

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

**Webinar
February 23, 2022**

Approved March 31, 2022

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Call to Order, Chair Jason McNamee.....(unrecorded)

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1. **Approval of agenda** by consent (Unrecorded).
2. **Move to approve Proceedings of October 18 and December 6, 2021** by consent (Unrecorded).
3. **Move to postpone action on Lobster Draft Addendum XXIX and Jonah Crab Draft Addendum IV until the next meeting of the American Lobster Management Board, which will be held before the ASMFC Spring Meeting** (Page 8). Motion by Cheri Patterson; second by David Borden. Motion carried (Page 14).
4. **Move to adjourn** by consent (Page 34).

ATTENDANCE

Board Members

Megan Ware, ME, proxy for P. Keliher (AA)	Colleen Bouffard, CT, proxy for J. Davis (AA)
Stephen Train, ME (GA)	Bill Hyatt, CT (GA)
Cherie Patterson, NH (AA)	Maureen Davidson, NY, proxy for J. Gilmore (AA)
Ritchie White, NH (GA)	Emerson Hasbrouck, NY (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Joe Cimino, NJ (AA)
Dan McKiernan, MA (AA)	Peter Clarke, NJ, proxy for T. Fote (GA)
Raymond Kane, MA (GA)	John Clark, DE (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Roy Miller, DE (GA)
Jason McNamee, RI (AA)	Mike Luisi, MD, Administrative proxy
David Borden, RI (GA)	Pat Geer, VA, Administrative proxy
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Allison Murphy, NOAA

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

Ex-Officio Members

Kathleen Reardon, Technical Committee Chair	Rob Beal, Law Enforcement Representative
Grant Moore, Advisory Panel Chair	

Staff

Toni Kerns	Adam Lee
Maya Drzewicki	Mike Rinaldi
Tina Berger	Julie Defilippi Simpson
James Boyle	Caitlin Starks
Emilie Franke	Deke Tompkins

Guests

Max Appelman, NOAA	Matthew Heyl, NJ DEP
Richard Balouskus, RI DEM	Pat Keliher, ME (AA)
Leah Baumwell, Pew Trusts	Chip Lynch, NOAA
Fred Bever, Maine Public	Gregory Mataronas
Kurt Blanchard, RI DEM	Patrice McCarron, MLA
Nicholas Buchan, MA DMF	Adam Nowalsky, Port Republic, NJ
Beth Casoni, MLA	Chad Power, NJ DEP
Bill Devoe, ME DMR	Trach Pugh, MA DMF
Laura Deighan, NOAA	Melissa Smith, ME DMR
Timothy Field, ProtonMail	Somers Smott, VMRC
Brian Galvez, NOAA	Wes Townsend
Amalia Harington, Univ ME	Corinne Truesdale, RI DEM
Marin Hawk, MSC	Barry Clifford, NOAA
Heidi Henninger, Off Shore Lobster	Scott Schaffer, MA DMF
Jerome Hermsen, NOAA	Craig Weedon, MD DNR

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened via webinar; Tuesday, February 22, 2022, and was called to order at 1:00 p.m. by Chair Jason McNamee, a small portion of the meeting was not recorded.

JOINING MEETING ALREADY IN SESSION

CONSIDER AMERICAN LOBSTER ADDENDUM XXIX ON ELECTRONIC VESSEL TRACKING IN THE FEDERAL AMERICAN LOBSTER AND JONAH CRAB FISHERIES FOR FINAL APPROVAL

MS. CAITLIN STARKS: Proposed Options along with the Public Comments for those Options, and then I will provide the Advisory Panel Report from our meeting last week. Then lastly, I'm going to go over the Board action for consideration and next steps. For a background, the Board initiated Draft Addendum XXIX to consider vessel tracking requirements for federally permitted lobster and Jonah crab vessels in August of 2021.

The Board initiated this action to address the need for some higher resolution, spatial and temporal data on effort in the fishery, to address several critical issues that this fishery has been challenged with. Leading up to initiating this Addendum for several years, the Board has recognized the need for these data, to characterize effort specifically for improving the stock assessments for lobster and Jonah crab.

Helping inform decision making to reduce fishery interactions with protected species, as well as discussions related to marine spatial planning for other ocean uses, like offshore wind development, and also to improve the efficiency of law enforcement efforts in the offshore area.

To that end, the Board established this objective for the Addendum, which 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. This is the timeline of the action's development.

Again, it was initiated in August, 2021, and then in December of 2021 the Board approved the draft addendum document for public comment, and the public comment period extended from December through January of this year. It included six virtual public hearings, which I'll go over some summaries of later.

Then earlier this month the Advisory Panel met to review the Addendum options, the public comments, and to provide their advice to the Board. Then today the Board is meeting to review all of the public comments, the AP report, and consider taking final action on the Addendum.

REVIEW MANAGEMENT OPTIONS AND PUBLIC COMMENT SUMMARY

MS. STARKS: With that I'll go into the proposed management options. Draft Addendum XXIX considers just two options. Option A is status quo, or no additional requirement for electronic vessel tracking in the lobster and Jonah crab fisheries, and Option B is to implement electronic vessel tracking requirements for federally permitted lobster and Jonah crab vessels with commercial trap gear area permits. Under Option B, federal lobster and Jonah crab vessels that are issued commercial trap gear area permits would be required to install an improved electronic tracking device, to collect and transmit spatial data in order to participate in the trap gear fishery.

Federally permitted vessels without an approved tracking device would be prohibited from landing lobster or Jonah crab taken with trap gear, and as such, federal permit holders would be required to install an approved device before beginning a lobster or Jonah crab fishing trip with trap gear.

The device would be required to stay onboard the vessel, and have power at all times when the vessel is in the water, unless that device is authorized to power down by the principal port state that is

identified on the permit. That would be the state authority for that vessel. Powering down of these devices could be authorized by the state for reasons such as the vessel being hauled out or repaired, or if a device failure has been reported to the state authority, just to give a couple of examples.

Then tampering with these tracking devices or their signals, including any activity that could affect the unit's ability to operate properly would be prohibited. Option B proposes that the tracking requirements would apply to these seven federal permit categories that are listed in this table. These include all of the commercial trap gear area permits for Areas 1 through 5 and Outer Cape Cod.

Additionally, the commercial trap gear Area 5 waiver permit, which was used to allow Area 5 permit holders to be exempt from the more restrictive lobster trap gear specifications, and trap tagging requirements in order to target black sea bass. Commercial trap gear Area 6 is also excluded from these proposed electronic tracking requirements, because Area 6 is only in state waters.

For some additional clarity, the tracking requirements that are proposed under Option B would not apply to vessels that only have a state permit and no federal permit. Inactive federal permits, which have been placed in confirmation of permit history status, and vessels that will not fish trap gear during the fishing year.

For example, if a vessel wishes to retain their lobster commercial trap gear permit, but will not be fishing trap gear, they'll only be fishing with other gear under a different permit for that year, those vessels would be exempt from this requirement. Beyond the basic tracking requirements, Option B in the Draft Addendum also provides some additional information on how the program would be implemented.

This includes requirements for the devices and the vendors, that they must meet in order to be approved for use in the fishery. Descriptions of the administrative responsibilities and processes that would be need at the Commission, state and federal levels, and also how the data collected by the tracking devices would be processed, stored, and provided to managers. For the minimum criteria and specifications that the tracking devices and vendors must meet. First, the devices must be able to collect location data at a rate of one ping per minute for at least 90 percent of the fishing trip, and this rate was determined to be able to differentiate fishing activity from transiting activity, and allow estimation of the number of individual trawls from looking at the vessel tracks. The data for each of those pings have to include the devices current date/time, it's latitude and longitude, and identifiers for both the device and vessel.

The devices have to meet minimum accuracy and precision requirements, as well as ruggedness specifications that allow them to function in the marine environment, and the device vendors must provide sufficient customer service, as described in the Addendum, and they must maintain the confidentiality of personally identifying information, and all other protected data in accordance with federal law.

The implementation and enforcement of these tracking requirements will require some administrative processes at different levels, including the Commission, state and federal levels, so I'll just go through each of these in the next few slides. At the state level, the states would be responsible for certifying that approved devices are installed on all vessels in the permit categories that we specified, before the vessel goes on a fishing trip using a standard affidavit form.

The state that is responsible for each permit holder, again would be determined by the principal port location declared on the federal permit. As for providing the states with a federal trap gear area permit data, GARFO will be providing that information to the states, so they can determine which permits holders each state is responsible for.

The states would also be responsible for providing support to their permit holders, to help them with properly complying with all of the vessel tracking requirements. This doesn't mean the states would be required to help them install devices or troubleshoot devices, that would be the responsibility of 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, such as incomplete tracking data or mismatches between vessel trip reports and associated vessel tracks. Then at the federal level, GARFO will be responsible for providing up-to-date information to the states on the American lobster trap gear area permit ownership.

Including all of the applicable vessel permit numbers, names, whole IDs, endorsements, issuance and expiration dates, and permit holder information. GARFO will also incorporate the federal lobster EVTR data into their quality assurance program, once that rulemaking is complete, to implement the federal harvester electronic vessel trip report requirements. The EVTRs will be 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 federal EVTR data, so that it could be used to identify the fishing activity from the vessel tracking data. Option B also outlines the data processes needed, the main one being that ACCSP will house the tracking data, and ACCSP will receive the location data from the tracking vendors, and they'll get the EVTR data from GARFO. All the data must be submitted in accordance with ACCSPs trip locations API specifications. Then with those datasets ACCSP will be able to match vessel tracks with trip reports, and as with all of the fisheries data that ACCSP handles, they will also maintain data confidentiality in accordance with federal law,

and data access will only be granted to authorized entities with confidential access.

With the trip report data, the state and federal agencies will remain responsible for ensuring compliance with data reporting requirements. Specifically, GARFO will be responsible for the validation of the EVTR data, and the state management agencies would be responsible for validating the trip location data.

That's the overview of the Addendum options, and now I'm going to go through the public comment summary. As I mentioned, there were six virtual hearings held during the comment period on Addendum XXIX, covering Maine through Virginia. The total attendance across those hearings was 98, though there were some folks that attended more than one hearing, so it's slightly less individuals than 98. At those hearings, 35 public comments were provided, and during the comment period we also got 32 written comments on the Addendum.

This table summarized the comments that were provided at the public hearing in favor of each of the two options. Across the hearings we had 27 comments in favor of Option A status quo, and 3 were in favor of B for electronic vessel tracking requirements. The second table is a summary of the written comments, and I'll note that not all written comments were clear on which of the options was preferred, so only the comments that actually specified a preferred option are included in the table.

Of the 25 comments that specified an option they preferred, 16 preferred Option A, and 13 of those came from individuals and 3 from organizations. Then 9 written comments were in favor of Option B, with two of those from individuals and 7 from organizations. The next couple of slides summarize some of the more common themes across the comments that we received, so these comments are in support of status quo.

Among these, many comments mentioned concerns that data from vessel tracking would harm the fishery rather than help, or be used against the

industry in some way. Several people were concerned that it would be inappropriate to use the tracking data to define static use areas for the fishery for marine spatial planning efforts, because the fishery is dynamic and important fishing areas are likely to change over time.

Another common theme among the comments was that fishermen should not be financially responsible for the collection of these data, but that the Commission, the states and/or NOAA Fisheries should provide funding to pay for the devices and data cost. Along with that it was often mentioned that the devices and data plans would be too costly for small business operators.

Then a number of comments highlighted concerns about fishermen losing days at sea due to device malfunction. More reasons for supporting status quo included opposition to having to have multiple types of devices for different fisheries on a single vessel, not having enough information about the devices, the vendors, actual cost of the devices, their reliability and accessibility, as well as their power needs. Concerns about data privacy were another common theme, with a few people being concerned that the data would be accessible by entities or other individuals who shouldn't have access to it, and also some who simply thought that the tracking devices would be an invasion of their privacy, given that vessels are sometimes used for activities other than fishing, like recreation.

One letter from an organization suggested that instead of implementing Addendum XXIX, the Board should fully implement the reporting requirements and improvements from Addendum XXVI, and the recommendations within that Addendum to satisfy the objectives of Draft Addendum XXIX.

Other comments also mentioned existing data from trip reports and logbooks should be fully utilized instead of requiring trackers. Finally, there were some concerns that the tracking

data are still going to be somewhat limited, because they cannot provide information on lobster catch rates. Of the comments that were given in support of Option B, many of them highlighted the concern that the current spatial information for the lobster fishery is too coarse, and higher resolution data is needed to help with the stock assessment and right whale risk reduction efforts.

