

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

**Webinar
December 6, 2021**

Approved January 25, 2022

TABLE OF CONTENTS

Call to Order, Chair Daniel McKiernan 1

Approval of Agenda 1

Public Comment..... 1

Consider Draft Addendum XXIX on Electronic Vessel Tracking in the Federal American Lobster and
Jonah Crab Fisheries for Public Comment 1

Other Business 21

Adjournment..... 22

INDEX OF MOTIONS

1. **Approval of agenda** by consent (Page 1).
2. **Move to approve Draft Addendum XXIX for public comment with the following modifications** (Page 20):
 - Add language to prohibit tampering with devices
 - Add A5W permit to applicable permit table
 - Clarification of Section 2.2.5 on enforcement background
 - Provide a general range of costs of trackers/data.
 - Questions about applicability of tracking requirements.
 - Add language to specify how frequently vendors must PUSH data
 - Add option to allow for a state of federal waiver for permitted vessels to opt out from participating in the trap fishery

Motion by David Borden; second by Megan Ware. Motion carried (Page 21).

3. **Move to adjourn** by consent (Page 22).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Colleen Bouffard, CT, proxy for J. Davis (AA)
Sen. David Miramant, ME (LA)	Maureen Davidson, NY, proxy for J. Gilmore (AA)
Cherie Patterson, NH (AA)	Joe Cimino, NJ (AA)
Ritchie White, NH (GA)	Peter Clarke, NJ, proxy for T. Fote (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Adam Nowalsky, NJ, proxy for Sen. Houghtaling (LA)
Dan McKiernan, MA (AA)	David Stormer, DE, proxy for J. Clark (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Roy Miller, DE (GA)
Jason McNamee, RI (AA)	Mike Luisi, MD, proxy for B. Anderson (AA)
David Borden, RI (GA)	Pat Geer, VA, proxy for S. Bowman (LA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	

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

Ex-Officio Members

Kathleen Reardon, Technical Committee Chair	Rob Beal, Law Enforcement Representative
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Staff

Robert Beal	Jeff Kipp
Toni Kerns	Mike Rinaldi
Maya Drzewicki	Julie Defilippi Simpson
Tina Berger	Caitlin Starks
Emilie Franke	Deke Tompkins

Guests

Nicholas Buchan, MA DMF	Nichola Meserve, MA DMF
Nathaniel Burola, MLA	Mark O'Brien, Norstar Consulting
Andrew Button, VMRC	Story Reed, MA DMF
Beth Casoni, MLA	Scott Shaffer, MA DMF
Walter Chew	Burton Shank, NOAA
Bill DeVoe, ME DMR	Somers Smott, VMRC
Marianne Ferguson, NOAA	Lange Solberg
Joe Fessenden, Am. Comm. Fishing	Rene St. Amand CT DEP
Erica Fuller, Earth Justice	Kristina Thorpe, NOAA
John Fullmer	David Thompson, BlankRome
Sonny Gwin	Smit Vasquez, NOAA
Amelia Harrington, Univ ME	Jessica Waller, Univ ME
Heidi Henninger, Offshore Lobster	Anna Webb, MA DMF
Jay Hermsen, NOAA	Craig Weedon, MD DNR
Chip Lynch, NOAA	Jay Wegimont, RI DEM
Patrice McCarron, MLA	Angel Willey, MD DNR
Conor McManus, RI DEM	
Zaid Mdaini	

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened via webinar; Monday, December 6, 2021, and was called to order at 1:00 p.m. by Chair Daniel McKiernan.

CALL TO ORDER

CHAIR DANIEL MCKIERNAN: All right, welcome everyone to the American Lobster Management Board meeting. Today is December 6, 2021. My name is Daniel McKiernan; I am the Director at the Division of Marine Fisheries in Massachusetts, and the Board Chair.

APPROVAL OF AGENDA

CHAIR MCKIERNAN: First on the agenda, I will ask for an approval of the agenda. Is there any objection to the agenda as drafted?

MS. TONI KERNS: I don't see any hands.

CHAIR MCKIERNAN: Thank you, I'm going to declare that approved by consent.

PUBLIC COMMENT

CHAIR MCKIERNAN: Next, well not on the agenda, I think we should probably give an opportunity for public comment. Is there anyone who would like to speak on anything not on the agenda?

MS. KERNS: Giving it a second. I don't see any hands.

CHAIR MCKIERNAN: Great, all right well thank you for that, Toni, and the Board. Today we have a Draft Addendum to approve for public hearing over the next month or two, it is an addendum that relies heavily on our federal partners. I want to thank the ASMFC staff, the ACCSP staff, state agency contributors, and of course those from NMFS who have worked diligently to bring this Addendum forward.

This in my opinion is a crucial issue for the sustainability of this lobster trap fishery. I have seen firsthand, and I'm sure the other directors

have as well, the firsthand the challenges of trying to describe the footprint of this very valuable fishery in the face of offshore development of wind and aquaculture, and the need to understand the impacts of any conservation closures that will be designed to protect right whales and other endangered species.

I am really pleased today that this is coming forward. I know we're trying to fast track this is a way that accelerates its development. It is always a little more difficult when you have to work with another jurisdiction, namely the National Marine Fisheries Service, but I've been really grateful for their cooperation.

A lot of the workload that will fall on them as well, as they proceed with their own rulemaking. At this time, I think Caitlin has a presentation. Caitlin, would you like to take it from here?

CONSIDER DRAFT ADDENDUM XXIX ON ELECTRONIC VESSEL TRACKING IN THE FEDERAL AMERICAN LOBSTER AND JONAH CRAB FISHERIES FOR PUBLIC COMMENT

MS. CAITLIN STARKS: Yes, thank you, Mr. Chair. Again, I'll be giving this presentation today on Draft Addendum XXIX to Amendment 3 to the American Lobster Fishery Management Plan, which is also Draft Addendum IV to the Jonah Crab Fishery Management Plan. I just want to make that note, but I will be referring to it as Draft Addendum XXIX, and it's on electronic vessel tracking in the federal lobster and Jonah crab fisheries.

In the presentation today, I am first going to go over the background on this action leading up to this meeting. The objective of the Addendum proposed action timeline, and then go into the details of the proposed management options. Then I'll wrap up with the Board action for consideration today and next steps.

For the background. At the Lobster Board meeting in August, 2021, the Board initiated this Draft Addendum XXIX to consider vessel tracking requirements for federally permitted lobster and

Jonah crab vessels. This action was initiated based on recommendations from a work group that the Board established in May, 2021, and aims to address the need for high resolution spatial and temporal data on effort in the lobster fishery, to address multiple challenges that are currently affecting the fishery, and will into the future.

The Board has recognized the critical need for these data, to characterize effort in the federal fisheries for several years prior to initiating this action. In February, 2018, the Board approved Addendum XXVI, and that was aimed at improving the spatial resolution of lobster and Jonah crab harvester data.

A one-year pilot program was also completed to test electronic tracking devices in the lobster and Jonah crab fisheries, with the goal of identifying appropriate tracking devices for use in these fisheries, and informing the Board on whether electronic tracking should be pursued. Then additional work was also performed, focusing on the data integration and hardware testing aspects of electronic vessel tracking.

The objective for this Addendum is to collect high resolution spatial and temporal data to characterize effort in the federal American lobster and Jonah crab fisheries for management and enforcement needs. Specifically, these data will allow for improvements to the stock assessment, inform discussions and management decisions related to protected species, as well as marine spatial planning efforts for other ocean uses, like land protected areas and aquaculture, and will also enhance offshore enforcement efforts.

The proposed timeline for this Addendum's development is shown here in this table. Again, this Addendum was initiated in August, 2021. The Plan Development Team has been meeting a number of times between then and now to develop the Draft Document, and today the Board is meeting to consider the Draft Addendum XXIX document for public comment.

Then if approved today, the public hearings could occur in January of 2022, and another Board

meeting could be held in early 2022 to consider the Addendum for final approval. Following this timeline, the guidance we've gotten from NOAA is that it should be possible to complete their federal rulemaking process in time for the program to be implemented in the federal rules for fishing year 2023. With that I'm going to move into the draft management options that are proposed in the Addendum. There are just two options being considered. Option A is status quo, or no additional requirements for electronic vessel tracking in the lobster and Jonah crab fisheries. Then Option B proposes to implement electronic tracking requirements for federally permitted lobster and Jonah crab vessels with commercial trap gear area permit.

