

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

**Crowne Plaza - Old Town  
Alexandria, Virginia  
August 5, 2014**

Approved October 2014

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2. **Approval of Proceedings of February, 2014** by Consent (Page 1).
3. **Move to approve Addendum XXIII to the American Lobster Fishery Management Plan** (Page 2). Motion by Bill Adler; second by Jim Gilmore. Motion carried (Page 2).
4. **Move to approve the Cancer Crab PID with the additional language as modified today** (Page 7). Motion by David Borden; second by Bill Adler. Motion carried (Page 9).
5. **Move to initiate a technical addendum to remove the wording in Addendum XXI that was inadvertently added** (Page 25). Motion by Doug Grout; second by Mark Gibson. Motion carried (Page 25).
6. **Adjournment** by Consent (Page 31).

## **ATTENDANCE**

### **Board Members**

Terry Stockwell, ME, proxy for P. Keliher (AA)	David Simpson, CT (AA)
Steve Train, MD (GA)	Lance Stewart, CT (GA)
Rep. Walter Kumiega, ME (LA)	James Gilmore, NY (AA)
Doug Grout, NH (AA)	Emerson Hasbrouck, NY (GA)
Sen. David Watters, NH (LA)	Sen. Phil Boyle, NY (LA)
G. Ritchie White, NH (GA)	Adam Nowalsky, NJ, proxy for Asm. Sgt. Andrzejczak (LA)
Dan McKiernan, MA, proxy for P. Diodati (AA)	Tom Baum, NJ, proxy for D. Chanda (AA)
William Adler, MA (GA)	Tom Fote, NJ (GA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Roy Miller, DE (GA)
Mark Gibson, RI, proxy for R. Ballou (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)	Thomas O'Connell, MD (AA)
David Borden, RI (GA)	Peter Burns, NMFS
Rep. Craig Miner, CT (LA)	

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

### **Ex-Officio Members**

Joe Fessenden, Law Enforcement Committee Rep.	Bob Glenn, Technical Committee Chair
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### **Staff**

Robert Beal	Kate Taylor
Toni Kerns	

### **Guests**

Wilson Laney, USFWS	Dave Sikorsky, CCA
Topher Holmes, NOAA OLE	Janice Plante, Commercial Fisheries News
Megan Strachen, NOAA	Donald Lajavic, USCG
Sandy Aylesworth, NOAA Leg. Affairs	Mike Sauders, USCG
Craig Wolcott, NOAA Leg. Affairs	Arnold Leo, E. Hampton Baymens Assn
Tom Cornish, ME DMR	Joseph Gordon, Pew Trusts
David Pierce, MA DMF	Aaron Kornbluth, Pew Trusts
David Spencer, AOLA	Richard Allen, Little Bay Lobster Co.

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 5, 2014, and was called to order at 9:20 o'clock a.m. by Chairman Daniel McKiernan.

#### **CALL TO ORDER**

CHAIRMAN DANIEL McKIERNAN: This is the American Lobster Management Board Meeting, August 5, 2014. My name is Daniel McKiernan from the Massachusetts Division of Marine Fisheries.

#### **APPROVAL OF AGENDA**

CHAIRMAN McKIERNAN: Our first item on the agenda is the approval of the agenda. Can I get any feedback on the agenda? No feedback; so we'll assume it's approved as prepared.

#### **APPROVAL OF PROCEEDINGS**

CHAIRMAN McKIERNAN: The proceedings from the October 2013 meeting; can I get some feedback on that? Having heard none; it's accepted.

#### **PUBLIC COMMENT**

CHAIRMAN McKIERNAN: We will now take public comment from the audience on any items that is not on the agenda today. Is there anyone in the audience that would like to come to the microphone and speak on items not on the agenda?

#### **DRAFT ADDENDUM XXIII FOR FINAL APPROVAL**

CHAIRMAN McKIERNAN: Our fourth item on the agenda is Addendum XXIII for final approval. I'm going to let Kate Taylor cover this one.

MS. KATE TAYLOR: Draft Addendum XXIII contains information on the habitat needs for American lobster and does not include any proposed management changes. It was developed at the recommendation of the commission's habitat committee in order to update the Amendment 3 Habitat Section to include information on the habitat requirements and tolerances of American lobster by life stage.

The draft addendum focuses on habitat components, and these are those elements that play a vital role in the reproduction, growth and sustainability of commercial and recreational fisheries by providing shelter, feeding, spawning and nursery grounds for lobsters to survive. This includes temperature, salinity, dissolved oxygen and other factors.

For each habitat component identified, a description of the summary of habitat requirements, tolerances and potential effects on lobsters was described in the addendum for early life stages, juveniles and adults. The draft addendum also addresses impacts to the habitat components, including anthropogenic and ecological impacts and climate change.

It also includes information on habitat bottlenecks, habitat enhancements, recommendations for further research and recommendations for monitoring and managing lobster habitats. The public comment period ran from October 30 to December 30, 2013; and no public comments were received. Thank you, Mr. Chairman.

CHAIRMAN McKIERNAN: Are there any questions on the presentation? Are there any questions or comments on the document itself? Bill Adler.

MR. WILLIAM A. ADLER: I think it was very well done. I read through it and it covered about everything I could possibly think of and more. This is what apparently is just going to be added as a section of Amendment 3; and I thought it covered an awful lot of things. I thought it was very good.

CHAIRMAN McKIERNAN: Thank you, Bill; I'm sure the staff appreciates that and the authors of the document. All right, can I get a motion to approve the addendum?

MR. ADLER: So moved.

CHAIRMAN McKIERNAN: Motion by Bill Adler and seconded by Jim Gilmore. Any discussion on the motion? Bill, the complete motion, if you would read –

**MR. ADLER: Okay, I'll make a motion that the Lobster Board accept and approve Addendum XXIII to the American Lobster Management Plan habitat considerations.**

**CHAIRMAN McKIERNAN: And the second from Jim Gilmore. Is there any opposition to the motion? Having seen none; the motion is approved.**

#### **CANCER CRAB PUBLIC INFORMATION DOCUMENT FOR PUBLIC COMMENT**

The next item on the agenda is Number 5, Cancer Crab Public Information Document for public comment; and Kate Taylor will handle that.

**MS. TAYLOR:** The public information document for the Cancer Crab FMP was included in the supplemental materials. It includes sections on the management issues, the purpose, the statement of the problem, the description of the resource and issues for public comment. In May, as you remember, the policy board initiated the development of an FMP for Cancer Crabs.

Due to the similarities and appearance between Jonah crab and rock crab, both species could be managed through the commission's process throughout their range. The initiation of the FMP was based on recommendations from the Jonah Crab FIP, which is a multi-stakeholder effort to improved fisheries performance to a level that is consistent with the Marine Stewardship Council's Sustainable Seafood Certification.

The Jonah Crab FIP was initiated by a grocery retailer when the company found that the Jonah crab did not meet the criteria for sustainable harvest in order to continue the sale of Jonah crab in its stores. The FIP conducted a pre-assessment benchmark against the MSC's sustainable seafood criteria and also organized a working group to prioritize threats to Jonah crab and develop potential management measures to address these threats.

The purpose of this PID, as you know, is to gather information and provide the public an opportunity to answer the question how would

you like the fishery and population to look in the future? While Jonah crab has long been considered a bycatch in the lobster fishery, in recent years there has been increasing targeted fishing pressure and growing market demands.

The status of the Jonah Crab Fishery in federal or state waters is relatively unknown; and in the absence of a comprehensive management plan and stock assessment, the harvest of Jonah crab may compromise sustainability of the resource.

Moving into the status of the stock, there is no range-wide stock assessment for Jonah crab. There was an assessment conducted in state waters in Rhode Island, which found that the fishing mortality exceeded Fmsy; but the biomass was above the Bmsy level, so therefore the population was not considered overfished at this time. However, the fishery primarily occurs in federal waters; and as I mentioned, this assessment focused on state waters.

There are a few inshore state water trawl surveys that only infrequently encounter cancer Crab species. Additionally, there is one trawl survey conducted through NOAA Fisheries that does collect data on abundance and distribution; but this data has not yet been analyzed. Management for the fishery varies from state to state.

For the commercial side, there are no maximum landing size restrictions; and all states do require some form of commercial catch reporting. In some states the commercial licensing is linked to the lobster fishery; and in federal waters the commercial harvest of Jonah crab is unregulated. For the recreational side, harvest is allowed in all states.

Some states have varying harvest limits while the remaining states do not have any. There are some limits on traps and licensing and this again varies by state and in federal waters is unregulated. Table 1 in the PID contains information on the regulations by state. The value of the Jonah crab fishery, as was mentioned previously, has increased recently, resulting in higher landings. In 2012 the fishery was estimated to be worth over \$8 million.

Landings for rock crab have fluctuated between approximately one and five million pounds. In 2012 it was estimated to be about \$830,000. Moving into the issues for public comment, if approved, public comment will be collected on a series of issues that I will go through. These are intended to focus the public and provide the board with the necessary input to develop an FMP.

Issue Number 1 is should there be consistent coast-wide management? The management questions under consideration include is consistent coast-wide management needed; should management of cancer crab be coordinated through the commission; are there regional differences in the fishery or the stock that need to be considered when implementing these management measures; and should the commission include the management of rock crab with the management of Jonah crab?

Issue Number 2 deals with the objectives of the FMP. The draft PID documents contained in your material includes language on potential objectives for the PID and asks further what should the objectives be? Issue Number 3 deals with the management measures; specifically, should the commission consider minimum size restrictions; protection of female Jonah crabs; and recreational measures?

Management questions that are asked are what is the level of management that is appropriate; should the management be concurrent with monitoring requirements; should the FMP require a five-inch minimum carapace width for commercially caught Jonah crab with a tolerance; should there be a minimum carapace width for rock crab with a tolerance; should we prohibit commercial harvest of female cancer crab or prohibit the possession of egg-bearing females; and how should the recreational fishery be managed?

Issue Number 4 addresses licensing. The FIP examined the Jonah crab and lobster fisheries in offshore federal waters and found that about 98.3 percent of the licensed lobstermen harvest Jonah crab from federal waters. The management questions here address should the FMP require a commercial license; should it be licensed separately from lobster; should trip

limits be established; should a recreational license be required; and how should harvest for bait purposes be addressed?

Issue Number 5 deals with monitoring. Currently data collection for cancer crab varies from state to state and survey to survey. The management questions include what types of data collection programs should be initiated to monitor the fisheries; what type of fisheries-independent data should be collected to help increase understanding of stock status and biology; and should fishermen be required to report harvest if used for bait purposes?

Issue Number 6 addresses emergency action. The FIP recommended that the commission take emergency action to implement management measures for Jonah crab based on the increasing concern of the current and growing market for smaller female Jonah crabs. The management questions asked include should emergency action be taken prior to the finalization of an FMP; if emergency actions are implemented, what should they be and when should they begin?

Issue Number 7 deals with federal waters. Currently there are no regulations in federal waters for cancer crab fisheries. The management questions include should management in federal waters be consistent with state waters fisheries; and what recommendation should the FMP make for federal waters harvest of cancer crabs.

The last issue asks if there are any other items that the FMP should address. The timeline for completion, as you see here the board is reviewing the draft PID and will consider it for public comment today. If approved today, the public comment period would run September through October.

The management board could review the public comments received on the PID at the annual meeting and provide the PDT with input on the development of the FMP. Potentially the management board could review a draft of the FMP for public comment at the February board meeting with public comment following and potential review of the final document for final action in May 2015. Thank you, Mr. Chairman.

CHAIRMAN McKIERNAN: Are there any questions on Kate's presentation? Ritchie.

MR. G. RITCHIE WHITE: Mr. Chairman, I was out at the very beginning of the presentations; so forgive me if this is answered. I guess I'm perplexed as to how do we go forward with any management measures without a stock assessment? How do we know that measures are needed if there isn't a stock assessment done showing that there is overfishing?