Some also supported Option B, because of longstanding concerns of the lack of or limitations of offshore law enforcement. Several comments also noted that tracking data would be of enormous value to understanding economic tradeoffs for management measures like area closures and marine spatial planning decisions, as well as for enforcing other management measures required by the Atlantic Large Whale Take Reduction Plan.

Some supporters of Option B also thought the vessel tracking data should be required as soon as possible, to start collecting this information. Some other general comments that were provided were that financial support to reduce or eliminate the cost for fishermen could reduce resistance to this proposal, that the Commission should consider allowing the use of existing AIS technology to meet the requirements of the program.

They said that ASMFC should follow this action up with an addendum that would improve harvest reporting in state waters, as well as federal waters. Lastly, that the electronic vessel tracking requirements should not apply to the Area 5 waiver permit. There were multiple comments that supported that idea. That is the overview of the public comments.

ADVISORY PANEL REPORT

MS. STARKS: And now I have a few slides for the Advisory Panel Report. Our Lobster AP Chair is here today at the meeting, but I agreed to give the slides for Grant, but he is here to answer questions if needed.

For the Lobster and Jonah Crab Advisory Panel's, we had a joint meeting of those two panels on

February 15, 2022, to review the Addendum options. Eight Lobster AP members attended and three Jonah Crab AP members attended. Five advisors of the total supported Option A, and three advisors supported Option B.

The AP members that preferred Option A for status quo brought up several of the same issues discussed in the public comments. One Jonah crab advisor said there are still too many unanswered questions about how the program would work, and how the data would be used. A few advisors also said the tracking program should be funded by agencies benefiting from the data, like NOAA Fisheries. Then similar to public comments, several AP members highlighted the issue of the fishery being spatially dynamic, and tracking data from one year will not reflect past or future areas of importance. To that point, another AP member indicated that a baseline for the fishery footprint should be established from the tracking data over several years, before the spatial information should be used for management or marine spatial planning or assessments.

Several AP members also argue that there should be 100 percent harvester reporting before tracking is required, because without that harvester reporting aspect, the tracking data will not be as useful. One Lobster Advisor was also doubtful in general that these data would actually benefit the fishery, in terms of protecting them against wind development, because either they believe wind areas have already been planned in most of the areas, or it will not be important to the wind developers to avoid fishing areas.

Then a few advisors also felt that the Addendum is moving too quickly and more time is needed to set up the program. Of the advisors that supported Option B, for the tracking requirements, most recognized that there is a need to be able to prove where the fishery is occurring, and with those tracking

data for all of the reasons that were discussed in the Addendum.

One advisor supported this option because they felt tracking will fill the gap in law enforcement in the offshore area. Some of the advisors stated that the need for better spatial data outweighs some of the potential risks. Another added that they hope these data can be used to resolve gear conflicts.

Then a few advisors felt that more precise spatial data similar to what's being proposed under this Addendum, would have benefited the fishery during the development of the Canyons and Sea Mounts Marine National Monument, as well as the New England Fishery Management Council's Deep Sea Coral Amendment. Then lastly, advisors supporting Option B also agreed that the tracking data would help improve the stock assessment, to better manage the lobster and Jonah crab stocks. With that, these are the next steps for the Board to consider.

Today if desired, the Board can consider final action on the Addendum, and if it does get approved today or when it gets approved, the states would begin their processes to implement the requirements of the Addendum and their state regulations, and the Commission would also move forward with forming the work group that would identify and approve vendors and tracking devices for use in the fishery.

The federal rule making process would also begin, and the guidance that we've received from NOAA so far has been that they expect to be able to implement the tracking requirements in time for the 2023 fishing year. That's the end of my presentation, and before we go to our next section, I guess, Jason, do you want to take any questions?

CHAIR JASON McNAMEE: Yes, thanks, Caitlin. I think that's a good idea. Awesome presentation, as always, very concise representation of what was a lot of work, a lot of meetings, so thank you for that, Caitlin. Thanks to the AP for that great report. There were some thoughtful comments there. I think Captain Moore is on the line here, in case anybody has questions on the AP Report. With

that, why don't we go to questions on the presentation. Please, raise your hand if you have any questions. I've got one to lead us off, David Borden. Go ahead, David.

MR. DAVID V. BORDEN: Caitlin, I would just like to start by complementing you on the job you did at the hearings. I thought you did a really excellent job with a difficult situation. Not all of the questions you were being asked had been answered by the Board and the TC, and I think you handled yourself very well.

My question is on timing. A lot of the questions that were made by the industry, I put into the category of, there are logical responses that the Board and TC can provide to those. If we were to take the time to delay this for a month, let's say, then what impact would that have on the implementation schedule?

CHAIR McNAMEE: Thanks for that question, David. Caitlin, I don't know if you want to take a crack at that. I know we have some folks from NOAA on the line here as well that may wish to weigh in, but do you want to start it off?

MS. STARKS: Sure, thanks, Mr. Chair. My understanding is that a delay of a month or so would likely not impact the ability of NOAA to finalize rulemaking in time for the 2023 fishing year. But I think it would become a little bit tight. I guess I would like to have, or ask Alli Murphy from NOAA to add to that if she has more specifics.

CHAIR McNAMEE: Yes, thanks, Alli, if you would like to weigh in, please feel free to go ahead and unmute.

MS. ALLISON MURPHY: Thanks, Caitlin, I think you represented that very well. I think what we generally say is that if compelling federal rulemaking is required from a Commission action, to expect about a year for us to get that done. You know I think potentially a delay of a month might mean a slight delay on our part, but we've still got some time ahead of the start

of the fishing year to potentially get this in place.

CHAIR McNAMEE: Awesome, thank you, Alli and thank you, Caitlin. Next question, I see Cheri Patterson. Go ahead, Cheri.

MS. CHERI PATTERSON: This question is for Alli. Alli, is the reporting for federal lobster permittees still in line for January of 2023?

CHAIR McNAMEE: Alli, if you feel like you want to weigh in on that, I guess you should stay close to your mute button there, so please feel free.

MS. MURPHY: Will do, thank you. Hi, Cheri. Yes, we are still targeting January 1, 2023. The Rule is off my desk and in the review chain right now. I'm hoping for a publication real soon.

MS. PATTERSON: Thank you.

CHAIR McNAMEE: Are there questions from folks at this point? Dan McKiernan, go ahead, Dan.

MR. DANIEL MCKIERNAN: My question has to do with the timing, and how much of a deal breaker it would be if we didn't meet our time goal. Specifically, if NOAA is going to require, with any luck, January 1st as the time for the mandatory EVTRs, and our goal was to get these devices on by the beginning of the fishing year, which I believe is May 1.

If we were to fail to meet our goals, and that would be accomplished, say a month later or two months later or six months later. Is that a problem? I guess it's kind of an open-ended question. Could we proceed in such a way that even if we were to delay this, but get it in at a later date. Would that still be a useful outcome to meet the goals of this program?

CHAIR McNAMEE: Hmm, I think that's a NOAA question again. Caitlin, if you want to weigh in, please jump in. Otherwise, maybe Alli can bail us out again.

MS. TONI KERNS: Jason, I might be able to help a little here. Dan, I think it depends on which goal of the Addendum you're speaking to. I think one of the more immediate needs that folks have been discussing is these unknown whale rule regulations, and how this data can help us have more precise information about end line and end line usage, for incorporation into the Take Reduction Team's models.

The longer you delay the less data we have to add to the Take Reduction Team models. I assume that if they are going to be re-reviewing the progress of the rules that were just implemented this past year in 2025, that you'll want a full year's worth of data for 2023 to add to those modeling approaches that will probably start to be done in 2024.

I mean that would be the most immediate need. As you know, wind energy issues are happening as we speak, so obviously the sooner you can get information to support the industry the better. The delay impacts your individual states and how you're working with the different leases off of different state waters.

MR. McKIERNAN: Could I follow up?

CHAIR McNAMEE: Yes, go ahead, Dan.

MR. McKIERNAN: Thanks, Toni, that's a great answer. I guess what I take away from that is, we needed this data yesterday, and if this were delayed any fragment of the year it's not as if we lose an entire year, because as it stands, the EVTRs and the trackers were on a different schedule anyway. I just want to be clear that to me this is an important Addendum that I'm going to do all I can to get passed.

I'm just trying to strategize about what any delay would create, in terms of its effectiveness. It sounds to me like it would be just a proportional reduction in the data. We wouldn't be missing an entire year, for example. It's not like another species that we manage. We need to get it done before like the fish

arrive for that year. Like this is an in-season requirement, that if the season were a tad delayed, I think we would still be accomplishing a lot. Thank you for letting me ask those questions and make those comments.

CHAIR McNAMEE: I've got another hand, Ritchie White. Go ahead, Ritchie.

MR. G. RITCHIE WHITE: Just to follow up on those, so I'm sure I'm understanding the timing here. If we delayed action and approved this at our May meeting, and the Service took a year to approve their end. That would mean the 2023 fishing year, beginning in May, then the Service could have this in place. Am I figuring this out right?

CHAIR McNAMEE: Toni, do you want to take that one?

MS. KERNS: Yes. I think, Ritchie, approving it in May you are starting to get dangerously close to the start of the fishing season. I think that if you want a full implementation, starting at the beginning of the fishing season in 2023, you might want to approve this sooner than later. It's good to have a little buffer room in there, in order to make sure for those states that need the federal implementation prior to going to rulemaking will have that.

There are several states that don't necessarily need federal implementation prior to them starting to work on their own rulemaking to administer the programs. But there are some states, I think, that do. Maybe New Hampshire is one of them, if I am remembering correctly. Waiting until May could be problematic to get the beginning of the fishing year.

POSTPONE FINAL APPROVAL OF ADDENDUM

CHAIR McNAMEE: Okay, any other hands from Board members with questions? All right, not seeing any. Here is what I would like to do with the meeting at this point. I've heard a lot of questions, sort of wondering and pondering the impacts of a potential delay in final action. There are some additional slides after the one you're looking at here, where we can kind of step through some of

the questions that came up during the public hearing.

Really kind of dig into them a little bit, and try to come to a consensus on the response, to make sure we've captured all of the important elements to be able to report back to our constituents in the various states. Before we get into that, I thought it might make sense to see if there is a motion anybody wants to make, before we launch into any additional discussion, like the one I just discussed. Why don't I look for a hand for a potential motion to kind of spawn some of that additional conversation? I've got a hand, Cheri Patterson. Go ahead, Cheri.

MS. PATTERSON: I would like to move to postpone action on the Lobster Draft Addendum XXIX, and Jonah Crab Draft Addendum IV, until the next meeting of the American Lobster Management Board, which is to be held before the ASMFC spring meeting. We want to get this done before that year is needed for NOAA to be able to initiate action. If I get a second then I can provide some more justification.

CHAIR McNAMEE: Excellent, thank you, Cheri. Looking for hands for a second, and I see David Borden. Thank you, David. We've got a motion, it's been seconded, and why don't I come back to you, Cheri, to finish your thoughts on it. We'll then give Mr. Borden a chance, and then we can get into some discussion, and I promise to allow for some public discussion as well. Then we can launch into looking through those questions that came up. Go ahead, Cheri, whenever you're ready.

MS. PATTERSON: During the public hearings for these two Amendments, the Industry had consistent questions amongst all the states, and on the program as a whole. They really could not be answered well. I think we should postpone until the tracking program has developed more fully, where we can answer questions on concerns the industry has

expressed, and also to ensure the states, ASMFC and NOAA are aligned also with the program standards that should be developed.

CHAIR McNAMEE: David, would you like to offer some comments?

MR. BORDEN: Sure, just make a couple of brief comments. I support this. I virtually attended most of the hearings, and I thought the industry up and down the coast asked a lot of really good questions. Some of those questions need to be worked on by the Board, and also the Technical Committee, and a delay would certainly work to the advantage of all of us.

I think it's incumbent upon the process to try to deal with issues like, how will these data be used, and who gets access to these data? We can't do that after the fact, we need to talk through those types of issues in advance. A temporary delay will allow that.

CHAIR McNAMEE: Let's, we've got a motion on the Board, let's take some comments, questions, whatever from Board members first. Got a couple of hands up, the first is Dennis Abbott. Go ahead, Dennis.