This would mean that all federal lobster and Jonah crab vessels with applicable permit, commercial trap gear area permit, would be required to install an approved electronic tracking device to collect and transmit spatial data, and that device would always have to be remaining onboard the vessel and powered on while the vessel is in the water.

The only exception to that would be if the state that is declared as the principal port of the vessel authorizes that device to be powered down. The intent of this is to allow for devices to only be turned off if the vessel is hauled out for repairs, or not fishing for long periods of time, or if the device itself has to be repaired.

Additionally, I want to make a note of this last item in red, which was not included in the draft document that you received in materials. But under Option B, the Law Enforcement Committee also recommends specifying that tampering with these devices would be prohibited, and if the Board agrees with that language, the intention is to add it to the document before it goes out to public comment.

These are the federal permit categories for which the tracking requirements under Option B would apply. This includes all of the commercial trap gear area permits for Areas 1 through 5 and Outer Cape Cod. In the last row is the commercial trap gear

Area 5 waiver permit, and that's the permit that allows Area 5 permit holders to be exempt from the more restrictive lobster trap gear specifications and trap tagging requirements, so that they can target black sea bass with un-baited traps.

It's in red on this slide again, because it's not currently listed in the draft document, but it is recommended that it be added before the document goes out for public comment. As another note, commercial trap gear Area 6 is excluded from the proposed electronic tracking requirements, because Area 6 is in state waters only.

In this table, these are the numbers of federal permit holders per state that purchased one of the applicable permits in 2020. To clarify, these numbers are the total permits purchased, but not necessarily all these were actively fished. We do not have the data for 2021, but this gives you a frame of reference to approximate the number of permit holders with their principal port in each state that would be required to have a tracking device under Option B.

In terms of the requirements for trackers and vendors, Option B in the Draft Addendum also include the list of minimum criteria and specifications that must be met by tracking devices and product vendors for approval for use in the fishery. First, the devices must be capable of collecting location data at one ping per minute for at least 90 percent of the fishing trip.

This is the rate that was determined to be able to differentiate fishing activity from transiting activity, and to allow the estimation of the number of traps per trawl. I want to note here that the Addendum does not specifically say that cellular devices must be used, but this collection and rate does make cellular the most cost-effective option over satellite. There is a choice there, but with current technology the expectation is that cellular would be the preference. Second, the data that are submitted in each ping must include the devices current date time, the latitude and longitude, and both a device and vessel identifier.

The minimum accuracy of these devices must be within 100 meters and the position fixed precision must be to the decimal, minute hundredth. The devices must have ruggedness specifications that allow them to function in the marine environment, and that can vary, depending on where the device is installed on the vessel.

Then for vendors, they must be able to push the location data to the ACCSP Trip Location's API. They have to provide customer service for the devices to the harvesters, and they must maintain the confidentiality of any personally identifying information and other protected data in accordance with federal law.

The implementation and enforcement of these tracking requirements would require several levels of administrative processes, including at the Commission level, state management agencies, and federal level. I will go through each of these in the next few slides. At the Commission level, a workgroup which would be comprised of state, federal and Commission staff would be established to approve the electronic tracking devices for use in the fishery.

Device approval would be based on required information that would be provided by the vendors to the working group, to demonstrate that they can meet the minimum requirements that are established in the Addendum. The working group would then build and maintain a list of approved devices and additional information on those technologies, so that the states know what devices are acceptable, and can provide that information to their harvesters.

Then additionally, the PDT recommends that changes to those tracking device requirements could be made by this working group, with approval of the Lobster Board, and that would allow for this program to evolve with technology, as it inevitably changes and improves over time. Then at the state level, the states would be responsible for certifying that approved devices are installed on all vessels in the applicable permit categories before the vessel goes out on a fishing trip.

The state that is responsible for each permit holder would be determined by the principal port location declared on their federal permit. If the permit lists Gloucester as a principal port, then Massachusetts is the state that is responsible for certifying that permit holder has installed their approved tracking device.

The PDT recommended that its standard affidavit be used across the states to certify the devices installation. That language is included in Appendix B to the Draft Addendum for the states to use. Then GARFO would be providing the states with a federal trap gear area permit data needed, to determine which permit holders each state is responsible for. The states would also be responsible for providing support to permit holders, to help them with properly complying with the vessel tracking requirements. This doesn't mean that the states would be responsible for helping with installation or troubleshooting of the vessel trackers, rather that would be a task that would also impact the vendors. Then the states would also be responsible for data validation and compliance monitoring, including contacting permit holders if there are data issues that need to be resolved, like incomplete tracking data or mismatches between vessel trip reports and associated vessel track.

The states would also be the ones making sure that those track data being collected by their permit holders are coming in and meeting the specifications that are established in the Addendum. At the federal level, GARFO will be responsible for providing up-to-date information to the states on American lobster trap gear area permit ownership.

That would include the database information on vessel permit numbers, names, full ID, endorsements, issuance and expirations dates and permit holder information. Then GARFO will also incorporate federal lobster eVTR data into its quality assurance program, once the rulemaking is complete for implementing the federal harvester electronic vessel trip report requirements for a federal lobster permit.

This means that as eVTRs are submitted they will be further validated to ensure data quality, and any errors that are identified through that process will be resolved by GARFO outreach efforts to correct and resubmit trip reports. ACCSP will also have near real time access to the federal eVTR data, so that they can be used to identify fishing activity in the vessel tracking data that is coming in to ACCSP.

There are also recommendations in the Addendum for the data processes that are needed for this program. The main takeaway being that ACCSP will be housing the tracking data. ACCSP would receive the location data from the tracking vendors, and they would get the eVTR data from GARFO.

All of those data must be submitted in accordance with the ACCSP trip locations, API specifications, and with those data ACCSP will be able to match the vessel tracks with trip reports. Then as with all of the data that ACCSP handles, they'll maintain the data confidentiality in accordance with federal law, and allow data access to only the authorized entities with confidential access.

Regarding the trip report data, the state and federal agencies will remain responsible for ensuring compliance with data reporting requirements. GARFO will remain responsible for the validation of eVTR data, and the state management agencies would be responsible for validation of trip location data. To give you a general idea of the data flow and integration process for the vessel tracking data and trip data.

This diagram color codes the two data types with location data from trackers represented by blue, and trip report data in yellow. You can see that from each vessel trip, location data would be collected on the vessel, sent to the tracking vendor, and then would go either straight to SAFIS before being matched with a vessel trip or could be sent to the eVTR system that would match the location and trip data before they go to SAFIS. Then on the bottom you can see the trip report data would similarly either go straight to SAFIS from the eVTR system without location data, or it would get matched with location data prior to going to SAFIS.

That concludes my review of the Draft Addendum options and details, and now I just want to highlight the suggested changes to the document that I mentioned earlier. First, there is the Law Enforcement Committee recommendation on adding language to explicitly prohibit tampering with the tracking devices, and that language is proposed here in italics.

Then secondly, there is a recommendation to add the Area 5 waiver permit category to the list of applicable permits that would be required to use these tracking devices. Again, that Area 5 waiver permit allows Area 5 permit holders to target black sea bass with un-baited lobster traps. But since those permit holders would still be permitted to harvest lobster, the intent is to include them in the vessel tracking requirements as well.

With that, these are the Board considerations for today. First the Board can consider making any modifications to the Draft Addendum document, including those that I've mentioned already, or any additional changes. Then the Board can consider the Draft Addendum document for approval for public comment.

The next step if the Addendum is approved for public comment today is that the public hearings could be held in January of next year, and then following that comment period a virtual board meeting could be held in February or early March, outside the regular ASMFC winter meeting, to consider the Addendum for final approval.

If or when the Addendum is approved, the states could implement the requirements through their state laws and regulations, and NOAA would then go through the rulemaking process to include the requirements in the federal rules. That is the end of my presentation, and I'm happy to take any questions.

CHAIR McKIERNAN: Thanks, Caitlin. Board members, let's take some technical questions for Caitlin if there is anything you are confused by or you think needs clarification. Raise your hand to get into the queue.