CHAIRMAN McKIERNAN: Toni wants to comment on that.

MS. TONI KERNS: We did talk about this at the policy board when we initiated the PID. Like black drum, the policy board had directed staff to move forward with the intention of doing a stock assessment once the management plan had been approved; and that the FMP would be general in the sense it would be developed so that we could easily craft management measures.

Once an assessment was put forward, it may have some basic management measures or monitoring requirements or data collection requirements that would help us inform information for an assessment or to allow some basic things to be done so that there would be some consistency. Otherwise, we would have to rely on anecdotal information that is being collected – not necessarily anecdotal, but information that's being collected by the states, to use more stock indicators than an actual assessment.

MR. WHITE: Has the staff looked at, as we start to go down this road, the financial implications of this; and if we get into have to develop a stock assessment, are we ready to be able to do that financially? It seems to me like this is mostly a federal issue; and I guess I can't get my arms around how we will do a stock assessment, how we can afford it and how we will carry it out.

MR. JAMES J. GILMORE, JR.: I had to things. First to follow up on Ritchie's point; I kind of agree that we're looking at the financial aspects

of trying to manage another species. If we go back to last year, we were looking at, well, we all decided we'd go back and not have an ASMFC plan and we would just do individual state plans, which we're struggling with right now on how we're going to do that.

And now I looked at this and said, well, we're getting into priorities and it's like I don't know if we're going to have the resources both at the commission and even at the state level to do this. There are a lot of questions about that and I don't know if this is the biggest issue we need to be doing and maybe the feds should looking into this more than us.

Secondly, a couple of corrections on the table; Table 1 listed New York as having a commercial minimum size. We don't have one so that should be changed. Secondly, there was a commercial harvest limit of 50 crabs per day. That is the recreational limit; we don't have a commercial limit; so if you will make those changes. Thank you.

MR. DAVID V. BORDEN: Going back to Ritchie's first point of why we should do this; Steve Train and I both participated in the GMRI process. I think the logic for the commission to take action at this point is to do something precautionary. This is an extraordinarily valuable fishery; and it's becoming more valuable. Landings are escalating fairly rapidly.

The whole point in doing this is to put some really basic regulatory requirements on the fishery; namely, some sort of minimum size and some type of egg-bearing female protection on the fishery and enhance the data collection aspects of it while both the National Marine Fisheries Service and the states work together over some extended timeline to do a stock assessment.

It is going to take a while to do that stock assessment. In fact, Bob Glenn can speak to this; but he put in a pretty extensive, well-researched proposal to look at the sexual maturity aspects of Jonah crabs, and it wasn't funded by the S/K solicitation. That type of research is going to take time to develop; and the whole point is to be precautionary and try to get

ahead of this and put a set of regulations that kind of ensure the long-term viability of the resource.

In terms of the economic consequences for the commission, I think that the discussion there is focused on if we just do a basic plan with a few measures, it shouldn't cost us a lot of money. We only get into the more expensive aspects of Jonah crab management like a full-blown stock assessment if the resource is developed. Otherwise, you just have these core management measures that stay in place and hopefully ensure the viability of the fishery and the resource. Thank you.

MR. MARK GIBSON: Mr. Chairman, as to the rationale for why we want to act before we have a detailed, comprehensive stock assessment, I think Figure 1 tells me I should be concerned as a fishery manager. Landings have increased by a factor of six since 1990. I think in our past experience is when landings explode on an unregulated species, it is not because abundance has increased by a factor of six.

It is usually that effort has increased greatly for whatever reasons, displacement on a lobster fishery and poor performance there, and we probably have an exploitation rate that is mounting rapidly and could very well have already exceeded sustainable rates. I don't know what the abundance is doing in the primary areas of the fishery; but the long-term trawl survey of the Graduate School of Oceanography in Narragansett Bay has been declining over the same time period this great increase in landings has taken place. I don't know what the other states' inshore surveys, if they even count cancer crabs, I don't know; but with little information we do have, I think it is alarming for an unregulated species and begs some basic management measures.

MR. THOMAS O'CONNELL: In Table 1 on the summary of regulations, it appears that the Maryland regulations are for blue crabs rather than Jonah crabs as we don't have any. We do require a commercial license to land; but that if that section could be updated; thanks.

MR. BORDEN: Mr. Chairman, I'm glad Ritchie actually brought this up because it leads into a point that I think is important. I suggested to Kate that the document include the problem statement out of the GMRI document. For those of you that can't recall that, problem statement gets into about five different issues; problems that are created by an unregulated fishery; and I think it's important to just include those.

Then when this goes out for public discussion, we can have a discussion with the constituents about – there are going to be people that are going to stand up at public information hearings and basically say they want to oppose us moving forward with crab management. I think all of us should be prepared to deal that; and that's what the problem statement gets into. In other words, it is more explicit than what Kate put in here. There is a whole list of like whale entanglements, circumvention of the trap cut regulations in the lobster plan. If we include that, then I think it is a lot easier for all of us to defend this action. Thank you.

CHAIRMAN McKIERNAN: Kate, do you want to respond?

MS. TAYLOR: I just want to make sure that the board is aware of what the statement of the problem would read and what that would add. There are a number of bullet points in the FIP's report; and so this would add:

The crab resource is unregulated in federal waters with most of the landings coming from Area 3. Landings and effort are increasing rapidly in an unregulated manner. There are no minimum size protections for Jonah crab; nor are there regulations to protect spawning biomass, including restrictions on the harvest of females.

If left unregulated, the expanding crab fishery threatens the effectiveness of the lobster industry's conservation measures to reduce traps in the water and avoid interactions with right whales. Supermarkets and other major buyers are petitioning to discontinue selling processed in whole Jonah crab unless it is managed sustainably. With the loss of market access, the ex-vessel price of Jonah crab is likely to decline;

and with the continued unregulated harvest Jonah crab, the long-term availability of this resource for harvest is compromised.

CHAIRMAN McKIERNAN: Kate, can we bring all five of those points into the PID?

MS. TAYLOR: Yes, we can add to the document.

MR. STEPHEN R. TRAIN: Mr. Chair, to speak to some of the things Ritchie spoke about earlier, if we wait to regulate a species until we have more information – having harvested a lot of these different species, it seems like by the time we start regulating them we're already in trouble. This is a healthy resource that means a lot to the coastal economies in these states. If we wait much longer, the effort escalation without regulation is going to do serious harm to it.

CHAIRMAN McKIERNAN: Walter.

REPRESENTATIVE WALTER A. KUMIEGA, III: What he said.

CHAIRMAN McKIERNAN: Doug Grout, did you want to speak to this issue?

MR. DOUGLAS E. GROUT: Kate, I noticed the NMFS Survey had collected the information, but it said the data had not been analyzed. If we were to put together a PID or an amendment, is there a possibility that the commission or the technical committee could get access to that data and just do basic catch-per-tow information; the same thing with the Massachusetts Survey; and then the Maine/New Hampshire Survey.

That might give us some fisheries-independent information which might – even though it's not a formal stock assessment, it would give us an idea of what relative abundance is doing over the years; and it would help inform the public as to what is happening here.

CHAIRMAN McKIERNAN: Bob Glenn, do you want to speak to that?

MR. ROBERT GLENN: To answer your question, Doug, the answer is, yes, we can and we already have to some degree. Myself and

another member of my staff, as well as individuals from Northeast Fisheries Science Center, Burton Shank, and a few other scientists have worked with the GMRI Group. Part of that process is we've been putting together all the fisheries-dependent and fisheries-independent data for Jonah crabs that are available. This includes all the NMFS trawl survey indices. We do have them and we are in the process of reviewing them; so we have some idea.

MR. ADLER: Since I think we should move ahead for all the reasons that have already been mentioned and remembering that the PID is only one step in it seems a very long format where we can maybe get some more information like stock analyses or whatever; but I think it would behoove us to move ahead with this particular thing.

I think it would be very helpful if we could put a picture of a Jonah crab versus a rock crab in; because people go I've got crab all over the place; which one is this one? That would be probably a helpful thing to put in the document. I think we should move ahead with this. It is going to take a while, anyway.

My other question was we need to talk to the federal people; because if we put something forward like this, I know we have some control, but does mean it will be three years, four years from now before the federal rule is in? I still think we should move ahead with this.

MR. BORDEN: I don't have an answer for Bill, but I was going to ask you whether or not you want a motion? Are you ready?

CHAIRMAN McKIERNAN: Bob Beal wanted speak first.

EXECUTIVE DIRECTOR ROBERT E. BEAL: I just had a quick follow-up for the technical committee chair. Bob, what is the timeline in pulling together some of that basic information? Is it quick enough to get it in this PID if the board wants to move forward with this for hearings between this meeting and the annual meeting or is that product more something that could be included in the draft amendment should the board choose to go that route?

MR. GLENN: We have in hand the basic fisheries-dependent like catch information by state as well as trawl survey indices for different states as well as Northeast Fisheries Science Center data. We could get it together. We have it in hand and we could get it together pretty quickly.

EXECUTIVE DIRECTOR BEAL: For this document?

MR. GLENN: For this document, yes.

CHAIRMAN McKIERNAN: All right, with no other discussion, **I'd accept a motion to approve the PID.** David Borden.

MR. BORDEN: **I'll make that motion, Mr. Chairman, with the additional language that Kate suggested; so move.**

CHAIRMAN McKIERNAN: Second from Bill Adler. Comments from the audience? Dick Allen.

MR. DICK ALLEN: My name is Dick Allen. I'm here representing the Little Bay Lobster Company. You shouldn't really take my comments as any kind of a position on the issues; but I would like to make some suggestions that might improve the public information document. I wanted to comment on the document specifically.

We appreciate the willingness of the commission to respond to the initiative of people in the fishery and the industry and look forward to you following up on this. We do think there is a need for management. The first thing is I noticed there doesn't seem to be a conservation or a sustainability objective in the list of possible objectives, which seemed odd to me that it didn't list conservation of the resource as one of the objectives. I think it would be improved by doing that.

The second thing is the emphasis on the prohibition on taking female crabs, I was surprised – I know the FIP Working Group had that emphasis, but I would expect the commission to take a little more objective and scientifically based approach. As far as I know,

there is no biological basis for complete prohibition on taking females. I think both in that suggestion and in the emergency action; that could be a little more explanation as to whether that's a fundamental biological issue or not. As far as I know, there is no biological reason or evidence that some take of female crabs wouldn't be acceptable as it is in just about every other fishery we have.

I'm wondering if you could include a shell height minimum size in addition to the carapace width and thinking about how people are going to sort crabs and just reducing the cost of any potential regulation. I know that Connecticut, for example, in their hard clam fishery has both a diameter regulation and a shell height regulation.

It seems to me that having that option and getting comments on that might be a good idea that you could either/or or a carapace width or a shell height. The tolerance on either the minimum size or females, it seems to me we learned about tolerances and the enforcement issues that they create. They seem like a great idea when you say, well, this is a big-volume fishery and we don't want to hold anybody to a real tight compliance, everybody makes a mistake, things like that, so we'll put a tolerance in.

What we learned in sea scallop management is that the tolerance sometimes becomes the standard; and when you are dealing with volumes, the only way to enforce a tolerance is to take samples. One sample doesn't give you confidence that you actually know what the entire catch is, so then you have to get into statistics and how many samples you need and what your confidence limits are and all of those things that go with tolerances.

I wanted to suggest that at least you include an option in the document that might have an absolute measure than as a tolerance. The red crab fishery management plan – the federal FMP for red crab allows one standard tote of females in a trip; and so you don't get into sampling. If you're watching a trip unload and you pick out the crabs, you fill a tote, and you've got a violation there.

