any provision in that?

MR. NELSON: The way the law is worded is that after this year the upper level, the full commercial level is frozen. There are no new entrants that can get into that for a five-year period.

After the five-year period, we are able to open that if the fishery is declared not overfished by the National Marine Fisheries Service.

MR. ADLER: And is there any criteria that one of these, the closed access, the big ones would fall out of that if they don't do something and be --

MR. NELSON: No, if they want to -- if they don't want to fish, we don't care. We have no problem with that. There's a certain amount of attrition, obviously, that can take place there.

There's not a lot of, if you would, people younger than myself in that category, and so there's attrition that will take place over a period of time and that number will be decreasing.

And as far as to Phil's point on the number of traps, because we now have the ability to do it through rule making, we can make adjustments as need be over a course of time to address that level if we need to.

MR. ADLER: All right, and my other concern is that I can vision this scenario of adjusting the trap limit as almost a conservation equivalency maneuver is going to probably bring in our state the idea of, well, can we do conservation equivalency to the V-notch by eliminating and being able to take the V-notch and in place we'll do one of these scenarios of the 2-, 3-, 4-tier system on traps.

I'm just using that as a example of, well, if we can substitute all our measures that we don't like with conservation equivalency ideas, then open the door because we've got a few, and so far that hasn't happened, but I can envision this opening the door to that type of a disaster, actually.

MR. NELSON: Yes, I understand that, and we've tried to take that type of thing into consideration. The reverse of that, though, is, especially in Area 1, we're going to be looking at some austere measures to deal with our egg production level, trying to get it up to the level that the plan calls for.

And unless there's some innovative ways out there, you know, that conservation equivalency allows people to really think and come up

with creative measures, you know, we're looking -- what else have we got except for gauges increases, and I can't think of anything else, quite frankly, right now, but maybe other people have other ideas.

And I think conservation equivalency is something that has always allowed people to think freely and then we can try to mold it into something that is agreeable.

As Dennis said, this probably is a good example on a very small scale when you consider Maine and Massachusetts effort. This is a very, very small scale and can be looked at as let's see what happens with it and how it works out.

CHAIRMAN BECKWITH: I've got Pat, George and Phil, but before we go, I've got a thought I just want to throw out on the floor. I'm not looking for reaction, but just a thought to put in the back of your minds as we think about this issue and discuss it.

Dennis said let's give this a try, and in the State of Connecticut in some cases where we have things that are new and controversial and different, what we do is implement them by regulation, but the regulation sunsets so it causes us to review it and then have to take some action at that point if we want to continue or change it.

I know we've never considered this kind of thing for Commission plans, but now perhaps this is an alternative that might work here, allow New Hampshire to do it for a two- or three-year period, and at that point it will be reviewed and it has to be approved by the Board again at that time if they want to go forth. But that's just for thought. Pat.

MR. WHITE: A question first, if I could, John, is this trap limit by boat or by person?

MR. NELSON: It's by person.

MR. WHITE: First I all, I would like to applaud the State of New Hampshire on what they have done on this. We've tried very hard to have this kind of discussion in Maine and haven't gotten very far with it, and yet I truly think it's a solution to a lot of our problems.

I have very serious concerns with the New Hampshire plan in the numbers that they are proposing, and I have had quite a few calls from some of the fishermen in New Hampshire who originally felt they did support this, but now see the ramifications of it, and I think supportive of a tiered-license system but are concerned about the numbers.

It was felt, and I guess the numbers so far validate what they are talking about, that there were about 25 commercial fishermen that would indeed have to come down from 2,000 to 1,200 traps, which would be a savings of about 20,000 traps in the water, but if only 34 people then were allowed to increase from the 600 to 1,200, that would negate that totally.

I'm concerned about the trap limit being per person because any one of those licensed fishermen can then have one or two sternmen at 600 traps apiece and not reduce their numbers in the water any at all.

And finally, I'm really concerned about being the neighboring state in an area that has a problem yet undefined, but we are now coming down in the southern part of Maine to the 800-trap trap limit, fish

very close to the New Hampshire people and in fact interact with them in many areas, and I think it would set us back in Maine.

As small an issue as this is maybe in New Hampshire, it would be a very severe issue with us in the State of Maine. To get at Phil's point, I think our state average in the State of Maine is 487.

And as I say, I think the New Hampshire people that called me were in favor of a tiered-license system, but they were concerned about it starting at 12. They would rather see the commercial people at 8 like everybody else is and then a smaller number for the part time or whatever the other term is for the lower limit.

CHAIRMAN BECKWITH: Okay, the next person on the list was George.

MR. LAPOINTE: My concern about the New Hampshire proposal is one of perception, and Pat mentioned it a bit. Although New Hampshire says they are a small state, they are an equal player in our management process and small issues can become big in the perceptual sense.

And as Pat said, this will make action in Maine and in Massachusetts I suspect in regard to Area 1 harder to achieve because of the perception of fairness. Again, New Hampshire compare themselves to Maine, but if you just compare them to York County where Pat fishes, they are more on an equal footing so that's going to cause us some trouble down the road.

CHAIRMAN BECKWITH: Phil, you're next.

MR. COATES: Thank you. The more I hear about this, I'm not saying I'm getting more apprehensive, but it raises more questions. John, you said after this year, the number of the 1,200 permit category is frozen. Does this allow everybody a chance to perform at the higher limit and then move into the higher category, or are they frozen?

MR. NELSON: No. The qualifying time table period was from '94 to '98, two of those years they had to meet the landing qualifications, so they either meet it during that timeframe during this year.

Let me rephrase it so it's clear. We plan to issue the number of licenses during '99 for that full- time category based on the '94 to '98 requirements being met.

MR. COATES: Okay, and you're expecting that won't be more than 70 individuals?

MR. NELSON: And I think that's the high number.

MR. COATES: That may be a high number so that number is capped. Okay, well, that reduces some of my concern. And these folks, under the current rule, will be frozen for five years and then if the lobster resource is still overfished?

MR. NELSON: It stays frozen.

MR. COATES: It stays frozen so those that are hanging on to their permits and there's no performance standards once they are in the category, so if a guy is winding down with the expectation he might be able to sell his permit -- and these permits are transferable, I assume?

MR. NELSON: No.

MR. COATES: I'm sorry, that's true, they are not transferable, so they would attrit.

MR. NELSON: The attrition would take place in that category. If they want to drop out of that category and go into the limited, they are able to do that.

MR. COATES: They could go into the 600 --

MR. NELSON: The smaller one, the lower level, yes.

MR. COATES: All right, that makes me a little less uneasy. And I realize the issue of neighbors fishing in the EEZ portions of Area 1, and I also realize you will be constrained.

But, I think my biggest concern would be the number of permits on a vessel because you're basically, I believe -- and we have a problem we have to fix in Massachusetts, interestingly enough. The way that the rule reads, the plan is it's per vessel, so you may have a consistency or a compliance issue that transcends the concerns about the numbers, per se.

MR. NELSON: You know, if there's some adjustment that needs to be made, I think we can deal with that. I think it's also important to just keep in mind the increase that we've seen in other states, and maybe their overall average is, you know, four or five hundred or whatever, but it was well below that before.

And, as I mentioned before, the increase alone of that is more than what we could possibly fish as our maximum number of traps. I mean, we couldn't even put that number of traps in the water legally. So, I mean, that increase, if you hadn't done that, that's adding another State of New Hampshire to the fishing effort out there, and obviously that's not being helpful.

So, this is an effort to try to prevent that type of escalation. I note that, as Pat had noted, Maine has tried to look at having a two-tier system very recently, and I guess there's still some discussion of that happening, and I think that's a proactive approach and maybe this will help that approach in the future.

MR. COATES: I think the point you made about the increases in the other states is one that should be documented in terms of a table that could be provided to the LCMT for the next meeting. I think that would be very revealing.

You know, it's difficult for the pot to call the kettle black in this regard because we know what's gone on in Massachusetts, and we certainly have heard rumors about what has happened in Maine when the opportunity was afforded.

I guess the first-year people bought tags equivalent to what they had fished, and then the next year they realized what the implications were. That's what I heard. I would like to see one way or the other that question raised or answered.

I know Joe has some insight into that. But anyway, my concern would be this permit, the number of traps on a vessel, and if you have the regulatory authority now to address that, because that well may be a compliance issue, then a lot of my concerns are allayed, recognizing you still have this 70 or so individuals out there theoretically exceeding the limit.

But, you know, if it's conservation equivalency, I think we have to understand that there is an overall goal within this whole thing that we need to meet, and I personally think we'll be revising these

numbers significantly downward, anyway.

And if you have the regulatory flexibility to deal with that, you've overcome a major obstacle with regard to this kind of problem than not having that regulatory flexibility, because that's a significant issue.

MR. NELSON: If I could, Mr. Chairman, just briefly. You know, certainly, again, we would look to address any particular issue like that that comes up, and I think that is certainly a valid one to look at.

The other thing to keep in mind, now that the federal plan is out, the proposed plan is out, of the folks that are fishing the 1,200 traps, obviously those are the full-time fishermen. We have cut their effort. Now, other people can build up, but it takes time for those folks, the part-timers to really gain that type of insight on how to fish, and so I think we have alleviated a lot of pressure by reducing the ones that really know how to catch lobsters.

And as Harry has mentioned, whatever comes out of the federal plan -- and we still need to send our comments in on that for consideration -- but, if a person holds a federal license, they may very well be restricted to a lower level. And, quite frankly, those are the guys that are in our major category, so it may be a moot point as far as how many actually are going to fish unless they want to give up their federal license.

CHAIRMAN BECKWITH: All right, we've spent time on this issue at the last meeting. We spent quite a bit of time on this issue at this meeting. We have to bring this to closure. We have a lot of other issues to debate today.

I have got six and now seven people that have raised their hands to talk on this issue. I would say that unless you're bringing up a new perspective or have a different comment than what has been previously made, let's not do that. Is there anyone who hasn't spoken or has a different view or different point, I'll take those people. Ralph.

MR. MALING: We haven't had an Advisory Panel meeting for quite a while, but when this issue first came to light, I was in contact with a number of advisors, not just in Area 1, but New York, too.

And, when I talked to them about this, none of them were in favor of it because they feel that it's an inroad into destroying the plan in a way, because if you agree to do this in one state, Massachusetts is going to have the problem, New York is going to have the problem, and we spent a lot of time working out this 800 trap.

We batted heads with the federals who wanted it even lower, so we feel the 800 is a fair situation. And, we don't know what the future holds, and if we turn around and we say, well, we'll try it for a couple of years, supposing it doesn't work, and we're back and we've lost?

So, we've got a plan. We should go through with the plan that we have. We shouldn't vary it at all in order to see what happens. One more comment I just want to make, that the advisors that I talked to were dead set against this plan.

CHAIRMAN BECKWITH: Is there anyone that hasn't made a comment or has got a different view or perspective they would like to make? I'm trying to reduce the numbers, and we've got five

people with their hands up.

I'll tell you what, I'm going to break at ten o'clock, and I'm going to call for a vote before ten o'clock. I'll give you five minutes, okay? That's the cutoff. I think we've debated this enough. Let's start the list over again. Okay, Dennis, Pat and we'll go around the table. Five minutes.