MS. KERNS: Dan, in the queue right now I have Cheri Patterson first, Roy Miller, and then Megan Ware.

CHAIR McKIERNAN: Great, thank you. Cheri, my neighbor.

MS. CHERI PATTERSON: Thank you, Mr. Chair. I have a couple questions. On Page 5, on the Offshore Enforcement 2.5. the second paragraph. It indicates enforcement personnel have consistently noted the ability to determine where a boat is steaming versus hauling is critical to determining when fishermen are using illegal gear. Should that just be gear, because how can they determine if they're using illegal gear? I thought the whole purpose of this was to determine where they were fishing, so law enforcement could go out there and check the gear.

MS STARKS: Right, I think maybe we could clarify the language a little bit. But I think the idea is that without knowing where those gear are being set, they cannot go check them to make sure that they are legal. I could probably modify that sentence a bit.

MS. PATTERSON: Okay, thanks. On Page 10, the Federal Permit Data. The first sentence it indicates to successfully administer a vessel tracking program states will need access to up-to-date federal American lobster permit data. Is this going to be guaranteed by NOAA to be real time data, or just up to date? Sometimes up to date means a week over a period of time, as opposed to real time.

CHAIR McKIERNAN: Cheri, what do you mean by real time and which parameters are you looking to be updated?

MS. PATTERSON: Well, if we're having to validate vessels and their gear, and they are not showing up that they are permitted on a real time basis, as opposed to maybe every week or two-week update. This is something that we run into a little bit at times with trap tags.

Sometimes we have to wait for a period of time or give them a call to find out if somebody is permitted, in order for us to issue trap tags. It's not real time, necessarily. Whereas, if we're going to be validating tracking programs, I would like to see real time access, as opposed to a weekly up-to-date data.

MS. KERNS: Dan, I think we can help you some, and then I'm going to go to Alli Murphy. On the PDT level, Cheri, we have, we meaning ASMFC and state staff have specifically requested to NOAA that there is a notification that goes to the states, so we don't have to dig around the permits and find new people. That is what we have asked for. It hasn't been guaranteed to be responded in that way yet. It's something that I haven't heard the resolution on yet, but maybe Alli has a resolution.

CHAIR MCKIERNAN: Alli.

MS. ALLISON MURPHY: I don't have a specific mechanism yet, but I know some of our technical staff are working with ACCSP staff to be able to provide this data to the states, I'm going to say in near real time, because it might be one of those things where, you know at the end of the day the data somehow gets refreshed and then becomes visible. We are working to provide this in very near real time to the states, to be able to administer this program. I just don't have that specific mechanism yet.

MS. KERNS: Dan, a lot of specificity for what the states and the Commission are asking NOAA is to provide a notification to us, not necessarily so that the data are available to us, because the burden on the states to find those individuals is significant, and if people are having to apply and check off permits at the NOAA Office, then we're hoping they will provide a notification to Julie. If you have a clarification for a resolution, we would love to hear it, but if there hasn't been a resolution yet, then I'm not sure it's helpful.

CHAIR MCKIERNAN: Toni, given my experience with lobster permitting, it seems to me that the challenges you're describing, because this is a

limited entry fishery and we don't have that much turnover in permits. Generally, people get them and drop them, and they are usually transferred between parties. It seems to me we're talking about transfers as a case, and a permit coming out of CPH, maybe, where all of a sudden, it's been activated. Are those the kind of things that have been identified as needing to be near real time?

MS. KERNS: Yes. In addition, though, Dan, when the permit gets renewed, we would need to know that as well, obviously.

CHAIR MCKIERNAN: Okay.

MS. KERNS: If someone goes from a non-trap gear to a trap gear permit, we would need to be notified of that.

CHAIR MCKIERNAN: Got it, okay.

MS. PATTERSON: Thank you, that helps. Dan, I have one more question, is that okay?

CHAIR MCKIERNAN: Yes, go ahead.

MS. PATTERSON: On Page 12, Trip Data. It has eVTR data must be submitted using a NOAA Fisheries, GARFO approved eVTR application. Currently, there is no eVTR data required of those that are lobster only permitted, is that correct? If that is correct, when is the start date? This might be a question for Alli. When is the start date of that? Is that starting in 2023, January or May?

CHAIR MCKIERNAN: Go ahead, Alli.

MS. MURPHY: Good question. I think where I've been working away on that proposed rule, and I expect it to be out, you know hopefully in the next couple weeks. I think we're probably targeting January 1, 2023 for the start of the collection of logbook data for the federal lobster fishery.

MS. PATTERSON: Okay, thank you, Alli, because I think that we need to have this Addendum timed to when NOAA has the requirements for mandatory

reporting for lobster. That's it, thank you, very much.

CHAIR McKIERNAN: Thank you, Cheri, Roy Miller.

MR. ROY W. MILLER: I'm wondering if I could ask Caitlin to bring up the language for the Area 5 waiver again, since we didn't see that in the draft that was previously sent to us. I may have an additional question.

CHAIR McKIERNAN: There it is, what is your question, Roy?

MR. MILLER: Caitlin, so sea bass potters who take lobsters in Area 5, they would be required to have the vessel tracking gear that we're talking about here, or they wouldn't?

MS. STARKS: If included in this table then they would be required to have the vessel tracker. The idea is to take this out for public comment, and as you all are aware, when this comes back to the Board if there was a desire to remove it, that would be up to the Board. But I think the intent is to include it for public comment. It's a very small number of permit holders, but they do harvest lobster, and so getting those effort data on them for the purposes that we've described for this Addendum might be important.

MR. MILLER: The use of the nomenclature waiver confused me at first. I just wanted to make sure that these folks were included in the tracking requirements.

MS. STARKS: Yes, correct, that's the intention here.

CHAIR McKIERNAN: Okay thanks, Megan Ware, you're up next.

MS. MEGAN WARE: I have one question and one suggestion, if that's okay, Mr. Chair. I can hold off on the suggestion if you would like, but my question is. Caitlin, I had a question on the hundred-meter accuracy requirement. That sounds pretty lenient to me, and then it also said in that section that many of the trackers that have been looked at have

a much better accuracy than those hundred meters. I was just curious why the PDT set 100 meters as the accuracy minimum. We are kind of ahead of that time I'll say, in terms of what technology is capable of.

MS. STARKS: My understanding is that that came from VMS, kind of trying to be in line with what the VMS requirements are. Yes, the cellular devices that have been tested are mostly much more accurate than that. But we didn't want to exclude, I guess, to just leave some room for things to change. I don't think there was a good rationale for coming up with another number. We believe all of the cellular devices that have been tested and looked at, and most of the other ones on the market would definitely meet that requirement, and would be better than that.

MS. WARE: Okay, thanks, that's helpful. I think maybe this is something we could just watch over for a couple of years maybe. If the tracking addendum is approved, to see if that needs tweaking or not, but I appreciate the answer. Then I had one suggestion/question we'll call it also. I'll also start just by complementing the PDT. I thought this was a really well written document.

One suggestion I had was, I noticed there was no information about cost in the Addendum, and I think the number one question we're going to get at public hearings is what is the cost of this. I'm wondering if some information on that could be added to the document. I realize we may not want to specify cost for specific companies, but if a general range could be provided, I think that might be helpful in kind of up front addressing some of the questions we'll get. In particular, highlighting that the cost of the cellular device is less than typical VMS.

CHAIR McKIERNAN: I think that's a really good point. Caitlin, do you think it's possible to have a slide in the formal presentation that describes the margin of error around cost?

MS. STARKS: Yes, so my intention was definitely to include cost information in the information that I

would present during public hearings. Like Megan said, we didn't include specific companies in the document and their cost information, because A, it's changing constantly, and B, we didn't want to kind of identify or single out companies and leave others out in the document. I would be happy to, either or both add a general range into the document itself if that's desired by the Board, and/or just present cost information during the public hearing.

CHAIR MCKIERNAN: I think that would be great, and maybe I could follow up with a brief question. Having looked at the population of potential buyers of these devices, which means the sum within each state of who would be required to get this. That is a list of vessels that hold the permit, as opposed to active vessels. Is it likely that the cost per unit would change if the number of units sold was less, because of the list that we're showing in this public document might be higher, because it includes inactive vessels? Could that have an impact on cost, do you think?