MR. DENNIS ABBOTT: You know there is an old proverb that says that the road to hell is paved with good intentions. I'm not sure if that's not the road we're on, in trying to hasten through this Addendum. There were a lot of concerns raised by people at the hearings, which I attended the New Hampshire one, and a lot of the things that before we can even approve this at the next meeting, questions that should be answered.

Starting off, in my mind, so far, this is an unfunded mandate. It's been stated in the answers to the questions that we could receive some resources from the federal government to mitigate the cost of this. I think the document needs to contain more information regarding, in particular regarding what a fisherman does or can do or can't do, if he has problems with a unit after it's installed on the boat.

I also am concerned, just in a general sense, and being the devil's advocate, that I often am, that we're asking lobster fishermen to purchase something to be used, and in their mind, it could be used against them. It's sort of like self-incrimination, in some ways. I do understand the need for large whales and the wind business and all of that.

But I think that we have to go about this more carefully. You know GARFO in Mike Pentony's letter talked about they are still working out details. I think that there are a lot of details to be worked out. Another thing that came to my mind was the use by law enforcement. What will be the detailed procedure for law enforcement to access this information, you know to start an investigation, to further an investigation, so on and so forth. How do they go about this? There is just a lot of questions, and then you get into the maintenance of the trackers. I was thinking about having a tracker on, I don't have a lobster boat, but I'm just comparing it to myself sitting here at home with Comcast gear that runs my TVs, internet, and so on and so forth, and the amount of problems I have, and when I have to have a repairman come or return a unit.

I'm wondering how purchasing units from different vendors will work with lobstermen who have a malfunctioning unit, and they're waiting for somebody to come and fix it. Who is going to pay for it? Are they going to have to buy a new unit, and so on and so forth? All these things that I mention, I think that they need answers before we can actually approve this Addendum.

You know it's one thing to say we have to get it done by a particular time, but it's more important to get it done when it's done right. I praise Caitlin for all the work she's done on this, and everyone else that's been involved. But again, remember that the road to hell is paved with good intentions.

CHAIR McNAMEE: Hope we're not on the road to hell here. Just a note. I think as you were kind of ticking through the questions that are in your mind, I think we've got, I keep mentioning that I've got a series of slides here that kind of kick through the questions. I think they're all here, so since we have until about three o'clock, I thought it would be a good use of our time to kind of go through, kind of outline the current responses.

A lot of the questions that you just raised, Dennis, and just make sure that we're all sort of comfortable with those. Where we're not, we can do that additional investigation, as you suggested, to make sure we get everything kind of tightened up as well as we can. Good comments. Next up I have Steve Train. Go ahead, Steve.

MR. STEPHEN TRAIN: If I can go back to Dennis for a little bit. If you want a lobster boat, boy, have I got a deal for you. I'm going to support this motion, but I have some reluctance, and it's the hard deadline on the end. I think there are a lot of unanswered questions here. I think we need to take the time to get the questions answered, and answered satisfactorily, without a hard deadline on the back end.

The lobster fishery is a difficult fishery to enforce rules in, because of the vast area we cover, and the number of people. Most of the rules are obeyed because they are believed in. When you shove something down somebody's throat, they don't buy into, it changes the outlook of the entire way they operate. I just don't think that that is a good idea. I think we need to take the time, regardless of how long it takes, to answer these questions to the satisfaction of industry.

CHAIR McNAMEE: Good comments. Let's see, next up I have Megan Ware. Go ahead, Megan.

MS. MEGAN WARE: I am prepared to support this motion today. I think there were very legitimate questions asked by the public during the comment period, and we owe it to our stakeholders to answer those questions prior to taking action. In that spirit, I will support this. In the same breath I'll say, I do

think this is a high priority issue for the Board, given the vast amount of challenges facing this fishery. To respectfully disagree with my compatriot from Maine, I like that it has a specific deadline, I think it keeps us focused on this topic. If we find at that meeting that we still haven't answered all of the questions, I think it provides a progress point for us to continue to work on those. I support the motion as written today.

CHAIR McNAMEE: One more hand for the time being, that's Ritchie White. Go ahead, Ritchie.

MR. WHITE: I agree with all that's been said so far. I don't believe a month will nearly be enough to properly answer these questions. I think more than getting the answers to these questions, I want to see a lot of these answers be written in the Addendum. We had testimony from some fishermen that were involved in when VMS was approved.

I was around then, but I don't remember the hearings and what not. They said that oh yes, we were told a lot of things. Oh yes, we're going to take care of that as this unfolds or we're going to work. They said it turned out differently than what they were told in the beginning. I think it's important that we put in writing in the Addendum, for example, the issue of the box doesn't work, can you go fishing?

Who do you contact, and how long do you have to contact a person about the box not working? I mean those things that, we're going to take care of them, I think we need to take care of them and have it in the Addendum, so that it is very clear to the fishermen exactly how this is going to work. Thank you.

CHAIR McNAMEE: You know I think we do have some, at least initial responses to some of these questions. As I keep mentioning, we'll kind of tick through those, and see what we think. To your larger point, I'm going to look to Caitlin or Toni. I don't know what that, so a modification to the document at this point to add some

language. Maybe you can make a comment about that.

If it's not, that would be something that would trigger a whole new public process. Perhaps there is some other way, because in the end we have these questions. We're going to try and develop some answers. Then what? You know we need to get that information out to the public again in some way, shape or form. I'm wondering, Toni or Caitlin, if you want to comment on at least a process issue with changing the Addendum at this point.

MS. STARKS: I can start off, and then Toni, you can confirm. But I do believe if we were to make that kind of modification, we might have to take it back out for public comment. To that point though, from the beginning of developing this Addendum have talked about having a complementary document that goes along with it, that would lay out all of these details for the states and partners to use.

That was the intention if this were approved, would be to put together a consistent document for all of the states to be able to have, to be following the same guidance on how to implement this program and answering the questions that Ritchie White brought up. Toni, please add if you feel the need.

MS. KERNS: I'll just add to what Caitlin said, like even specific to some of the things that Ritchie had just brought up. We intentionally made some of these things more open, to allow the states to administer the programs that met their regulatory and administrative processing needs, because we know that some states have different processes that they need to go through, in order to implement such a program.

We were trying to provide that flexibility to have some of the same overarching standards, but then to give that flexibility to the states, in order to get it done within their administrative protocols. I think we would have to go out for public comment again if we made major changes to the document itself.

Since I have the microphone, Mr. Chairman, it would be really helpful as we went through these

questions, for the Board to indicate where they are not satisfied with the answers that we have provided. In a lot of cases, some of the questions that I'm hearing right now are going to be specific to each of the individual states, and how their administrative processes undergo to implement the Addendum.

We'll need the states to help us answer these questions specific to how you see your state administering the program. It just will be very helpful to Caitlin and I if you could, as we go through, is the Board satisfied with the answer? If they're not satisfied with the answers, then what additional information are you looking for?

CHAIR McNAMEE: Awesome, thank you, Toni Ritchie, follow up?

MR. WHITE: Yes. Toni, in response to what you just said, then it could be possible then that each state would have different set of regulations as to whether a fisherman can fish when the box does not work, and also who they contact and how long they have to contact. What you were saying, I believe, and correct me please if I'm wrong, that that would not be in the document, therefore all the states would not have the same response to that. Am I hearing that correctly?

MS. KERNS: In response to that question, what happens if my device isn't working. You know in our shop protocols of what we're thinking about putting forward is that it's not our intention to prohibit a fisherman who has been making a good faith effort to work with the state and the vendor, to get their device fixed.

Depending on what's going on with the device, it may mean that the device has to be sent back to the vendor, the vendor may have to send them a new device. It may be just a simple tweak that you know, who knows that could be fixed in a day or two. But what the state does to provide that clearance to that industry

member could be different for each state, and how they want to set something up.

Maybe it's a call-in number for some states, maybe it's an e-mail that gets sent to someone. That part I can't answer how someone is going to do that. But if they're making a good-faith effort to get the device fixed, then it is not the intention to tie someone to the dock. The exact process is up to each individual state.

MS. STARKS: If I could just add to that.

CHAIR McNAMEE: Yes, go ahead.

MS. STARKS: I just wanted to say that in the Addendum document on Page 7, it says if Option B is adopted, a separate document will be developed that will include additional details and standard operating procedures to guide the management agencies in implementing the vessel tracking requirements.

I think a question like Ritchie just brought up about how long people would have to contact. You know we can think about that through this Standard Operating Procedures Document, and if the states all agree, we can put a standard in that would be consistent. But if the states have different ways that they're thinking about implementing these types of rules, then we can make that guidance flexible enough to allow the states to use whatever works best for them.

CHAIR McNAMEE: I would like to chime in as well. You know I think one of the nice things about the Commission is it's an organization of the states, and the reason it works well is because we all understand that we all have nuances in our states that allow us or require us to do things a little bit differently.

Just to restate. I think the higher level, can you go fishing if your tracker is not working properly. There is going to be a higher-level answer to that, that everyone is going to abide by. Then the logistical elements that each state requires to sort

of allow that to happen, that's where the differences will be.

It's kind of hierarchical, but it should work. It won't be inconsistent on the main topics, just the sort of working logistics will be a little bit different. You know Rhode Island and Maine are different places. They require in Rhode Island you could bring your tracker in, no matter where you are in the state it would be about a 20-minute drive. It's not the same for Maine. That is what we're kind of talking about there. I've got a few more hands up.

Just a quick look at the clock. It's two o'clock, we're supposed to wrap up by three, and there are quite a few questions, so I'm just sort of cautioning folks that I want to be able to, number one, I'll ask the public to weigh in here a little bit. Then I'll get to some criteria there, and then I want to make sure we can get through a good slug of these questions. The first hand I saw was Alli Murphy. Go ahead, Alli.

MS. MURPHY: I think like others who have spoken, I'm generally supportive of postponing action on this. I think between the questions that have been raised here and by Board members, there are some details that need to be worked out here before this should move forward. As the conversation was just going, you know I'm starting to get a little nervous by hearing all of the states are going to do very different things. You know if we are required to do federal rulemaking, we will have to comply with things like the Paperwork Reduction Act, which means we'll need to have an idea of how the states intend to handle some of these scenarios, and hopefully do so in a somewhat uniform way. I just want to put a pin in that I think there are some additional details to be worked out. Thanks.

CHAIR McNAMEE: Next up I have Dave Borden. Go ahead, Dave.

MR. BORDEN: I just quickly want to encourage all of the Board members to take up the

motion. I mean the motion does nothing more than set the stage for us to then have a detailed discussion on all the specifics that we've been discussing for the past 15 minutes. Please, let's take up the motion and then as the Board Chair indicated, he'll lead us into the specifics with the staff. Thank you.

CHAIR McNAMEE: Thank you, David, I appreciate the help. I do have a couple of remaining hands. If you like what David said, and you want to abide by it, you can lower your hand. But I will call on the hands that I see. The first is Eric Reid. Go ahead, Eric.

MR. ERIC REID: I would reluctantly support this motion. I agree with Mr. McKiernan that yesterday would be best, and I would caution the Board and the industry on any delay collecting hard data. I do agree that the devil is in the details. But it's my experience that anecdotal information, especially when it comes to fishing effort and history, will not cut it, especially when it comes to two four letter words, mitigation and compensation. That's where I'm at, thank you, Mr. Chairman.

CHAIR McNAMEE: Then the final hand I have here is Dennis Abbot. Go ahead, Dennis.

MR. ABBOTT: I agree with David Borden, knowing that he's one that always tries to run a very quick meeting. But let me say that could I ask the question about the need for making changes in the document, and requiring a series of public hearings. For instance, to put into the document the fact that having a tracker that's not operable will not stop a fisherman from going fishing.

Would that require another public hearing, or does that not make sense in putting that in there, because again, that was one of the things that the fishermen were very concerned about, was having a tracker inoperable, and being told they can't go fishing. Thanks.

CHAIR McNAMEE: Toni or Caitlin, a response to that?

MS. KERNS: I'll just stick with what we said before. Major changes to the document, which were not originally in the document, make it difficult for us to not take it back out for comment as we said. When we were in the hearings, we did tell people that it was not the intention to hold people at the docks when the trackers weren't working, if someone was making good faith effort to have that tracker fixed.

We did inform the public of that, but it is the process that we have followed at the Commission. It would be up to the Board to decide if they want to do more hearings, it could just sit out for 30 days. But again, it would just be an additional delay, which will start to bump against the beginning of the fishing year.