REPRESENTATIVE ABBOTT: Just a quick comment that I would like to make. The State of Maine, Pat, commented that he's talking to New Hampshire lobstermen, and I'm sure he has talked to New Hampshire lobstermen, but New Hampshire lobstermen should be talking to New Hampshire people, and we haven't heard from New Hampshire lobstermen opposed to this plan, to my knowledge.

So, I think that New Hampshire should be involved in New Hampshire's business, and I would also ask the advisors did you vote on this? Is this an advisors' position or is this just your opinion from random conversations with various people? It makes kind of a difference, Ralph.

CHAIRMAN BECKWITH: The next one was Jill.

SENATOR GOLDTHWAIT: Just two points. One is we're not entirely sure in Maine what the data on the alleged buildup is, and we in fact have some data that indicate that it is not what the common understanding is, and we're working to develop more detail on that.

The other is according to my calculations, this New Hampshire plan would yield a potential average of 740 traps per person; and if Mr. Coates' information is anymore close to accurate there, it's something in the mid to high 400's now, so there would be that same opportunity for an almost doubling of their effort or at least their traps in the water.

CHAIRMAN BECKWITH: Mark, were you next on this?

MR. GIBSON: Well, the tabled motion implies to me that there is a conservation benefit associated with Amendment 3's default trap schedule. I'm not aware of any information in Amendment 3 or that has been developed by the Technical Committee that shows that there is a conservation benefit associated with that trap schedule.

That is a reduction in fishing mortality. I'm not aware of any information anywhere, worldwide with crustacean fisheries anywhere, that the trap limits, once imposed, will reduce fishing mortality once the fishery is exhibiting a saturation effect.

So, there seems to be no conservation benefit associated with the default measures. Therefore, the point of whether it's a conservation equivalent is a moot point. I'm going to vote for it simply because it gives New Hampshire flexibility in managing their fishery.

CHAIRMAN BECKWITH: Okay, Bruce, did you have a comment?

MR. FREEMAN: Yes. John, relative to the regulatory authority that you have, are there provisions in that that you have a goal that if in fact your analysis is incorrect and you get a tremendous surge, can you then stop this, or is there some way you're going to monitor this to make sure what you believe will

happen will indeed happen?

MR. NELSON: Well, as far as the number of participants in the various categories, is that what you're asking?

MR. FREEMAN: Yes, well, I understand, as you indicate, the cap of the 70, but as I understand it, you're saying about 230 or so would be in this part-time category. Let's say the 70 stays stable or even is reduced and that 230 now becomes 500 or 600, are you prepared or will you take action?

MR. NELSON: Well, I have been trying to achieve that controlled entry again for over ten years, and this is the closest I have been able to get right now. As far as the math aspect goes, I mean, if 70 is the right number for those people that are going to fish more than 800, and you keep increasing that bottom layer, then, yes, you're putting more traps in the water, and obviously we want to try to restrict that if we can.

But mathematically we still come under the 800. We would be lower because 600 continually would bring it down. So, I say just from the standpoint of math, but I understand what you're getting at, and we would be monitoring it and trying to see what else we could do through the legislature. I would have to go through the legislature to limit that.

MR. FREEMAN: I understand. Dennis, a quick question to you. So far as the legislature, realizing you can't speak for them, was it really the reason for this relinquishing of your authority towards the management agency to allow the flexibility to try this out? Was that one of the underlying themes?

REPRESENTATIVE ABBOTT: It was principally so that we could stay abreast of the Atlantic State regulations to allow John Nelson to react by himself without legislative concurrence to stay at or better than the Atlantic States regulations.

And I think that, you know, we're obviously going to be able to do that quite easily. It's to stay with Atlantic States.

MR. FREEMAN: Well, I would comment that I know this is a controversial issue, but I would take the approach, one, we have the same problem with the legislature, and the fact that now the legislature is willing to have the agency to do that, I think is certainly a great benefit.

And, I would agree, this perhaps is an experiment, but it's something that may turn out to be very beneficial and perhaps, at least for the short time, allow this to occur to see what indeed does happen rather than speculate about it.

REPRESENTATIVE ABBOTT: If I may, as a legislator, I am reluctant to give the department regulatory authority. I've learned that through my brief years there. In fact, we gave John the authority to set the striped limits, and he came before you last year asking for a 28-inch limit.

And we had public hearings and the public hearings went along with that position, and then the political appointees in his department blew us right out of the water. So I said why should I give the department regulatory authority when it's just passed on to some bureaucrats that won't listen to the right thing. So, yes, I don't particularly like giving them regulatory authority, but I trust John.

CHAIRMAN BECKWITH: Boy, John, you did a great sales

job. Okay, we've pretty much run out of time here. I think we've heard

MR. MASON: Mr. Chairman, just to set the record straight, the New York fishermen are capping their effort. They are not having to reduce according to our current proposals. So, I guess it was just one man's opinion because I think as it was clearly pointed out, this was not an Advisory Committee position. But the New York fishermen are not impacted directly.

CHAIRMAN BECKWITH: Okay, I'm going to give all the states 30 seconds to caucus and then we'll call the vote. Okay, is this a really important point, Phil, because –

MR. COATES: I just want to ask John. I don't want to put John on the spot, but the point I raised about the vessel limit versus the trap limit I think is a very significant issue.

In looking at all the trap limits, they are all per vessel, per vessel, per vessel, and the question I ask John is will you address this concern that in fact the 1,200 traps is a vessel limit and not a person limit under your regulatory authority? If you do that, then I will –

CHAIRMAN BECKWITH: Can I respond to that? That is an issue that's on this agenda and we're going to talk about that because some states license the fishermen and not the vessel, so the Board is going to have to come to grips with that. So, it could change.

MR. COATES: Okay, he's agreed, he said he would.

CHAIRMAN BECKWITH: Okay, I think we're ready to vote on this. Amy, would you call the vote, please?

MS. SCHICK: I think before we call the vote, I'm just going to read the motion into the record. **The motion states move that New Hampshire's proposal to substitute the 800 trap system with a two-tiered system of 600 and 1,200 traps meets the conservation equivalency provisions of the plan and is therefore approved.**

The State of Maine.

MAINE: No.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Null.

MS. SCHICK: Rhode Island.

RHODE ISLAND: Yes.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes.

MS. SCHICK: Delaware.

DELAWARE: Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: North Carolina. (No response) National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

MS. SCHICK: The vote is seven in favor and three opposed.

MR. MASON: No, Massachusetts was a null.

MS. SCHICK: Oh, I'm sorry.

MR. COATES: Yes. Is that the first null that's been cast under the new system?

MS. SCHICK: The vote is seven in favor, two opposed and one null vote.

CHAIRMAN BECKWITH: The motion passes. All right, let's take a 10-minute break and be back at 10:10.

(Whereupon, a short recess was taken.)

CHAIRMAN BECKWITH: Okay, let's get started. One item is not on the agenda that I'm going to put on the agenda because I think it's important for us to do, and that's there should be a Commission response to the NMFS Proposed Rules.

I assume that the states will be providing their own letters of comment to the National Marine Fisheries Service, but I think there should also be a response from the Commission.

Obviously, we haven't had adequate time to really read the proposals thoroughly, and it would be very difficult for us to solicit any kind of comment today. What I would propose is that you gather your thoughts, after you read the document, call them into Amy, or FAX them to her.

We've got 30 days to comment, and, Amy, what kind of timeframe would you need to turn all that around, a week, week and a half, two weeks, what do you think?

MS. SCHICK: Once I have all of the comments in, it could take as little as a day.

CHAIRMAN BECKWITH: Okay.

MR. LAPOINTE: The 1st of February, does that make sense?

MS. SCHICK: That sounds good.

CHAIRMAN BECKWITH: What did he say?

MS. SCHICK: The 1st of February.

MR. LAPOINTE: I just suggested the 1st of February as the date to get comments to the Commission. That gives you ten days to turn it around.

CHAIRMAN BECKWITH: Okay. And, Harry, you had mentioned what the deadline was for the comments. I forgot what it was.

MR. MEARS: Thirty days from Monday, so right in the vicinity of February 11th.

CHAIRMAN BECKWITH: Okay, so if you get all your

comments to Amy by February 1st, that's the cutoff date. I assume that falls on a working day. She will turn it around and get it out before the cutoff.

Actually, what you're going to have to do is probably FAX us back your draft of the letter so we can take a look at it.

MS. SCHICK: I'll do that.

CHAIRMAN BECKWITH: It's kind of tight, but, okay, I'm sure we'll make it happen.

MR. MASON: Is there any possibility to ask for an extension of the comment period, Harry?

MR. MEARS: I'm not saying it's not impossible, but we're on a tight timeframe here where the implementation date for the new regulations would be May 1, so certainly we would consider that request. I'm not sure what the response would be. It's been done in the past.

CHAIRMAN BECKWITH: Two questions, how would we do that officially, what organization would do that, and how long of an extension would you consider?

MR. MEARS: Allow me to get back to you on that.

CHAIRMAN BECKWITH: Okay, this week before we leave?

MR. MEARS: Yes.

MONITORING AND REPORTING

CHAIRMAN BECKWITH: All right, the next item on the agenda is Item Number 11, Monitoring and Reporting, and that's Section 4.0 in the Management Plan. And what Section 4 essentially did, what it says is the Board for action on this measure until ACCSP comes forward with their recommendations for a coastwide program, and maybe John can give me a little help on this, but I believe ACCSP has completed that part of their work and they have recommendations.

And my assessment of them is they provide broad direction but not very species specific on what should be achieved for each species.

MR. MASON: That is correct, there are several different reporting forms recommended in the document, the name for which escapes me right now, but one of them was something related to high-volume fisheries in which -- it was modeled I believe, to some degree, after the New Hampshire reporting system, if I'm remembering correctly from a year and a half ago.

But it's a one page form that's submitted on a monthly basis with a day allowed for each trip or a line, rather, allowed for each trip within that month, so that the format is there if people are in a position to start trying to implement it.

CHAIRMAN BECKWITH: Yeah, I think that going forth with Addendum 1 to this plan, we definitely have to have proposals in there for fishery-dependent and fishery-independent monitoring. This is one of our most important fisheries and we really cannot manage that without adequate data.

I would also point out that currently we're managing it through the egg production model, and that's a hypothetical characterization of

where we are, and in order to determine the success of our programs we really have to monitor what's actually going on with the resource, with the stock and population, in addition to collecting the fishery-dependent information. John.

MR. NELSON: Ernie, then, for the addendum, are we planning to list as an example of what type of monitoring and reporting that we're considering that Carl has outlined here so we can get public comment on that? I think Bill brought up the point that the industry needs to provide comments on this, and it would seem that going to different groups would be a good idea but also if this is outlined in the public hearing document for the addendum, that that would also generate a lot of input.

CHAIRMAN BECKWITH: That's what I was hoping to do. I was hoping to include something in the document so people can react to it. I don't know whether you want to include the kind of things Carl has outlined or the detail, or, you know, provide a more generalistic approach to it, but it's something that I believe should be in there.

And I think there should be something for fishery-independent monitoring also. It's absolutely necessary to know where we're going, especially in view of how we're managing the fishery.