You don't get into all the statistical issues that go with a tolerance. I think including that for public comment might be a good idea. I don't see anything about escape vents in the document; and it seems like that might be something that people would want to consider along with the idea of having a minimum size; that one way to help with that might be an escape vent. I think it would be good to include or ask for comments on escape vent requirements.

Again, the emergency action request creates the impression and in my mind this is with kind of the weight of the commission behind it that there is something inherently wrong with taking female crabs. I don't think you should be giving that impression; that there ought to be some way to ask those questions in a more objective fashion. I also had the same question about whether that federal trawl survey data would be analyzed; and that question has been answered, and we'd look forward to that.

CHAIRMAN McKIERNAN: Dick, can I ask you question about the shell height? Your reputation precedes you as being a very creative guy who can solve problems. Do you actually know of a gauge or a measuring technique that height on a crab could be measured?

MR. ALLEN: I don't see why not. The whole idea behind escape vents is that there is some size that animals can go through. In thinking about the difficulties of measuring carapace width on high volumes of crab; it just seemed to me that one option, whether it's workable, whether people would think it was a good idea or not; I think in the quahog fishery one of reasons that people went to that was that it increased the ability for people to sort quahogs quickly.

Whether it would work with Jonah crabs, I don't know, but I think it's worth consideration. I think it's going to be very costly to ask people to measure carapace width; and I think it's going to be difficult for enforcement people to do a lot of measuring of carapace width on crab. If there is an easier way to do it, I think we ought to at least consider it.

CHAIRMAN McKIERNAN: Okay, Dick, you have asked for three changes to the document; incorporation of shell height, a tolerance on the undersized non-conforming crabs and a reference to escape vents. Can I get any feedback from the board whether to include those?

MR. ALLEN: The tolerance that I suggested was specifically – there is already a tolerance included in the document. I'd suggest that we might get comments on whether an absolute number would be preferable to a percentage tolerance because of all the statistical issues that you get into with sampling for percentages.

CHAIRMAN McKIERNAN: Thank you, Dick. All right, I'm going to turn back to the board and get comments. Doug Grout.

MR. GROUT: Yes; I would support at least including these in the PID to get comments on.

MR. BORDEN: Mr. Chairman, I think Dick brought up a number of good points; and unless there is objection by Mr. Adler, I'd suggest we just include that.

CHAIRMAN McKIERNAN: Any objections to doing that? Hearing none; thank you. We do have a motion on the board. Joe Fessenden wants to speak to the issues.

COLONEL JOE FESSENDEN: I just wanted to mention that in Maine crab is a bycatch fishery in the lobster fishery. A few years ago we had several fishermen who came to the department and wanted to go crab fishing in addition to the lobster traps. We've actually got an approved crab trap design in Maine; and it's something you may want to consider in the document to actually have an approved crab trap that would allow fishers to have more than just the lobster traps. It's just an idea.

CHAIRMAN McKIERNAN: All right, we can include that in the document. Tom Fote.

MR. THOMAS FOTE: I'm just curious does that crab trap also catch lobsters or is the lobster

excluded from the trap just because of the design?

COLONEL FESSENDEN: Well, in theory they exclude catching lobsters. They don't always work, but the bycatch certainly of lobster is diminished significantly with that current design. We've basically got them on four-foot traps. They're not small crab traps and stuff. They're fairly large traps and they seem to work for Jonah crabs.

MR. DAVID SIMPSON: I think that's an important point because I think one of the central questions we're going to have to answer is are we going to manage Jonah crabs as part of the lobster fishery or are there going to be options for a parallel fishery. I think this is an important thing to ask early on

CHAIRMAN McKIERNAN: Thank you; that's a good point. **All right, we have a motion on the board: motion to approve the Cancer Crab PID with the additional language as modified today. Motion by David Borden; seconded by Mr. Adler. Let's raise our hands, all in favor of the motion; any objections to the motion; any null votes. It's unanimous; thank you.**

#### **REVIEW SOUTHERN NEW ENGLAND 10 PERCENT REDUCTION EVALUATION**

CHAIRMAN McKIERNAN: All right, the next item on the agenda is a review of the Addendum XVII effect on the Southern New England 10 percent reduction. The evaluation will be done by the Chair of the technical committee, Bob Glenn.

M. GLENN: Okay, a little background on the information; per Addendum XVII all lobster conservation management areas within Southern New England were required to reduce exploitation by 10 percent in order to address rebuilding. The reference base years for evaluating the reduction was the 2007 to 2009 period.

The regulations that each LCMT decided to put forward were provided in the briefing materials in detail. Just to summarize those quickly; for Area 2, the highlight of that program was a mandatory v-notching program. Area 3 enacted a 3-17/32 inch minimum size increase. Area 4 enacted a mandatory v-notching program in addition to a February 1 through March 31 seasonal closure. Area 5 also conducted a mandatory v-notching program as well as a seasonal closure from February 1 to March 31. Finally, Area 6 adopted a seasonal closure from September 8 through November 28; and that was for the 2013 year.

Just a little bit of background information; because calculating relative exploitation requires you to conduct a full assessment model, the technical committee can't evaluate the actual exploitation rate to see if the management measures enacted were successful at reducing exploitation. We used nominal landings as a proxy; and was discussed with the board prior to when these regulations were being passed.

We discussed this with the board that this would be an issue; so what was used as a measuring stick essentially was the reduction in catch from that baseline 2007 to 2009 period. We're going to through north to south for each of the states that had regulations that they had to put into effect.

For Massachusetts, in comparison to the reference years, landings declined by 12.4 percent. There has been a dramatic decline in fishing effort and active permits since the late 1990's. Although the current active fishers are reporting higher catches overall, there are fewer people in the fishery. The consensus was that Massachusetts did meet the 10 percent reduction based on landings.

However, it was very likely that this was not due to implementation of the v-notching program but rather due to substantial declines in fishing effort. The v-notching program in LCMT 2 is likely not the best management tool for this area because it relies on fairly high fishing levels. Just a little context there; unlike the Gulf of Maine where it is – in Area 1, rather, where it's a very successful conservation tool, it relies on

fairly high fishing mortality rates or encounter rates.

So in order to v-notch egg-bearing female lobsters you actually have to catch a substantial portion; and they have to come across the rail for the fishermen and then they're v-notched and put back. In LMA 2 – and specifically I'm speaking of Massachusetts here, but I think you will see a similar case in Rhode Island – because fishing effort has declined so much, the catch rates aren't high enough to actually observe enough egg-bearing females to v-notch a substantial portion and put them back. It is kind of one of the limitations of that technique in an area where there is low abundance and also low exploitation rates.

Moving on to Rhode Island, relative to the reference years of 2007 to 2009, landings have declined by 25 percent. The consensus from the technical committee was that Rhode Island met the 10 percent reduction requirement based on landings. The technical committee finds that the reduction was not due to the implementation of the v-notch program in LCMA 2 but due to a decline in effort as well.

The technical committee was unable to evaluate the effect of the gauge increase in LCMA 3 in Rhode Island; and that goes for Massachusetts as well. We don't get very much in the way of biological sampling in LCMA 3; and as a result of that we didn't have any updated length frequency distributions of the commercial catch from that area to be able to evaluate to see if a gauge increase was successful at reducing their catch or not.

Moving to Connecticut; landings in 2013 were 68 percent lower than they were in 2009. The seasonal closure did reduce landings but overall landings continued to drop as well. The consensus from the technical committee was that Connecticut achieved a greater than 10 percent reduction in landings, most of which can be attributed to the implementation of a seasonal closure but also due to decreased market demand, decreased abundance and less effort.

At the time this was put together, we did not have – there was an issue with the New York

landings data. Those have since been resolved, but the technical committee did not have an opportunity to review the New York plan prior to this meeting. We can give an update on that. I do believe New York's representative on the technical committee, Kim McKown, just sent out late this week, after the landings issues have been fixed, a review for the technical committee to look at. I'm assuming that we will look at that via e-mail quickly and we can send updated information on that.

Moving on to New Jersey; we will break it down by the three LCMA's for New Jersey. In LCMA 3 for New Jersey boats; there was a 42 percent reduction in catch, but this was likely due to loss of one of the three main boats in that fishery. The technical committee representative from New Jersey described that one of the major players in that fishery had moved to another area so the landings drop in that case was not likely not due to implementation of any of the management measures but likely because that large player left.

In LCMA 4 landings increased by 3.26 percent in comparison to the reference base years. However, in LCMA 5 there was a 33 percent reduction in catch. The consensus was that the required reduction was achieved in LCMA 3 and LCMA 5 but was not achieved in LCMA 4. The technical committee felt that implementation of the seasonal closure and v-notch program had mixed success.

For LCMA 4 and 5 the technical committee recommends that the LCMT should review the seasonal closure timing and to possibly look at dates that are more effective. We also reiterated the same that we did for LCMA 2; that a mandatory v-notch program might not be the best method to regulate catch in any of the Southern New England stocks because the exploitation rates are fairly low and making the encounter rates low.

Finally, for Maryland – and Maryland would have fisheries in LMA 5 – overall their landings have increased since the reference period. The consensus was that Maryland did not achieve the 10 percent reduction. Landings have actually increased since the reference period. However,

we did note that Maryland has less than 1 percent of the coast-wide landings and this increase had very limited impact on the Southern New England stock.

We take that state-by-state breakdown and then just give kind a status update for each of the management areas; and it looks as follows. For Area 2 and 3 the required reduction was met, but the technical committee felt it was likely not due to the implemented management measures. Areas 4 and 5; the required reductions were not achieved; and overall we saw increases in landings in those management areas. In Area 6 the required reduction was met; and much of the reduction could be attributed to the management measures. That's it for the presentation.

CHAIRMAN McKIERNAN: Are there any questions? David Simpson.

MR. SIMPSON: Thanks for the presentation. When we adopted Addendum XVII and approved v-notching or closed seasons, one of the things I thought we would look at carefully was evidence that the mandatory v-notching was actually happening. One of the advantages of a closed season is we can for certain and very effectively monitor and enforce that.

Gear had to be removed from the water even; but with the v-notching there is no certainty that compliance with mandatory v-notching was being achieved; so there was discussion of monitoring through sea sampling the proportion of egg-bearing females that were v-notched and from ventless traps. Did the technical committee look at any of that? Have the states that have significant Area 2 fisheries provided any of that information?

MR. GLENN: Yes; they have. What we did was each state was required to construct a memo looking at the effectiveness of the plan that their LCMA's had put into place. For part of that, for example, all the states, including Massachusetts, Rhode Island and New Jersey, who chose v-notching programs included within the report on the effectiveness of the plan; observed rates of v-notching in commercial sea sampling as well as the ventless trap survey.

What we found was that say, for example, in Massachusetts we did see an increasing v-notching but a very small increase; certainly not as much as we would have anticipated had there been a large amount of v-notching occurring. Similar things were observed in both Rhode Island and New Jersey where there was a detectable increase in v-notching, but it was overall extremely small.

MR. SIMPSON: So then in terms of compliance, it doesn't sound like we have a great deal of confidence that within Area 2, for example, there is much compliance with Addendum XVII. Landings is a very simple proxy; and I understand until we have an assessment, we don't know what exploitation rate reduction we have achieved.

You know, certainly in Area 6 I believe we got some conservation benefit out of a three-month closed season. I would probably not agree with the statement that much of the 68 percent reduction was attributable to our closed season. We closed a season that we expected to achieve a 10 percent reduction, and I don't think we got much more than that.

I do think we may have had some benefit, which I have been hoping for, once the gear is out and people are out of the habit of fishing at nearly no profit level or maybe no profit level, maybe they decide not to put the gear back in the spring. I think we've had some of that; so maybe some additional benefit; but we probably would have achieved a 58 percent reduction without any closed season at all. I'm concerned in terms of what do I tell my people who are living through a three-month closure is there conservation equivalency going on. At this point I don't feel like there is in Area 2 or 3.