CHAIR McNAMEE: I've got one more hand. I'm going to go to that final hand, then what I'm going to do is, I'm going to go out to the public with a plea/caveat that we are going to go through, and step through these questions one by one. My sense is that if you have questions, they might be answered, or if not, I can go back out to the public at the conclusion of the questions, and you can add in at that point. If anybody wants to talk about the motion directly before we vote on it, that is I think completely appropriate.

I just wanted to kind of set the stage there. It looks like Dan McKiernan has put his hand down, so at this point why don't I go ahead and do that. Looking to the public, if anybody wants to make a comment or has a question about the motion, now is the time for that. Keeping in mind that the questions that everyone keeps referring to, we're going to go through in some detail for the next 55 minutes or so. Questions/comments from the public on the motion, please, raise your hand. Okay, well thank you, no questions from the public. Back to the Board.

MS. TINA L. BERGER: Jay, I'm sorry, Mr. Chairman, there was some who provided a

question in the question box. His name was Gregory Mataronis.

MS. STARKS: Tina, I believe that the statement was that, if there is another chance for a member of the public to make a comment, they would be able to do it after this motion is taken up.

CHAIR McNAMEE: Oh yes, I see that. It is Greg Mataronis, and Greg, yes, I promise to provide another opportunity for a public comment. It might be more worthwhile, like once we kind of get through the questions a little bit. I think that will be more valuable for the public, so thanks for sitting tight there. Okay, let's take, hopefully folks have had a little bit of time to think about this.

But I feel often rushed on these virtual meetings, with trying to communicate with my counterparts. I do want to give a little time, just so everyone can confirm the votes within their state. Let's do a two-minute caucus, then we will come back and call the question. Is there a little timer or something we can put up on the Board? All right. Two minutes should be good, two minutes and we'll be back. Okay, there is two minutes. Does anybody need a little more time to communicate with their fellow Commissioners?

Please, raise your hand if you need more time. Okay, I'm not seeing any other hands. Why don't we get to it then, we've got the motion on the board? Move to postpone action on Lobster Draft Addendum XXIX and Jonah Crab Draft Addendum IV until the next meeting of the American Lobster Management Board, which will be held before the ASMFC Spring Meeting. Motion by Ms. Patterson, seconded by Mr. Borden. All of those in favor, please signify by raising your virtual hand. Toni, I assume you're keeping track of this part.

MS. KERNS: Yes, I'll read the states out loud. I just want to give it one second to settle. I have New York, Connecticut, Rhode Island, Delaware, New Jersey, Maine, Maryland, Virginia, New Hampshire, and NOAA Fisheries. I will clear the hands. All right, I'm ready.

CHAIR McNAMEE: All those opposed to the motion, please signify by raising your hand.

MS. KERNS: I do not have any hands up for noes.

CHAIR McNAMEE: Okay, thank you, any abstentions, please raise your hand.

MS. KERNS: I don't have any hands up in abstentions.

CHAIR McNAMEE: Finally, any null votes, please raise your hand.

MS. KERNS: I don't have any null votes, and I think I counted 10 states in favor, Jason. Caitlin, can you confirm that?

CHAIR McNAMEE: I have 10 as well.

MR. RAYMOND W. KANE: Pardon me, Mr. Chairman, this is Ray Kane from Massachusetts. I was just informed that I was asked to vote for the state, and we vote in favor.

MS. KERNS: Thank you, Ray, then that would be 11 states in favor.

CHAIR McNAMEE: Thank you, Ray. Okay, so the motion passes. Thank you all very much for that. Motion passes 11 to 0 to 0, to 0. Great. With that, thanks everybody, nice job getting that set up. Now, without further ado let's launch into the questions. Again, the intent here is to sort of look at the questions that came up.

We kind of collated all the questions that came up during the hearings, as well as conversations folks had afterwards, collected all of those and have attempted some responses to those questions. That is what we will step through here. Let's pace ourselves, we don't want to spend, there is I think about 10 or 12 questions, so just kind of keep that in the back of your mind.

It may come to a point where we'll just need to move on, understanding that we'll need to kind of flesh out the answer a little more before the next meeting. Very first question, I think a very important one that came up at a lot of the hearings is, who will pay for the tracking devices. Just to be up front.

At this time there is no dedicated funds to pay for the trackers. I think folks generally understand that. However, there is some reason to be optimistic. There are investigations that are underway to find dedicated funds to assist with at least paying for part of the cost associated with the trackers, something like the device and then a year of the service kind of a thing.

Further, the trackers are eligible for funding under the House and Senate Report Language for the 2022 budget. If that budget is approved, it could help subsidize these devices. But we're not going to know the result of that until later in the winter or early spring here, March thereabouts. That is where we're at on the tracking devices. There is nothing we can commit to at this time, but some reason to be optimistic. Looking for hands to make comments or questions or anything on this particular question, please raise your hand. Dan McKiernan.

MR. McKIERNAN: I guess I would want to reframe this by being more clear, to say that it's the expectation that the permit holders would be paying for the trackers, but many of us in the various agencies are seeking costs that would defray that. I imagine that even if there were a grant program it would be a reimbursement.

But I think to be clear to the public, I think the expectation is the vessel would pay for it, and again if there was funding available, I think it would be a reimbursement. Maybe others have a different view of how a grant program would be executed, especially with this language about partial costs.

MS. KERNS: Dan, I think it could be, sorry Mr. Chair, is it okay if I respond to Dan?

CHAIR McNAMEE: Yes, please.

MS. KERNS: Dan, I think it could be one of two things, as you said, either a reimbursement through a grant program, or it could be that a state would take the funds and pay for the trackers themselves, and disburse the trackers. I think it could go either way, if there was enough funding to cover the tracking device itself.

MR. McKIERNAN: Right, but Toni, ultimately this is going to be a multiyear program, and I'm expecting that even if the upfront costs were supported with some kind of a government funds, it would still be a contract between the vessel owner or the permit holder, and the vendor, which then has to be continued to be paid even beyond whatever funds might be made available temporarily. I just want to be clear, because it's kind of a dodged. If the question is, who will pay for the tracking devices, in my mind it is the permit holders.

MS. KERNS: Agreed. Jason, the other thing that I just wanted to make sure that is also clear about cost is that during the hearings, I think a lot of folks equated the cost of trackers and the service fee for trackers to be very similar to VMS devices. I just want to make sure that the Board understands that these trackers are a fraction of the cost of VMS devices and the service contract fees, the annual fees are also a fraction of that as well.

CHAIR McNAMEE: Yes, good point, Toni, thanks for that. Okay, another hand, Dave Borden, go ahead, David.

MR. BORDEN: I agree with Dan's point that we should have some language in here about reimbursement, and would just say that my own view is, if this moves forward, I could even see the Commission paying for some of the cost for tracking devices in certain areas. I would just cite an example.

There are so few fishermen that fish south of Rhode Island that the Commission could cover that cost out of its current operating budget, in my own view, for a pretty insignificant amount of money. Given the fact that we're not traveling to meetings, and we're saving all this money on travel, there has got to be some surplus money. As far as up north, I think the language about reimbursement covers my concern, because I have every expectation that some of the people that are working on this issue are going to try to provide reimbursement in the next budget. Thank you.

CHAIR McNAMEE: Toni, response to that?

MS. KERNS: Thank you, Jason. David, the Commission's operating budget doesn't have extraneous dollars to pay for research and funding for such things as trackers. The money that has been saved through the lack of travel has gone back to the states. We've disbursed those funds.

If there were extra dollars to be spent on something, it would be up to the states themselves to decide how that funding would be utilized. I can't make any commitment to say that we would be able to pay for those trackers for those individuals. We just don't have those extraneous dollars in our budget.

CHAIR McNAMEE: Thanks, Toni, and thanks David for the thought there. Okay, so we've had a couple of comments to modify this a little bit. We've recorded that. Timothy Field, I do see your hand. I want to get like a couple of questions under our belt here, and then I promise to come out to the public. You can keep your hand up, and I will come to you, but I just wanted you to know why I'm flipping to the next question here, try and batch these a little bit.

There were a lot of questions about the research that went into the tracking devices, how many vessels were involved, that sort of thing. This one is a pretty straightforward one, we're just kind of providing the results or the numbers from the various states. There is a little bit of nuance in here, so for the state of Maine, they have looked at

tracking devices from three different vendors, tested them on 18 lobster vessels, and they also had several vessels (20) that had trackers on them that are in the urchin fishery.

Then, as was the case for most of the states, they also tested them out on some of the state vessels as well. In the case of Maine, it was the Marine Patrol vessels. Massachusetts, they deployed trackers on five vessels, and some of their state research vessels, as well as a recreational vessel or two. Then in Rhode Island we had, from 2019 through 2021 we had some different cellular tracking devices that got tested on three of our state-owned research vessels.

That was part of an ACCSP project. Then we've also been running a pilot program with commercial vessels, some of them are lobster vessels, but not all of them. That was 25 different commercial fishing vessels that we tested the trackers out on. That is basically what we have, so is there any comments or additional information from other states that they want to add into the list here? Looking for hands. Ritchie White, go ahead.

MR. WHITE: Are there any results from these tests? Can we provide how these devices held up? Was the data supplied, the type of data that we're looking to accumulate? What were the issues? I think that those are what the industry is going to want to see. I mean they also want to see how many, but also what were the results?

CHAIR McNAMEE: Yes, Caitlin, do you want to take that one? I'm guessing it exists already in a PDT or a TC document.

MS. STARKS: There was one analysis report provided actually as an appendix to the Addendum, so that is in there, the ping rate analysis from Maine's tests on these devices. Then previous to this, the pilot electronic tracking projects were presented to the Board last year, I believe, or potentially even before

that. Again, there was a pilot project that was implemented through Addendum XXVI, and that project has been presented to the Board previously. There is a report for that as well. I can always follow up and send those out if needed.

CHAIR McNAMEE: Follow up, Ritchie? Is that good?

MR. WHITE: Just that that be provided, you know as part of our response to the questions, I think, so that industry sees it as part of this response.

CHAIR McNAMEE: Got you, thanks for that. Ray Kane, go ahead, Ray.

MR. KANE: Yes, and also included in results on this testing. I think what the harvesters might be looking for are price controls, price concerns. I realize three vendors, a limited number of vessels. But as this gets implemented and you've got thousands of lobstermen, prices should come down. But I would like to see that included in this document, you know a ballpark figure of some sort.

MS. STARKS: If I could ask for clarification, Mr. Chair.

CHAIR McNAMEE: Yes, please do, go ahead, Caitlin.

MS. STARKS: There were prices provided, again in the initial report from the Pilot Tracking Project. That was a couple devices that were tested, and ranges of those prices were provided previously to the Board, and we did provide that information in the public comments, during the public hearings as well.

We did not want to include that information in the actual document, because we didn't want to kind of, I guess identify particular vendors and hold them to any prices that may change over time. I guess I'm trying to figure out what specific price information would be helpful, because we have already provided ranges of prices on the various devices that were tested.

CHAIR McNAMEE: Follow up, Ray.

MR. KANE: Well, I'll reiterate. These prices, I presume, were on a limited number of trackers. Now, mandating this through a management action, you're going to have thousands of people who need to go to these vendors. I should think the price would drop substantially. But I think that's got to be included in this document some place.

MS. STARKS: If I could. I just, Toni, maybe you have something. I just don't see a way that we're going to be able to get these vendors to give us prices, when we don't have an actual mandate in place now. Toni, you've probably talked to some folks about this as well.

MS. KERNS: I think Ray, the tricky part is that depending on the number of devices that get approved and how the states decide how they're going to work with vendors. It may be that say, 60 percent of the folks go with one vendor. Their price then may come down significantly. Whereas, another vendor may hold on to their price. We can ask what their pricing would be.

But again, the prices have dramatically changed, I shouldn't say dramatically changed, but they have dropped since we started these projects two and three years ago. I just don't know if it's going to be all that telling, because it may be their price may be one thing if you order ten devices, it may be a different if they get 300 devices. Without knowing how many devices will be ordered from that particular vendor, it's very difficult for us to get a solid price.

MR. KANE: All right, thank you.

CHAIR McNAMEE: The response to that is, I think we do have some kind of preliminary information that will give folks a sense of what they're looking at, and hopefully it will be better when it actually comes time to buy it. But there is a lot of uncertainties there that none of us can, including the vendors, can kind of control. I think that's the best we're going to be able to

do there. Next up I have Dan McKiernan. Go ahead, Dan.