MR. NELSON: Well, on the fishery-dependent, then could I suggest that we do put this type of detail in there that Carl has suggested for the reporting?

CHAIRMAN BECKWITH: We can certainly do that, yes, if that's the kind of detail that we want to get reaction to. Some of the stuff is very specific, extremely specific. And this is based on a monthly reporting system?

MR. LOBUE: It's not as specific as the daily log that ACCSP is proposing, which I believe all of you had approved at some point.

CHAIRMAN BECKWITH: Okay, George.

MR. LAPOINTE: Should we include the data, fishery-dependent data section, I would request that we put in some language about if in fact you're doing monitoring, subsampling as Maine is doing right now, that there be some discussion about how the Technical Committee will grade that, because it will show people that there are alternate ways to get the data we all know we need.

CHAIRMAN BECKWITH: Yes, I guess I'm thinking about two different issues. One is the data that we need and then is the approach on how we go about doing it, and obviously we need to get reactions to both of those things. I guess at the moment I'm unsure of how we should structure that for this addendum. John.

MR. MASON: From my perspective, Mr. Chairman, what George is proposing is almost like looking in one fishery at the two systems that we currently have operating coastwide; in other words, the comparability between the commercial data collection system and the MRFSS.

MRFSS is a statistical sampling design, and ACCSP has accepted that for recreational data. It seems to me what George is proposing -- and he can correct me if I'm wrong -- is that maybe within this fishery there needs to be a range of census versus sampling as long as we can have some technical measuring stick to determine that

the sampling program gets us to the same place that we need to be to make the decisions.

And I certainly think that that kind of flexibility is something we ought to at least give a try to, because let's all remember that ACCSP doesn't insist that we be there. It just encourages us to get there as soon as we can.

CHAIRMAN BECKWITH: Yes. Obviously, that's a technical issue, and the question is can you get the precision in the information that you need through a sampling program. I don't know, have you guys ever talked about that, Carl?

MR. LOBUE: Well, I don't know if this is my opinion or the Technical Committee's opinion, but if you had a baseline so that you can categorize your fishermen and then statistically sample from those different categories, then I think that a program like that could work.

Going blind without some sort of -- you know, it might be more than port or county. It may have to do with full time, part time, size of boat. But once you have that information, maybe one year of collecting it, and then statistically subsample from that, I think a program like that would work out.

CHAIRMAN BECKWITH: Well, what I'm getting a sense for is perhaps in the addendum we should include the type of information we would want to collect, the frequency and what not, and also have some alternatives for the approaches to collecting them, a logbook system versus the other -- I won't say extreme, but another alternative is the census, a periodic census of some sort. Is that the way the Board would like to proceed? I see one head nodding.

MR. LOBUE: Might I just add if Maine fishermen are reporting with dealers already, you know, I think there's conservation equivalency, so to speak, ways of doing this, but we need this kind of information. You can't get the fishery information from dealers, so, you know, something needs to be worked out.

CHAIRMAN BECKWITH: Okay, you raised another question. We're going to look at samples to collect information from both the fishermen and dealers, both?

MR. LOBUE: That's how it was outlined in ACCSP, I suspect.

CHAIRMAN BECKWITH: Yes. John.

MR. MASON: Yes, I think all the states involved in this plan are basically in the northeast area where it is a two-tier system, where we are asking all the fishery management plans I think that apply in that area for reporting from both fishermen and from dealers.

And, again, I guess I would encourage Amy to get together with Connie to get samples of the dealer reporting form and a fisherman reporting form that would apply to this fishery and put them in the addendum so that at least the recommended ACCSP form -- we don't require everybody to use that form, but at least it's a strawman for people to look at.

CHAIRMAN BECKWITH: My understanding is once we approve this addendum, the structure monitoring program becomes a requirement that the states will have to meet, and setting up a

dealer monitoring program or whatever, you would have to take whatever action that would be required, regulatory, statutory or whatever, so I just want you to be aware of -- I'm sure you are, but just be aware of what this means.

MR. LAPOINTE: That would depend on whether it's a compliance measure or not, would it not?

CHAIRMAN BECKWITH: We would have to determine if it would be, but my personal opinion is -- well, I'll just leave it. I mean, data is at the core of everything. If you don't have that, you can't manage. Yes, we would have to specify that.

Okay, how should we include monitoring in the addendum? Any ideas on approaches? With a fishery dependent, we can utilize the list we have here as an example of the kind of information that would be collected, and then we could specify a couple of different alternative approaches to collecting that information.

MR. MASON: Ernie, I just have a question of Carl. It looks like the last two bullets, what percent of your total monthly landings came from each area, and what percent of your gear was fished in each year, could be determined by the centralized data processing system once the raw data had been provided by the fishermen.

In other words, the state, whoever was processing the data could determine those last two bullets based on the data that the fishermen provided to them on a monthly basis, right?

MR. LOBUE: Yes, you just need to ask the fishermen.

CHAIRMAN BECKWITH: George.

MR. LAPOINTE: My approach to this, Mr. Chairman, would be to keep this section on monitoring rather simple. It would be to talk about the different ways of collecting data, what kind of data the Technical Committee thinks we want, both fishery dependent and fishery independent, because when people see a public hearing document, they aren't going to be pouring through the data and argue about statistical methods or something. I know when I sat on the South Atlantic Council and we had public hearings about ACCSP, we got very little participation because it's not that big a deal for people. People are going to want to know about size limit increases and vent sizes.

And so, I wouldn't spend a lot of time wrestling with this. I would give the Technical Committee some discretion to put together a list and then just go with it.

CHAIRMAN BECKWITH: Okay, Phil.

MR. COATES: Could I back up just a tad there? I noticed something that just caught my eye here with regard to the limits or the limited number of options that the Committee agreed to with regard to getting data from fishermen, and I note they noted mandatory compliance with at-sea observers and a mandate that the fishers must participate in the observer program if asked. I assume they discussed some options. There are significant issues that arise when you require people to take on observers, and we have had a lot of experience in this arena with our observer program, both one that's very intensive over many years with the cooperating lobstermen, and another one that we used to get information from other fisheries that we're involved in.

In some cases we can certainly tie that into a mandatory requirement since these people are asking to do something and create an exception to a given situation, and we say only if you allow observers as opposed to just going on randomly and saying as of, you know, such and such a date, you will have to take an observer out.

And the main issue that comes up is the liability, the potential liability issue, which in our state have discovered there are certain limitations as to how far we can take that assurance to the fishermen that there's no liability, you'll be protected.

It vaporizes very quickly in the face of potential litigative reality, and I'm just wondering if we could modify that a little bit and maybe discuss -- because I believe you can get representativeness in a fishery through cooperating fishermen rather than through mandating observer coverage.

MR. LOBUE: Can I just respond? Basically, the point to this was not to force ourselves on to boats that are unsafe and you wouldn't want to go on anyway. There are some situations where lobstermen belong to organizations which are very against, the organization's standpoint is against management, but the individual lobstermen would be happy to take you, but necessarily won't because it shows he's cooperating. He doesn't want to show that he is cooperating.

It allows you to get on some boats you might not otherwise get on. In the federal plan it's very detailed on how many times they ask you and what the criteria are, and, you know, something similar to that could be worked out. I'm not sure about the liability of being on a boat.

MR. COATES: Well, I think you'll find that that's an issue that rises far above in terms of the concern. In the Federal Observer program, the contractors that are involved in the Federal Observer Program are covered by a liability policy, which takes care of any third party litigation potential.

We can't do that in the Commonwealth. We're constrained, unfortunately. We've tried a number of ways to get at that. Some states may have more flexibility, but it's an issue that needs to be understood that the litigation issue could rise far above the mandatory compliance issue.

CHAIRMAN BECKWITH: Can I just ask Carl a question? Monitoring on Page 2, either I don't see it or it isn't here. Is there anything here for like to monitor the relative abundance over time; like, you get catch per effort from the fishery-dependent information but how about from the fishery-independent information?

MR. LOBUE: In Attachment 2, which is the last page of that, I briefly talk about fishery-independent data. This came from phone conversations with Technical Committee members and E-mail and such.

CHAIRMAN BECKWITH: Well, yes, that's what they are doing. What I was asking was what is the Technical Committee's assessment of what's needed?

MR. LOBUE: I talk a little bit in there about trawl surveys. There is an ASMFC proposal to add two new boats to inshore trawl surveys for the Mid-Atlantic and Northeast. You know, if that's

true, we just state that they should be somehow coordinated before they come on line so that that data can be incorporated with the Fishery Science Center Offshore Trawl Survey and the other ongoing trawl surveys.

As you all are aware, there are problems with using trawl surveys for lobster, and we briefly explored the possibility of using trap surveys. A coastwide trap survey would be very expensive and probably the cost would be prohibitive.

Basically, you would need several full-time lobstermen doing nothing but pulling traps for the government. But there is the possibility of maybe utilizing small localized trap surveys to supplement the trawl surveys, and that would just need to be explored further.

CHAIRMAN BECKWITH: I would hope that eventually in this Amendment 3 we end up with tables like we have in most of our other plans where for each state there is a listing of what -- well, actually, it's based on what they are currently doing, and you can include that.

But, obviously, when we do that, there could be some holes in there, but have the table that really clearly spells out what the monitoring requirements are, so we know that we're collecting the kind of information we need, and that becomes a requirement for states to do.

Some states may be already doing most of that stuff, and perhaps in some cases there's a need to require some states to do something that's currently not being done.

MR. LOBUE: If you look at Attachment 1, that's basically what that is, it's a general outline -- it's not that detailed -- of what the states are doing, and I have a pile of their annual reports and such. They are big. It's difficult to summarize.

CHAIRMAN BECKWITH: I guess what I'm saying is take all that and put that into a monitoring program table so we know what the states have to do. It's based on the technical people and the stock assessment people tell us they need to --

MR. LOBUE: I originally set out to do that and there's a lot of apprehension from Technical Committee members. Let me just give you an example of what goes on in New York. We had a fairly extensive sea-sampling program. We lost some staff. We basically don't have one right now.

Most of the Technical Committee, not all of them, were very apprehensive about putting anything detailed like that in the plan for fear their technician would quit and they wouldn't be able to fill the position, and then they would be out of compliance and their whole fishery could be out of compliance because of the loss of a couple of staff people. So, I had some difficulty getting something like that, shad, river --

CHAIRMAN BECKWITH: I understand that, but that's a local problem, that's a state problem. I think at the management --

MR. LOBUE: It exists in almost --

CHAIRMAN BECKWITH: -- level, we have to look at the data requirements for the program, and then the Board is going to have to decide how they are going to deal with particular problems in states as to whether they can or cannot comply with the

requirements.

But we need the information from the Technical Committee in order for us to make our assessments. Bill.

MR. ADLER: I just want to get it on the record what Phil brought up, that the liability situation needs to be addressed by the Technical Committee that's going to do the monitoring so that when they come and say to the fisherman we want to take you out, or we want to go out with you to do some tests, that you've got the answers to those when he asks, like, are you covered for PNI because I'm not covering you type thing.

And the second thing is the Coast Guard requirements for safety equipment, you might have to bring your own safety equipment with you to be in compliance with the vessel safety rules because things like an immersion suit or something, he may have two and you're the third person, et cetera, et cetera.