MS. STARKS: That's a good question, and I'm not sure I have an answer. But my understanding is that the cost estimates were not based on a number, like a total number of trackers. I don't think at this point that is expected to change it, but I'm not sure.

CHAIR MCKIERNAN: Okay, and if I could do another follow up question, and maybe this is for the folks over at NMFS, Alli. Is it possible to put a federal lobster permit into CPH? If we had a dual permit holder who wanted to fish in state waters and didn't want to participate in this program, they could put their federal permit into CPH, confirmation of permit history? Is that a scenario that is possible in your view? Please, go ahead, Alli.

MS. MURPHY: Yes, I think that is certainly a possibility. I think another caveat to this table is that because we were only considering, or the PDT was only considering boats that were in the water to need these devices that permits that are in CPH would not. I think if a vessel made that business decision, they wouldn't need this tracking device.

CHAIR MCKIERNAN: Would that include a business that was in the water but fishing with other non-lobster trap gears?

MS. MURPHY: We don't allow, we treat all of the permits in a permit suite together, so it's kind of an all or nothing thing. Either the entire permit suite gets put in that confirmation of permit history, kind of on the shelf status, or it's on the vessel element.

CHAIR MCKIERNAN: Understood, you can't parse out various federal aspects of the permit, it's all or nothing.

MS. MURPHY: Correct.

CHAIR MCKIERNAN: Okay, great, that's a good clarification. All right, Toni, do we have any other hands up?

MS. KERNS: We have David Borden, but before you go to David, I just wanted to touch base on the cost question you asked. I know that in some of the discussions that states have had when using trackers in other fisheries. There have been discussions of number of permits and kind of bulk ordering, you may call it. I think that the number of permits and cost of devices could also depend on, in the end, how many different devices get approved. Obviously, the more types of devices that get approved in the larger pool of devices and potentials for competition gets wider. I think there are a lot of factors in there that may impact price.

CHAIR MCKIERNAN: David Borden.

MR. DAVID V. BORDEN: I want to pursue the same issue that the Chair just pursued, and I'm looking at Option B, Caitlin, if you could put that up on the screen, please, so everybody will be clear. The first time I read through this, I basically read it in the manner that I assume that everybody with a permit and a trap allocation was going to have to put a tracker on the boat.

But then I kind of got to the realization of the point that Dan just made, which is we do have boats, for instance in Area 3, that they are not active boats,

they don't fish. They may be in the water pursuing some other fishery. In some cases, they have all the traps, with the exception of numbers under 10, because you can't transfer numbers under 10, and Alli, correct me if I'm misspeaking.

But because you can't transfer traps under 10, I just don't see any reason to require somebody in that situation to put a tracker on their boat. They are not fishing in the lobster fishery, and that's the logic for it. But rather than have the Board get into the weeds on this, more than I'm already getting into the weeds on it. It might be useful to have more language put around that option.

In other words, ask a couple of questions. Should this apply to everyone with a trap allocation, or should this just apply to boats that are actively fishing in the lobster fishery, and get some input on that. I think that is going to be a question that various members of the public are going to raise.

For instance, another example would be, there are boats that have offshore lobster permits that are actively fishing in the red crab fishery, and they might have an end trap allocation on the boat, clearly, they are not lobstering. I think we've got to be clearer on where this applies, and then I have a question for Caitlin. Caitlin, could you put up the list of active boats? I think it's a previous slide. This is just, as I understand, this is a list of all the permit holders by state, so Rhode Island has 99 permits, is that correct?

MS. STARKS: Right, this is the number of permits purchased in each state, and that is counting as the principal port state in 2020, so it's not necessarily active permits.

MR. BORDEN: Does this include draggers?

MS. STARKS: No.

MS. KERNS: David, this only applies to the individuals that we think would need a tracker from the permits. There are more federal permits in each state that don't need trackers that can have lobster.

MR. BORDEN: Okay, so what I guess the point is the same. We're likely looking at a number less than this. In other words, somebody in Rhode Island may have a federal boat that doesn't fish at all, and therefore wouldn't be required to get a tracker.

MS. KERNS: Because they are not actually actively fishing.

MR. BORDEN: Right.

MS. KERNS: We don't know if these are active or not, and again these were the numbers.

MS. KERNS: Once again, as you move south, and Roy spoke about Area 5. As you move south into those offshore areas, only about half of the permit holders or less are actively fishing. I guess my point, Mr. Chairman, is I think we need more discussion on this, and maybe ask a couple of questions, because we may want to implement a slightly different definition of how this applies in the end.

CHAIR MCKIERNAN: Yes, and it just dawned on me that there is a trap tag program, and those could be linked in some fashion, so that if a boat isn't ordering trap tags in a fishing year, then they are not fishing traps. We have that information. I guess the question I would ask, to follow up with what your questions are.

Would a jurisdiction be eligible to seek a waiver for a vessel like you just described? Let's say it's a Rhode Island boat with an 8-trap allocation that they don't want to put their permit in CPH, because as Alli just mentioned, this suite goes together. It might be of benefit to see if we could create exemptions. David, are you suggesting that we add some questions to the document, so that we can get good feedback?

MR. BORDEN: Exactly, Mr. Chairman. I don't think the Board needs to sort through this, but if we ask some questions we'll get feedback from the industry, and then we can decide what the appropriate course of action is.

MS. KERNS: Dan, can I ask one follow up question?

CHAIR McKIERNAN: Yes, please do.

MS. KERNS: David, in essence what we as a PDT discussed is that if a boat that is using trap gear to catch lobster leaves port, then they would be required to have a tracker. That is in essence who we are trying to capture here.

MR. BORDEN: That's correct.

MS. KERNS: You would know if someone didn't have a tracker, because they would put in a catch report and you would have lobster on there but no track associated with them. That's how you would know that they weren't using a tracker. Are you feeling like that isn't being captured in the document?

MR. BORDEN: Yes, and I'm just nervous, because I don't understand the question Dan asked about, of all the possible combinations that boats can have, can a boat be in confirmation of permit history? Are there circumstances where boats will be in that, and then you've got this whole secondary issue of, do we really want somebody to put a tracker device if they only have 8 pots on the boat?

I know for a fact we can generate a list and circulate it to the Board from the Association. We can give you a list of all those boats that have 8 pot allocations, and the reason they only have 8 pot allocations is because they've consolidated all those traps on other boats. In the case of that boat with an 8-pot trap allocation, there is no need for them to have a tracking device on a boat, because they're not fishing.

CHAIR McKIERNAN: Toni, it seems to me there is a bit of a disconnect, at least conceptually on how a vessel is permitted versus what activities the vessel is conducting. What David is asking for, I think, is to ask the questions of the public, should the Commission's plan and ultimately NMFS regulations, allow vessels that are permitted for traps, but aren't fishing traps from being exempt, maybe with a state issued waiver, or something like that.

MS. KERNS: Okay, I think it would be helpful for someone to give us those questions that you are looking for us to ask, because I'm not sure we will capture all of them. Then if you let me know when you're ready to go to the public, there is some public with their hand up.

CHAIR McKIERNAN: Do we have any more Board members?

MS. KERNS: No.

CHAIR McKIERNAN: Okay, then we'll go to the public.

MS. KERNS: We have Sonny Gwin.

MR. SONNY GWIN: This is Sonny, I did have a quick question. I was looking at like Maryland, and you have eight vessels. Now out of them eight vessels, I believe some of them already have tracking devices. Would that be considered the same, or would you have to get another tracking device for the lobster fishery?

CHAIR McKIERNAN: Caitlin.

MS. STARKS: I'm thinking. I think the intent is that if you have a device that meets the requirements that are laid out in the Addendum, you would not have to get a separate one. Maybe I misheard the question.

MR. GWIN: I just wanted to hear that. I just wasn't sure that you didn't have to get a separate lobster tracking device, that if you already have a tracking device for another fishery that you would be good to go.

MS. STARKS: Yes, the distinction is that these devices that are being required in the Addendum have to be able to get that one ping per minute data collection rate. If the device can do that and it meets the requirements that are in the Addendum, then no, you don't have to get a different specific lobster device. But if it doesn't do that, then you would. This is just for, again trap gear, so

something on a mobile fleet. We're not trying to capture mobile gear here.