MR. GLENN: I think your point is well taken, David, that it's much easier to gauge the success of a closed season. One thing that makes it difficult for us tease out what is going on in v-notching is that, for example, in the Massachusetts portion of Area 2 we've had in excess of an additional 40 percent attrition in the industry; and so the effort rates have declined dramatically.

I can't tease out whether there has been poor compliance with the regulation or if it's that overall fishing effort is so low they're simply just not catching enough egg-bearing – the combined industry that's left working on that stock isn't catching enough egg-bearing lobsters to v-notch them and for it to show up as a sizable increase. It's a little bit of a semantic point, but I have a feeling that overall the compliance was okay. It's just so few doing it.

MR. SIMPSON: This was the concern I had with v-notching from the outset; and I know when Connecticut and New York had used v-notching as a conversation equivalency tool, we were held to a very high bar. We had to demonstrate through direct observation a certain number of lobsters being v-notched; and we didn't have that here.

Has there been any law enforcement activity trying to observe fishermen to see whether they're using notching tools, whether they have them on the board, any kind of, you know, call it surveillance of their behavior out there to get a sense of whether there was adequate compliance?

MR. GLENN: Not that I am aware of.

MR. TRAIN: This is a great slide. It makes things pretty clear, red, we haven't met it; but the yellow, Area 2 and 3; so we got lucky. Does this mean that we didn't do enough and for other reasons we got lucky and so there still needs to be something done or do we just back and say we met it so we can put that one behind us even though it wasn't something we did? The red and green seem pretty clear, but the yellow one leaves me wondering so what do we do?

MR. GLENN: What the yellow indicates for Area 2 and 3 was that the reductions that occurred in fishing effort and participation in general far outweighed any signal that we could detect by the regulation. When you have such dramatic declines in fishing effort, you're going to see tremendous reductions in catch; and that is what was observed in Area 2 and Area 3. We saw dramatic declines in catch. As far as how to address it going forward, I think that's something that the board collectively would

need to discuss what a good strategy would be moving forward for Southern New England.

MR. GIBSON: I just wanted to respond a bit to Dave's concerns about compliance. I don't think it's so much a matter of compliance. It's that the resource and fishing effort has essentially evaporated at least in state waters of Area 2. Our spring trawl survey this year caught four lobsters in 44 tows. We used to catch in the double digits per tow.

Our fall survey last year I think caught twelve, and that's the definitive total. We used to catch twenty per tow. That's a definitive one for at least our contribution to the stock assessment. The ventless trap survey is at its historic low point since 2006. The settlement has been basically four bust years in a row even notwithstanding a slight uptick we had this year. The bottom has just fallen completely out of the resource. Our measures of effort are low points; the number of traps being fished; trap tags being ordered.

We have trouble finding anybody to go sea sampling with except for the handful of people who still know where there are a couple of pockets of lobsters; and, hence, the catch-per-trap haul remains hyperstable because we're down to a handful of guys that still know where there are a few left. That's inherently a very dangerous situation, by the way, when we're still inflicting mortality on a contracted and reduced stock.

Witness the Gulf of Maine Cod News; we discussed this last week. I don't it's a matter of compliance. It's just there is nothing left to v-notch and there is hardly anybody out there to do it. We're looking for a needle in a haystack now of trying to find a v-notched lobster amongst everything that we're catching.

MR. BORDEN: To go back to Steve Train's question, though, to me I look at the results. The results are mixed. Some areas didn't achieve their results. I think what Steve is asking is, how do we react to that? My answer to that is you're going to have a full-blown peer-reviewed stock assessment going forward in the next six to nine months. At that point, when you get the

most up-to-date information on the stock assessment, then I think we have to reflect back on the analysis that has been done and decide whether or not we need to do more and how much more we need to do. That's my response to that.

MR. SIMPSON: Assuming we've sort of gotten beyond the question and answer with Bob and are talking about the now-what portion of this; my problem is we do have a closed season for three months. We require fishermen to pull their gear out of the water and go do something else for three months; and then if they want to fish again, they have to put all that gear back in the water, which is an inconvenience, to say the least, for them.

Some of them are asking us – you know, they've made the same comments and they've made them in the newspaper that we've achieved way more than the 10 percent reduction; we've achieved a 68 percent reduction; you should relieve us of this burden of having a closed season. I'm not sure what to say to them differently.

We do have the ability to implement as an alternative a mandatory v-notch program; and we could do that and do away with the closed season. I wouldn't feel very good about it; but this is the problem that I foresaw when we approved v-notching as an alternative to a closed season. I can statistic for statistic match what Mark is saying about how dismal the fishery is in Long Island Sound.

It is horrendous, the lowest trawl survey index we've had in 30 years and the lowest landings we've had in more 30 years and so forth. I just don't know what to tell people at home if we just kind of, oh, well, you know, it looks like they've v-notched some lobsters in Area 2 and 2; they're okay. I'm not sure what I'll tell people if they really push for v-notching instead of a closed season back in Long Island Sound.

CHAIRMAN McKIERNAN: David, to that point, if you did adopt a v-notching program, I think experience has shown over in Massachusetts and Rhode Island you may not encounter enough animals to accomplish the goal.

MR. SIMPSON: We absolutely won't; and that's the problem. You won't really know again how you did on exploitation until we have another stock assessment. I don't want it to sound like sour grapes, but I think for good reason the board, when we used v-notching several years ago, required that we document 30,000 v-notched lobsters; so it was independent of the population size.

If you don't v-notch 30,000 lobsters or more, then you have failed to achieve the conservation objective and you have to go to Plan B, which was a gauge increase for us. We fell short by several thousand lobsters and we had to a gauge increase. There is nothing here in this Addendum XVII to say, well, you fell short, the stock has fallen, you've fallen short, you need to go to a closed season or a gauge increase or something else that is more enforceable and more verifiable.

MR. GIBSON: The other point I forgot to make when I last spoke is our ability to detect a 10 percent reduction in exploitation is nil. Even with a fully updated stock assessment, we won't be able to detect that. The coefficients of variation on the model parameters using the terminal estimates or any estimate of exploitation is going to have a wider confidence bound than that; so we won't be able to detect it anyway. We've set ourselves up for failure on this one.

It was very clear in the North Cape Program when millions of lobsters were being v-notched, you could see the effect on the extension of the size composition of the females, the reductions in mortality rate that occurred. We just didn't anticipate that the bottom was going to fall out of this thing and we wouldn't have the animals to v-notch or the fishing power to do it.

In hindsight the ability for us to on paper specify a 10 percent reduction; but then where the rubber hits the road actually estimate it, we don't have the ability to do it and we won't when the full Maine Size-Based Model is updated; at least not in my opinion, anyway.

MR. WHITE: I think the situation that we found ourselves in is exactly what the technical committee told us. The technical committee recommended a moratorium and we did a 10 percent; and the population has followed exactly what the technical committee said would happen. It has collapsed and getting worse. It probably doesn't make any difference to limit mortality because it is probably going to end up not being any eventually, anyway. I think this follows what was predicted.

CHAIRMAN McKIERNAN: I would like to just comment on maybe David Simpson's point that it is a fair point about the issue of the closures. I believe there was some talk of a contingency like in Area 2 for a closure if the objectives weren't met. We are about to embark on some very serious trap allocation reductions down that way.

It is my experience in the Outer Cape that if you do have a seasonal haul-out period, it certainly enhances the enforceability of the permit-specific trap limits; so maybe that's something that we ought to be thinking about going forward. Any other comments? Bob, I know you're going to get into this shortly; the assessment is going to be out by December or the next meeting, November; what is your forecast on that?

MR. GLENN: The assessment will be completed probably and ready for review at the February meeting – sorry, May meeting.

CHAIRMAN McKIERNAN: Kate, is it the commission's view that the LCMTs need to be reconvened in those areas where the reductions appear not to be met?

MS. TAYLOR: In those areas where the reduction was not met, the states will have to convene the LCMTs and develop regulations to meet the 10 percent reduction. However, as it was noted, the New York Report was not included in the evaluation; so that could help out the LCMA 4 landings if those reductions have decreased. We will have to factor that in; so that LCMA may come into compliance. For LCMA 5; they will have to likely to go back and

reevaluate those measures in order to meet the 10 percent reduction.

CHAIRMAN McKIERNAN: So can this issue be brought up again at the November meeting after the New York data is incorporated?

MS. TAYLOR: Yes; the New York Report, as Bob mentioned, was sent to staff late on Friday; and that is going to be distributed to the technical committee so we can actually let the board know hopefully after some technical committee review over e-mail what the results of that were.

CHAIRMAN McKIERNAN: So is this an issue that we can move to the November meeting in terms of a holistic view of the exploitation rates in the Southern New England stock and then task the LCMTs after November to get together?

MS. TAYLOR: It was the discussion at the technical committee meeting that staff would work with the states to convene the LCMTs to develop recommendations so at the November meeting we would know what the regulations would be for the coming year.

CHAIRMAN McKIERNAN: That would mean what the LCMTs would propose and not necessarily regulations, right? Okay, is there any objection to that plan and that schedule? David.

MR. BORDEN: Mr. Chairman, not an objection, but I think it would help if the staff sent out a memo to all the states basically outlining what Kate just said. Thank you.

#### **UPDATE ON UPCOMING FEDERAL ACTIONS**

CHAIRMAN McKIERNAN: All right, we can move on to the next issue, number seven, update on upcoming federal actions; and Peter Burns is going to present on that.

MR. PETER BURNS: I just want to give you a quick update on where we are at with our various rules and regulations on the federal side. In April we published a final rule and that implemented regulations to do a limited access program for Area 2 and the Outer Cape Area.

Those are the last two areas in federal waters that don't have a cap on effort.

We began soliciting applications in May; and we will be taking applications from federal lobster permit holders through November 3, 2014. We will be reviewing those for their eligibility; and those that are eligible will get a trap allocation based on their historical fishing practices. To date, we've got about 130 applications in. Most of those were preapproved in looking at data with the states; so most of those folks really could be ready to be approved at any time. We have about 190 or 200 applicants in that same situation. We will be trying to reach out to those folks again, those extra 70 or so federal permit holders, to try to get the applications in and complete this process as soon as we can.

That new regulation, the rule that we published, also implemented the trap transfer rules; so we have those in place, but we're waiting for the trap tag database come into play so that we can get transferability started. Since then, we published just last Friday a proposed rule seeking public comment on the Southern New England stock rebuilding measures, those same measures we were just discussing previously.

We'll be accepting comments on this through August 25; and so we're happy that the comment period falls during this lobster meeting to give you folks a chance to give us some comments. These measures are consistent with the commission's recommendations in Addendum XVII and XVIII to reduce fishing exploitation by 10 percent – that was Addendum XVII – and reduce latent effort and scale the fishery to the diminished size of the Southern New England resource – that was in Addendum XVIII – both in 2012.

You can see these are the measures. These are consistent with what the commission has asked us to implement. There is a mandatory v-notching requirement for Area 2, Area 4 and Area 5 and a gauge increase in Area 3 up to 3-17/32 inches and a seasonal closure from February 1 to March 31 in both Areas 4 and 5.

We also are proposing the grace periods on either end on the closed season to allow

fishermen to get their gear out and put gear back in so it doesn't completely disrupt their business practices. Here is another issue that is being proposed vis-a-vie Addendum XVIII trap cuts. This is a 25 percent cut in Year 1 for Area 2; and then in five subsequent years a 5 percent cut each year for just under a 50 percent overall cut.

For Area 3, another suite of trap cuts, totaling just under 25 percent; and that's 5 percent for five years in a row. We proposed that the trap cuts take place starting at the next fishing year as well as the other brood stock measures, effective May 1, 2015. In the meantime, when we wrote this proposed rule, it was contingent upon the database being completed.