MR. McKIERNAN: I would like to follow up on Ritchie's question, because I find it interesting that there have been trackers on a number of vessels over four or five years. I think it would be useful to describe the failure rate for the skeptical permit holders. I see here 25 on commercial vessels in Rhode Island, and I don't know what the failure rate has been on that.

But I think that would help clarify the potential problems or the non-problems of the devices. Could someone speak to that, or could that be added to this answer, not only how many vessels were involved, but what was the track record. What was the success rate of the testing? Maybe that's in another slide, so I'll take my answer after I mute.

CHAIR McNAMEE: Yes, I don't think that one is in another slide, Dan, so I think the comment is a good one, with respect to, okay what is it that we want to see from these vessels. That's a good kind of metric that you offered, and I think it kind of gives us a sense of the types of things folks might be interested in knowing. I'm sure we could collect that from the various states that were kind of running these. Caitlin, anything to add to that?

MS. STARKS: I was just going to say that yes, I think we can collect that information to the best of our abilities from the folks who were testing the devices. I don't know for certain that they have a data-proved way of recording that. We will do our best to track that information down.

CHAIR McNAMEE: Okay, let's flip to one more slide, and then I will take comments from the public, as well as the Board. The next slide I think is another kind of straightforward one. The next question that came up a lot was when the trackers would be available for the entire industry that's when they need them, so they have time to plan ahead a little bit, to get them ahead of that deadline date. Of course, the answer depends on the action taken by the Board. If the program is approved, the

implementation date could be adjusted to account for any, like supply chain delays, things like that.

However, there was some indication, just from speaking with folks who have been thinking about these things for a while now that they have been talking to vendors, and there is at this time plenty of stock to the numbers that we are kind of looking at. Those types of delays are not necessarily anticipated. Some of the things we hear about in the news, and things like that. There is confidence that we'll likely be able to get these things. Now, you know the installation and the techs to do that installation and all of that stuff does take time.

It's a fair question. Anyways, that's the question, there is the response, so far anyone from the Board wishing to comment further on this? Okay, not seeing any hands, I would like to make a little time now for the public to ask some questions or make some comments on the slug of questions that we've gone through to this point. Timothy Field, I see your hand up and go ahead and unmute, and ask your question.

MR. TIMOTHY FIELD: I'm a lobster fisherman, I'm located in Massachusetts. I would like to say that I did not attend any of the prior public meetings, strictly because I was out fishing while I've been able to. I did however submit a written public comment, and I just have a few additional things I would like to add to that.

I'll try to keep it quick here. I would like to say first of all, regarding the cost. I mean that is a big part of the opposition here, because obviously the problem with this industry is we don't have the ability to pass along the cost to our consumers if we have an increased cost. But I don't really see asking the federal government to pay for this as a good alternative either.

We all know the federal government is broke, and I for one, myself, don't want to burden

future generations with any more debt. The best suggestion I may come up with here is, maybe we should solicit the environmental groups, some of the groups that are pushing for this data, for them to raise money and donate it towards the fishermen, to provide for these trackers. I'm sure they have the means and the ability to do so.

It may solve that problem, and it may get the two groups working together instead of against themselves all the time. Another thing I would like to say is the lobster, we went to area management and we did that a long time ago, because most regulations are not a one-size-fits-all. This tracking may be good for some areas, but it may not be good for other areas, so that is something to be considered.

Then the other, the idea that if managers had this data already, that any decisions would have been made differently. I find myself, I see that idea as ridiculous, because BOEM controls, specifically regarding wind lease areas, energy development. BOEM controls those areas, they are the ones that define them and make the decisions for that. No input was asked from fishermen until the lease areas were already defined, and the leases were already granted. As far as I know, no fisheries management bodies or state agencies went to bat for the fishermen, and at least tried to change some of the areas or whatever. Then we're shot down, because they did not have the data to support it. I would like to say, I mean the lobstermen weren't the only ones effected by the wind farm lease areas.

A number of the mobile gear guys in Rhode Island, like the squid fishermen were, and they've had tracking requirements and all that data for years. See that obviously wasn't taken into consideration for that. Then regarding the use for the data, as far as the whale interactions. I would say we would be more willing, or it would be better useful if we knew where the whales were, and not specifically where the fishermen were.

I mean unless the fishermen's data is going to be given priority over other things, specifically meaning that areas will not be closed because it's an area

that is of high priority to the fishermen, even if it leads to an entanglement here or there. But I don't see that as a something that would happen anyway.

It seems like the fishermen's needs are always given a backseat to other matters. To me it seems like if the managers had this data available, I don't see what good it would be used for. Then for the enforcement, granted there is a need for the enforcement, but one thing that has not been mentioned is that there needs to be a very specific process.

If they're talking about our gear being hauled and inspected by NOAA or the Coast Guard or state agencies for that. I know it's done inside of state waters, and inshore areas, and you know that's different. But when you're talking offshore, it's a different thing, and the most troublesome thing that I see is what will the enforcement agencies do with the product that is currently in the traps while they inspect the gear? I'll just give you an example. Where I fish.

CHAIR McNAMEE: Tim, sorry, we've got a lot to get through here. I think you noted that you've submitted some of this in a written comment, so I would just ask that you not sort of rehash those. Is there any way you can wrap up here, so we can get to some other folks?

MR. FIELD: Okay, well, yes. One point I did not make to my written comment is that any fisherman that would like to submit his data, I mean I'm sure they can voluntarily submit it. I know a lot of guys use, I myself use a time zero, it's a plotting software, and that plots your location all the time.

Whether you save tracks or not, and that can be easily put on a USB stick and sent to anybody, if there is any need to prove where we were fishing, where we have been for the past few years or anything like that. I think that's about it for now, so thank you for your time.

CHAIR McNAMEE: Thank you, Tim. I've got one other hand from the public up, Greg Mataronas. Greg, go ahead, I'm going to be fair here. I'm not going to put a timer on you, Greg, either, but I think from here on out we may have to use the timer, just to kind of keep the meeting rolling. Greg Mataronas, please feel free to unmute yourself.

MR. GREGORY MATARONAS: Yes, thank you, Mr. Chair. Yes, so I guess I'll start with this, we went through the slides that had the public comments, and what they were in favor of, and also the AP, and both of those were in favor of status quo, but it appears from the gist of this meeting that things are just going to be moving forward regardless of the public comments and the Aps input.

I understand the need for this data, but that doesn't give a great, it's not a great look to be putting out to the industry and the public. I believe it was, whatever it was 27 to 3 in the public comments, and the AP was 5 or 6 to 3, something like that. It's just not a great look. It appears this is going to steamroll through, but just a little bit concerning.

With regards to the public hearings, they were all virtual, and I completely understand the world that we're living in right now that was necessary, but the attendance was severely limited because of that. When we went out to public comment for the Large Whale Take Reduction Plan there was, I believe about six meetings there as well, four or five up in Maine, and there were hundreds of attendees from the industry.

Some meetings had over a hundred. I attended two in the Maine area, also the one in Rhode Island, and you know the auditoriums were pretty full. I think we lost a lot of the good public input, based on the fact that it was virtual. Here we are trying to put more electronic requirements on people that don't feel comfortable attending a meeting virtually.

You guys were talking about maybe adding language, and then it has to go out to public hearing again. I actually don't think that's the worst idea in the world, because hopefully, based on the way things are looking right now, maybe we will be able

to have some in-person meetings. If we need to add this language, which is going to make the industry more comfortable, going back out to public comment may get more input from people that didn't have a chance to.

That also leads into, I believe it was Mr. White was talking about having these questions answered, and put in writing. I think that's super important, especially after hearing Ms. Kerns speak. She used the words intention and good faith effort multiple times, and as was discussed with VMS, the intention is not necessarily what is going to be the end product.

That's where we're looking for a little bit of protection, so to speak, so that way, it's nice to say the intention is not to keep us at the dock, but next thing you know we've got EPOs coming down to the dock because we left, thinking that okay, we're going to get fishing, it's 2:00 a.m. the thing is not working. We're going to go fishing, and we'll get this repaired as soon as we can when we get back.

But then we've got EPOs at the dock saying, oh, well you didn't make a good faith effort, when at 2:00 a.m. there is nothing that I can do if that unit is not working. There was the EVTRs are coming online for lobster as was mentioned. I think that seeing what type of data and the volume of data and the improvement in data is going to be very important.

This industry tracking becomes less important. It will be less reliance upon it once there is that. I am not against having this take a little longer and delay, just based on let's see what comes from those EVTRs. With regards to having the rule in place for May 1, we know how rulemaking goes, and it's very thorough, it takes a lone time. Everything has to be vetted, go to General Counsel. Suppose this announcement comes out April 1, and the vendors have all the stock.

We still have to install that. Some people may not be able to install it themselves. There are

only so many electronics places. We're going to need more time than just hey, that rule is in, you have 30 days. We're going to need more time, not to mention some people may have an issue coming up with the money up front to buy these things.

Then, my final thing is with regards to using the data to identify high priority areas for fishermen. Right now, in Area 2 we have a massive closed area that, so when we have these trackers, it's going to show no usage of that area. We also know that the largest wind energy area on this coast is right off of there, right smack dab in the middle of that closed area.

The hypocrisy of it all that that is going to be allowed for whale purposes, while we're off the water with our three-eighths endlines, very limited use, but to each individual fishermen it's a significant part of our year that we're kicked out of that area, and I just don't see where this data would help us, basically.

You know we're not going to have; some guys would be fishing right in the middle. Actually, Tim Field's boat might be right in the middle of that right now, but he was forced to take his gear home, so now he'll show no effort in that area, which means that the wind farms have their clear way. I only see it as, if there is minimal effort in an area, it's ultra-important to that one or two or three fishermen.

But if they say, okay, well there is normal effort there, we're going to make this a wind energy area. It's only going to work to take areas away. I apologize for being so pessimistic, but things are not getting better for fishermen, let's just say that. I appreciate your time, Mr. Chair, thank you.

CHAIR McNAMEE: Thank you, Greg. Okay, let's keep rolling here, I have quite a few slides to get through. The next one is, how will harvesters choose an appropriate device? If we were to approve this program the next time we meet, the Commission will issue an RFQ or a request for quote, to identify available technology.

Then a working group will be formed to review and approve devices. Basically, they're going to be putting out an RFQ with criteria in it, and then seeing which vendors kind of come forward. That is how we will generate the list of appropriate devices. Then this gets back to some of the public comments we're discussing.

This nuance of what's required, and where do the states have some flexibility? Here is one of those areas. Some of the states may choose to require a specific device, while some might allow options. In that scenario where a state might allow multiple options, the Commission will provide the states information on each of the approved devices, and so a harvester can kind of look through the list and kind of understand what each tracker does, and they're all going to have to do sort of the core things that you need from the tracker. Looking to the Board, any hands on this one for clarification, additions, modifications? Alli Murphy, go ahead.

MS. MURPHY: In looking at the answer to this question, I'm definitely supportive of the first bullet about the RFQ and forming a working group to review and approve devices. That all matches with my memory of the PDTs development of this action. I guess I was a little surprised by the second bullet.

My recollection was that the full suite of approved devices would be available and used by all of the states. I guess I raise this in that it will be really hard for us to do complementary federal rulemaking, if all of the states are doing something different. It also potentially brings up some National Standard 4 concerns about treating folks from different states differently. I guess I'm wondering, is it maybe worth getting the PDT back together to hash through some questions like this?

MS. KERNS: Jason.

CHAIR McNAMEE: Yes, go ahead, Toni.

MS. KERNS: Follow up. I think what this is getting at is that we heard from some states that if they can find the appropriate funding that they may try to strike a deal with one of the tracking devices that gets approved, and say we're going to order, I'm just making something up, 500 trackers from you, to get a discounted price. Then they'll say to their industry, we're going to pay for trackers from this vendor. If you want the state to pay for your tracker, then you will need to use this tracking device.

If you want to choose a different previously approved tracker that is not this device, then you would need to pay for it yourself. I think that is what that's getting at, Alli. It's not to say that a harvester can't choose a different device, it's just that the state would pay for that one particular one, in order to get a better deal per price. That is what we were hearing.

CHAIR McNAMEE: Response, Alli?

MS. MURPHY: Yes, thanks for that explanation, Toni. I understand that. I guess just the phrasing on this slide that some states may choose to require that all harvesters use the same device runs afoul of what you just said.