CHAIR MCKIERNAN: Sonny, if I could follow up. Are you envisioning a vessel that has a VMS that is satellite based?

MR. GWIN: I believe so, yes. I think the longline fishery, aren't they tracked? Am I correct in saying that?

CHAIR MCKIERNAN: I would look for help from Toni.

MS. KERNS: I believe Sonny is correct, but again Sonny it's a VMS device, and so therefore it's not going to be pinging at one minute, it's going to be pinging at every 30 minutes or every 15 minutes. The reason you want that 1 minute ping rate is because we want to be able to see the difference between transiting and hauling, and then seeing those hauls, so that we can tell the difference between a 5-trap trawl and a 20-trap trawl. You wouldn't be able to see that with a VMS device.

MR. GWIN: Okay, got you. That is the answer I'm looking for. Then the other clarification, one more thing if I could, Mr. Chair.

CHAIR MCKIERNAN: Yes, go ahead.

MR. GWIN: Like I know we have a vessel in Maryland that has a lobster permit, and it's on the bank, and he doesn't lobster fish now. I'm reading that right, if the water goes in the boat you have to get the device, but if he keeps that boat on land, and is using it just for permits, he will not have to get a tracking device, is that correct?

MS. STARKS: Yes, I believe that is correct.

MR. GWIN: Okay, I just want to clarify, thanks very much, I appreciate it.

CHAIR MCKIERNAN: You're welcome. Toni, anyone else?

MS. KERNS: Yes, Maureen Davidson, and then David, your hand is up again, I'm not sure if that is on purpose or not.

MR. BORDEN: It is.

MS. KERNS: Maureen fist and then David.

CHAIR MCKIERNAN: Go ahead, Maureen.

MS. MAUREEN DAVIDSON: I just wanted on Page 10, fourth paragraph, on a sentence that says that Data QA/QC and validation systems for each state must be developed and tested prior to implementation of the program. Each state plans to develop its own system? I'm just kind of curious what specifically are we going to have to develop and test prior to the program initiating?

MS. STARKS: I can try to answer it, Mr. Chair. I might ask for help. I think my understanding is that the states would be looking at the trip data that comes in, making sure that there are no mismatches between the trip reports and the track data. Making sure the track data are complete, and the states would need to set up a way to do this, so that they have a system in place to look at those track data, compare it with their trip report data, to make sure everything is looking good. That is the general, and I don't know if I can get into the details, but maybe Julie could help if she has something to add.

CHAIR MCKIERNAN: Julie, are you out there?

MS. JULIE DeFILIPPI SIMPSON: Yes, Mr. Chair. Caitlin covered the majority of it, but yes, we will have those data available for the states, and we're going to try to put together different kinds of reports to help them be able to use the data in the way that they need to.

CHAIR MCKIERNAN: Thank you, and if I could follow up. I think to her same question, but with a slightly different twist, compliance monitoring. Could that not include marine patrol observing a vessel coming ashore with lobsters and with traps, and sharing that with the folks in the data collection part of the

state agency, and that could be part of the compliance? Hey, there's a lobster boat coming in home ported in your state, without any associated trackers. Wouldn't that also be part of compliance?

MS. STARKS: Yes, I think that is definitely something the states could implement. That is not something we specified in this document, but it is a process that definitely would fit under the compliance making sure that vessels have these trackers installed. I think we were thinking more from a data compliance aspect of being able to just look at the trip data and say, we have this trip with lobster catch, do we have the track data that is required of the trip?

CHAIR MCKIERNAN: I have a general question for, probably Toni, since you've been around and seen a lot of these addendums come and go, and understand the dynamics of it. In my experience this is going to be an interesting one, because we're going to pass an addendum that may not have all the details about this level of state compliance.

Could you envision states getting together two or three years into this and say, we need to elevate the standards of compliance? Let's say my state isn't asking the environmental police to look for that, and other states would. Some of that unevenness, do you envision like an MOU among the states, or just maybe something that is short of an addendum, to fill in some of these details. What ASMFC plan mechanism could fill in those kinds of details, without us having a full-blown addendum to add the housekeeping stuff?

MS. KERNS: Dan, it is our intention to create a SOPs for administration, SOPs for approving devices, and a couple other pieces, which we will work on, present to the Board and come back. I think that those types of things could be a part of the SOPs document.

CHAIR MCKIERNAN: Standard operating procedures.

MS. KERNS: Procedures, sorry, yes. It doesn't necessarily have to be called SOPs either, it could be

general guidelines for the administration of this process for pieces that everybody would be generally that the states would be following, and then states could then be a little bit more specific within their own administration to carry out what they need to do.

CHAIR MCKIERNAN: This could be a work product of the monitoring team that look at the compliance with the lobster plan in general. That could be just an added aspect when we do the annual compliance reports.

MS. KERNS: It could be a part of that or it could be something, if those aren't the right people to have that discussion, we can create a different group for trackers and have them meet annually, if necessary.

CHAIR MCKIERNAN: You've envisioned kind of a vehicle for those kinds of details that will become apparent after this Addendum would be approved.

MS. KERNS: Correct, and we know that we're going to have a group of individuals that will be doing the vendor verification or device verification and applications, so there will already be that group. But Bob has his hand up as well. I don't know if he has anything to add.

CHAIR MCKIERNAN: Bob Beal.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Just to add to what Toni said. You know I think the guidelines or SOPs or whatever this document is called is important, and something that is in the works. Just as a reminder though, if the Board wants to go down the Atlantic Coastal Act noncompliance route with some of these provisions, and they want them to be binding that all states have to implement them.

Then those measures would need to be recorded in either an addendum or an amendment to the FMP. Including something in a guidelines document doesn't necessarily obligate all the states to comply with that, using the compliance definition under the Atlantic Coastal Act.

CHAIR MCKIERNAN: Understood, thanks for that, Bob. Toni, any other hands up?

MS. KERNS: We have David Borden and then you have a member of the public again.

CHAIR MCKIERNAN: Great, okay David Borden, go ahead.

MR. BORDEN: Under data integration you've got the words tracking vendors must be able to push location data. My suggestion there is we ask the technical people to insert a minimum standard there, how often. The reason I say that is enforcement is going to want to get access to this data, and we envision them getting access to this data to improve enforcement. When a boat is within 20 miles of the coast, they are going to know exactly where that boat is every minute.

But, we need to ensure that the data is being pushed on a routine basis so they can get it. It might be pushed once a minute, it might be every five minutes, I don't know. That is outside my league. But I think we should state how often in the document, so that it is standardized across all vendors. I've got another point, Mr. Chairman.

CHAIR MCKIERNAN: Let me get back to your next point. Julie, can you speak to this? That is kind of a technical aspect, like how frequently the data is pushed.

MS. SIMPSON: I'm sorry, Mr. Chair, can you clarify. How often the data are pushed from the device?

CHAIR MCKIERNAN: I think so. I think that was one of the details that is in the Addendum saying it must be pushed, and David Borden is asking that if it should be pushed at a minimum time interval or on a regular basis. Yes, go ahead, David.

MR. BORDEN: Yes, can I just interject this? The language says tracking vendors must be able to push. The way I read this is the device will ping the boat as soon as it comes within cell service the boat is going to get pinged once a minute. That pinging information goes to a vendor, what this is talking

about is how often the vendor has to submit the data to the ACCSP program. All I'm suggesting is they put in a timeline there, so that it is standardized across vendors, that's all.

CHAIR MCKIERNAN: Julie, is David onto something there? Is that accurate, his concerns?

MS. SIMPSON: Right, so if I were to say the sentence of like, all of the pings must be submitted to the ACCSP within X amount of hours of the trip ending and the boat docking, then would that fit the language you're looking for?

MR. BORDEN: I actually thought that this would be routine, like every couple of minutes. I had a conversation with one of the technical people the other day and said that they could do it so it's real time information not every hour. Most of these boats can cover ten miles in an hour, so if you want this device to be used to improve enforcement, we need almost real time information on the location of the boat when it's within cell service. That means the vendors have to push the data on a routine basis.