We've got a timing issue here that we would really like to get the board's comments on because we've got trap transferability and we've got trap cuts. The trap tag database isn't ready to go yet; so we can't allow fishermen to start transferring traps. If we implement the trap cuts first without the opportunity for fishermen to transfer traps, it could cause some economic problems for them because they won't be able to mitigate the trap cut issues.

One of the things we did – you know, without wanting to slow the process down, we're proposing that the trap cuts be implemented at the start of the 2015 fishing year; but even if the trap transferability becomes an option with a completed database in the near future, the window of opportunity for fishermen to get together to make deals to be able to transfer traps during a reasonable part of the 2014 fishing year, where we're at right now, is closing rapidly.

It is going to complicate the ability for us to be able to qualify and allocate these fishermen, number one, and then implement the trap cuts and tell them what their cut allocation is going to be, number two, and then, number three, allow them the process and the time to be able to effectively buy up enough traps so that they can get back up and mitigate from the trap cuts.

For Area 2, of course, that's a significant cut. In Year 1 it is 25 percent. One of the things we've specifically asked for comment is even though

we're proposing implementing these cuts in the start of the 2015 fishing year, asking specifically for comments from the board about the timing of this with respect to trap transferability and even the option of potentially moving the cuts up one year to allow the trap transfer database to come up to speed; for us to be able to outreach to the public and let everybody know what they need to do to transfer traps; allow the trap transfers to become effective and then permit holders would be able to transfer traps based on that cut amount; so they would be essentially cut and be able to mitigate during the same fishing year, which is in our interpretation really what the commission had in mind when it crafted Addendum XVIII, to put trap cuts in place contemporaneously with trap reductions. Thanks for your time; and if you have any questions, let me know, but we're really interested in your comments specifically on the timing of the trap cuts.

CHAIRMAN McKIERNAN: Any questions for Peter on his presentation? Bill Adler.

MR. ADLER: Mr. Chairman, a couple of things. First of all, I would like to ask Peter what the difference is in the federal proposal that is out now versus what our addendum came up with. I know we did this already in one of addendums and the federal people have to put their word in. My first question is, is there anything different in the federal proposal from what we already sort of approved in our state addendum? That's my first question and then maybe if I could have a follow-up and another question.

MR. BURNS: We tried to follow the recommendations of the commission throughout this whole process; and we're really actually talking about two different rules here. The first instance is the final rule that we're implementing now. That is the limited access program in Area 2 and the Outer Cape and the trap transferability program.

We had a proposed rule a year ago, and we really didn't deviate substantially from that proposed rule. We looked at the public comments and we really kept things the same. The only thing that we tweaked on that was the issue with allowing multiple histories in the trap

transfer situation. Initially when we wrote our proposed rule, the commission's plan in Addendum XII called for only allowing a trap had history in a multiple area, for the buyer of that trap to maintain only one specific area.

Since then in our work with the Trap Tag Database Working Group, we got some confidence that the trap tag database would be able to track those multi-area trap histories. Subsequently, the commission adopted Addendum XXI that allowed for a multi-area history; and so that was a very convenient thing for us because we then we were able to spin that into our proposed rule to be even that much more consistent with what the commission had done for this.

Then we've got our rule. It is a proposed rule right now; so this is trying to keep on track with what is happening. All the brood stock measures in Addendum XVII are exactly the same as those that were adopted by the commission and recommended for federal implementation in the commission's plan.

I think one thing we've tried to do in staying consistent with the plan is really just wrap in a lot more detail into what we've done with these rules. I think anyone who has read through these can see that; that we tried to take all the pieces, tried to read the public comments, tried to really glean what the intent of the board was in putting together two separate programs that really overlap; one of those programs being an economically based trap transfer program that is geared toward allowing fishermen to be able to have more flexibility in their businesses, number one.

Then number two, a very different process, which is an effort control trap reduction process which is really geared toward improving the stock and scaling the fishery to the stock; but ultimately what we found is that the fishermen couldn't have one with the other. They understand the need for the reductions, but they also need the trap transferability to be able to mitigate through that, the ones that are going to stay in the fishery.

We tried to build a lot of that detail into our plan and kind of see through this and now we've sort of teed it up for the board to be able to give us some guidance on how we're going to do these two things in a way that is reasonable and effective.

MR. ADLER: Mr. Chairman, if I could ask Peter, on one of these plans – and I was trying to follow it – it says if you sell a trap allocation from 2, 3 or Outer Cape you lose Area 1 eligibility; but if you buy from 2, 3 or whatever, you can keep your Area 1 eligibility. I get very confused there as to an example of how that would work. I didn't know if somebody could explain it to me.

CHAIRMAN McKIERNAN: Bill, I think the reason you're confused is in your state the agency only allows one LMA for the inshore fishery; and so maybe Peter can explain how that works for the offshore fishery.

MR. BURNS: Again, getting back to your last question, Bill, this is exactly what the commission had asked us to do. This is something that came about in Addendum XII, which is really one of the foundational documents for trap transferability and sort of laid down the ground rules for how transferability was going to work.

We did a limited access program for Area 1; but it is not individual permit-based trap allocation, the same way all the other areas are. In Area 2 and all the other areas we have qualified and allocated trap based on a permit-specific fishing history as it relates to the eligibility requirements that have been laid down by the commission.

That is separate from Area 1, which is really a trap cap; and we capped the number of federal permits at current permit holders and gave everybody – you know, you bought one trap tag and you get 800 traps. Now we don't have an administrative way to deduct somebody's allocation. If they had an Area 1 allocation and maybe a seasonal allocation of 300 Area 3 traps, if they sell those Area 3 traps, we don't have any way to deduct their Area 1 allocation consistent with how this plan works.

What we're saying consistent with what the commission has asked us to do is those people can buy traps, they can buy transferable traps from Area 3, Area 2 or the Outer Cape; but if they sell them, then they're going to lose their Area 1 eligibility. In some cases that may be a good economic option for somebody who is trying to get out of the business or is retooling their business somehow; but certainly then can still buy traps.

MR. BORDEN: Mr. Chairman, I have a number of comments on Peter's proposal; but I think the way to expedite the discussion here is to focus on the database. Is the database ready; and if it's not ready, when is it going to be ready? We've been talking about this for years. It's totally impossible, I think, either for the National Marine Fisheries Service or the commission to get on with implementing these proposals unless we have the database. That's a key issue; so can somebody tell me exactly what the status of that is?

CHAIRMAN McKIERNAN: Kate, would you like to take a first crack at that and I'll help you.

MS. TAYLOR: Some of the state data has been uploaded into the database and is ready to go. We're waiting for verification and the finalization of the remainder of the states. Once we have that, we'll work with NMFS to enter their data. It is very close to being ready and hopefully can be turned on very soon, within the next few months.

MR. BORDEN: I appreciate Kate's response, but we've got to know is this going to be ready for prime time, for instance, May 1, 2015? If it is, the board can have a discussion about structuring all these dates around that particular action. If it's not going to be ready, then it's a superfluous discussion to have; and we really ought to be talking about a 2016 date or something like that.

CHAIRMAN McKIERNAN: Let me weigh in here from Massachusetts perspective and someone who has already kind of been at the forefront of the development of this database and were the first to contribute to it. The very difficult part of this database has to do with the

tracking of an entity's identify relative to these allocations. What I mean by that is this is this bridging where the states who permit individuals are trying to match up information with the federal government that permits so-called vessels.

It has occurred to us in these numerous conference calls that what is really critical is that the staff at NMFS and the staff in each state pay such attention to the contents of this database so that if some individual who owns a state permit and a state allocation changes boats or changes identity, goes into a corporation; or, alternatively, when a NMFS permit changes its status or changes a registration; that all kinds of things that have to be accounted for.

This means that the permit staff in Massachusetts and the permit staff in Rhode Island and the permit staff at NMFS have to be – and any other states that gets involved with this have to actually take an extra step and make sure that this common database that is out there is intact; because if you don't, you're going to create the so-called pregnant boat syndrome that we've talked about in the last ten years as being the one thing we wanted to avoid.

Where this database is right now is it is in testing and the data is there; and I guess we're ready to maybe attempt a few transfers in a beta version of this. The real reality is we have to make sure that the NMFS staff and the state staff actually understand the criticality of tracking the allocations to these entities and prevent the entities from drifting in the database or from the database not capturing any changes that were made.

We've really struggled with what is the common field that you can track this vessel? Is it registration number, is it documentation number, is it some other combination? That is where it is at; so my view from Massachusetts is this database is really close, but I think it has to be tested through the fall to make sure that we can use it in our permitting offices and not necessarily at the ACCSP where we're just transferring traps.

One of the crazy things that happens – I'll give you an example – if a permit holder re-registers his boat, sells the boat to a corporation that he is the president of, we get a new registration number; and if all of a sudden if that's what you're using to track the allocation, the documentation number or the registration number, it has been lost.

This data base has to bring it back. Some has to pay attention to that. To your question, I'm nervous about this fall; because if NMFS is still taking applications for the allocations as late as November 4 and my industry wants to start moving traps in advance of the ordering of the trap tags, which we allow as early as January 1, I think we're going to be squeezed significantly. Peter, what kind of feedback would you like from the board today about the timing issues?

MR. BURNS: I think everything you said was spot-on, Dan, but I also want to point out that this is complicated. It is more than just developing a database and deducting 200 traps from one fisherman and adding 200 to another one. It's just like Dan said; it's about all the agencies being able to communicate on this.

It's about having business rules and everything else working fully so that we can assure this is going to work right. This is a pyramid we've been building for ten years. We're getting ready to put the top on it; and it would be great if we can really roll this out in a way that the commission and the board intended to do, which is to balance biological conservation on the stock as well as provide some economic flexibility to the fishing fleet.

I think we have to realize that there is a lot to this; and I think in developing this database, people realized that there was a lot more to it than meets the eye. One recent issue that just came up is the ability or how to account for multi-area transfers. I think the more and more we start talking about these database issues, the more issues come up and the more complexities come up.

I'm very confident that those things can be resolved; but as Dan mentioned, we're reaching the window of opportunity for trap

transferability in Calendar Year 2014 is getting very small to be able to do that in a way that we have appropriate outreach to the fishing fleet to allow them to understand what transferability is.

We're trying to wrestle with it internally here about what some of the issues are with it. I would like to have a situation where the public well advised before they start spending good money for lobster traps to know what they're getting into and what the implications of that are. The timing becomes a critical thing and a lot of moving parts here. That's why we would really like to get some good comments from the board on how to implement this thing in a way that's going to meet the goals as intended.

CHAIRMAN McKIERNAN: Peter, do you think if we tried to stay on this schedule for transfers to begin in this next fishing year; that we would face kind of a breakdown or create problems for individual fishermen? Are you forecasting chaos? What do you see?

MR. BURNS: Are you asking if we did transferability in this current fishing year, 2014?

CHAIRMAN McKIERNAN: Well, I think the schedule is expected to have you accept applications through November; and if all goes well, then you would be qualifying and allocating almost instantaneously and transfers would begin for next year. In our state we would like to have those allocations already squared away by December 1, which is our renewal period. I guess I'm trying to anticipate what that would mean if people's allocations aren't established yet because of transfers that might be going on,

MR. BURNS: Yes; I think that would be complicated. I think administratively for the states and for NMFS it would be complicated to be able to get everyone qualified and allocated – those that are qualified and allocated, to be able to tell them what their trap cut out allocation would be and then allow them to transfer that way.

We know that the states really work on a calendar year schedule, that they start taking orders for trap tags and start to issue licenses I believe at the beginning of the calendar year;

and early in the calendar year is when NMFS begins to go through that same process. Like I said before, we're getting into a very compressed timeframe right now.

CHAIRMAN McKIERNAN: Can we get feedback from members of the board as to the wisdom of postponing the trap cuts until the following year? David.