MS. KERNS: We can fix that.

MS. MURPHY: In more discussion, or at the PDT or some wordsmithing of this I think would be helpful.

CHAIR McNAMEE: Okay, good discussion. Thanks for that, Alli. A couple more hands here. David Borden, please go ahead.

MR. BORDEN: I agree with Alli. I was a little bit troubled by that statement also. I just point out that one of the difficulties in trying to deal with this is, there are quite a few different tracking devices. All the different tracking devices have different capabilities, and to some extent, what you're going to find if the Commission goes down this road, is that some individuals are going to want more capabilities on individual tracking devices.

There are all kinds of engine monitoring, bilge alarms, all that kind of stuff. If you want to spend a lot of money you can spend a lot of money on a fairly sophisticated tracking device. If you don't want to spend a lot of money, some of the states have already gotten estimates from some of the providers that the cost would get down in the \$150.00 to \$200.00 range for a tracker. I think you've got to be somewhat cautious about the language in this section.

I also, as a final note, I think it would be a good idea to just have a virtual meeting with the providers that manufactured these things, and let the technical people and the providers and any industry members that are interested just listen in on the discussion, talk about capabilities and so forth. We're going to get into some of those issues that would come up in that type of discussion here soon.

CHAIR McNAMEE: Next up I have Megan Ware. Go ahead, Megan.

MS. WARE: Yes, maybe to Alli and David's point. I think Maine is a state we're maybe alluding to on this second bullet here, where we've talked about if we're able to secure funding doing a bulk order of trackers, and being able to distribute those to industry at a reduced cost, in terms of per unit cost of trackers. I think that's what this is getting at.

But Alli, maybe you and I can have a conversation between now and our next meeting, or the PDT, or both, because I think in that type of situation potentially many Maine fishermen would be using the same device. I do think there are some advantages there, just in terms of getting that data with harvester reporting data and all the pathways that are needed to submit that data. But Alli, I'm happy to have an offline conversation with you to sort that out more between now and our next meeting.

CHAIR McNAMEE: Okay, thanks, Megan. All right quick note that we have five minutes left

in our allotted time, and I assure you there is more than five minutes left of slides here. I will try and tick through as expeditiously as possible. I'm hoping folks can hang in, you know for a little while longer, and I'll try and get through. But I don't think there is any chance that we're not going to go overtime at this point.

Just to sort of call your attention to that. With that let's flip to the next slide. There were a lot of questions about a grace period, and this notion of kind of learning the tracker. I think the cliff notes response here is that you know once the tracker is installed it's not like EVTRs or some sort of new electronic reporting. These things are just sort of operating in the background.

There won't need to be necessarily a lot of interaction between the harvester and the device itself, and then if support is needed, for instance if it stops working or something to that effect. Between the state and/or the vendor, that is where that support will come from. You're not going to have to go to, for instance the Commission, to try and sort out your tracker issue. You will be able to do that locally between the vendor and your state agency. Any comments from anyone on this slide, this question? Okay, not seeing any hands there, let's move on to the next slide. How will states certify that vessels required to install tracking devices have done so?

The states are going to develop a process by which they will certify that installation and the activation of the approved device. That will be required for the principal port listed on the federal fishery permit, so that's how you will know which state you are supposed to kind of do that part with. There will likely be an affidavit. The affidavit will have uniform language.

That will be distributed to the states to their permit holders, and can be used to certify and approve those tracking devices. Again, for initial implementation, the states will collaborate to define a deadline by which the permit holders will need to have that tracker installed, and then finally the ACCSP, who is the sort of collector, the receiver

of the data, will be able to confirm that the trackers are activated and working properly, because they will receive that information. Any questions? Pat Geer, go ahead, Pat.

MR. PAT GEER: In Virginia we're a very small player in this, and we only have eight federal permittees that may require a tracker. Only two of them have qualifying landings, and those landings are less than, it's minimal, less than \$1,000.00 a year, roughly like that. Talking to the folks in our state that may be impacted.

They have said that they would basically stop fishing for lobster if they were required to do this, because the cost of the devices is going to be more than what they land. How would I verify that they're not fishing for? If they decide they're not going to fish for these species, they won't be required to have a tracker. But how do I verify that?

CHAIR McNAMEE: Good question, Pat. Caitlin or Toni, do you want to take a crack at that?

MS. STARKS: I guess, Mr. Chair, I can try to answer that. My understanding is that if a person is fishing for lobster, and therefore reporting landings of lobster on a trip report, then they should be, from trap gear, then they should be required to have this tracker. If you see that coming in to your trip reports, then that is how you would see if a person is meant to have a tracker, and if they don't have that data going to ACCSP, you would get that report from ACCSP, and be able to see that as well. I don't know if that completely answers it for you, Pat.

MR. GEER: That was kind of, I didn't know if there was something else besides the trip reports. That's what I was thinking as well. Okay.

CHAIR McNAMEE: I don't see any other hands, so why don't we go ahead and move to the next slide. The next one is, what will be required of harvesters if their tracking device stops

working? Folks were worried about having to kind of stay tied up and things of that nature. In the Addendum it indicates that upon receiving information that the device is not working, you know the first step is for that harvester to contact the state authority to report that failure.

Then once that's reported, the intention is that the harvester, making a good faith effort to repair the device, would be allowed to continue fishing while the device is under repair or being replaced. The notion of tying up to the dock because your tracker is broken, that kind of speaks to that point.

That is standard procedure for how the states will receive reports from harvesters with device failures. Whether they'll have a dedicated phone line, or if e-mail will suffice, that will be established. But in the end, the intention is to allow flexibility for these types of procedures in a way that makes sense for the states, you know whatever works for their fishermen or the facilities that they have in those states.

Finally, the procedures will take into account that harvesters may need to report device issues outside our normal business hours, so something like an e-mail can be sent whenever, and will be sort of queued up. That is the response to that one. I've got some hands there. The first one I saw was Dave Borden. Go ahead, David.

MR. BORDEN: I think this is a good example of a section of this Addendum that really needs a lot of work, and a lot of discussion by the technical people. As I indicated before, I listened to a lot of the hearings, and this issue came up at almost every hearing from a variety of different perspectives. Candidly, I'm not sure that it was well thought out, in terms of the process.

I think the reality is, with a fisherman and a tracker, the only thing that the fisherman can guarantee is that there is a tracker onboard, that it's been connected to a power source, and that it's operating. The individual will never know, unless there is some kind of light system on the tracking

device, when it's transmitting data over the phone lines.

I just conclude by saying, I think this needs a lot of work. I don't think that we should necessarily spend a lot of time on the part of the Board trying to refine this. This is an issue that should go to the technical people, and take the industry comments and try to come up with a better way of handling this. Most tracking devices have lights on them, so when a fisherman is on their boat, they start the engine, they can look into the wherever it's being housed, and look at a light that indicates that the device is on.

But the rest of this is beyond their control. In terms of the notification process, I think it would be much better to have a notification process whereby the individual is responsible with the state agency of getting the device installed, which is relatively simple, I would point out, having used one. Then thereafter ACCSP and the state agency work on a notification, where once that device stops transmitting there is some notification that goes from ACCSP to the state agency and the fisherman, telling them that rather than going the other way. Sorry to take so long.

CHAIR McNAMEE: That's okay, thanks, David, and you started in on the next slide as well, so maybe that one will go a little quicker. I do have some other hands. Next up is Ritchie White, go ahead, Ritchie.

MR. WHITE: Yes, so I think standard procedure, so that is just within the state or is that going to be Atlantic states determined standard procedure? I think a big part of this is, what is the definition of a fishermen's showing good effort to get this fixed? I think that needs to be defined specifically, and I agree with what David said. Unless there is a light on the box, and if the light is off then they have to call in or e-mail or whatever. As Dave said, this needs a lot of work.

CHAIR McNAMEE: Yes, good points, thanks, Ritchie. Next up I have Steve Train. Go ahead, Steve.

MR. TRAIN: I don't want to say the same thing that's already been said, I can echo the sentiment. You're talking about a lot of small boats in this fishery. Even though they're a little bit bigger once they get outside the three-mile-line into federal waters, they are still small boats, they're open boats.

People tend to put sensitive electronics someplace that they aren't going to get wet, and they probably can't see them. You could start that boat in the morning, see the light go on and take off, and you could be nine hours into the day and find out it shut off an hour in. You haven't reported it.

The next thing you know you're getting bordered by Marine Patrol, because you're active and you weren't supposed to be out there, because your tracker is off, and you didn't even know it. That will be a lot of boats that keep these things out of the way. That type of thing really needs to be taken into account.

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

CHAIR McNAMEE: Yes, go ahead.

MS. STARKS: I just want to hopefully provide some more clarification on, I think what has been envisioned by the folks who tested the trackers and ACCSP, as we were working with the PDT to develop this document. These data are not going to be going to enforcement in real time. The likelihood is that the trackers will collect data as lobstermen are heading out, and they may stop transmitting the data back to the vendors while they are out of network, cell network range.

Then when they come back into cell network, they'll transmit the data to the vendors. That data will then get transferred to ACCSP, and that may not be an immediate thing. Then ACCSP will have to get a trip report, which also may come in later, and match that to the vessel track. ACCSP has indicated that they would be able to make some kind of

algorithm to identify an issue where, say a tracking device does get shut off or stop working mid trip, and they see that in the track. It just ends half way through a trip.

They can make an automated way to report that type of issue to the state. I do think this has been thought through, maybe more text could be put into this guidance document that we've discussed, but the idea is that the states would get notified of an issue, and potentially then they would reach out to the harvester, and let them know that there is an issue, and then the harvester would be contacting the vendor to get that issue resolved. That is written in the addendum in Page 11, under the tracking, some of the specifications do kind of describe that process. I hope that provides some clarity that I don't think there is an expectation that the harvesters would know for sure at every minute whether their device is transmitting the data.

CHAIR McNAMEE: Thanks for that, Caitlin. I think that the comments are good. It seems like we need a little more fleshing out of this. I think some of it has been thought through already, as Caitlin noted, but just kind of packaging it now, so folks' kind of understand a little more of the detail is the next step here. Good discussion.

MS. KERNS: Jason, one other thing I think that I've heard people say, and I think what Caitlin and I need help from. The state itself are the administrators. I'm not necessarily sure if the technical folks that need to determine how that fisherman reports that their device isn't working, for those that can see that.

They see that the light isn't on, and they're getting ready to go out, but they do. I think that's an administrative procedure that we need the states to tell us what their plan is, in terms of setting up a reporting system. You know Caitlin and I can say that a reporting system will be established, but I can't tell you exactly what that would be for each state. We would need you all to tell us that, in order to

give a response for that. We'll need some help there.

CHAIR McNAMEE: My interpretation of, I think what you said is spot on. My interpretation going back to David Borden's comments, who sort of indicated the Technical Committee, is that they are just the kind of point of contact, right? But it would be their responsibility to kind of work with their bosses or whoever, to kind of figure out what you just referred to. That's kind of how I interpreted that, just a procedural thing, rather than this is being a technical issue. Okay, I've got a few more hands here. Dan McKiernan, go ahead, Dan.

MR. MCKIERNAN: I'm not sure if it's germane to this slide or a future one, but I think in this same topic there needs to be some clarification about vessel breakdown/replacement. Sometimes we get calls for a permit holder to want to use an alternative vessel temporarily, if they blew the engine and someone else is going to loan them the vessel. There needs to be a way to accommodate that, and so some language needs to be initially agreed upon by maybe the state directors, about how we would like to see that go forward, especially in consultation with NMFS.

CHAIR McNAMEE: Yes, good point, Dan. Having gone through all the questions here, I don't think that one has come up at all, so that's a good one that needs some work. Caitlin can correct me if I'm off on that, but I didn't see that in the questions anyways. I've got a couple more hands. Alli Murphy, go ahead.

MS. MURPHY: Again, I don't need to speak too long to this point, I've said it before. But I think to the extent that the states can implement consistent programs, that would certainly make rulemaking easier for us. I'll also point out, and I think I pointed out to the PDT that this is another information collection thing, that if we were to go through federal rulemaking would require Paperwork Reduction Act approval. You know that potentially could delay the rulemaking from taking place, for not having a lot of these details fleshed out.

CHAIR McNAMEE: Dave Borden, go ahead, Dave.

