

ATLANTIC STATES MARINE FISHERIES COMMISSION

AMERICAN LOBSTER MANAGEMENT BOARD

Samoset Resort

Rockport, Maine

October 16, 2001

- - -

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Rockport/Camden Room of the Samoset Resort, Rockport, Maine, on Tuesday, October 16, 2001, and was called to order at 1:35 o'clock p.m. by Chairman Gordon C. Colvin.

CHAIRMAN GORDON C. COLVIN: Good afternoon. At this time I'll call to order the Atlantic States Commission's American Lobster Management Board. Let me state at the outset that it is the opinion of the Chair that a quorum is present and we will dispense with roll call and proceed with the business without objection.

The first issue before us is review of the agenda. The agenda is before you. Do Board members suggest any additional issues or revisions to the agenda? Seeing none, without objection the agenda stands approved.

The next item of business is a review of the proceedings of the Lobster Board's meeting of July 17, 2001. Those minutes have been distributed. Are there additions or corrections to the July 17 minutes? Seeing none, is there objection to approval of the minutes? Without objection, they stand approved.

The next item on the agenda is public comment. I see that we are joined by members of the public, guests of the Board. We would be happy to entertain any general comments on issues of significance to lobster management at this time, recognizing that as individual agenda items come up, if members of the public would like to comment if they would make that desire known to us, we will accommodate them at that time.

Are there any general comments from the public or the guests of the Board at this time? Thank you. The next item is the Plan Review Team report. Heather.

MS. HEATHER STIRRATT: In July of 2001 this body was presented with the PRT's report on state compliance. It was noted at that time that the licensing program currently employed by the state of New Jersey was inconsistent with Addendum I requirements for Areas 3, 4, and 5.

What I would like to do just briefly is note a few areas of inconsistency between the Addendum I requirements and the state of New Jersey's licensing program. Specifically, I will be pulling from Attachment 2 which was distributed on the CD-rom.

It's located in the New Jersey state conservation equivalency proposal. The page number is page 2. It is an attachment. It looks like a table like this.

The first example I would provide under Addendum I is Area 3 has a qualification criteria for historical participation that falls within a time period of March of 1991 through November of '97. According to New Jersey's licensing program, which is currently employed, they have four permit types for that area which have a different historical participation qualification period.

For instance, for permit type I they have March of '91 through nine of '98, which is inconsistent with the 91-97 requirements under Addendum I. For permit type B the time period runs from 1980 to 1991 which, again, is inconsistent with the 91-97 time period.

The permit type E has a qualification period of '80 through '98, again inconsistent with the Addendum I requirements. And for permit type F, it is '98 through 2001 which is, again, inconsistent.

For Area 3 requirements under Addendum I, there is also a landings requirement which must be greater than 25,000 pounds. And for New Jersey, in their current licensing program for permit type A, you must have proof of landing of greater than 2,000 pounds.

For permit type B, it's greater than 2,000 pounds. For permit type E, it is greater than 500 pounds, and for permit type F it is greater than 2,000 pounds.

These examples are all inconsistencies with the Area 3 requirements under Addendum I. In addition to that, for Areas 4 and 5 there are also qualification periods for historical participation, and those time periods are also inconsistent with the New Jersey licensing program for permit types B, C, E and F.

These are just a few examples of the inconsistencies that the PRT noted previously. I would suggest, as I did back in July, that there is the opportunity for New Jersey to submit their conservation equivalency proposal to resolve this problem of inconsistency.

The Board asked that the PRT assist the state of New Jersey in doing so. We developed the chart that is found under Attachment 2 for these purposes, and the state of New Jersey did submit a

proposal for conservation equivalency, which is included in your packet, back in September of this year.

That proposal was evaluated by the Technical Committee on October 2nd. The consensus results of that evaluation are that the TC cannot determine whether the New Jersey proposal is conservation equivalent to Addendum I requirements because there is no information available on which to make a comparison between the number of aggregate fishers and/or traps that would be allowed under Addendum I.