So, as long as you're ready with those answers, look them up in advance, so that whoever is going to do the monitoring and approach a fisherman will have the answers to that, I think it would be good.

MR. LOBUE: I just will need to consult with some sort of lawyer from each -- a counsel from each agency or something to answer those liability questions. Biologists aren't going to be able to answer that.

MR. MASON: Ernie, we tend to ask a lot of technical committees that really aren't a technical committee's job. There are staff members at ASMFC that may be able to ferret out some of that kind of stuff. This is not really related directly to a technical issue on the species itself. This is more of an overall issue that we may be able to get some help from NMFS on or those kinds of things, so we just have to be careful about the generic use of let's have the technical committees do this.

CHAIRMAN BECKWITH: Sure, we always tend to overdo that. The problem we have in front of us here, we have to include something in Addendum 1 to get comment on, and I'm not quite sure we can do that today for a number of reasons.

Number 1, do we have the time, and we have some basic information in front of us, but in order to work this up into something for the addendum would probably take a lot more time than we have here today.

Here is an alternative, can we give some generalized direction to the staff to take what the Technical Committee has put together with some comments from the Board and craft a reporting and monitoring section for the addendum? Maybe we could even --

MS. SCHICK: My suggestion would be to get a couple of people together, which could include myself, Carl as the Chair of the Technical Committee, maybe get someone involved with the ACCSP Program involved as well, and we could put something more formally together that the Board could review at their next meeting in terms of monitoring and reporting that would go into an addendum, similar to what we did with the trap tags.

CHAIRMAN BECKWITH: But, depending on how we end up here today, we would like to have something in the addendum for the public comment. That would come after that.

MS. SCHICK: I agree, we have an hour and fifteen minutes, though, so I don't see that we're going to get all the way through the addendum today.

CHAIRMAN BECKWITH: Carl.

MR. LOBUE: What I've outlined here is what we want from each state. I mean, there's really no question about that. If there are other ways that that particular state wants to go about it, but that's the information that we want, and it's pretty straightforward.

CHAIRMAN BECKWITH: Okay, then, why don't we have staff take the information here and give them the discretion to craft something for the addendum. Would you like to see a copy of that before it hits the streets? I see George is yes. John.

MR. MASON: Yes, Ernie, I guess this goes back to the issue that I raised a while ago about there's going to be two or three things that we're going to want to see. Do we really want to have this thing hit the street before the March meeting or look at the document at the March meeting and then have it hit the street?

CHAIRMAN BECKWITH: Yes, that's going to be an issue. And as Harry mentioned, it bumps up against some of their deadlines and schedules. We can defer this until a little later in the meeting and see how we're going to end up here.

If it looks like we're not going to finish our business, then it sort of solves our problem. We'll just have some work done and we'll take up Addendum 1 at the March meeting. Our goal is to try to get an approved draft for the public comment today. George.

MR. LAPOINTE: Just a final thing on data and monitoring. We talk a lot about the requirements of ACCSP, and there are those requirements, but as John has said a number of times, states are able to get on line with ACCSP as they are able, and I think we need a statement about that in the addendum as well, so that when I have a public hearing in the State of Maine, for instance, people aren't going to think this is an enormous data program that we have to do tomorrow.

ACCSP has been approved and we are beginning to implement it, but we aren't there, and so I think we need a statement to that effect in the addendum as well.

CHAIRMAN BECKWITH: Yes, but I think there are some basic monitoring and reporting information that we need to implement immediately, and maybe the rest of it can come over time as we're able to. I mean, that's the way most other plans are. There are very distinct things that are required.

So, where are we on this? Do we want to just postpone this until later in the meeting and see where we are? It's going to take some work and I know it's one of the most important parts of the program, and we certainly don't want to commit ourselves to something we're not comfortable with.

We're probably not going to have a chance today to really put some flesh on the bones. John.

MR. MASON: Ernie, I think Amy's suggestion was a great one. I think the only question is if that group that she gets together can get a document back to people. And if there aren't issues that people feel need to be discussed, then it can become part of the addendum.

If there are issues that people feel need to be discussed, then we're going to need to discuss the addendum in March.

CHAIRMAN BECKWITH: So we would hopefully approve a draft today but not without the monitoring section to be included for the public comment based on Amy putting something together and getting it out to us so we can take a look at and comment on before Addendum 1 is hitting the streets for comment. Is that what I'm hearing?

All right, I see a few heads shaking. Why don't we proceed along those lines, then, and you can work with Carl. Okay, going on to Agenda Item Number 12, hopefully this will go quickly. This is a Review of Area 5 Proposal.

REVIEW AREA 5 PROPOSAL

What we did at the last meeting was to approve the area management plans and the approval was that these plans met the F-10 goal. And we have to do this for Area 5, and if we do this, then when we go through the decision document, then obviously the Area 5 Proposal becomes a part of Addendum 1, but the first step is to review and approve the Area 5 Proposal.

And, Bruce, could you walk us through that? I know it's quite simple. Do you have the letter that you had submitted to us? Has that been passed out, Amy?

MS. SCHICK: Yes, it should be in everyone's packet.

CHAIRMAN BECKWITH: Okay, would you go through that, Bruce, please.

MR. FREEMAN: As a background to this, we contacted the states from Delaware south to try to set up Lobster Conservation Management Teams and had little success. We contacted fishermen that we knew fished the area and spoke to them directly.

There aren't a lot of fishermen that we're speaking about. It is very difficult to get these people together at the same time because of the way they operated in the fishery. So, we essentially resorted to trying to contact as many as we knew fished and see what their feelings were.

One of the reasons that we argued to break Area 4, which essentially went from Long Island all the way down to North Carolina into 4 and 5, was based upon the public hearings we have had over the last several years where fishermen in the southern tier were more interested in doing away with pot limits; and if we needed to take any management actions, it would be increased gauge size.

The comments we heard in Northern New Jersey -- and I can't speak for New York -- their position was no way would they increase gauge size. So we are concerned that we would have a major impasse.

And the way it turned out is after the discussion on Area 4 and many of the people were opposed to gauge size increases, a major effort to move towards meeting the 10 percent goal was to increase gauge size. So, after going through this partitioning, we're almost finding that perhaps it was unnecessary.

But, in speaking with the various fishermen in Area 5, we found

that the proposals that Area 4 had were almost universally accepted, and therefore we proposed in this letter that Area 5, which would be part of New Jersey southward to North Carolina, go with the same provisions as we had submitted for Area 4.

CHAIRMAN BECKWITH: Okay, Carl, has the Technical Committee looked at the Area 5 Proposal? I know we didn't ask –

MR. LOBUE: It would be the same exact number. We haven't officially, but it would be the same exact numbers that were run for the Area 4 proposal, because they are in the same stock assessment area, which the Board unanimously approved.

CHAIRMAN BECKWITH: So, in your opinion, that would meet the F-10 goals?

MR. LOBUE: Yes.

MR. FREEMAN: And that was another reason, Ernie, is we saw the problems if you get different geographical areas wanting to do different things. First of all, we didn't have the analysis to show what it would be, so to have similarity certainly made a lot of sense from the stock assessment standpoint and from the enforcement standpoint as well and have those mimic each other, and therefore we ended up with proposing the exact same thing we have for 4.

CHAIRMAN BECKWITH: Okay. All right, any questions for Bruce? John.

MR. MASON: Mr. Chairman, do you want a motion to approve the –

CHAIRMAN BECKWITH: I'm going to ask for a motion, sure.

MR. MASON: So move.

MR. FREEMAN: Second.

CHAIRMAN BECKWITH: Can we draft that motion to be identical to the other motions we had? Would you read it?

MS. SCHICK: Sure. The motion would be move that the Board find –

MR. LOBUE: Mr. Chairman, I would just like to point out once again that the trap limit provisions in the Area 5 Plan would again become a moot point if this federal plan comes on line.

CHAIRMAN BECKWITH: I'm sure some states will be commenting on that to NMFS.

MR. MASON: Right now.

MR. FREEMAN: Ernie, while Tina is getting that motion up on the Board, there is an additional recommendation that I do make, and this has to do with the actual delineation of Area 3 and 4. The area designation is such that as you go further south, as you go past New Jersey along the continental shelf and down towards North Carolina, the distance of the line from the shoreline is about the same, but the configuration of the continental shelf is such that

when you get further south, you include all the way out to 100 fathom and beyond.

There were some problems with the way fishermen, particularly off Maryland and Virginia, around Chincoteague, had actually crossed into Area 3 the way the line was drawn. And again, I don't think we gave much thought. We just drew a line.

But, there are some difficulties with fishermen in that area that do fish offshore, and I made a recommendation of adjusting the line, the Area 3 line, south of a point -- and I just used a LORAN line. Otherwise, I see, if this plan is implemented and that boundary remains as it is, Bob and Jack Travelstead are probably going to come back and ask for some kind of relief. Now, it could be handled at that time. I don't know what it is to change that line delineation. You may want to postpone that, but –

CHAIRMAN BECKWITH: We're going to look at some other line issues today and we'll get into how you do that.

MR. FREEMAN: It's actually how that boundary line intersects the shelf that creates the problem.

CHAIRMAN BECKWITH: Okay. Well, let's take care of this issue and we can take that one up. Okay, I guess I'll read it: move that the Board finds the Area 5 Proposal conforms to the egg production rebuilding schedule with the understanding that the baseline values may be changed during the upcoming stock assessment.

That's identical to the motions that we passed for the other areas. Any discussion? John.

MR. MASON: Thank you, Mr. Chairman. Before when we discussed these issues, we didn't have the luxury of the NMFS document, so I guess I would like to ask Harry Mears since it indicates in the NMFS document that the ASMFC Plan does provide a framework for the development of measures to rebuild the resource, that if measures like this for Area 5 are adopted, if NMFS is going to be able to have the flexibility to be able to utilize the proposals from the different LCMTs in the EEZ waters of those areas?

MR. MEARS: The answer is yes. The proposed rule in fact is written on that premise. This motion continues the type deliberations which were initiated as this Board continues to look at and reviewing here the Technical Committee deliberations on an area-by- area proposal basis.

My assumption, in the event this motion should be passed, would be that it would accordingly be incorporated into the Addendum 1 public hearing opportunity for public input and subsequent final action by this Board.

The point we have not yet come to, which is an essential ingredient in the area management approach and as is addressed in the preamble of the proposed rule, is that at some point, because it's area management and because six of the seven management areas do encompass federal waters, there would at some point be a need for a formal recommendation to the Secretary to implement the associated regulations in federal waters.

As currently drafted, the Proposed Rule attempted as best it could to try to consider what the logistics of these type procedures would be. For example, as written, there certainly is, at the very least, an

annual process to incorporate changes to the management framework on an area management basis that would accommodate the FMP egg production objectives.

One thing I would like to emphasize is that as we go forward, conceivably, as we've seen already, these area proposals will certainly vary from each other. We now have three, I believe, Area 3, 4 and 5, for example, that at the current time incorporate a historical participation component.

As we work forward to area management and as the federal government might be asked to implement a historical participation approach in the EEZ, this will, at the very least, require us from a federal legislative requirement perspective, for example, to prepare a regulatory flexibility analysis, and this is very data hungry.