MS. SIMPSON: I think the key thing of what you said there, sir, is the within cell service. They usually leave cell service fairly quickly. The device itself will constantly be pinging while they are out on the water, but with the way that the cellular technology works, the pings that are recoded on that device won't be transmitted off that device to the vendor and to ACCSP, until that boat comes back into cellular range. This is one of those places where it does differentiate between something more like the satellite, where the pings can actually be transmitted differently.

The device has to be within cellular range, in order to submit that. This is more of a post trip rather than a while the vessel is at sea knowing where that vessel is. I'm not a device expert, so I would defer to a few of the other public attendees who are more familiar with devices to correct anything that I may have said incorrectly.

MS. STARKS: If I could follow up, Mr. Chair.

CHAIR MCKIERNAN: Certainly, go ahead, Caitlin.

MS. STARKS: Yes, I believe what Julie just stated is correct, and kind of the crux of what we're looking at with this program. The intention throughout the discussions with the PDT was not for real time vessel location data to be accessible by law enforcement or the states, given that limitation of needing the cellular service to transmit those location data.

The expectation is that these data would be selected during the trip, and then would get pushed to ACCSP after the boat is back into cellular service, after the data goes to the vendor and then gets pushed to ACCSP. I just want to make sure that that is clear to everyone. Yes, I think.

CHAIR MCKIERNAN: Caitlin, it sounds to me like the uploading of the data once the vessel gets back into cellular service is one aspect, but then the data getting transmitted from the vendor to ACCSP is a second step. Am I correct?

MS. STARKS: Yes, I believe so. I think we could put in language for how often the data need to be pushed from the vendor to ACCSP. I think leaving it as a number of hours is probably more appropriate than minutes, in that case. But if we wanted to add language there, we could.

MR. BORDEN: That's all I'm asking, Mr. Chairman. That should be decided by the technical folks, not us.

CHAIR MCKIERNAN: Sounds good. Okay, Caitlin, are we good?

MS. STARKS: Yes, I think so.

CHAIR MCKIERNAN: Toni, anyone else?

MS. KERNS: You have members of the public.

CHAIR MCKIERNAN: Okay, who is first?

MS. KERNS: First we have Sonny Gwin and then Mark O'Brien.

CHAIR MCKIERNAN: Okay, Sonny.

MR. GWIN: I would like to see in the document when it comes out to the public to see what the active vessels would be, all the vessels. I think it would be a great thing to have the cost of some kind of cost, give us some kind of idea. Then also, I don't know if this is a question for the Board or for our state directors. When the states are doing all this work that they have to do, what is the cost of that going to be, and is that going to be transferred to the fishermen? I don't know who could answer that question. I just want to know, is the state going to take the cost of monitoring and doing all this, or is it going to fall back to the fisherman?

CHAIR MCKIERNAN: Thanks, Sonny, Caitlin, is it possible for states to add another column to this table that would describe the number of active vessels in say the most recent complete fishing year for which we have data?

MS. STARKS: I can try to work with the states on that. We took this from the federal permit database, and so we haven't run this, I don't believe, Toni, like haven't validated these numbers with the states yet. I could send this table out to the states and try to get that information back, but I think that's a matter of whether the states are able to easily find out how many active permits they had in 2020.

MS. KERNS: David, I actually will come back and say differently than Caitlin. I do not think we can do that in the amount of time that we will have to turn this document. Matching up federal permits with those vessels that are reporting is not an easy task, especially since there is not required reporting. We would have to go to dealer reports as well in some cases, and we just would not have time for that. Unless Alli can tell me, she could give me a list of active permit holders, but I'm pretty sure she can't, since she wasn't able to give it to us for this.

MS. STARKS: Apologies for my mis-answer.

MS. KERNS: I'm just trying to realistically have a timeframe in which we can get this out to public

comment quickly enough. I have Alli with her hand up.

CHAIR McKIERNAN: Yes, well if I could, just back to Sonny. Sonny, I know for my state I'll want that number, and I'll ask my staff to do it. We have trip level reporting, so we could probably do that. I imagine some of the other states may want to have that just for their own edification or own incorporation into the approval of this. Toni, you said you had Alli?

MS. KERNS: Correct.

CHAIR McKIERNAN: Yes, go ahead, Alli.

MS. MURPHY: That is not something that's within my technical expertise to be able to get to you. But I'm happy to speak with our statisticians and see if that is a data request that I can put in, and see if I can get that within the timeframe that you're comment period and public hearings would take place in. I can't promise, but I can put that request in.

CHAIR McKIERNAN: Alli, if I could follow up. Wouldn't you need that information for your rulemaking? Would you not be turning to the states and asking us to estimate that parameter? Well, maybe it's a rhetorical question. I would expect you would, so maybe all of our individual states could try to come up with a precise number, or a ballpark figure of how many vessels we actually have fishing lobster who have federal permits.

MR. GWIN: A follow up question, please?

CHAIR McKIERNAN: Is this Sonny?

MR. GWIN: Yes.

CHAIR McKIERNAN: Go ahead, Sonny.

MR. GWIN: Do you know exactly, isn't there a control date for the American lobster in federal waters, and what is it?

CHAIR McKIERNAN: I'll turn to Alli. Alli, can you weigh in on the control date?

MS. MURPHY: I think we've had several control dates. I don't know the dates off the top of my head, but I think we've had a variety of control dates by management area.

CHAIR McKIERNAN: Each LMA has its own control date.

MR. GWIN: All right, thank you.

CHAIR McKIERNAN: How about Mark O'Brien from the public.

MR. MARK O'BRIEN: Yes, good afternoon, my name is Mark O'Brien, I'm a VMS telematics consultant, and I just thought I would add a couple things to some of the questions that Dave Borden asked. I've been through type approval with NOAA, with 50 governments and a lot of states.

Typically, on the pull data, they will pull the data every five minutes from our database, so it is fairly real time. Secondly, the one thing that I would add to your specification is that if you have cellular trackers, they should be able to log up to 20,000 GPS reports, because if you're on a two-week trip and out of cellular range, you'll have to log 18 to 20,000 reports and uplink them when they come back into port.

CHAIR McKIERNAN: Okay. All right, thank you. Toni, any other comments or questions?

MS. KERNS: I have David Borden and then another member of the public, John Fullmer.

CHAIR McKIERNAN: Okay, David, we'll go to you and then we'll go to John.

MR. BORDEN: Yes, I just wanted to thank John O'Brien for clarifying that. If the technical people think that that is a good system to have to push the data every five minutes, that totally addresses my concern, so thank you for pointing that out, John.

MS. KERNS: Dan, to follow up from David's point. We will talk to the state folks that have been testing

the devices, to figure out what is an appropriate timeframe for pushing the data to ACCSP.

CHAIR McKIERNAN: Okay, thanks. From the public, John Fullmer.

MR. JOHN FULLMER: I'm Jack Fullmer from the New Jersey Council of Diving Clubs. My question, the main question relates to the commercial dive boats, who also take lobsters. Do they have to have, some of these dive boats have a lobster permit and some of them don't, they're not required to, to service the diving public. The question is, what is the story relating to the dive boats?

CHAIR McKIERNAN: They have federal permits? You have a federal lobster permit?

MR. FULLMER: Some may have permits and some may not. They are not required to have a permit just to serve the divers.

MS. STARKS: I can try to respond, Mr. Chair.

CHAIR McKIERNAN: Yes, take a shot.

MS. STARKS: I think the way to be most clear about it is that if this vessel has a permit that's in one of the categories we listed in the table, then yes, it would be required to have a tracker, and if it doesn't then it would not. These are right now the applicable permit categories that are being considered for these tracker requirements. If the vessel has one of these permits, then yes, it would need a tracker.

MR. FULLMER: Two other questions.

CHAIR McKIERNAN: Go ahead, Jack.

MR. FULLMER: It seems to me that requiring the device to be on 24 hours a day while they are in the water in port seems a little extreme. What would happen if the boats power went off and the device turned off, and would they then be in violation?

MS. STARKS: I can try to respond. There is some language in the document already on the ping rate while the vessel is at berth. The idea is that if the tracker can identify the berth location of the vessel, it could automatically slow down the ping rate, so that it would only be pinging not every one minute, once every 24 hours until it leaves berth again.

That is if the device is capable of doing that, and I think many of them are. That would help with both our savings and data storage savings, although data storage really is not a concern, because my understanding is that these devices can handle a lot of data. But if the device can't recognize when it's at berth, then it would still need to ping at its one-minute ping rate.