Specifically, New Jersey maintains that 156,000 traps will be fished under current regulations; however, the state has made no attempt to provide numbers which would allocate the number of traps and/or fishers that would be registered and/or fishing under Addendum I.

This provides for no baseline for comparison, and as a result that is the Technical Committee's finding at this time. Mr. Chairman, that completes my review of the outstanding compliance issues for New Jersey.

CHAIRMAN COLVIN: Any questions for Heather? Bruce, I was going to recognize you, after questions, for the New Jersey perspective, but let me see first if anyone would like to follow up with a question or get clarification on where we stand. Seeing no hands, I will recognize New Jersey for discussion of the issue.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. We are faced with an impossible situation in that, like many states, we did not have a license specific for lobster. Historically we don't know the amount of effort that was expended in New Jersey for fishing lobster.

We do have a fairly small fishery compared to the other coastal states. We could technically apply for de minimis status because of the magnitude of our catch; it's considerably under a million pounds a year. Nevertheless, for those 60 or 70 full-time lobster fishermen, this is a very important issue, and it's really their livelihoods and their business that we're talking about.

So from that standpoint, we had determined to be a full participant in this process. The difficulty we face is we, as I indicate, don't know the number of traps, the amount of effort.

We have used as a substitute for that the number of permits that we know exist from the federal roles and from our own state permitting process which we do now have in place.

We took the total number of participants times the 800 pots that could be fished under the present system, which is down from

1,000, so there was a 20 percent decrease down to 800, and that number gets us the 156,000 traps that we presently are using as a surrogate for lack of any better information.

We had explained to the Technical Committee the various permits and as Heather indicated some different dates relative to what we have been using through our process of coming up with regulations in the state.

We have gone through a long, lengthy process over a period of three years. We have been involved with our Fishery Management Council, which we are compelled to do through our enacting legislation, and have spent many hours dealing with our Advisory Committee and our Council members to come up with the system that we do have.

It is somewhat complicated trying to accommodate the various groups of fishermen. Like many states, we have a core of perhaps 50 or 60 that have been mostly full-time fishermen over the course of the last 15 or 20 years, but because of issues that have developed in the federal permitting system and issues that have developed outside our borders, we were petitioned by various groups to try to come up with a system that would allocate additional traps for these fishermen, some of which had fished in other geographical areas or had fished in Area 4 and 5, but because they have recently purchased a vessel or have for other reasons wanted to fish in New Jersey, under our system they would essentially be excluded.

We are in the process of putting a permanent limited entry system in place with an absolute number of participants and an absolute number of pots. So once this is put in place, it will not exceed either the number of fishermen or the number of traps.

As we had discussed at our last meeting, there are six types of permits, as Heather has indicated. The type D permit is a recreational lobster permit. The regulations are very severe in that anyone who wants to fish recreational must have a \$100 license, cannot fish more than ten traps, can only possess six lobsters per day and these lobsters cannot be sold.

That is much more stringent than what we had previously. So under our rules, we indicated to the Board that we will be moving forward with this license but essentially needs not to be endorsed by the Board because it is more restrictive.

So what we're talking about is really five separate permits. Again, we're faced with a dilemma of not knowing historically how many pots are fished. We are willing to, at this point, reduce that number by 25 percent.

It's a number that have been used in other LCMTs at least at the discussion point. I believe in the Outer Cape and Area 3 that number has been used at least for discussion purposes -- to bring our total number of traps down to no more than 117,000.

This would be an absolute maximum. Using that we would then ask that the Board approve the five additional permits that would be used for the commercial fishery in New Jersey. And as Heather has indicated, there are some deviations in times between what the LCMT 4 and 5 have approved and essentially what New Jersey has in place.

We believe that the 25 percent reduction will more than compensate for those date differences. And again, as I indicated, it has been a three-year process working through the state to come up with these regulations to try to accommodate all our different concerns.