MR. BORDEN: Mr. Chairman, I don't support postponing the trap cuts. The whole reason we got in this scenario was the technical committee came forward with a suggestion to close the fishery. Ritchie White brought this up before that they made a serious recommendation based on scientific advice and the board started to take actions – I know I'm repeating history here – and the industry basically dug in its heels and said let us go find a different path.

We started down this path of trap cuts and I actually think that the proposal that the industry has put forth has a lot of value in it. I mean a 25 percent trap cut in Area 2 is a significant trap cut. All you have to do is look at Bob Glenn's report, which is part of the lobster material and not in the supplemental period, but if you look at Figure 3 what you've is you've got a situation here where the catch per unit of effort is actually going up.

The overall effort is falling like a stone because abundance is either declining or whatever; but catch per unit of effort is actually starting to increase; and the last the resource needs is to have a bunch latent effort come back into the fishery. That's not going to do the resource any good. I think it's critical to get on with this whole process.

I do not want to be perceived as minimizing the difficulties. I think Peter and all the states are confronting a really difficult chore in doing this; but we set out with a course of action and I think we've got to follow up on it. To me the timeline that makes sense is Peter has already prequalified most of the federal participants, as I understand it.

We all know that there are going to be people that are going to undergo director's appeals and

that type of thing; but hopefully that's going to be the 5 percent. I think we should go forward under the assumption that we're going to cut the traps on April 30, 2015, and do the transfers May 1, 2015, and let the industry know and basically let them have an application window of about 30 days where they can submit letters on the transfers.

The only reason I suggest 30 days is most of the people that want to transfer traps either own the traps or already have an agreement with somebody to purchase traps from them. It's the first year of the transfer program. We have an expedited review process that's shortened. I don't think it's going to do a lot of harm; and you could have a longer review process in the second or third year. I think we've got to get on with this is what I'm suggesting.

Given Kate's advice about the status of the database, I think that we should develop a timeline around those dates, basically circulate it to the industry, get comments and so forth; but by the November meeting I think we have to decide definitely we're either going to do this on that schedule or we're going to postpone it to the following year; and that ought to be based on the facts at the time.

CHAIRMAN McKIERNAN: I think it's critical for state personnel, Massachusetts, Rhode Island, Connecticut, New York, any of the states that have members that are in the fleets that are going to be affected by this are going to have to make this priority over the next few months. I think that's one of the things that slows us all down at times is we all have a lot of other assignments to do; but I think if we're going to try to pull this off in time for this fall and next year, this is going to have to become really important back in our offices in the state, especially. Steve Train.

MR. TRAIN: I can't speak to you guys trying to meet timelines in the offices; but I agree with David, we should move forward with this as quickly as possible. If we can't – I was just doing the quick math – if this takes another year, then I would suggest the first year cut be 28.75 percent to get us back on schedule. That would

be the 25 plus 5 right there; and that would still get us right back into the five-year schedule.

CHAIRMAN McKIERNAN: Maybe that's a comment you want to put on the record to NMFS, but that's one of the issues I think NMFS is looking for comments on. All right, any other comments? Peter, do you want to follow up?

MR. BURNS: I appreciate the comments by Mr. Train and Mr. Borden. I was interested to find that a lot of Area 3 participants were ready for transferability; but I was also wondering with some of the other states, whether they thought that was the case, where folks would be ready to go right away to begin transferring traps in the short term?

MS. TAYLOR: I would just like to point out to the board that, as Peter mentioned, Area 3 already has taken the cut; so they can turn on transferability now; but with Area 2, that 25 percent reduction would need to be implemented first before the transferability to occur. That is the way the board has discussed it previously and we'd be looking for comment to ensure that is the same message the board would like to submit to NOAA Fisheries.

#### **REVIEW OF CONSISTENCY WITH FEDERAL TRAP TRANSFER REGULATIONS**

CHAIRMAN McKIERNAN: Okay, let's move on to the next item, review of consistency with federal trap transfer regulations. Kate. Just to follow up; do we have a position as a board. I'm not sure we do. I think it's critical for each of the states involved in this transfer addendum to weigh in. Mark, you and I can talk; but I don't think we're going to create a board position necessarily today, but I think it's important that we comment officially on the record. All right, Kate, consistency with federal trap transfer regulations.

MS. TAYLOR: As Peter mentioned, NMFS has published a federal rule on implementation of the limited entry program in Area 2 and OCC, as well as their trap transfer program. While the majority of the measures implemented in the

final rule are based on the commission's recommendations and are consistent with the commission's plan, there are a few measures which are either not consistent with the commission's plan or the commission's plan does not address the issue.

Issue Number 1 is the conservation tax of full business transfers. Under the final federal rule, a 10 percent transfer tax will be assessed on all partial allocation transfers while the full business transfers, the sale of the entire permit, will not have a transfer tax. Under the commission's plan, both the partial and the full business transfers are subject to the 10 percent transfer tax.

Issue Number 2 is conservation tax increments. Under the final federal rule, trap transfers may be processed in ten-trap increments; and while the commission's plan does specify that an increment will be included, it does not specify what that increment is.

Issue Number 3 is the dual permit transfers. Under the trap transfer program, NOAA Fisheries will allow dual state and federal permit holders to purchase federal trap allocations from any other dual federal permit holder. Under the commission's plan, a dual permit holder is restricted to transferring traps only to another dual permit holder from the same state. However, the commission was supportive of this allowance in the proposed rule.

Issue Number 4 doesn't actually with the NOAA Fisheries Final Rule. It is an issue that was brought to the staff's attention under Addendum XXI. The addendum specified that an entity may not own more than 1,600 traps. However, those individuals who had more than two permits in December 2003 may retain the number that they have at that time, but may not own or share ownership of any additional permits.

That last sentence, the one that specifies those individuals who had more than two permits in December 2003; this was not included in the draft that the board reviewed nor the document that went out for public comment. This was mistakenly included in the final text of this

section. This language could be removed through a technical addendum or the normal addendum process. Thank you, Mr. Chairman.

CHAIRMAN McKIERNAN: Any questions for Kate on this presentation? All right, hearing none, do we have any interest in creating a new addendum to resolve these discrepancies? David.

MR. BORDEN: I don't have an answer for your question, Mr. Chairman, but I'd to talk on just a couple of these points. On the conservation tax, the full business transfer, my understanding of both the commission plan and the federal rules require the most restrictive rules to go in place. Under the 10 percent partial transfer, the commission plan requires that both full and partial transfers be taxed; so that's the most restrictive.

The fact that the National Marine Fisheries Service doesn't adopt that, as long as both management agencies agree to adhere to the most restrictive allocation is you're going to end up with a lower number of traps; is that correct?

CHAIRMAN McKIERNAN: I guess that would be true, but I think it defeats one of the goals of this effort control plan that we've been working on with NMFS where NMFS made every effort to sync with the state allocations; so going forward in the database, we certainly didn't want to see a proliferation of different allocation totals per entity as a result of this disparate rule. I take your point that was one of the objectives of the original plan to sort of be more conservative and reduce trap allocations; but we have to ask ourselves whether it is worth it to have more confounded records in the database and whether the trap cuts that are scheduled especially for Area 2 would suffice relative to the conservation goals.

MR. BORDEN: I'd offer the opinion that if you don't tax the full transfers, then people will use full transfers to avoid the tax; and the trap reductions will be that much less effective. I think it's critical – if you want consistency between the two sets of rules, I think we need to figure out a way to get the National Marine

Fisheries Service to adopt the tax on full transfers and not vice versa.

CHAIRMAN McKIERNAN: Peter, do you want to comment on that?

MR. BURNS: Keep in mind that we've got about 3,000 federal lobster permit holders and almost 1,700, more than 50 percent, are in Area 1. In Area 1 there is no way to deduct somebody's trap allocation for a full business transfer. I'm speaking off the cuff right now; but I think that federal permit holders from Maine probably switch their permits more than anywhere else, their lobster permits, so this could be a considerable issue for an area that doesn't even have trap transferability and yet they're going to be subject to a tax whenever they make a business decision to switch boats or sell a permit.

That's over half of our permits, every single time we'd have to struggle with that. Unless Maine has a way to deduct somebody's state allocation consistent with a federal action, which we don't have right now, we're going to be in a real mess. All we've tried with this whole trap transferability process is to try to match up with the states, knowing that 90 percent of the federal lobster permit holders also have a state lobster license.

Trap transferability is really an economic tool to allow somebody to buy partial transfers. This is something new; because under our regulations before that, the only way you could get access to a lobster area was to buy a permit that qualified for that area and get those traps and all of the traps. Here we're allowing people to pick part of someone's allocation or someone to give away part of their allocation. Full business transfers is really kind of selling a whole business where a trap transferability is an exchange for an economic fine tuning of somebody's lobster business.

CHAIRMAN McKIERNAN: Peter, wouldn't it also entail sort of the policing or the monitoring of the membership of a corporation; that if a permit is held in a corporate name – one of the problems that we've encountered is trying to

figure out, well, who is embedded in that corporation.

MR. BURNS: It would be one more riddle to solve in the trap transfer database, for sure.

CHAIRMAN McKIERNAN: Is there any interest in doing an addendum with these disparate items to bring them in line with the federal regulations? Are people not interested in creating that addendum? Can I get some discussion to not do that? Personally I'd be in favor of seeing this addendum because I'm trying to deal with my – in Massachusetts my allocation holders; and I want a clean rule. I've got ASMFC rules that aren't consistent with the way we're going to go forward with in this federal plan. Steve, help me.

MR. TRAIN: Well, I understand the problem we've got because we want to be consistent; but if I were to buy a new boat, that's a permit transfer and then I'd be cut 10 percent. I understand this, so I think we need to – I want to keep this 10 percent, but I think we need to wait a while and work on how we get to apply. If you sell your whole business, I think it's a problem if you cut 10 percent and then the guy has to go find some other tags and build back up the limit; but if it's not going to match up because of the way you read permit transfer, whether it could be a new vessel or divorce or something and the name on the permit changes and now it's a transfer, you shouldn't be hit with the 10 percent. I do think we need to work on that. The intent of what we were doing I don't think was to have that happen.

CHAIRMAN McKIERNAN: Peter Burns, if someone like Steve replaces his vessel, that is not considered a transfer, is it, if the permit remains in that entity's name?

MR. BURNS: I think if there's a vessel replacement or if there is the sale of a business to somebody else, it would be considered a full business transfer.

CHAIRMAN McKIERNAN: Even in the case of a vessel sinking, if the vessel was gone, and someone bought a new vessel, that's considered a permit transfer?

MR. BURNS: I believe so. Yes; I think so; I that is what we defined a full business transfer as, any type of transfer of a vessel permit to another – take a federal permit and put it from one boat to another, whether it's your boat or someone else's boat.

CHAIRMAN McKIERNAN: Yes; and, Steve, and that sort of speaks to the problem is that in the states we issue permits to people; and when that permit comes in says, "Hey, I want to replace my vessel," we don't consider that permit transfer. That's why we need to have more consistent language.

MR. TRAIN: Yes; I'd like to see the 10 percent stay, but maybe we need to work with NMFS to get them to come up with what we consider a transfer and what they consider a transfer before we bring them in line to our way of thinking. In the meantime, we have to wait a little bit.

CHAIRMAN McKIERNAN: Well, I think this a core issue with this database because NMFS is going to make all these efforts to sync up; and then if we have a state standard that if someone changes their – or if they transfer the permit or change the vessel, that allocation does not get debited but at the state level it does, I think that constitutes a problem for us. Peter, go ahead.

MR. BURNS: Yes; I agree, Dan. Like I said before, we're trying to address two issues with one tool. This particular thing deals with trap transferability; and we only have trap transferability in three areas, Area 2, the Outer Cape and Area 3. There is only a trap cap in Area 1 so there is no way to deduct anyone's allocation.