That is to encourage these vendors to make it possible to determine the berth location, and be able to automatically slow that ping rate down. I think the other part is that from what I understand the power, we did not make power specifications in this document, because it depends on the device whether it would have its own battery backup or be hardwired into the boat, or be powered by some other way. There is a lot of flexibility there, and I don't think it's a concern that I've heard from the folks who have tested these devices that they would shut off just because they've been on overnight at port. But if I've mischaracterized that at all, anyone from the PDT is welcome to raise their hand and follow up.

MR. FULLMER: But the question remains, is he in violation if it goes off through not a fault of his own?

MS. STARKS: I guess the answer is, technically, it doesn't fit with the requirements of the Addendum but we've kind of put the requirement on the vendor to say your device needs to be able to stay powered at all times. The harvester's responsibility is to install an approved device, and if that device has been approved, it means that it should be able to maintain power as required, if that makes sense.

MR. FULLMER: Would there be a phone number that the captain could call to report that his power went off or something like that?

MS. STARKS: Yes, absolutely. That is, I think, part of the affidavit language as well as that the harvesters would notify the state that is responsible for them if there was a problem with their device, so that the states would be aware that it was not collecting the data that it was supposed to be collecting while the harvester works with the vendor to get that device back up and running.

MR. FULLMER: A third question. Who is paying for the tracking vendor? Does that go back to, it may relate something to your previous question really of the cost. But does that go back to the fisherman, or the state has to pay for it, or whatever?

MS. STARKS: Right now, I think that's not determined yet, but I think each individual state is having conversations about that, but I don't think we have an answer to that question yet.

MS. KERNS: Caitlin, I can add to that. Jack, there is a cost for the device, and then each of these companies have a subscription fee, in terms of the data that are associated with them. Some have very low-cost subscription fees, other ones have, I would say medium price subscription fees. You know as Caitlin said, it could be up to the state, but it's likely to be a cost for the fisherman on an annual basis. Dan, you have Eric Reid and Megan Ware.

CHAIR McKIERNAN: I wanted to follow up with Jack, and maybe Alli could help me answer this question. Jack, the dive boat vessel you described, it sounds like it's like a for-hire, like a charter vessel.

MR. FULLMER: Commercial dive boat, there are commercial dive boats, correct.

CHAIR McKIERNAN: Right, but those vessels aren't authorized to set lobster traps for commercial purposes, are they?

MR. FULLMER: No, unless they have the trap code. Some of them have, they had previously been

involved in doing both, serving as dive boats and also doing their own trapping. That was what it related to.

CHAIR McKIERNAN: Yes, so it seems to me, Toni and Caitlin, that Jack brings up another example of a vessel that may be authorized to fish traps, but if they're only diving, I wonder if this should be an opportunity for the vessel owner to opt out of the tracking, especially if they didn't order trap tags and they weren't going to participate in the trap fishery. But I'm not sure what data on a dive boat's fishing location is going to give us, in terms of the objectives of this program.

MS. KERNS: Yes, and I can talk to Alli to see if those are separated or not.

CHAIR McKIERNAN: Yes, okay, very good. Toni, you had Eric Reid and who else?

MS. KERNS: Megan Ware.

CHAIR McKIERNAN: Okay great, go ahead, Eric.

MR. ERIC REID: Good afternoon. The vessel and the operator have a certain requirement to supply data to, it sounds like the states and the feds. My question is, what happens when the inevitable discrepancy arises between some entity and the data itself? You can't renew your permits unless all your paperwork is in perfect order, so what's the mechanism to solve discrepancies without having to call two states and the feds and the service provider? Has that been thought through at all, just to streamline that process, which certainly will happen at least once or twice?

CHAIR McKIERNAN: Toni or Caitlin, do you want to take a shot at that?

MS. KERNS: Eric, I think what we're trying to do. Well one, to renew your permit having a tracker on your boat isn't a condition of renewing the permit, leaving the dock is the condition of the permit to use the tracker. If your data aren't linking or syncing correctly, you know I think ACCSP is hoping to try to help out the states to create algorithms

that would kind of indicate that to us, to give us warnings that things aren't meshing correctly.

Then from there we would say, mmm that's a problem of the device, or mmm, that's a problem of the user. If it's a problem of the device then the fishermen knows to go talk to the vendor. If it's a problem of the user, then maybe that's to go to the state and the state can help them perhaps figure out what's going on with the data.

MR. REID: Okay, so as far as matching up vessel number, trip number, et cetera, et cetera, that would be handled on a reasonably timely, in a fashion pretty timely, so we don't have to go back nine, ten, eleven months to figure out what went wrong.

MS. KERNS: That is our hope, and it is our hope that these sort of regular checks of the data through these magical formulas, I'll call them, will help us see that.

MR. REID: Okay, thank you, and just a quick follow up if I might, Mr. Chair.

CHAIR McKIERNAN: Yes, go ahead, Eric.

MR. REID: As far as if you're offshore and your tracker fails. I can tell you that in the scallop fishery and in some cases of other fisheries, if your device fails, you're getting a note from Uncle Sam saying, your trip is over you're coming home, so that's how that works in reality.

CHAIR McKIERNAN: Yes, I'm not sure this device can tell you it's failing until it goes to push the data when you get back into cell phone service. But yes, I think we'll learn as we go on this one. Thanks, Eric. Megan Ware.

MS. WARE: Not to harp on the pushing of data from one source to another, but I just wanted to confirm my understanding is true, and that when a vessel comes into port and gets cell service, whatever data is on that tracker will automatically be uploaded to the vendor, and then that would automatically be sent to ACCSP. My understanding

is it's not a manual push, it's an automated push. Is that correct?

MS. KERNS: Megan, I'm going to phone a friend and ask either Bill DeVoe or Nick to answer that question.

CHAIR McKIERNAN: You could recognize them, Toni, if you want.

MS. KERNS: Okay, I know I've seen Nick on here already. Nick, do you want to answer that? I just need you to raise your hand so I can find you so you can speak. All right, you can go.

MR. NICHOLAS BUCHAN: Bill is definitely the expert on APIs, but the idea is that the data will be pushed from the vendor to ACCSP, if Bill is available to talk.

MS. KERNS: I just unmuted Bill to see if it goes automatically or not. You can go, Bill.

MR. WILLIAM DeVOE: Yes, thank you, Toni. Yes, so it's for the most part, once the device actually publishes that ping. I mean we typically won't see a couple second lag as that ping blows through the various data flows, eventually to ACCSP. Where there can be some delays, depending on the manufacturer of the device, is how long the cache data takes to upload.

For example, with our tracking devices, we're able to push one ping per second, so uploading the entire cache, while the device is out of cell service takes, the one-minute ping rate it takes 1/60 the time that the device is out of cell range. But once the device actually pushes that ping, we see that in our databases within a couple of seconds.

CHAIR McKIERNAN: It's an automated process, not a manual, right?

MR. DeVOE: Absolutely, I'm not sure who the person would be pushing the manual button if there was one.

CHAIR McKIERNAN: Right, understood. Megan, are you good?

MS. WARE: I'm good, thank you, Bill.

CHAIR McKIERNAN: Toni, anyone else?

MS. KERNS: All right, Dan, I do not see any other hands at this time.

CHAIR McKIERNAN: Okay, so we have a few amendments, obviously the text in red. I mean we've had some other questions come up that have been raised that might improve the document. What do you recommend for us to capture some of those minor amendments into something that could be a motion, to approve this for public hearing?

MS. STARKS: Mr. Chair, I had been keeping a running list of the suggestions, and I think this covers it. I don't know if this looks good to you.

MS. KERNS: Caitlin, could you just add a little text so that people remember what Section 2.2.5 is?

MS. STARKS: Sure, that was on the enforcement background, so I will do that.

MS. KERNS: Just as a memory jogger.

CHAIR McKIERNAN: I guess to follow up on one of the issues that came up, because we want this to be embraced by the National Marine Fishery Service ultimately. I guess maybe a question for Alli. Should the Service consider exempting a vessel that has a permit but has not ordered trap tags and doesn't intend to be trap fishing? Is that something that the Service might want in this document? Is that something the Service would want to see in the final program? Alli, are you there?