I would simply add to that if those of you have the sheet that Heather referred to which is a summary -- it's called "Attachment 1" -- if we could just quickly go through the permits to give the feeling of comfort as to the numbers of permits we're talking about, the sheet that you have indicates for a type A permit, which essentially would allocate 1,000 pots based upon historical participation -- bear in mind that this is an item that has been approved by the Board but essentially is not in place because of the federal system.

If the federal system is not modified, then whatever the federal system has in place remains in place; and, also, that the more conservative, be it the federal or state process, would actually take precedent.

So if for some reason we wanted to reduce that, the state wanted to reduce that, it would be less than the 800 pots. But at the present time with the type A permit, we have 41 applicants for that permit. We believe at maximum there would probably be 50 to 55 permits of this type in the entire state.

Type B permit, which actually would allow 1,000 pots based upon the criteria that we have, the difference here is the time period extends back to 1980. We've had a number of people who have historically been in the fishery, for various reasons, have voluntarily removed themselves from the fishery, some because of illness, some because of other reasons.

We believe that type B permit would have no more than 10 people. In front of you it's five at the present time. We believe there could be perhaps another five people but no more than that.

And the type C permit, which would essentially allocate a maximum of 500 pots only to be fished in state waters, we have four

applicants. We believe there's probably another four or five that may qualify. And, again, that pertains only to state waters.

Going down, the type E permit, which would be, again, certain criteria, under this permit, however, this is something unique in that we've had an historical otter trawl fishery in the state of New Jersey.

That otter trawl fishery has in recent times been at a very low level. However, there was a request made a number of times at our public hearing that these people be allowed to fish traps although history only has them in for mobile gear catch.

The present plan does not allow for a directed fishery in otter trawl. We're not proposing that one occur. Nevertheless, we believe that those individuals, which we believe will probably amount to no more than 10 people, should be given the authority to fish traps if they demonstrate their historical catches meet our criteria, and so that would be really the type E permit.

And the last permit that we have, the F permit, really is to accommodate people, as I indicated earlier, that have fished historically in either Area 4 or Area 5 or in other areas that have a valid federal permit.

We're simply changing effort from one geographical area and now allowing that to occur in New Jersey. And we believe that the maximum number of people there will probably measure only eight. We have four at the present time.

We believe that this complies with the provisions of the coastwide plan. We're not increasing effort; we're simply moving it from one area to another. In some instances, we're keeping it within the same Area 4 or 5, but now these people would not qualify under our cutoff date of 1997.

They would be excluded from the fishery. They have made investments in the vessels. They've fished and have historical catches but that history only dates back to 1998. So with that, if there's any questions, I'd be happy to answer those questions but I would like to offer a motion if there's no questions.

CHAIRMAN COLVIN: The Chair has a question. Before I ask it, I'd like to tell you where I think we are. I'd like to tell the Board where I think we are on this.

The Plan Review Team has previously advised us of their recommendation that the licensing situation and the permitting and pot allocation in New Jersey is non-compliant with the fishery management program.

The Board has yet to act on that finding and instead invited New Jersey to submit a proposal and a presentation for determination that their program is in fact compliant on the basis of a conservation equivalency finding.

That recommendation and that proposal was developed, the rationale was developed and generated and submitted to the Lobster Technical Committee for review. The Technical Committee is unable to present a conclusion and a finding to the Board for the reasons previously indicated.

Further, at this meeting New Jersey has made a modification to the proposal to reduce the overall cap on the number of pots from 156,000 to 117,000, which is a 25 percent reduction.

Because we have a non-compliance recommendation out there, I believe it's incumbent upon the Board to take some form of action with respect to that finding, and we will need to take some action in one direction or another.

That said, Bruce, as I indicated, I do have a question from the Chair with respect to an aspect of the comments in the text of your report that I find confusing, and I hope that you can clear it up for us.