It requires as much detail and data as possible concerning anything ranging from the number of lobstermen in the particular area, what previous catches have been, what previous trap numbers have been and anything else that might be associated with the new or revised regulations that are being proposed in the area management process.

Indeed, this type discussion has already occurred to some extent for Area 3, where certainly part of the record for Board discussions has been the incremental provision of this type information, my point being here is that we have very specific and very data-hungry requirement as we in fact do look at recommendations for implementation of area management measures in federal waters.

But, the short answer to John's question is, yes, the Proposed Rule does allow that.

CHAIRMAN BECKWITH: John.

MR. MASON: So that means the section that describes the nearshore trap limits which appears to be fixed at 1,000 in '99 and 800 in 2000, when comments come in about the various area proposals that differ from that, there's an opportunity for them to be included into the management strategy?

MR. MEARS: I would not want to prejudge what our response to that has been. Our position in the past and certainly at the current time is that the regulations for the years 1999 and 2000 are intended to establish a level playing field and start to move forward in terms of meeting the egg production objectives of Amendment 3.

It is not to say that there cannot be consideration of conservation equivalent measures, but certainly that would be a very specific requirement in terms of anything that would encompass a need to relook at those trap limits would have to very specifically document that the substitute measures would in fact be equivalent. But at the current time, once again, they are looked upon as a beginning point. And my own perspective as a Board member, recognizing that a lot of discussions occur not only during this meeting but during the addendum public hearing process, my perspective is that we should hold to -- we should start at a beginning point and work forward from there.

For example, as a Board member, I would be very apprehensive to anything that would replace what is currently being advocated for the years 1999 and 2000. But once again, it's a framework process, and it's very much dependent upon the public hearing comments

and public input to the type of deliberations we're about to continue as we go forward with the addendum to this interstate plan.

CHAIRMAN BECKWITH: Okay, any other comments or discussion on the motion? All right, seeing none, is there any opposition to the motion? Seeing no opposition, so ordered and the motion passes.

MR. MEARS: One abstention.

CHAIRMAN BECKWITH: Sorry, Harry, one abstention. Okay, now our real work begins, Agenda Item Number 13, Review Decision Document for Addendum 1, and I'm going to have Amy walk us through that. There are a couple of other additions to the document, as she prepared it, that did come up under other business.

Carl asked if he could defer his report on vent size, and we'll do that, Carl, when we come to the issue in the document. Phil, you wanted to talk about state boundaries, Area 1 and 2?

MR. COATES: Yes, I have copies of a memo.

CHAIRMAN BECKWITH: And we can address the boundary issue for Area 4, 5 and 3, and we'll also talk about a requirement for the trap limit to be a vessel requirement versus a fisherman requirement.

MS. SCHICK: Phil had asked me to make some copies, and they are supposed to be on their way over from the office right now, but I don't have them, and those maps and photocopies will be used in the discussion on the boundaries.

CHAIRMAN BECKWITH: Okay, we can start with other things first.

MS. SCHICK: If I may ask, once we get started in this document, it's broken up section by section with various issues. My impression is it's going to take longer than an hour to get through this. How would you like me to proceed?

CHAIRMAN BECKWITH: Well, let me just run a couple of options by the Board. We don't have to quit at noontime; we can go right until one o'clock, and maybe we can have someone bring us some lunches in, if we think we can finish in two hours.

If we don't think we can finish, the other alternative is we just defer it to the next meeting, to the March meeting, and just pick this whole thing up. We can cover a few issues today, like the area things and some of the other minor things we can cover, but go through the whole document in total at the next meeting. What is the Board's pleasure?

MR. FREEMAN: Well, why don't we, Ernie, just continue for at least another half hour and see how far we get and then make a decision at that time?

CHAIRMAN BECKWITH: Is that okay? We will do that, then. Go ahead, Amy.

REVIEW DECISION DOCUMENT FOR ADDENDUM 1

MS. SCHICK: Okay, just a brief background, this addendum incorporates the area management proposals as well as a few other

issues that were dealt with in Amendment 3 and just needed a little bit of clarification. So, what I've done is just organized the first several sections are based on coastwide issues, not that they necessarily be applied coastwide, but they are broader issues; and then, as we get further along in the document, it deals with the specific area management proposals, and some of the issues that we deal with up front will be incorporated in those areas proposals later on.

Minimum Gauge Size Increase

So, the first issue to deal with is the gauge size increases. The area management proposals were developed independently of one another, and several of the areas recommended increases in the gauge size to 3-3/8. That includes Areas 2, 3, 4, 5 and the Outer Cape.

And, the schedules for implementing those gauge increases were slightly off. And, if you look on Page 2 there are couple of alternatives that can be put forward.

Schedule A lists the exact minimum gauge size increase dates, consistent with the LCMT proposals. And as you can see, it varies slightly between areas.

Schedule B would be a four-step increase similar to what was proposed in each area, but it would be consistent for all areas that are proposing a gauge increase.

And Schedule C is a two-step increase consistent with all areas proposing a gauge increase, but rather than going four small steps, it would be two larger steps and each one would take place over two years.

Another option is to apply for a uniform minimum gauge size increase throughout the range of the resource, which would include Area 1 and 6, and no action can be taken.

I can go through a little bit of the analysis. Adopting Schedule A would implement exactly what the area proposals recommended. Adopting Schedule B would adopt the same magnitude of an increase to 3-3/8, but would allow for some consistency coastwide, and that would help out enforcement and would maximize the benefit of the regulation and minimize industry and market conflicts.

Schedule C would have many of the same benefits as Schedule B, and it would have the additional benefit that increasing 1/16 of an inch -- or 1/32 of an inch as it does in Schedule B sometimes doesn't equate to an actual increase in the millimeters, which is used on the gauge, so even though on paper it looks like there's an increase, when you're actually going up on the gauge, there may be no gauge increase.

So, Schedule C would allow two years at a gauge size and each step would be more significant. Adopting a uniform minimum gauge size would increase and maximize the benefit of the regulation and minimize industry and market conflicts coastwide. However, that has not been proposed by the Area 1 and the Area 6 LCMT.

And, by taking no action on the minimum gauge increase, the LCMTs that did propose a gauge increase received conservation benefits, egg production benefits by that increase. If the increase was not approved, then the LCMTs would have to go back and

come up with alternative conservation measures to meet the egg production rebuilding schedule.

These are all alternatives that could go into a public hearing document or the Board could choose to select specific alternatives that would go to public hearing.

CHAIRMAN BECKWITH: Okay, let's take some comment. I've got George, John and then John.

MR. LAPOINTE: I have opposed and I will continue to oppose Option 4, the uniform minimum gauge size, for two reasons, two major reasons. One is that it violates the letter and the intent of area management because it says to the Area 1 LCMT, "You have a lot of options except this one you have to have."

The second one is that given what's gone on and given the understandable interest in what Area 1 is going to do, if this was in fact included in the public hearing document and there were a number of public hearings, it would be easier to see the public hearing sentiment outside of Area 1 overwhelmingly in favor of this, and that will put us in an incredibly awkward position of having the majority of public opinion against this option, and I think that will put the Commission and the Area 1 states in an awful position.

CHAIRMAN BECKWITH: So essentially you're speaking against Option 4?

MR. LAPOINTE: That's correct.

CHAIRMAN BECKWITH: Okay, do you have any other feelings about any of other options?

MR. LAPOINTE: Not at this juncture.

CHAIRMAN BECKWITH: Okay, John.

MR. NELSON: Thank you, Ernie.

Well, I had two comments. One dealt with Schedule A, and if you look at Schedule A, it ranged anywhere from 1998 through the year 2003. A number of them have 1999 as implementation for increases.

I think that because of the regulatory situation, we would not implement any -- I doubt if any state would implement a regulation of a gauge increase halfway or three-quarters of the way through the fishing year, so that probably it is not necessary to include Schedule A in there.

Schedule B I think represents all of what Schedule A had in there just without the 1999, and so between Schedule B and Schedule C - - and Schedule C is what I had spoke to previously in the last meeting is get it over with in a reasonable timeframe so that it's done once and for all.

That's what our industry has always looked at. So I would suggest we drop Schedule A and just focus on Schedule B and C. Now, I sympathize with what George has mentioned. Probably those points are very valid, but I think 4 probably does give us an opportunity -- and maybe we could word it differently so that it says, you know, while this has not been considered by Areas 1 or 6 yet, this is also a possibility of their discussions and therefore we would like to get public input.

So, it might be appropriate to just reword that and have it in there as

an opportunity to get public input because when we start our discussions on Area 1 LCMT, we're going to talk about gauge increases anyway. We already have with the LCMT for Area 1.

We haven't had anything concrete, obviously, but we have had discussions with all parties. So, I would suggest modify the wording on 4, and maybe I can think of something or somebody else can think of something that's more acceptable, and therefore we would have going to public hearing number 2, 3, 4 and 5. Thank you, Mr. Chairman.

CHAIRMAN BECKWITH: Just to follow along your thought, John, what you might say is if Area 1 does adopt a gauge increase strategy, that the timing of the gauge increases should be consistent with uniform whatever.

MR. NELSON: Something like that.

CHAIRMAN BECKWITH: John Mason, Phil and then we'll go around here.

MR. MASON: Thank you, Ernie. I agree with everything that John Nelson said. And I think your wording about if Area 1 is willing to consider a gauge increase, I would like to move that Schedule B be the preferred alternative of the alternatives and also indicate, for the record, that the Area 6 LCMT, although it didn't agree to go all the way, did indicate that if all the other areas surrounding it went to the full extent, that there was a great deal of sentiment that they needed to do the same thing.

So, I think the issue in Number 4 about Area 6, if all the other areas take the full extent of the Schedule B increase, Area 6 had indicated their willingness to support that.

CHAIRMAN BECKWITH: Is there a second to that motion?

MR. FREEMAN: Second.

MR. MASON: That, Mr. Chairman, is with the caveat that there are other alternatives in that Area 1, if they choose to have a size increase, is encouraged to use the preferred alternative.

CHAIRMAN BECKWITH: Well, what we have is a motion to select Schedule B as the preferred alternative. If you want to go further with that, we can do that. Let's see, I had Phil next.

MR. COATES: Thank you. Well, obviously, we have concerns about -- well, I certainly embody the spirit of area management. I have major concerns with anything that's going to create a differential minimum size within the boundaries of one state, and that's any alternative except Alternative 4 would certainly do that, although I think Schedule B takes care of what seems to be six of the seven areas that are going to be under management by adopting one schedule.

I don't know if there needs to be -- since these are 32nd inch increases -- any kind of a clause in those. We've gone through all that before under the federal plan. But, I just want to express my great concern about and that I'm sure of our law enforcement people as they attempt to develop enforcement standards for a differential minimum size, wherein lobstermen from two areas would be landing -- with two gauges would be landing to the same dealership in many, many instances.

This obviously puts a burden on intercepting the fishermen and not dealing with the non-conforming animals in the marketplace, and I

don't think I have to tell you what kind of a daunting challenge that poses.

But, I'll leave my remarks at that for now and just note that the 10 percent egg production level at this point is a formidable challenge to meet and would make sure that Area 1 is fully aware of that.