MS KERNS: She has her hand up.

CHAIR McKIERNAN: Okay, yes go ahead, Alli.

MS. MURPHY: I think there are a number of ways that this could be implemented and you know I guess I would look to the Board and the PDT for the best way to do that. I mean on the federal side we have most of our fishery is that by issuing a permit

you need to have a VMS. By having a federal permit, you need to have a VMS.

We have another fishery where we can issue that permit, but you have to have a VMS on and working before you take your first trip. We do have two models here, and I guess I think it's up to the Board and the PDT for how they want to design this and we can try to work with that.

CHAIR McKIERNAN: Are there any Board members that want to weigh in on that particular issue?

MS. KERNS: You have a member of the public.

CHAIR McKIERNAN: Who is that?

MS. KERNS: Sonny Gwin.

CHAIR McKIERNAN: Oh, go ahead, Sonny.

MR. GWIN: Yes, just to let you know that the Area 5 waiver, you would not buy trap tags, so I don't know how we would fit that in if you're buying the trap tags or not buying trap tags. But you would still have a federal lobster permit.

CHAIR McKIERNAN: And they are fishing traps capable of taking lobsters and that look like lobster traps. I guess I'm thinking about the case of the vessel that doesn't participate in the lobster trap fishery but have the lobster trap permit, and should there be an out for those vessels, like a preseason waiver?

MS. KERNS: David, I don't know how to resolve this problem specifically. I think I would need to have a couple of conversations with Alli to understand how some of these permit's work, and what people are doing, and I don't fully understand that right now. I think what we could do is just add an option for the ability to create a waiver.

That maybe we could go back to the PDT while the document is out for public comment to talk through that, to see if these waivers would actually be something that we need, or if we can resolve this issue some other way or not, and work through it

there. I don't know how to move us forward otherwise.

CHAIR McKIERNAN: I think that's an excellent suggestion, Toni, is to put an option in there and accept public comment on the potential for the jurisdiction, I guess that would be NMFS, to allow for a waiver for a vessel, a permitted vessel that would opt out of participating in the trap fishery.

MS. KERNS: We would work with Alli to make sure we're crafting the option in a way that would be viable for rulemaking. You know, it might be that we can solve this problem some other way. But if this is what we need in order to move this Addendum out for public comment today, I think that this is the only thing that I can think of to do.

CHAIR McKIERNAN: Okay, I think it's a good suggestion.

MS. KERNS: Sonny, do you have a follow up to that specific point? Your hand is up again. He took it down. Then you had two Board members that had their hand up previously, the first was Ritchie White and the second was David Borden.

CHAIR McKIERNAN: Okay, Ritchie White, go ahead.

MR. G. RITCHIE WHITE: Just out of curiosity, when the data is pushed to ACCSP, does law enforcement have immediate availability at that point?

CHAIR McKIERNAN: Toni or Caitlin.

MS. KERNS: Actually, Caitlin had a conversation with Mike Rinaldi about this question earlier today. I think it depends on how we build the platform in which you can view the data for the states, and for Law Enforcement Committee. I don't want to say it's immediate, Ritchie. That hasn't been done yet, and so that platform hasn't been built yet. It is our intention to provide the information as quickly as possible, but I don't want to promise that it's real time until we've built the platform. Julie or Mike, if you want to fill in from there, if you have something different, please do.

MS. SIMPSON: I would just second what you said. That was what I would have said.

CHAIR McKIERNAN: All right, David Borden.

MR. BORDEN: Thank you, Mr. Chairman, are you ready for a motion?

CHAIR McKIERNAN: I could be, although the last bullet that Caitlin has on the screen. I wonder if we should say for a state or federal waiver, because I'm thinking ultimately this may be up to NMFS, but maybe state and/or federal waiver, just to include the Service in that. But yes, otherwise I would be ready for a motion.

MR. BORDEN: Okay, so I would move to approve Draft Addendum XXIX for public hearing purposes as perfected by the discussion today.

CHAIR McKIERNAN: Is there a second?

MS. KERNS: You have Megan Ware.

CHAIR McKIERNAN: Very good, discussion on the motion.

MS. STARKS: Maya, could you modify the language of the motion so that it says move to approve Draft Addendum XXIX for public comment with the following modifications. The motion had "approve." Is this okay, David?

MR. BORDEN: That's an excellent perfection.

CHAIR McKIERNAN: All right, do we have any hands up to discuss the motion?

MS. KERNS: We do, we have David Borden with his hand up, and Dan, just before you vote, if you could read the motion into the record once we're ready that would be great.

CHAIR McKIERNAN: I would be happy to. David Borden, you want to speak to the motion?

MR. BORDEN: I had my hand up erroneously, Mr. Chair, thank you.

CHAIR MCKIERNAN: Anyone else, Toni?

MS. KERNS: I see no hands.

CHAIR MCKIERNAN: Shall I read it?

MS. KERNS: That would be fantastic, thank you.

CHAIR MCKIERNAN: All right, here we go. **Move to approve Draft Addendum XXIX for public comment with the following modifications: Add language to prohibit tampering with devices. Add Area 5W permit to applicable permit table. Clarification of Section 2.2.5 on enforcement background.**

Provide a general range of costs of trackers/data. Questions about applicability of tracking requirements. Add language to specify how frequently vendors must PUSH data. Add option to allow for a state or federal waiver for permitted vessels to opt out of participating in the trap fishery. Motion by Mr. Borden, seconded by Ms. Ware.

CHAIR MCKIERNAN: Is there any objection to the motion as presented?

MS. KERNS: I see no hands.

CHAIR MCKIERNAN: Are there any abstentions?

MS. KERNS: I see no hands.

CHAIR MCKIERNAN: Any null votes?

MS. KERNS: I see no hands.

CHAIR MCKIERNAN: Then by unanimous consent the motion is approved, so thank you.

OTHER BUSINESS

CHAIR MCKIERNAN: Any other business?

MS. KERNS: David Borden has his hand up.

CHAIR MCKIERNAN: Go ahead, David.

MR. BORDEN: Yes, Mr. Chairman, as you know, this has been one of the issues which I have advocated for a long time as a mechanism for protecting the lobster industry, given what we all know about it, in which you eloquently characterized at the beginning. I would just like to go on record as thanking Caitlin, and Toni in particular.

But all of the technical people that supported them, I think they really did a wonderful job of putting this together. It was a labor of love, I'm sure, and difficult, given some of the guidance we gave them. But I think they really did an outstanding job, so thank you very much.

CHAIR MCKIERNAN: I agree, David, well put. Any other business or any other comments to come before the Board?

MS. STARKS: Mr. Chair, I have one item I wanted to address with the Board if that is all right.

CHAIR MCKIERNAN: Yes, please do.

MS. STARKS: I just wanted to let the Board know that I sent out the list of Jonah crab Stock Assessment Subcommittee members for Board approval via e-mail, and I did not receive any objections to that list of task members, so that list is approved.

CHAIR MCKIERNAN: Great, thank you, Caitlin. All right, can I get a motion to adjourn?

MS. KERNS: Before you do, David, I just wanted to say one more piece. Thank you, David Borden for those comments. The Committee has been working really hard, and I do appreciate all the help that they have given us. I know Caitlin has e-mailed all the states on public hearings, and so just please continue to work with Caitlin as quickly as you can.

We would like to try to get a press release out once all of those hearings have been finalized on the approval of the addendum for public comment, so just a little pitch to try to solidify those hearings as quickly as possible, and for those members of the public that are here today, we're going to have

Proceedings of the American Lobster Management Board Webinar – December 2021

definitely some virtual hearings, and perhaps a couple in-person ones.

CHAIR McKIERNAN: Great, thank you, Toni. Any motions to adjourn?

MS. KERNS: I'm waiting for a hand. I have motion to adjourn by Cheri Patterson.

CHAIR McKIERNAN: All right, a second.

MS. KERNS: Megan Ware.

CHAIR McKIERNAN: All right, thank you, no objections?

MS. KERNS: No hands.

ADJOURNMENT

CHAIR McKIERNAN: All right, this meeting is adjourned, thank you everyone, have a great holiday season, be safe, and thanks for your attendance today.

(Whereupon the meeting adjourned at 2:40 p.m. on December 6, 2021.)