At the bottom of page 9 is a paragraph indicating that the allocation below 156,000 is less than a level comparable to the 800 trap allocations provided to other LMAs. On the other hand, I heard you say this afternoon that we're talking about up to 60 permit holders, and my long division averages that out at 2,600 pots per permit or with a 25 percent reduction at 1,950 pots per permit.

I also just took a quick look at the type A permits where allocations have already been made totalling 57,737, and to 41 permits that's a little over 1,400 pots per permit. Can you clear this up for us?

MR. FREEMAN: Yes, this permit A includes all the geographical fishing out of New Jersey, so it includes Areas 3, 4, and 5. And there was a provision under Area 3 that vessels that could demonstrate pots fished more than -- I think it was either 1,000 or 1,200 -- up to a total of 3,250 could fish Area 3.

Now the numbers being used here are the numbers that each of the LCMTs have used. And as I indicate, under the present situation, the federal regulations are much more stringent than those proposed by Areas 3, 4 and 5 so that these numbers being used here would be of the maximum possible pots that could be used under the Commission system, not the federal system.

Now, again, unless the federal system is changed, those numbers of pots would be considerably reduced because it would not be the 1,000 pots in Areas 4 or 5, and it would not be the 3,250 under Area 3. It would be the existing number of pots.

This is what's confusing. This is what has created so much problem in New Jersey, and we've had this for the last three years, that there's a federal system and then there's a Commission system. We've been talking about the Commission system, but effectively the federal system is determining what actually functions.

And in New Jersey's case, almost without exception, the fishery is in federal waters. We have very little lobster habitat in state waters so that what occurs federally is driving this present system.

But I want the Board to be fully aware of the fact that we're asking the federal system to change to comply with what we had originally requested. And fishermen in New Jersey that would fish Area 3, although our regulations, New Jersey's regulations, would have a minimum of 2,000 pounds, LCM 3 requires 25,000.

Those fishermen would be required to comply with the 25,000 pound criteria if agreed to by the federal service. Does that help or does that confuse the issue?

CHAIRMAN COLVIN: I confess to still have confusion about the sentence on page 9. I do not understand it in the context of what you've said.

MR. FREEMAN: Well, I don't know how to explain it any differently.

CHAIRMAN COLVIN: Then I'll stay confused, and that's perhaps the best that can be done at the moment. You did indicate earlier, Bruce, that you wanted to offer a motion; and if there are no other questions for Bruce at this point, the Chair is prepared to entertain that motion.

MR. FREEMAN: Okay, just before I give the motion, we originally talked about the six permits with the recognition at the last Board meeting, the recreational lobster permit is something that we do not have to get approval for. There really are five issues of contention here and not six so we'll leave out the recreational permit.

CHAIRMAN COLVIN: That is correct, the recreational permit is not part of this finding by the Plan Review Team or part of our deliberations.

MR. FREEMAN: So I would offer that the Board approve the type A, B, C, E and F permit as presented, with the maximum number of permitted trap licenses to be 117,000.

CHAIRMAN COLVIN: Is there a second to the motion? Seconded by Gil Pope. Discussion on the motion? George.

MR. GEORGE LAPOINTE: Heather, could you review again what the Plan Review Team thought. They looked at this proposal?

MS. STIRRATT: The Plan Review Team did not evaluate this proposal; the Technical Committee evaluated the proposal. The Plan Review Team assisted in providing the state of New Jersey with a table which provided a comparison between the requirements of Addendum I versus those licensing permitting type requirements which have been implemented in the state of New Jersey, just to make it very clear, crystal clear, that there are differences in the time allocations -- in other words, the qualification period -- and also a number of other things, as I pointed out earlier.

CHAIRMAN COLVIN: Other comments?

MS. STIRRATT: Point of clarification. As Bruce has offered this 25 percent reduction today, that has not been looked at by the Technical Committee. That is a new, additional statement.

MR. FREEMAN: Gordon, let me just --

CHAIRMAN COLVIN: Go ahead, Bruce.