CHAIRMAN BECKWITH: Before I go to this side, Joe -- because obviously law enforcement is a major issue here -- can I ask you for your opinion?

MR. FESSENDEN: Well, we in Maine had a lot of experience with our neighboring state, New Hampshire, having a shorter minimum size gauge for a number of years, and it did cause problems. There were issues, certainly a lot of enforcement issues, where people would go fishing with two gauges.

And there were some Maine sublegal lobsters that were being harvested in Maine and bootlegged over to New Hampshire, so it does pose considerable enforcement issues. The Law Enforcement Committee discussed uniform minimum sizes approximately a year ago, and are certainly in support of as much uniformity with minimum size as possible.

CHAIRMAN BECKWITH: Okay, we have Jill and then George.

SENATOR GOLDTHWAIT: Thank you. The issue of choosing a preferred option other than what the LCMT proposals are is a troubling one as are any proposals that override those decisions. It's difficult enough to get people to continue to participate in this rather byzantine process.

And if what they submit as proposals are then altered significantly by this Board, it's going to be even more difficult. Regarding Number 4, I certainly agree with George's comments and adopting John Mason's approach, the only possible consideration that I can imagine Maine giving to a gauge increase would be if all the surrounding areas had done that, and that would, of course, include Canada for us.

MR. LAPOINTE: I'll pass.

CHAIRMAN BECKWITH: Okay, Mark.

MR. GIBSON: Is Alternative 4 just a modification of 2 that includes the two other areas, that they are still on that same schedule?

CHAIRMAN BECKWITH: Correct me if I'm wrong, but my impression was 2 included Area 6 but didn't include Area 1?

MS. SCHICK: I didn't mention it before, but in the document I say Area 6, the minimum gauge size is going to be dealt with under the Area 6 proposal, since they were only proposing 3-5/16 as their minimum, at the end of their increase.

So, Area 6 isn't included in this section. However, I just put it in there to see where the different states were -- or the different areas were falling out in implementation of those increases.

MR. GIBSON: I guess my position on this is that these gauge increases are the only thing in the plan that we can hang our hat on in terms of biological benefit. I think they have to happen across the entire range of the resource, so I would be in favor of John's alternative, but I think Option 4 needs to remain in there as well.

CHAIRMAN BECKWITH: Any other comments? We have a motion on the Board and that's what we're taking discussion on. George.

MR. LAPOINTE: I think we need clarification on Schedule B. I think just some language saying exactly what areas that applies to at this point. Because, if you're reading through it quickly, you could read Schedule B as being like Option 4.

CHAIRMAN BECKWITH: Can you clarify that for us, Amy, because I'm a little confused myself?

MS. SCHICK: Okay, in this section under minimum gauge increase, it's meant to only cover the areas that were proposing going up to 3-3/8 of an inch, so that's Areas 2, 3, 4, 5 and the Outer Cape.

And, under Schedule A, Area 6 was put in there to compare their implementation dates for those minimum sizes, although the increase in gauge size for Area 6 is dealt with in the Area 6 section of this decision document.

Since it wasn't consistent with the minimum gauge that the other areas were proposing, it was dealt with separately. So, the reference to Area 6 under Alternative 1 is more of a reference and that should be taken out of the public hearing document. And I'll specify that this is with respect to Areas 2, 3, 4, 5 and the Outer Cape.

CHAIRMAN BECKWITH: So, Schedule B does not include Area 1 and Area 6?

MS. SCHICK: That is correct.

CHAIRMAN BECKWITH: Okay, **move that Schedule B be the preferred alternative for Addendum 1**. I wonder if we should just add a word or two and say Schedule B of Proposed Gauge Increases. Then we know what we're talking about.

MS. SCHICK: Tina, could you add in language, move that Schedule B of the minimum gauge.

CHAIRMAN BECKWITH: Okay, any other comments or discussion on this motion?

MR. LAPOINTE: That will be in the text?

MS. SCHICK: I've noted those changes and it will be in the text.

CHAIRMAN BECKWITH: Are we ready to vote on this? I'm not sure where we are, so I think I'm going to call for a vote on it. Amy, would you do it please?

MS. SCHICK: The State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Yes.

MS. SCHICK: Rhode Island.

RHODE ISLAND: Yes.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Yes.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes.

MS. SCHICK: Delaware. (No response) Maryland.

MARYLAND: Yes.

MS. SCHICK: North Carolina. (No response)

National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MS. SCHICK: Eight in favor and one abstention.

CHAIRMAN BECKWITH: Okay, the motion passes. Do we want to include any other alternatives in the public hearing document for the gauge schedule? John. MR. NELSON: Well, I have already expressed my bias for Schedule C, so I would request that we include that as one of the alternatives, Mr. Chairman. No action probably is also appropriate. And I think that Number 4, with the wording that I think John had, which merely stated that if Areas 1 and 6 are going to increase their minimum gauge size, that it be in conformity with what the preferred alternative would be for the plan.

CHAIRMAN BECKWITH: Okay, should we try to do that in one motion. Does anyone have any objection to doing it or doing it in one motion?

SENATOR GOLDTHWAIT: I think I would suggest doing it in more than one motion.

CHAIRMAN BECKWITH: Okay, we will just take them one at a time. John, do you want to make a motion for Schedule C?

MR. NELSON: I move that Schedule C and Number 5 be considered as alternatives for the public hearing document.

CHAIRMAN BECKWITH: Okay, is there a second to that motion?

SENATOR GOLDTHWAIT: For clarification, does that mean again, 2, 3, 4, 5 and the Outer Cape?

MS. SCHICK: That is correct.

CHAIRMAN BECKWITH: So it would be the same as Schedule B in terms of who is included? Would you repeat the motion, John?

MR. NELSON: Include in the addendum Number 3 and Number 5 as alternatives to the minimum gauge increase, under the minimum gauge increase section.

CHAIRMAN BECKWITH: Actually, we're mixing apples and oranges here. We were talking about Schedule B before and now we're talking about alternatives by number.

MR. NELSON: I'm sorry, Mr. Chairman.

CHAIRMAN BECKWITH: It probably doesn't make any

difference.

MR. NELSON: Well, the no action had no --

CHAIRMAN BECKWITH: Right.

MR. NELSON: I had no other way of dealing with it. Schedule C would be included as an alternative under this section, and no action would also be an alternative under this section. Does that help?

CHAIRMAN BECKWITH: And did we have a second on that?

MR. COATES: Yes, I'll second it, but I would like to ask John if he would accept as a friendly amendment the addition of the language that John suggested for what would be Alternative 4, just to move this thing along?

CHAIRMAN BECKWITH: Does the mover and the seconder accept that as a friendly amendment?

MR. NELSON: I think we got this request to do it as separate motions. I realize that does take a little bit more time. I have no objection to including that in there, the language.

CHAIRMAN BECKWITH: It might go quicker if we do it separately because there won't be so --

MR. NELSON: All right, let's keep it separate for the time being, Mr. Chairman.

CHAIRMAN BECKWITH: All right, we'll try to get that up there. Okay, the motion reads move that Schedule C and the no action alternative -- I sorry, you already had that in there -- **move that Schedule C and no action be included as alternatives in Addendum 1 under the minimum gauge increase.** Any discussion? Mark.

MR. GIBSON: The path that we're going here with these sequential motion on alternatives, is it designed to exclude the possibility of consideration of a coastwide minimum set of gauge size increases, consistent ones across the entire range?

MR. COATES: No.

CHAIRMAN BECKWITH: No, that could be another motion.

MR. GIBSON: Okay.

CHAIRMAN BECKWITH: Okay, any other comments on this motion? Harry.

MR. MEARS: Yes, I will vote for this for the purposes of including this as an option in the public hearing document, but I'm not sure I am quite seeing the need to piecemeal each of these in terms of motions.

It certainly would make sense if there were a component that someone might want to exclude, to vote on that, but it seems to me we're by design purposely slowing down the process in working through this addendum.

CHAIRMAN BECKWITH: Maybe, but maybe we're also doing it more efficiently. I don't know, I think we're almost through it. Let's just get through it and get beyond it. All right, any other discussion on this motion?

I'll try to do it the short way. Is there any objection to this motion? Seeing no objection, the motion is so ordered and it passes.

Okay, does anyone want to offer any other motion for alternatives for the gauge? Phil, and then I'll come around.

MR. COATES: Yes, I would move that we include as an option Item Option 4 with the language as suggested by John. He would have to put it up there.

CHAIRMAN BECKWITH: Okay, let's have a little help for Tina with the language.

MR. MASON: Recognizing that if Area 1 adopts a size limit, it be in conformity with the preferred alternative and that Area 6 has indicated a willingness to go along with the uniform coast size limit if its neighbors adopted the same.

MR. NELSON: Try that again, John.

MS. TINA BERGER: I have recognizing that if Area 1 adopts a size limit, it be in conformity --

MR. MASON: With the preferred alternative and Area 6 has already indicated a willingness to support a similar size limit if it was uniform.

CHAIRMAN BECKWITH: Should it be the preferred alternative or should it be whatever is selected for --

MR. NELSON: Yes, whatever is selected.

MR. COATES: Yes, whatever they pick as the selected alternative, be in conformity with the selected alternative.

MR. MASON: Second, Mr. Chairman.

CHAIRMAN BECKWITH: Okay, Mr. Coates is the mover.

MR. COATES: Yes, actually, I beat John to the punch. I'm sorry, John.

CHAIRMAN BECKWITH: All right, I'll read it. I think the wording is a little awkward towards the end there, but if it works it works. It says move that Option 4 be included as an alternative in Addendum 1, recognizing that if Area 1 adopts a size limit, it be in conformity with the selected alternative, and Area 6 has already indicated -- that's where it gets awkward -- has indicated a willingness to support a similar size limit if it is uniform.

I think we have the intent. That's okay?

MR. COATES: Yes.

CHAIRMAN BECKWITH: Okay, any discussion? George.

MR. LAPOINTE: Not surprisingly, I'm going to recommend the State of Maine vote against this. Though I have not caucused with my fellow commissioners, I think that will take about a second. I think, for the reasons I stated before, this is the wrong thing to do.

We are sending a message that we don't care what LCMT 1 comes up with. We are not giving them the chance to come up with anything. And the one size fits all violates both the letter and the intent of area management, and I think it's the wrong thing to put in this public hearing document.

People will certainly in Maine and other parts of Area 1 will focus

in on this and say that, as Jill said, why bother with the process because you've made your mind up already, and it will cause us no end of grief in the process.

CHAIRMAN BECKWITH: Any other comments? John.

MR. MASON: Ernie, recognizing the issue in the State of Maine is specific, and I hope when this is discussed, people point out the word "if" in this motion. That is exactly why that word is in there. It says if Area 1 adopts, so the ball is still in Area 1's court.

At least clearly that was my intention, so I hope that people don't put the cart before the horse here. I support the actions of the LCMTs 100 percent, and that is why that word is in there, and please don't forget that it is in there.

MR. LAPOINTE: If that's the intent, how about another motion that says following the deliberations of LCMT 1 and should they include a minimum gauge size as part of their suite of options, we recommend that they do it on the same schedule as everybody else.

MR. COATES: Try that one again, George.