MR. BORDEN: Yes, thanks, Mr. Chairman, I'll be really brief. Alli just made the point about consistency, and I think it's really important for the Board, and whoever is going to work on this, to keep in mind that you've got fishermen, Maine fishermen fish out of Massachusetts ports. Maine fishermen fish out of New Hampshire ports, and vice versa. Consistency in a policy would be really beneficial from a communications perspective.

CHAIR McNAMEE: Okay, we ran out of hands, so let's flip to the next slide, please. We've kind of started in on this already, but as mentioned by a couple of folks, how will the harvester know if the tracking device is working, as mentioned by a couple folks. They are kind of device specific, but a lot of them have indicator lights on them.

Then finally, it won't be the sole responsibility of the harvester to know that the device is properly transmitting data. The vendors and the ACCSP will also be on the team there to sort of notify folks if something seems to be not working correctly on their device. I think Caitlin, you sort of spoke to this a moment ago.

But if there is anyone else who has any remaining comments they want to make on this aspect, please raise your hand. Okay, not seeing any hands, so let's flip to the next slide. This one had to do with some of the technical aspects, so one question that people had was about the power draw from the devices, people concerned about burning their battery out and the bilge pump not working and things like that.

In general, the tracking devices, the ones that were studied, consume very little power, even at the kind of high ping rate that we're requiring. There is a little bit of technical information there, as far as the exact draw, so folks can make a judgment there. But it's generally a very low draw. Another thing is the

tracking device will not require power from the vessel when the vessel's engine is off.

Therefore, it's not drawing from the vessel battery, because many of them include an internal battery for those periods. Then when the vessel is in port, the proposed requirements stipulate that it will drop down from a high ping rate to one ping per day, just to kind of check in on your boat, to make sure it's still there.

That is this kind of sleep or low-power mode. Then I would just add in here the second technical question was, how do the trackers perform in cold weather. All of the devices tested were run on lobster vessels throughout the winter months. I think this gets back to one of the earlier slides, where we said we'll try and capture some of these other metrics from the vessels that did use them. But this is one of them.

We do have information from them on vessels that were run during the cold months, so we have that information. I think the implication is that they performed perfectly fine and the cold weather wasn't an issue for them. Any hands on these two items here, which are technical in nature? Dave Borden, go ahead.

MR. BORDEN: Yes, this is a question, thank you, Mr. Chairman. On this fourth bullet, the home port. I completely support that concept, but if a tracker is only going to ping itself once a day, how does it know at that rate that it hasn't moved? I think that is a technical question for someone like Bill DeVoe.

CHAIR McNAMEE: Maybe I'll start with Caitlin, to see if she has a response first.

MS. STARKS: I can try, Mr. Chair, but I really do think Bill might be a better person to answer it. I think that even if it's not actively recording the location with a ping, it still knows where it is. It still knows its location, and would be able to turn the ping rate back up as soon as it leaves that berth location. I'm going to leave it at that and see if Bill can maybe add some finer detail.

CHAIR McNAMEE: Yes, Bill, I see you in the queue there, please feel free to jump in.

MR. WILLIAM DeVOE: Yes, to answer David's question. Caitlin is correct that in some implementations, you know if the device was actually still on, it would know its location but know when it was moving. The other concept that we're piloting is that when the device, particularly if it has a battery internally like many of them do.

If the device is not on external power, then that's a pretty good indicator that it doesn't need to be pinging. The expectation is that while the boat is running, while the engine is running and fishing operations are taking place, that the tracker will be powered externally. The loss of that external power is a pretty good indicator that the tracker doesn't need to ping at that faster rate.

CHAIR McNAMEE: Thanks for that, Bill. A couple of variations, depending on the tracker there. But good response. Dave, follow up?

MR. BORDEN: Thank you, Mr. Chairman this is another quick one. Bill, in the case of, and this is just an example for the question. In a port situation like New Bedford, where some of the boats are on the Fairhaven side, and they get bait and fuel on the other side of the harbor, which in some cases might be a mile and a half. They will be able to move in that area before the ping rate goes up, or would the ping rate go up and then go down again?

CHAIR McNAMEE: Bill, if you have a response, please feel free.

MR. DeVOE: Yes, I think that depends on which sort of scenario or throttling the ping rate back using. If the ping rate is being slowed down within a certain distance of a location that has been determined as home port, then yes, what you're saying David, the ping rate will be slower within that entire bubble is absolutely correct. The other scenario, if it's just that you're doing

a slower ping rate when you're on battery power, which is obviously the scenario that I'm leaning toward more and more, or some combination of the two.

We've had really good results with the home port detection, in terms of it's really nice to get an alert when the vessel is going in and out of port. In terms of actually managing the ping rate, it seems like the easier solution is to have the tracker connected in such a way that it perceives external power when the engine is on. In that scenario, as long as the engine was on it would still be pinging at a one-minute rate when they were going for fuel and ice and so forth. Thank you.

CHAIR McNAMEE: Good discussion. I'm not seeing any more hands, so let's flip to the next slide. This was a question about VMS devices being acceptable as an alternative for buying a second track, you know one of those cellular devices. The Addendum doesn't specify that VMS devices can't be used.

There are some considerations that make VMS devices undesirable for this program. You know these are satellite technologies, so the cost is higher, and so that could be if they are in the groundfish fishery or something like that, that is the reason they have a VMS. If the ping rate is something less, they would need to ramp that up.

That would add to what is already a pretty expensive device, so it may in fact be cheaper to just sort of purchase the second device. Additionally, the data collected from the VMS won't be going to ACCSP, that gets stored at NOAA's Office of Law Enforcement, and so that increases the bureaucracy around the data access to some degree.

Then finally, if a VMS device were approved by the Commission Work Group, in other words it meets the required criteria for the program, then it would be accepted, it would be a viable device to use, but it would still have to have that one-minute ping rate, so that part would have to match up. That is the discussion on VMS. Does anybody need anything further there, other questions on the

swapping in of a VMS or the use of an existing VMS. Dave Borden, go ahead.

MR. BORDEN: I apologize for talking this much. This is one of the issues that we raised in our letter. It was raised to my attention, to the Association's attention by one of our members in New Hampshire, who has VMS on all their vessels as a communication service. The VMS provides a number of other services other than location information.

For instance, up-to-date weather reports and the like. He raised the question of being able to use his existing VMS, and just having a higher ping rate. I explained to him that that would cost him more money than just putting a tracking device. His basic reaction was, he didn't want to have duplicate electronics if he could avoid it on the boats.

He has expressed a willingness to work with whomever, New Hampshire Fish and Wildlife, the technical people or whatever, and do a little experiment using his own money to try different ping rates with his VMS, if that would be something that would have appeal. I would also note as a final point, that Maine Lobster Association raised this same concern.

CHAIR McNAMEE: Megan Ware, go ahead.

MS. WARE: Yes, I saw this comment a couple of times in the public comment record. I guess the question I would have, and maybe this is for Alli Murphy is, if there was a situation where VMS was used with, I'll say a 10-minute ping rate, something faster than the 30 minutes for scallops or the hour for groundfish.

I'm curious what NOAA's thoughts are on the implementation of that. I mean would that require a different declaration code for the lobster fishery, so you would have to declare into the lobster fishery? Would that ping rate apply to all trips, kind of as like a most restrictive rule, or would it just apply to lobster

trips? I'm curious if NOAA has any thoughts on that.

CHAIR McNAMEE: Good question, Megan. Maybe a little technical for an on-the-spot response, but I'll give a shot. Alli, if you want to jump in on that.

MS. MURPHY: Yes, Megan, those are certainly good questions. I guess on the applicability of the ping rate. I wouldn't necessarily put it all on NOAA Fisheries, I would say, you know it might be up to the Board or the PDT to review whether that meets the goals of the program. I haven't really workshopped any ideas around with modifying our regs for VMS.

I think you make great points that typically we, when implementing regs for a program, that the most restrictive rule applies so that fastest ping rate would apply to everything. I haven't brought this idea up to VMS folks yet, but I think it would probably lead to some heartburn. But I'm certainly happy to have some conversations going forward.

CHAIR McNAMEE: Okay, thanks, Alli, and yes this could be another area where we kind of use this time between now and when we meet next to flesh this out a little bit more, so thanks for that. Okay, I don't see any more hands, so let's move on to the next slide. There were a lot of questions that came up about the data itself.

The first was, who will be able to view the vessel tracking data, and the response to that is the vessel tracking data will be protected under state and federal confidentiality laws, and that prohibits the disclosure of that confidential data, or any data that can lead to the identification of either individuals or individual contributions to the dataset.

Access to confidential data is closely controlled. There are all sorts of systems that need to be followed and waivers signed, and things of that nature, to be able to gain access to confidential data. However, the harvesters themselves won't be able to access and distribute their own data as they desire, it's theirs, or yours. Of course, you would be

able to get your own data, but as far as anyone else getting that data, it will be tightly controlled.

That's the response there, questions on this one? Looking for hands. Okay, not seeing any hands, let's flip to the next slide. I can't believe we are getting close to the end here. Two more, and then I will go back out to the public at that point as well. I've got two on here, first is, how will these data be used by law enforcement.

The tracking data won't be available to law enforcement in real time, and it won't be a primary source for making a case. In other words, it's not envisioned that somebody is going to go to court holding the dataset, and trying to use that to make a case. However, law enforcement may use the data to support investigation.

This is the notion that they see odd going on in the data, and then sort of use that as information to then go out on the water to investigate. Access to data by law enforcement personnel is exactly the same as access by any other individual, in that the data are protected by the state and federal confidentiality laws, and require relevant, nondisclosure agreements for release. There is some information on data use by law enforcement, and then a kind of subsequent question is, how will data be presented while still maintaining confidentiality. The ACCSP, they have a policy for confidentiality that requires that any data summary that is publicly disclosed, must include information from at least three dealers, three harvesters, and three vessels to be considered nonconfidential. It gets pretty aggregated before it can be released per the ACCSP rules, which are all very clearly defined to folks when they sign those agreements. Looking for hands, questions on these two questions. Megan Ware, go ahead.

MS. WARE: I'll start by saying I appreciate kind of the first answer here under the first bullet,

about how tracking data is going to be used. I think it's really important to note that this is a tool for patrol agencies. I think maybe there is a perception that enforcement is going to be behind their computer watching tracks, and I don't think that is a reality of what is going to happen. I know that's not a reality of what's going to happen, so I think it's just important to be clear on that.

I did have a question about the third bullet under the first one, access to data by law enforcement personnel. I'm hoping for a little more information about how that's actually going to work, or if that hasn't been discussed, maybe this is something the PDT could work on. For example, is law enforcement personnel going to have to have an ACCSP account that they log into to access this information, or what is the vision here for how enforcement will actually access tracking data?

CHAIR McNAMEE: I will look to, just to make a quick comment, my guess is it would be similar to like how a Technical Committee member sort of interacts with ACCSP data, the waivers they have to sign and all that sort of thing, but I'll look to Caitlin maybe to give a little more detail on that.

MS. KERNS: I'm actually going to step in for Caitlin, I think I did a lot of this research on my end, Jason.

CHAIR McNAMEE: Yes, go ahead.

MS. KERNS: I actually will ask Julie DeFilippi to answer this. But to my understanding, law enforcement, in terms of accessing other state data. They already have to sign. I think you have reciprocal agreements with the JEAs, and other NDA forms as a law enforcement officer that they undergo.

It is my understanding that through their law enforcement positions that they've already somewhat signed confidentiality agreements, but Julie, you can correct me if I'm wrong. Then once Julie answers that question, Jason, I just have an updated bit of information about FOIA requests that the Board had asked about as well.

CHAIR McNAMEE: Thanks, Toni, Julie, please jump in. Yes, I see you there. Go ahead, Julie.

MS. JULIE DeFILIPPI SIMPSON: Toni is right that there might be additional forms that law enforcement may sign, but ACCSP sees law enforcement as with no ill intent, just like anyone else, essentially. The law enforcement agent would have to have nondisclosure agreements on file with the agency that owns the tracking data. There would have to be an additional NDA signed similar to how any states data manager, even if they have a form signed locally with their agency, will still need to have one on file with ACCSP in order to access the data. Essentially, there has to be a form on file with the ACCSP, in order to have access to the data, similar to anyone else that would want access to the data. Does that answer the question asked?

CHAIR McNAMEE: I thought that sounded like a good answer, Julie, thank you for that. Toni, did you want to jump back in?