If the idea is to really reduce traps more in Maine, maybe this isn't the way to do that. Maybe that's another addendum with a different reason for trying to get trap reductions; and maybe this isn't really the way to do that. I think that the Area 1 issue is going to come into play in this.

MR. TERRY STOCKWELL: Mr. Chairman, I just want to follow up on Peter saying that this would be a very big deal in Area 1. Applying

this measure to all lobster management areas at this time would introduce a currency into Area 1 that we've not discussed in the past. I would be reluctant – actually, I wouldn't be reluctant; I would be adamantly not supporting initiation of an addendum at this time.

CHAIRMAN McKIERNAN: Terry, I think the addendum would alter the ASMFC trap transfer standards to make it more like NMFS; so it would meet your expectations. The addendum would not result in a situation where the traps were debited. We want to eliminate that – I'm sorry, the idea is to eliminate that language from the ASMFC plan to make it more consistent with the federal rules.

MR. STOCKWELL: My expectations, if I could follow up, would be to certainly consult with our industry before I'd be at all prepared to discuss this issue at the table.

CHAIRMAN McKIERNAN: Okay, thank you. Well, this is an issue that has been hanging out there for a bit. It doesn't have to be resolved today; so if you could have those conversations with your industry, we will pick this up in November, if you don't mind. David.

MR. BORDEN: Sorry to talk so much, Mr. Chairman, but this actually is a very important point. This is a question for Peter – and Chip Lynch I think is also here – if we did an addendum that exempted Area 1 from this provision or any area, Area 6 if need be from this provision; would the problem go away? In other words, could they then adopt a 10 percent transfer tax on the other areas?

MR. TRAIN: If I understand Peter, though, if anyone in Area 2 or 3 bought a new boat and took on a partner in any way and had to change their permit, they would have to take a 10 percent cut. I think that's where we're not matching things up.

CHAIRMAN McKIERNAN: Well, again, this is the crux of the matter and this why the database is so challenging. NMFS is permitting vessels or the owners of vessels where we, the states, are permitting individuals; so it is very easy when we deal with the permitting issues in

the states to say to someone like Steve Train you have now sold your permit or you've transferred your permit and the new holder is going to be debited.

The problem is the use of a corporate shield, so to speak, it is possible for that corporate makeup to simply shift with a new partner and that's very difficult for the states and NMFS to sort of the chasing down. I think that's part of NMFS' challenge as well in terms of administrative burden; is it not, Peter?

MR. BURNS: It is definitely a challenge. And really getting more toward David Borden's point is that you could try to isolate this on an area-by-area basis, but what it comes down to is that most of the federal lobster permits have more than one lobster management area; so you just keep drilling down more and more when you try to compartmentalize something that really isn't constructed to handle that.

MR. BORDEN: Mr. Chairman, this obviously is a very complicated issue. Can I suggest that unless somebody has objection, that the Chair appoint a subcommittee to focus in on this with the staff and try to bring a recommendation forward at the next board meeting.

CHAIRMAN McKIERNAN: I'd be happy to do that; and can I construct the subcommittee of a representative from Rhode Island, Massachusetts, NMFS – and other state want to be involved – Terry. Anyone else? All right, that's the plan. Thank you, David, good solution. The next item is a stock assessment update, Bob Glenn. Doug Grout.

MR. GROUT: Just a thought here; Issue 4 here was a mistake in wording that was included in Addendum XXI; and I'm wondering if we would be willing to just let the staff move forward with a technical addendum that would essentially remove those words that were put in there that were never put out for public comment or commission consideration or whether you want to try and wrap this into a formal addendum. It seems like this would be a quick and easy thing to do between now and the next commission meeting.

MS. TAYLOR: And that is something that the staff could either draft up and send around to the management board for their review since it is a very addendum; and there could be a public comment period before the annual meeting; or if the board would like to review it at the annual meeting, we can do that as well.

MR. GROUT: Do you need a motion to try and do this or can we do this by consensus? I'll be glad to make the motion if you want me to move forward with that direction, Mr. Chair.

CHAIRMAN McKIERNAN: Sure, Doug, we'll take the motion.

**MR. GROUT: All right, I would move that the board initiate a technical addendum that would remove the wording in Addendum XXI that was inadvertently put in there. If you want me to be more specific, I'd need to get that slide up again.**

CHAIRMAN McKIERNAN: Kate tells me that's sufficient. Seconded by Mark Gibson. Discussion. **Any objection to the motion? If not, by consensus we will move forward with that.**

#### STOCK ASSESSMENT UPDATE

CHAIRMAN McKIERNAN: All right, the next item is the stock assessment update from Bob Glenn.

MR. GLENN: I'm going to provide you with an update of where we are with the stock assessment and then also put together a presentation giving you kind of a thumbnail sketch of each stock right now based on the model-free indicators. So far for the stock assessment we finally have finalized all the landings' data.

We had a few issues with Massachusetts, Rhode Island and New York landings that have been identified; and those problems have been corrected. As such, right now staff is going to start to work and finalize the catch-at-length matrix, which is a primary piece of information that we needed to get the model runs going.

This assessment will include data through 2013. We've updated catch and survey indices to include data through 2013. The Lobster Stock Assessment Committee meets in September; and at this September meeting is when we will commence model runs and start to look at those for each of the stocks. Right now the assessment completion is due to be late winter/early spring of 2015, to be presented at the board at the May 2015 meeting.

I'm going to move right into a preview of the stock assessment using some stock indicators. These are model-free indicators of abundance and exploitation as well as fishery indicators. I'm not going to comprehensively show all of those because we have dozens of them for each stock that we look at.

What I chose is just a handful of probably the ones that convey the most meaning and provide a decent thumbnail sketch of the condition for each of the three stocks. I'm going to start with the Gulf of Maine first. Looking at abundance indicators for the Gulf of Maine, the two primary ones that we look at are the spawning stock biomass. That would be the figure on the left. We have three indices for that.

We have that generated from the Maine/New Hampshire Survey, the one generated from the Northeast Fisheries Science Center Survey and one that we generate from the Massachusetts Division of Marine Fisheries Inshore Survey. In general what those three indices show is that spawning stock biomass is extremely high in the Gulf of Maine, above the 75<sup>th</sup> percentile in all cases, with the exception the recent index from the Maine/New Hampshire Survey notes a decline in the terminal year to 2013.

We look at the full recruit abundance. Those are those animals that currently are or will recruit to the fishery in the current fishing year. We look at those survey indices over time; and all three of the indices indicate that the overall abundance of the adult stock is extremely high at this point. It is within some of the highest levels that we've observed.

We look at recruitment factors for the Gulf of Maine. Specifically, we look at the young-of-

the-year settlement survey that's conducted in Maine, New Hampshire and Massachusetts. I've broken it down into four basic regions, starting with Area 511, which is Eastern Maine moving down to 512, which is mid-coast, 513 east and west, which is Southern Maine as well as New Hampshire, and then finally Area 514, which is the Gulf of Maine.

What you'll notice about these indices is they're fairly noisy; and that's fairly typical of young-of-the-year indices because there is a lot of inter-annual variability in both settlement strength as well as environmental conditions that dictate what happens. The technical committee is somewhat concerned. If you look, they do follow a similar trend in terminal years where you see in 2013 all those indices drop pretty dramatically.

It is something that we're watching. Two years of lower settlement indices doesn't necessarily spell disaster, but it is certainly something for the technical committee and for the management board just to continue to monitor to see what prevails. That is something that we'll provide more insight on in the upcoming stock assessment.

What we can use as a mortality indicator is a relative exploitation rate, which is simply just the ratio of the survey to the commercial catch and to give us a relative idea of what fishing mortality may look like. If you look, we have some varying trends. The green line up there is in the southern portion of the Gulf of Maine and Massachusetts Area 514.

What you can see is that we've had a fairly dramatic decline in the relative exploitation rate; and what that just simply means in this case is that the survey index has increased at a faster rate than the commercial catch has and gives us an idea that exploitation rates may be declining in that area. If you look at the blue line, which is from the Northeast Fisheries Science Center; that would be all the Gulf of Maine, but offshore waters and not state waters.

Overall for the last 25 years or so, it has kind of varied without trend; and there are some ups and downs, but it has been fairly stable if you were

to draw a trend line through that. The Maine/New Hampshire Survey, the red line is a smaller time series. That was fairly stable from its inception around 2000 through about 2011; and that has bumped up in the last couple of years.

That is just another thing occurring in the Gulf of Maine stock and specifically off the coast of Maine. It is something to watch. It is not a full alarm at this point, but we are seeing indicators of possibly exploitation rates are increasing there despite their being record abundance. Commercial catch is no surprise. The figure on the left is the total commercial catch for the Gulf of Maine.

The one on the right is those data broken down into statistical reporting areas. The graph speaks for itself. There has been a dramatic increase in catch over the course of the time series. In the last few years that increase doesn't seem to have any limits. It continues to increase pretty rapidly. If you look at the graph on the right, it can give you some insight as to where those increases are coming from.

While we do see increases in all of the statistical areas, the largest increases have been specifically in both mid-coast Maine Area 512 as Eastern Maine in Area 511, with more modest increases in the southern portion of the Gulf of Maine, 513 and 514. Finally, the line on the very bottom, Area 515, it is somewhat swamped.

Any trends there are somewhat swamped by the magnitude of the catch in other areas; but that's the offshore Gulf of Maine and landings have kind of varied but have kind of stayed fairly consistent over time there. We summarized this to kind of give you a report card for the Gulf of Maine as an early indicator. The stock appears to be in good condition. Abundance is at or near time series high.

We want to give a little bit of caution with the exploitation rate because we've seen a relatively large increase in the Maine Index for relative exploitation in recent years; so it's something to watch. Recruitment is cautionary as well. There are two consecutive years of poor YOY settlement; and this could lead to future declines

in catch and should be monitored closely. Finally, looking at catch trends, there have been dramatic increases in catch; and the fishery appears to be strong.

Moving to Georges Bank; similar to the situation that we saw in the Gulf of Maine is that we've seen both strong increases in the spawning stock biomass on Georges Bank as well as strong increases in the full recruit abundance on Georges Bank. We only have one survey index that covers this area; that's the Northeast Fisheries Science Center Survey.

All indications are that both of these indicators were consistent for the earlier part of the time series through to about 2000 when we've seen dramatic increases in both. Looking at relative exploitation for that area; there is some inter-annual variation. However, overall the relative exploitation rate has remained fairly stable over time or varied without trend.

Then, finally, if you look at the fisheries indicator, in this case commercial catch, you see the figure on the left is the total commercial catch on Georges Bank. This follows much like the abundance trends that we see in the survey index. Since about 2000, we've seen a fairly dramatic increase in commercial catch on the Georges Bank stock.

The very noisy figure to the right is the breakdown down by statistical area. If you look at that, what you can see is there is a fair amount of inter-annual variability in catch in that area, which is kind of different than what you see in the Gulf of Maine where you tend to see more stable patterns. Some of this can be possibly attributed to how catch is reported; because out on Georges Bank a lot of the boats fish in multiple statistical areas on a given trip; so there tends to be a little bit of variability in reporting as to how many pounds came from Area 561 or Area 562 when they possibly fished both on the same trip. Overall the total trend in catches is pretty telltale of what is happening there. Summarizing Georges Bank, the stock appears to be in good condition. The abundance is at or near time series high.

Exploitation rates have remained consistent and seem to be stable. A little bit of a cautionary note on recruitment is that we don't have a young of the year, a larval survey or a ventless trap survey for Georges Bank to provide a good indicator of recruitment; so managers should use caution because we do not have a good forecast of any incoming recruitment for the stock. Then, finally catch on Georges Bank has increased dramatically in recent years; and the fishery appears to be strong.