MR. LAPOINTE: Well, it's turning the message around. What this says is you're going to have a uniform gauge size, and then it says if we choose it. How about, if that's the intent of the message, putting some language in there saying following the deliberations of LCMT 1, buying into the area management process, should they make a decision that includes a minimum size increase in the carapace, then the Commission recommends that they do it on the same schedule as the other areas.

it let's them make the decision on what's in their plan. It gives them time to make the decision; and then should they make that decision, we recommend they do it on a schedule with everybody else.

MR. COATES: You changed the "if" to a "should"?

MR. LAPOINTE: No, no, I changed the entire message.

CHAIRMAN BECKWITH: Well, I think you have, too, because when this goes to hearing, you'll take comments on it, but the difference here is that this will be part of the plan, whereas you're saying it will be a recommendation. That means there's no hammer there.

MR. LAPOINTE: John's language, I understand John's intent, but what people are going to say is apply a uniform gauge size increase throughout the range. That's the message in Option 4. What I'm saying is if that's the intent, I oppose it, as I've said before.

If your message is that should LCMT 1 decide on this, then we recommend they adopt a schedule with everybody else. That sends an entirely different message, an entirely different message.

CHAIRMAN BECKWITH: We haven't asked for comments, but I'll tell you what. I haven't asked for comments from the audience today, and it's my mistake. We've had many opportunities and motions, and I'll certainly do that.

Is there any other Board comment on this motion, and I will then go to the audience? Jill and then Mark.

SENATOR GOLDTHWAIT: Not that I expect this will change anyone's mind but it would be my expectation that this will

be the point that solidifies the support for the bill in front of our legislature to drop our membership in ASMFC, which is based on the action that was taken regarding the vent increase and how that came to be.

So, we are looking at that bill right now, and that will be even more difficult to defeat, given the potential for any suggestion of a gauge increase for our state in this document.

CHAIRMAN BECKWITH: Phil.

MR. COATES: Can I just make a point here? This is a non-preferred alternative in a public hearing document, and I think a similar argument to what Jill has been making could be raised by those states -- and it's not Massachusetts at this point because we're obviously split on this -- but it's been indicated to me that some of the states to the south are as ardently supportive of a gauge increase as an alternative to some of the non-measures that they perceive in this plan and would feel likewise.

This is a non-preferred alternative for public hearing, but I would be willing to make that change in the language of this motion if it would make the folks from Maine a little more comfortable. This is yet to be dealt with in Area 1, and I would say there is definitely a mixed feeling within the LCMT at this point.

But, how would that wording be changed again, without a major restructuring, if we could. What was the suggestion?

MR. LAPOINTE: What I'm going to do is offer a substitute motion, and that motion would be to not include Option 4 in this document and that we add language that -- at the bottom saying that following the deliberations of LCMT 1, should their option include an increase in the minimum gauge size, that we recommend that be done on the same schedule as the other areas.

CHAIRMAN BECKWITH: All right, you're offering that as a substitute?

MR. LAPOINTE: That's correct.

CHAIRMAN BECKWITH: We need a second from another state.

MR. MASON: Will you include the sentence about Area 6, the portion of the sentence about Area 6?

MR. LAPOINTE: Yes.

CHAIRMAN BECKWITH: Do we want to wait until we get it up there before we solicit a second or is someone ready to go forth with it? Let's get it up there so we can read it.

MR. FREEMAN: While that's going up there, I have a question to George from a procedural standpoint. You talked about the LCMT. Technically, they would make a recommendation that would be taken out to public hearing; and then based upon public comment, an action would or wouldn't be taken.

The way you structure this is a decision made by the LCMT in Area 1, and it seems to me it's more than that. I mean, the way this motion reads, if the LCMT makes that determination to increase size, it would occur, and what I'm saying is that that recommendation would actually be taken to the public and then receive public comments before that decision is made. The way that motion reads it --

MR. LAPOINTE: Change adopt to incorporate, then, that's fine. That's a good comment, Bruce.

MR. FREEMAN: I mean, you may get stuck with -- in retrospect, looking at that language and not feeling it's the one you want, the words you want.

MR. LAPOINTE: And it's incorporating a schedule of size limit increases.

MR. MASON: George, if you're willing to just -- forget Alternative 4 because you're offering a substitute motion. If you just say move to include as an alternative that following deliberations of the LCMT, da, da, da, da, I would be willing to second it.

MR. LAPOINTE: I may not get a seconder, because, again, people are going to key on a uniform increase in the minimum carapace size, and that's going to cause us, as Jill has said, no end of grief, and I think it's going to be counterproductive.

CHAIRMAN BECKWITH: Pat.

MR. WHITE: Just from an industry perspective to support what George is trying to do, unlike all the other areas, we have had to go through this twice in our state, which is why I think there's some distrust for the process because we've already done a trap limit, and we've already done a vent increase through Amendment 3, and pretty well mandated it to the fishermen that they are going to do it, but they have to vote for it.

And I think this is why I'm so sensitive to the way this is worded now as trying to get some incentive for the fishermen to go along, if this is something they want to do and not that it's rammed down their throat again. We've been there twice.

MR. COATES: And I don't have a problem with that. My concern would be a motion that -- you know, I understand we're trying to smooth this thing through so that we can deal with what is obviously some concerns among the Maine fishery, and I understand those concerns.

I think my problem with this is it creates a note of uncertainty, and I am absolutely certain if this passes, we will not have these deliberations concluded by a time line that would allow us to accommodate the schedule that's already in place, so then are we looking at postponing the schedule for the gauge increase for everyone else?

I think that would be very problematic. This has to be done. These deliberations have to be concluded in LCMT 1 in time to incorporate, if in fact that seems to be an indication, in time to incorporate this within the January 1, 2000, schedule, and that's going to be very difficult to accommodate.

You know, it's too bad we have to deal with this late in this meeting in terms of language. It may be something we might want to deliberate further. I believe there will be a discussion at the next LCMT Area 1 meeting about this issue.

And it might be better not to have this sort of damocles, as it's perceived by some people, hanging over everybody's head, so we maybe we ought to just back off a bit. You know, we're not going to have all the elements of this addendum approved by today. This might be one that we want to wait on, and then we can initiate that

discussion.

CHAIRMAN BECKWITH: Well, based on the progress we've made on the decision document, we just aren't going to get it done today.

MR. COATES: We could move on to some of the less contentious issues that certainly could be addressed.

CHAIRMAN BECKWITH: Yes, we could do that. So, I guess I'm not quite sure where this leaves us in terms of the motions that we've already approved. I mean, those motions stand.

MR. MASON: Mr. Chairman, I move to table this motion until the March meeting.

CHAIRMAN BECKWITH: Well, you can't table it because we haven't had a second on it yet. It isn't even a motion yet.

MR. MASON: We have a motion above it, though, that was made and seconded.

CHAIRMAN BECKWITH: But don't we have to deal with the substitute motion before we go back?

MR. MASON: There's no second.

MR. LAPOINTE: It died for the lack of a second.

CHAIRMAN BECKWITH: There's no second. It died, okay. So, we're back to the original.

MR. COATES: The motion is to table?

MR. NELSON: I'll second the tabling.

CHAIRMAN BECKWITH: There's a second to table and it's time definite so we've got to vote on that. Is there any discussion on the motion? Is there any opposition to the motion? Okay, seeing none, so ordered, the motion is tabled until the March meeting. Mark, you had something?

MR. GIBSON: I want to know what your intention is relative to Item 15, given the time of the day?

CHAIRMAN BECKWITH: Sure, why don't we just clean up a few other business things and use our time up to noontime or so and then we'll quit.

MR. FREEMAN: Ernie, we didn't take an action -- I missed the vote.

CHAIRMAN BECKWITH: There wasn't any vote. I asked if there was any opposition to it. There wasn't.

MR. BRIAN CULHANE: Ernie, I get the sense here that we're ready to move on, and I'm not comfortable in moving on from here without also offering as an alternative the Option 1 Schedule A.

CHAIRMAN BECKWITH: Yes, my understanding is that --

MR. CULHANE: You know, I just feel uncomfortable not at least putting in here what we can to recognize what was given to us by the LCMTs.

CHAIRMAN BECKWITH: The issue is that we can do that today, but we're certainly going to revisit the whole gauge increase issue at the next meeting. I think there's going to be plenty of discussion, and I would recommend that we defer it and try to clean

up a few things here today.

RHODE ISLAND MOBILE GEAR

Mark, you're on. The State of Rhode Island had requested an item to be put under other business, and that's the Rhode Island Mobile Gear Issue and a recommendation that the State of Rhode Island has on that issue. Mark.

MR. GIBSON: Okay, as I reported to you earlier, our Marine Fisheries Council passed regulations which have gone into effect with regard to Element 3.1.7 of the Commission's plan, the restrictions on daily catch possession limits on mobile gear fisheries.

They passed that regulation under duress. There was a considerable amount of disagreement from our Marine Fisheries Council relative to that regulation as well as there was opposition in Rhode Island to it from the Inshore Otter Trawlers Fishermens Association, and we may very well have to address legal action relative to that.

The basic position is that they regard it as somewhat arbitrary and discriminatory in that the mobile gear restrictions directly limit the catch per day of otter trawl fishermen whereas there are no comparable direct catch limitations placed on trap fishermen.

In fact, there's nothing in the plan anywhere that directly limits the catch of trap fishermen. There is a schedule of default trap scenarios, and you have already heard my comments on those. So, we would like some consideration on this issue.

In fact, given its status in where it resides in the plan, as I understand it, it would require a plan amendment to adjust this. We would like to see that happen. Our Marine Fisheries Council has tasked us with coming to this Board asking for an adjustment in the plan which allows the states -- it essentially moves that mandatory element of the plan into a discretionary status whereby states could offer alternatives for Technical Committee and Board review that would achieve the same results.

I have prepared a motion which I would offer to that effect, and it probably won't take this Body too long to deal with that.

CHAIRMAN BECKWITH: You're correct, the plan would have to be amended. Did you make a motion?

MR. GIBSON: **I would move that the Commission amend the Lobster FMP and change Provision 3.1.7 (mobile gear possession limits) from mandatory status to discretionary status so that states may develop alternatives more suited to their respective industries.**

CHAIRMAN BECKWITH: Okay, is there a second to that motion?

MR. FREEMAN: Second.

CHAIRMAN BECKWITH: Let's get it up on the Board so we can all see it. Okay, Jack has said that we can have another Board meeting between now and the March meeting.

MR. COATES: That's good.

CHAIRMAN BECKWITH: The only problem is that we

would have to be very careful in timing this meeting, because if we wanted to finish our business at the next meeting and approve Addendum 1 for public comment and then want to actually move on Addendum 1 at the March meeting, it might not give enough time for all the different public hearings that the state might want to have.

MR. COATES: I think we have some big timing problems.

CHAIRMAN BECKWITH: So, I don't know. I mean, let's finish this and then we can talk about timing. Okay, can everyone see that or shall we read it? Okay, discussion on the motion? George.

MR. LAPOINTE: This is just a clarification, and you remember when we discussed -- I forgot what we discussed. The Board should recommend to the ISFMP Policy Board that an amendment be begun. That's the process. I mean, that's just a clarification.