MS. KERNS: Yes. Just really quickly. I just wanted to let folks know that the Commission itself is not subject to the same rules as federal agencies are under FOIA requests. But I did check for both agencies about FOIAs or what the Commission calls information requests.

Neither body would give out any information that is confidential to a FOIA request. It still would have to hold within the standards that we follow under through the different confidentiality laws, either through the states or the federal government. It was one of the issues that have been raised during the meetings.

CHAIR McNAMEE: Okay, thanks for that, Toni, and sort of looping back, I think it was Megan who sort of initiated the discussion. Megan, are you good with all of that?

MS. WARE: Yes, I am, thank you.

CHAIR McNAMEE: Okay, I've got another hand, Maureen Davidson, go ahead, Maureen.

MS. MAUREEN DAVIDSON: I think I'm listening. I appreciate the effort that's being made before final action is taken on this issue. I'm also looking at the end results of all of this effort, not just us coming to a final action and we're putting the trackers on the vessels and requesting the information. What I would like to know is, at the end, who is going to take the data that we're collecting at the end of some specific time, and use the data to get a final analysis on.

More details on just where our lobstermen are fishing. Is it going to be the state? Is it going to be NOAA? Is it going to be ACCSP? I just would want to know like, what do we see happening in the future with this information, when we're going to make a decision about critical lines. We're going to make a decision about turbines in the ocean. Who is going to get this final data that we collect?

CHAIR McNAMEE: Yes, thanks Maureen. Maybe I'll start with Caitlin for a response.

MS. STARKS: My understanding, Maureen, is that the data would be used for all of those purposes that you mentioned. I think similar to when we have a stock assessment, there would have to be a data request for a certain set of data, timeframe, geographical frame, what have you, and that request would be made specific to the purpose for which it's going to be used.

If we use the stock assessment as an example, the Stock Assessment Subcommittee would, the states would rather, provide their state data for that purpose. I think for any of those issues that you brought up, we would have a similar process, where the states are requested to provide their data for that use. The states would be the owners of the data, and would have the ability to provide it.

CHAIR McNAMEE: Are you good with that response, Maureen?

MS. DAVIDSON: If I may follow, or just a comment. I guess when I was thinking about the data that we're collecting here, and the effort that we're putting in with our fishermen. Then what we're doing now is just really establishing a new means of collecting more detailed fishing effort, without necessarily having a specific project in mind.

I mean we have projects in mind, but it's not like at some point we are going to make some sort of decision based on this extra data that we're collecting. It's just sort of like a VTR or a vessel monitoring system or something like that. I guess I was imagining that we would say something about the northern right whale or you would say something about, well specifically the whale, I guess is what I'm thinking about. But I guess that's not really the purpose of this?

CHAIR McNAMEE: Maybe I'll defer. I appreciate your comment, but I'll defer to Caitlin, and maybe Caitlin, I might have a comment too, but I'll go to you first.

MS. STARKS: It does say, it describes in the Addendum the various purposes for which this data was imagined to be used, and the right whale issue is among those. It's one of the important reasons that this Addendum was initiated, to collect these data. I don't know if I agree with the sentiment that there was no project in mind for the data.

I don't think that we put the details of exactly how those data would be used in the risk reduction models, or exactly how they would go into the assessment, because those processes are very complicated and hard to flesh out, and I don't think there is any way the PDT would be able to actually put those specifics in there. But those are the projects for which the data were originally envisioned, and I'm sure there are more applications that they could be used for in the future, if that is the will of the Board or state agencies.

MS. KERNS: Jason, if I could just add to that. It's not that, you know Caitlin is correct that these models that get used are complicated, but the enhanced data that the trackers would provide, will provide an opportunity to improve the models, so that we'll have perhaps new models, new applications of the data that we can't foresee until we have that information, the modelers can look at it and make decisions about exactly how they would be used. We just can't foresee that at this moment, to be able to put the exact application in the document as well.

CHAIR McNAMEE: Maureen, that may be, this one was something that came up during the Rhode Island hearing that I attempted to address. This question came up, and I attempted to address it. I don't think I did a very good job, for all the reasons that Caitlin and Toni just offered.

But I do think while we absolutely cannot create an exhaustive list of exactly how this data would be used. I think we could do a little more there to kind of give folks some confidence that we're not just sort of collecting the data, I don't know, building the airplane as we're flying, I think is the sort of common term. I think we have thought about this. There are uses that people envision for the stock assessment or the risk model for right whales, for spatial planning. Maybe that's another element that we could kind of flesh out a little more between now and when we revisit this. Good comments. Anything further there, Maureen?

MS. DAVIDSON: No, thank you. Actually, you clarified the issue a lot more in my head. I guess I was always thinking of some sort of end plan, end point, end purpose that we would sort of get an answer on something. But I understand, I appreciate everyone's explanation and the discussion. It has clarified the point for me, thank you.

CHAIR McNAMEE: Great, thanks, Maureen. David Borden, go ahead.

MR. BORDEN: A quick point on the last bullet. Having had to live by that rule in a prior existence I

had. It works well, it protects the industry. But in this case the data that is going to be collected, some of this data is going to be so sensitive that you could find a situation where, even if the technical folks adhered to that last bullet, that it would be releasing too much information.

In other words, I can give you a simple example. If you had a 10-minute square where you had 10 dealers and 50 fishermen that were fishing in it that met that requirement. You would not want to put out a heat map of catch per unit of effort that showed the catch in that, and contrasted it with two abutting 10-minute squares. I think we've got to be sensitive to that going forward, and maybe be overly conservative on the release of any information.

CHAIR McNAMEE: Good comments, David, thanks. Okay, no more hands so let's flip to what is the last slide, thankfully. In this one, these were a series of questions that we didn't necessarily have responses to, but we just wanted to kind of round out the list here, and note that some of these probably need further interaction with the Technical Committee, the PDT or the Law Enforcement Committee.

The first one is the one we were just talking about with Maureen, so I won't harp on that one. But it's how the data will be used, with a little more specificity, and I think we can do that, at least by way of some examples. How do fishermen get access to their data, like what data products will be available to them?

I don't know how useful it would be for them to get a big matrix of latitude and longitude information, and so we should probably think through what types of data products, and maybe find out what types of data products the fishermen want. That doesn't need to be resolved immediately, but we can work on that and that can evolve through time.

What determines if track data meet the requirements once tracks are matched with

reported trips. I'm sorry, who determines that. It's kind of a governance question there. What is the process when an issue with tracking data, in other words data inconsistent with specifications is identified? Who enforces the regulations, the states or the federal government? Finally, what are the consequences of individuals not adhering to the regulations. In other words, if they aren't using a tracker. Those are some final questions that we heard, didn't necessarily have responses to immediately, but we can refer those out to some of these other committees that can help us flesh those out a little bit. Just looking to the Board right now, anything you want to add to any of these? Have we missed any other things that you heard? Anything else anyone wants to add at this point? Looking for hands.

MS. KERNS: Jason, since there aren't any hands, I think that moving forward here, it's the expectation, from what I'm hearing from you all is that you want to come back and meet again in roughly a months' time, in order to reconsider this document. There are a couple of questions in particular on this slide that we haven't really discussed too much, that I think they are more administrative questions than PDT, TC or Law Enforcement Committee questions.

Maybe that we'll get a little bit of input from some of those groups, but that these are things that we're really going to need the state administrators to help us with. Caitlin and I probably will ask for a call with you all relatively quickly, so that we can try to flesh out some of these questions that are administrative procedures versus technical things that we can work on with the various committees. I just wanted to kind of put that heads up out there, and so for you all to be thinking about some of these things prior to us reaching out, but to have it on your radar.

CHAIR McNAMEE: No, that's awesome, Toni, really good point. I think that's a great approach, because like you said, I think it will take a little bit of discussion, like we were talking about earlier, trying to bounce that to a Technical Committee representative. Let's just go straight to the

administrator themselves. I think that's a great idea. One other thing I thought I would mention. Well, actually let me go, Roy, you haven't had your hand up yet, so go ahead, Roy Miller.

MR. ROY W. MILLER: Very quickly. How will these hearing questions and responses be incorporated or disseminated to the public? Will they become an appendix to the addendum? What is the plan for that? Thank you.

CHAIR McNAMEE: That is awesome, Roy, that's exactly where I was just about to go. Right, I think we've gone through now 15 minutes over time, kind of working through these, and we know there is some work that is going to occur between now and the next time we meet. Some of that work is going to have to happen at the state level.

I can ask Toni or Caitlin to kind of check me, but what I envisioned happening was everything we talked about today and that subsequent work, is going to go into a document. That document will then be distributed out to the states, and then the states can interact with their constituents in whatever manner they think is most appropriate. It might be a workshop.

Again, sponsored by the state and not the Commission, but a workshop or posting on a website or something of that nature. But what I envision is there is a step in this process for the states to kind of grab a hold of this and get it out to their folks. You know they've gone through the trouble to kind of get these questions in front of us. We're now going to try and do a better job of getting direct responses, clear responses to these questions, and getting it back out to them so they can see that. I don't know if anybody has a comment on that, but that is what I envision. Maybe I could start with Toni or Caitlin, is that kind of what you guys were thinking would happen as well?

MS. KERNS: Jason, Caitlin and I will update the FAQs. We'll add these additional questions that are here, to the extent of some of them we can answer, and add some things to the other questions that were here. Then if it is the desire of the Board, we could post the questions on the lobster page, the FAQs, as well as obviously post responses as part of the meeting materials.

WE didn't do that before, because we weren't sure what the states wanted us to do. If that is the desire of the Board to post the answers to these questions in meeting materials, we can. But in order to have additional discussions or engagements with fishermen, we envision that to be up to the individual states.

CHAIR McNAMEE: Great, thanks, Toni. A couple of hands up here. Ritchie, go ahead, Ritchie White.

MR. WHITE: Yes, I kind of envision pulling this document together, then providing it to the Board, to see if the Board then, if there are any Board members that have any additional clarification. The states then that want to hold some kind of public meeting then can do that. Then listen to questions and input from the fishermen, and then after that then a meeting would be scheduled. I guess my question would be to staff. Does that look that that process could be doable in a month?

CHAIR McNAMEE: Toni or Caitlin.

MS. KERNS: Caitlin and I can turn around the questions as they are today. How fast some of these additional questions that require administrative processes. That is a little bit back to the Board. We can't answer those questions, we need the states to help us. I don't know how fast the states can turn around those questions.

We would like to try to get a meeting on the books sooner than later, so that we don't miss opportunities to save your dates in your schedules. Early April we start to overlap with some of the Councils, so we would just need to get a date on the books relatively quickly.

CHAIR McNAMEE: Is that okay by you, Ritchie?

MR. WHITE: You know I guess it will depend on how fast we see the new document. I mean I think we are going to need, I'm kind of speaking for Cheri, but I would think we're going to need a couple weeks to pull together a date to meet with the fishermen. Maybe it can work. It seems pretty tight, but hopefully.

CHAIR McNAMEE: Thanks, Ritchie, agreed. Cheri, go ahead, Cheri.

MS. PATTERSON: Yes, it will be a tight fit. But I think we can make it work, if we can get the information back as soon as possible. Thanks.

CHAIR McNAMEE: All right, I would like to offer another opportunity for any public that might still be hanging on out there, to offer any comments. I kind of took a pause in the middle there, and now I'm taking another opportunity. I think we will, you know I would love to end this as close to four as possible, so I think we will pull the timer up for folks.

But I do want to offer another opportunity for any public that wants to offer if we've missed something here. I'm looking for hands from the public. Okay, maybe the fact that this is going to come back out to the states, and then we'll be convening again is good enough. All right, so that is all of the questions everybody.

I think we are pretty close to wrapping here. We've talked a little bit about next steps. I think we have a decent sense of that. Is there anything anyone on the Board wants to clarify before we start to think about adjourning? I'm not seeing any hands. Why don't we go ahead?

ADJOURNMENT

CHAIR McNAMEE: Is there anyone who wishes to make a motion to adjourn? Cheri.

MS. PATTERSON: Yes, Sir.

CHAIR McNAMEE: There is a motion to adjourn, is there a second? Ray Kane seconds, I'm guessing. With that, are there any objections to adjourning the meeting, and thanks from me to all of you for hanging in for so long. Not seeing any hands in objection, that's a wrap. Thanks everybody, meeting is adjourned.

(Whereupon the meeting adjourned at 4:00 p.m. on February 22, 2022.)