Moving to Southern New England, some of the punchlines for Southern New England were already covered by Mark Gibson and Dave Simpson; but I'll continue to go over it regardless. If we look at overall abundance indicators, looking at spawning stock biomass – and we're using the Connecticut, the Northeast Fisheries Science Center and Rhode Island Survey for spawning stock biomass – what you see is that both the inshore surveys, Connecticut and Rhode Island, the spawning stock biomass indices in 2013 were at the all-time time series low.

The Northeast Fisheries Science Center, which would be the blue line, is that it has declined from the highest observed in the late 1990's; and it's off the axis. There is some spawning stock biomass being seen in that survey, but overall it's fairly low. When we look at the similar trends for full recruit abundance in Southern New England, based on those same three surveys you see basically the same trend in the inshore survey indices in both Connecticut and Rhode Island.

We haven't historically used the Massachusetts Survey as one of the stock indicators; but if I were to throw those trends up there, you would see a similar trend in that the full recruit abundance for the Southern New England portion of the Massachusetts Survey is at or at all-time lows as well. There seems to be a pretty consistent regional trend in stock abundance for Southern New England and that is at near all-time lows.

We have a couple of different recruitment indicators for Southern New England. Two of the states, Rhode Island and Massachusetts, use

the Young-of-the-Year Suction Sampling Survey. That would be the figure on the left. Rhode Island is the green line and Massachusetts is the blue line. Overall the Young-of-the-Year Settlement Indices are very low.

You note that in 2013 they've come up from the low of zero; but in context to the time series, they're still well below the 25<sup>th</sup> percentile in density of young of the year. The condition overall is a very poor settlement. On the right we're looking at Long Island Sound, which the Long Island Sound Larval Indices.

The red line is from Western Long Island Sound and was traditionally conducted by Connecticut DEP, their larval survey, and that's looking at the index of the four-stage lobster larvae per thousand cubic meters. Overall, looking at that, the index is extremely low for the last ten years and dramatically lower than what was observed in the mid to late 1990's.

Similarly, the blue line is conducted by the Dominion Power Plan. That includes all larval stages; so it is on a different axis because it would relate to the left Y-axis in this case; because when use all larval stages, the overall magnitude of the catch is much higher than just the four stage. Nonetheless, it shows a very similar trend in that overall the lobster larval densities observed in Eastern Long Island Sound are at or near time series low as well.

Looking at some of the mortality indicators, we have the relative exploitation rate based on the Rhode Island Survey as well as the Connecticut Survey. You see a fair amount of inter-annual variability; a very stable period of relative exploitation throughout the 1980's into late 1990's. Then you see larger increases in the early 2000's followed by decline.

In both cases in the recent years, 2012 and 2011, you see some increases in the relative exploitation rate, which indicates in this case that the abundance of the stock is declining at a faster rate than the commercial catches despite the attrition that we're seeing. Overall this is an indicator it is possible that despite reductions in catch and despite the management efforts that have been made to protect what is left of the

Southern New England stock; the stock still appears to be declining at a faster rate than the commercial catches.

This is looking at the commercial catch for Southern New England. The line on the left is the entire catch combined. 2011 and 2012 will mark the two lowest points in the time series for commercial catch in Southern New England. The entire catch is hovering just slightly below 4 million pounds; and that's the lowest in the time series.

When you break that down by statistical area, you can see it has varied. Some areas have stayed fairly consistent over time; others have declined. The largest notable declines that have been observed were in Area 611, which is Long Island Sound, as well as Statistical Area 539, which is coast of Rhode Island Sound and Narragansett Bay.

You also see declines but more modest declines in Offshore Area 537, which is both LMA 2 and LMA 3, as well as the inshore portion of Massachusetts Area 538 has declined but not nearly to the same degree. Overall, we summarized the condition of the Southern New England stock is that it appears to be in poor condition; abundance is at or near time series low.

The exploitation rates have increased in recent years. The stock size declines faster than commercial catch. Young-of-the-Year settlement continues to be extremely low; and the technical committee feels that the recruitment failure still appears to be occurring. Finally, a slight warning about commercial catch.

We've seen large declines in commercial catch; however we're having reports throughout all the various jurisdictions, Massachusetts, LMA 2, LMA 3; LMA 5 in New Jersey. We're having reports that catch-per-unit effort has increased or remained stable for those fishing. That is not a surprise; and with the dramatic attrition in the fishery, it has allowed the remaining fishermen to benefit.

Essentially you're taking a piece of pie and cutting up amongst fewer fishermen and the remaining pieces are larger. The technical committee cautions the board that with the interpretation of CPUE indices and just warns that they're very poor indicators of abundance. That's it.

CHAIRMAN MCKIERNAN: Thank you, Bob. Kate, it might be useful to share this PowerPoint presentation with the whole board electronically, because some of the colors might be difficult to have read. David.

SENATOR DAVID H. WATTERS: I had a question about the Gulf of Maine recruitment numbers over the last couple of years. Is there any aspect of your survey work that would let you understand whether or not the rising water temperature or ocean acidification is beginning to have an effect in that area?

MR. GLENN: Yes; at least with temperature, one of the things that the assessment committee is doing in this assessment is looking at temperature time series trends in the all the stock units to see how those may affect overall stock productivity, natural mortality and things like recruitment. In the Gulf of Maine temperature effects are possible. It is hard to speculate at this point; but we anticipate hopefully to provide some insight on that.

SENATOR WATTERS: I wonder if there is anything in the literature or what you've seen about acidification particularly related to fertility.

MR. GLENN: There has been a lot in the literature about ocean acidification. Most of that I've seen so far has been mostly focusing on bivalve shellfish and ability for the spat to survive. There has been some work currently being conducted and looking to see if there is any relationship with that in the increased incidents of shell disease. Definitive work on that hasn't been published, but it is being considered at this time.

MR. GIBSON: I noticed they didn't mention anything about the ventless trap surveys. Is that just because of the volume of information? Are

they being brought to bear on the stock assessment?

MR. GLENN: The answer is yes, Mark. Just because of the volume of information, I only took a select handful of indicators that I could show similar indicators for all three stocks. This assessment will mark the first time that the ventless trap index will be included in the base model runs for each stock.

Overall, specifically in Southern New England, the ventless trap surveys for Southern New England states kind of mirror what is going on in the trawl surveys in that the indexes in the most recent years are at time series lows.

MR. EMERSON C. HASBROUCK, JR.: One of the slides I think that you have there showed that the assessment committee was going to meet in September or October?

MR. GLENN: September.

MR. HASBROUCK: And where are they going to meet?

MR. GLENN: That meeting is going to be held at the Massachusetts Division of Marine Fisheries Offices in New Bedford.

MR. BORDEN: Bob, is the assessment going to deal with describing connectivity issues between the inshore and offshore stocks at all?

MR. GLENN: Yes, we're looking into that. Is that specific to Southern New England?

MR. BORDEN: Actually, I was asking the question based on the Georges Bank/Gulf of Maine connection.

MR. GLENN: Yes, we're specifically going to address that issue. In addition to the base models with all three stock units separated as they have traditionally been done, we plan on doing an alternate run that includes – it's a combined Gulf of Maine and Georges Bank run together. This is based on some preliminary work that we've done trying to resolve some of the issues on Georges Bank specifically that the model has a hard time dealing with; namely,

trying to figure out where the recruitment comes from in that stock.

We're seeing large increases in abundance there, large increase especially – large changes in the sex ratio towards females and some other trends going on at Georges Bank that the Georges Bank Model itself – and Genny Nesslage can certainly jump in at any point if she wants to on this, because she is one of our primary modelers.

Anyway, we're trying to address some of the dynamics' issues that we're seeing in the Georges Bank; and we think some of that can be reconciled when we look at it as Georges Bank and Gulf of Maine combined because there are a lot of similar trends as well as there is a lot of historical literature that would support a migration between those two stock units.

MR. GIBSON: I was going to ask the same question that David did about Southern New England. When we receive the stock assessment and draw conclusions about area-specific dynamics, it is clear that the inshore trawl surveys have collapsed nearly to zero, but the federal trawl hasn't collapsed to that lower level; and you have probably have NEAMAP information as well.

Some of the landing streams are showing a similar pattern. CPUE, as pointed out – and I think it was an important point – the catch-per-trap haul has remained high in some areas where there were still some people fishing and finding remaining pockets of lobsters. I'm hoping we're going to be nuance some of the area-specific information and perhaps react to that.

MR. GLENN: Yes; the stock assessment committee will try to provide some insight into those inshore/offshore dynamics. It's somewhat difficult to do on, say, the lobster management area level because none of the surveys or catch information is collected on that type of spatial resolution. That said, we'll try to provide insight on that.

The other thing that we'll try to tackle is the – what we're unsure about is if the inshore stock has declined to such a low level and we're seeing recruitment failure, the traditional

thinking on it was that the strong inshore/offshore link between that and settlement occurred inshore, those animals would grow up; and as they get larger, they migrate offshore.

Certainly historical tagging studies as well as looking at larval drift studies have supported that. What the technical committee will have a difficult time trying to resolve is what the Southern New England stock will continue to look like in the absence of any contribution from inshore or in the absence of a strong contribution from the inshore component. We're hopeful to try to provide some insight on that.

MR. ADLER: The only thing that sort of confuses me a little bit is a lot of times the abundance and the good report for the Gulf of Maine has been deemed as being partly due to the increase in water temperature. On the other hand, down in Southern New England, when we had the disaster, it was the water got too warm so they left or whatever. I go, well, up here it's doing good things and down there it's making things worse. This is just a comment. I don't know what the answer is; but I just want to say this is getting confusing in that respect.

MR. GLENN: That's a good point, Bill. The interesting thing between the difference in the Southern New England and Georges Bank and the Gulf of Maine is that Southern New England is at the southern extent of where lobsters live; and so the water temperatures there historically were supportive of all the life history processes for lobster.

What we've found is that as sea temperature has increased, 20 degrees Celsius or 67 degrees Fahrenheit, roughly, appears to be kind of the threshold for many different processes as well as increased physiological stress. As temperature has increased, the waters in Southern New England, the number of days where that exceeds that thermal threshold of 67 degrees has gone up substantially in the last decade.

When you go north of Cape Cod, it never really approaches those thermal thresholds very little, if at all. In fact, what we've seen is in the case of a lot of the reproductive biology; namely, things like larval maturation and larval duration

and other things like that, settlement, the slight increases in temperature that we've seen in the Gulf of Maine have likely been a positive factor. It is not approaching those threshold levels, but they're actually providing enhanced larval survival.

CHAIRMAN McKIERNAN: Okay, thank you, Bob, that's a great report and we look forward to the final product when it comes out next year.

#### **ELECTION OF VICE-CHAIR**

CHAIRMAN McKIERNAN: All right, I think we're on to Item Number 10. We're seeking a vice-chair and I'd be looking for nominations. David.

MR. SIMPSON: I would like to nominate Dave Borden as vice-chair.

CHAIRMAN McKIERNAN: Seconded by Ritchie White; thank you. Any other nominations from the floor? I don't see any. All in favor of David as vice-chair of the American Lobster Board raise your hand; any in opposition. Seeing none; it passes unanimously.

#### **OTHER BUSINESS**

All right, is there any other business to come before this board today? Peter Burns.

MR. BURNS: I just wanted to let folks know I believe that our proposed rule for the trap cuts was supplied with the supplemental materials for the board members. If you didn't get it there, let me know, but I've got about ten copies that I'm going to put out on the back table here for the public or anyone else who may be interested. If anyone has any questions, please let me know.

CHAIRMAN McKIERNAN: Peter, I'll make sure that the affected states do comment on your proposed rule. I didn't ask for a board position today because I still think things need to be worked out that are complex. I'll make sure you get comments on that.

**ADJOURNMENT**

CHAIRMAN McKIERNAN: All right, motion to adjourn. Thank you; this meeting is adjourned.

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