CHAIRMAN BECKWITH: Mark, would you accept that as an amendment?

MR. GIBSON: Sure, whatever the proper procedures are to request a plan amendment. The only thing I forgot to add here is following any Board discussion on this memo, it might be appropriate to ask for audience comments since there are Rhode Island fishermen here from the Inshore Trawlers Association, who have an interest in this action.

CHAIRMAN BECKWITH: Certainly, let's finish with the Board comment and then we will go to the audience. Any other Board comment on this motion? This is a pretty big issue and Amy is going to find Jack so he can come and make sure we do this properly. Any other Board comment? George.

MR. LAPOINTE: Understanding that there are some Rhode Island fishermen here, but there's a lot of fishermen who aren't here because we're in Alexandria, Virginia, I would move to table this until the next meeting, until the March meeting, because this is big medicine, and it will be as big as the item we were just discussing.

And we certainly want our fishing community to be aware of it. I mean, I think we will get flayed again. I'm not going to have any skin left at the end of this and potentially no job, but I think that's a proper course of action.

MR. COATES: Mr. Chairman, I'll second the tabling and basically emphasize or re-emphasize what George just stated. The original spirit of the deliberations of the Lobster Boards and the related entities was going to -- I think there was a strong urging by those who were participants.

I recognize that we have a broad range of states involved in this fishery and certainly not wishing to discredit them, but the indication before any major decision making should probably be taking place at least in the geographic area where 99 percent of the lobsters or 95 percent of the lobsters are caught or at least there should be sufficient notice on measures of this magnitude before any kind of action is taken, so I second the tabling.

CHAIRMAN BECKWITH: Okay, any discussion on tabling this motion? Jill.

SENATOR GOLDTHWAIT: I certainly agree with Phil's

comments and notice isn't going to -- although at least it will alert the fishing community of the fact that this is happening, it will make it no more likely that they will be able to attend a meeting held in this area, so I would suggest as a perfection to the motion that it until the next time that a meeting be held somewhere between the Boston and Portland area.

CHAIRMAN BECKWITH: Well, is this tabled to the next meeting? Is this time definite?

SENATOR GOLDTHWAIT: That's what I heard the motion to be.

CHAIRMAN BECKWITH: We could certainly arrange to have the meeting. I mean, that's no problem. We can arrange it to have it up in the northern --

SENATOR GOLDTHWAIT: The March meeting?

CHAIRMAN BECKWITH: The next meeting. That's the question I was asking, is this the next meeting?

SENATOR GOLDTHWAIT: I guess what I'm suggesting is that this item not be taken up until some meeting that is scheduled for that part of the world. I don't care which meeting it is.

CHAIRMAN BECKWITH: Well, Jack is not here, but I would expect that the next Board meeting would be up there.

SENATOR GOLDTHWAIT: The next Board meeting is here.

MS. SCHICK: Our Commission Meeting Week is in Alexandria for March and for August, and in May that will be in North Carolina, and then the October meeting, the annual meeting, will be held in Connecticut. So those are the scheduled meeting weeks and their locations. If we wanted to hold a meeting in New England, it would have to be outside of meeting week.

CHAIRMAN BECKWITH: Well, that's what we were talking about. We're talking about the next meeting, and I guess we would have the option to hold it wherever.

MS. BERGER: Well, when I spoke with Jack briefly, he suggested that another meeting may be held outside of the meeting week and that can be done.

CHAIRMAN BECKWITH: So we will table this until the next meeting week, and I don't think it's necessary to put it in a motion, but we will definitely schedule it to be up in New England. I don't think there's any opposition to doing that.

MR. MASON: In New England, is that what you said?

CHAIRMAN BECKWITH: That's what I said, yes. Is that okay?

MR. MASON: Yes.

CHAIRMAN BECKWITH: All right, any other discussion on this motion? I think I will have Amy call the vote on this and see where we are.

MR. LAPOINTE: It's a motion to table, correct?

CHAIRMAN BECKWITH: Yes, **motion to table, tabled until the next meeting.**

MS. SCHICK: The State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: Yes.

Boston northward. I thought I heard Ernie say New England?

CHAIRMAN BECKWITH: I didn't realize that we were actually going to put that in the motion. I thought we would just have the motion to table until the next meeting and we would just arrange to have it up in New England. There's no reason we couldn't have it in New England.

MR. FREEMAN: Ernie, in all respect to Maine -- and I understand it's a very important issue -- we could agree to tabling this motion until the next meeting, and we have no problem to hold it in New England, but to have a motion read to have it a specific location, we think it defeats the purpose of the Commission.

Our position has been if it's important enough and people have notice of a meeting, then they will attend, but I just think we're setting the wrong precedent. And in all due respect, I understand it's a very important item, but if the motion made was simply deferred until the next meeting, as the chairman indicated, it would be in New England, we certainly could support that.

MR. COATES: I agree. You know, this is an issue that's New England wide at least.

CHAIRMAN BECKWITH: Okay, is that acceptable? Just so we raise the level of comfort here somewhat, I would like to ask Jack a question. Jack, we're talking about scheduling another meeting for the Lobster Board between now and the March meeting.

There shouldn't be any issue with us having it up in New England, I would guess?

EXECUTIVE DIRECTOR DUNNIGAN: No.

CHAIRMAN BECKWITH: We can have it wherever we want to have it, within reason?

EXECUTIVE DIRECTOR DUNNIGAN: Yes. At this stage, if we're going to schedule a meeting outside of meeting week, presumably we will look at where we think we can hold it most efficiently and looking at cost issues, and there should be no reason not to have a Lobster Board meeting between now and March.

We're still doing our final budget planning for 1999, but in doing that I think we've anticipated that the Lobster Board would have to have at least one or two meetings outside of meeting week in addition to what's going on.

So, if you want to do that earlier in the year rather than later, we can schedule that and find an appropriate place.

CHAIRMAN BECKWITH: Okay, with that said, is there any other discussion on the motion? All right, I'm going to ask Amy to call the roll.

MR. FREEMAN: Would you read the final tabled motion, how that reads?

CHAIRMAN BECKWITH: Certainly. It's move to table the above motion until the next meeting. I think we all know what motion we're talking about. Okay, she just made a little wording

change there. Amy, call the role.

MS. SCHICK: The State of Maine.

MAINE: Yes.

MS. SCHICK: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. SCHICK: Massachusetts.

MASSACHUSETTS: Yes.

MS. SCHICK: Rhode Island.

RHODE ISLAND: Yes.

MS. SCHICK: Connecticut.

CONNECTICUT: Yes.

MS. SCHICK: New York.

NEW YORK: Abstain.

MS. SCHICK: New Jersey.

NEW JERSEY: Yes.

MS. SCHICK: Delaware.

DELAWARE: Yes.

MS. SCHICK: Maryland.

MARYLAND: Yes.

MS. SCHICK: North Carolina. (No response) National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MS. SCHICK: The vote a eight in favor and two abstentions.

CHAIRMAN BECKWITH: Okay, the motion passes. Well, we've run over our time. I think we haven't achieved as much as we would like to, but we certainly achieved an awful lot. And without objection, I'll adjourn this meeting.

MR. MASON: Ernie, just a question for making it easier the next time we have to address this addendum, on Page 5, one of the alternatives is to continue to operate under the current rebuilding scheduled, which is longer valid, so that probably ought to just get thrown out.

MS. SCHICK: John, I think that could be a debatable point.

MR. MASON: Not according to the LCMT proposals that have all been adopted.

MR. FREEMAN: We'll debate that at the next meeting.

CHAIRMAN BECKWITH: Dave Borden.

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman. On the issue of the Area 1 Proposal, do you envision a deadline by which they will come back with a recommendation on the gauge increase? I may have missed it.

CHAIRMAN BECKWITH: No. Actually the Area 1 LCMT is going to meet on the 26th or 27th, and I would expect they would be working on a proposal. At the previous meeting, I think I had asked if they had anticipated a schedule, and there was some

discussion, but I think they were shooting for getting everything done by January 1st of the year 2000.

I personally would like to see Area 1 come forth with a recommendation earlier than that, hopefully.

MR. BORDEN: Well, I'm not trying to revisit that whole issue. That's not my intent, but I'm a little bit concerned about the timing aspects of it. If in fact, Area 1 doesn't address the issue of a gauge increase, then I think you'll simply be preempted by time deadlines from taking any action certainly this year.

So I think it would be helpful if in fact there were, at least on the gauge increase, that there were an earlier rather than a later deadline that was manifested.

The other issue is the Board meeting. I would encourage the Board, given the large number of issues that I know everybody needs to discuss, meet sooner rather than later, and we would certainly invite you to the State of Rhode Island.

CHAIRMAN BECKWITH: Well, we are going to have another Board meeting soon, probably in the next couple of weeks, and it should be after the Area 1 LCMT meets, and maybe we'll have a better indication of what the schedule could be.

But I agree it's an important issue, and I would like Area 1 to be a little more forthcoming as to where they are going to go with their plans.

MR. MASON: Ernie, can we try to have the Board meeting before the comment period on the federal plan because at least I think one of the things, based on the discussion that went on between Harry Mears and myself, is that the Commission needs to include in its request to NMFS that all the LCMT proposals for each of the areas be available alternatives for those specified areas, even EEZ waters of those areas.

CHAIRMAN BECKWITH: Harry, what did you say again, February 12th, 11th? Yes, we could probably do that. Okay, any other issues before I adjourn the meeting? Do you want to try to set a date, a tentative date?

MS. SCHICK: At least a ball park, because I'm hearing mixed signals from people around the table, whether it's going to be possible to hold a Board meeting before February 11th.

MR. MASON: Well, if we can get them to extend the comment period by even a week, that gives us some flexibility. The Mid-Atlantic Council meeting is the first week in February. I think it's the 2nd, 3rd and 4th.

MR. LAPOINTE: My schedule is packed full until February 15th. I have no options.

EXECUTIVE DIRECTOR DUNNIGAN: Can we do this at the New England Council meeting, like the day before?

MR. LAPOINTE: We have Groundfish Committee meetings.

EXECUTIVE DIRECTOR DUNNIGAN: Two days before?

MR. LAPOINTE: Groundfish AP meeting.

MR. COATES: Are you talking about the 9th?

EXECUTIVE DIRECTOR DUNNIGAN: The 9th of February?

MR. COATES: The 9th is okay with me.

EXECUTIVE DIRECTOR DUNNIGAN: February 9th?

SENATOR GOLDTHWAIT: I don't want to revisit the whole location issue again, but if it's going to involve two full travel days plus the meeting day, that's going to be a problem.

EXECUTIVE DIRECTOR DUNNIGAN: We'll do it on February 22nd. Plan on an early start, 8 or 9.

MR. MASON: Jack, so then I think this gives us some additional justification to ask NMFS to extend the comment period so that the Board is going to have a meeting and can get their comments in following that.

CHAIRMAN BECKWITH: We talked about that earlier.

EXECUTIVE DIRECTOR DUNNIGAN: We'll ask them.

CHAIRMAN BECKWITH: Okay, any other business before the Board today? Okay, without objection, we'll adjourn the meeting.

(Whereupon, the meeting was adjourned at 12:15 o'clock p.m., January 13, 1999.)

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