MR. FREEMAN: -- make a change in that motion. I had indicated it's "permitted trap licenses". It just should be "permitted traps"; just remove the word "licenses."

Now, just to add to what Heather was saying, New Jersey, again, brought this issue to the attention of the Technical Committee. And as she indicated, the Technical Committee could not make a determination because they didn't know what to judge it on.

There was no basis. We don't know and we still don't know. We probably never will know the total number of traps fished. Now we could send out a questionnaire to our lobster fishermen and ask how many fishermen fished lobsters and how many traps they used, and I'm sure we'd get an answer, and I'm sure it's going to be considerably more than 156,000.

But, in all fairness to ourselves and to the Board, we believe that number would be biased and therefore we would like to deal with a much more conservative number. But it puts us in a dilemma of not having anything to gauge this reduction upon.

We arbitrarily used the 25 percent because it's a number that other LCMTs are using as possible mechanisms to reduce their effort, and that in the future if there were any need to reduce the pots additionally, then that would be done in compliance with the plan.

CHAIRMAN COLVIN: Additional discussion? If we're ready for the question, let's take a moment for caucus.

(Whereupon, a caucus was held.)

CHAIRMAN COLVIN: Are you ready to take the question? We'll take the question now. All in favor, please signify by raising your right hand; all opposed, same sign; abstentions; null votes. The motion carries.

MR. FREEMAN: New Jersey thanks the Board.

CHAIRMAN COLVIN: Is there anything further on the Plan Review Team report? Okay, the next issue is the Advisory Panel report. David.

MR. DAVID SPENCER: Thank you, Mr. Chairman. The Advisory Panel met October 3rd in Providence. We had a very lengthy and productive meeting. We ran over the time allotted and actually caused Heather to miss her flight back. I'd like to publicly thank Heather for sticking with us to the end at an inconvenience to herself.

The first item we addressed was the Advisory Panel membership. We would just like to note that at present Connecticut has two vacancies and we were asking to have them filled so they can be represented.

The next item that we took up was Amendment 4. We reiterated our strong opposition to both items in Amendment 4. I will not read all the reasons. They're the same as the last time we reviewed this. However, I should note there was one strong reservation to the consensus of the group about the 100/500 issue.

I would like to read the last two paragraphs because we had a very length discussion about conservational equivalency and it raised a lot of concerns. And if you'll allow me, I'll read the last two paragraphs.

Overall the Panel agreed that conceptually conservation equivalency is a good thing in that it allow for flexible rulemaking. However, specific to draft Amendment 4, the Panel offered strong sentiments that the rules pertaining to non-trap gear limits and v-notch protection under Amendment 3 were originally intended to be cornerstone elements of the FMP, never

to be changed.

The Panel noted that it took 10 years to come to agreement on these elements in Amendment 3. The Panel also noted that approval of draft Amendment 4 may set a precedent and result in opening the flood gates to many interested parties who intend to propose alternative regulations for these two elements.

The Panel also expressed strong concern with the process utilized by ASMFC to evaluate conservation equivalencies. Should the Management Board approve Amendment 4 in October, then the advisors recommend that all proposals for conservation equivalency be passed through the Panel in addition to the Technical Committee.

The Panel noted that lobster management under the ASMFC has historically been a bottom-up approach and that the process for evaluating conservational equivalencies as outlined in the FMP runs contrary to this approach.

As such, the advisors recommend that the Technical Committee receive proposals first; and then if a proposal is deemed biologically equivalent, it would be passed to the Advisory Panel and the LCMTs for further consideration.

The advisors discussed at length the need for clarification regarding evaluation processes for conservational equivalency proposals. If I could just add, there was great concern as to how conservational equivalency is handled. There's a big fear that it undermines the LCMT process and the bottom-up approach to management.

The next item that we addressed was law enforcement. I'll be very brief. I would just say that we continue to have very strong concerns about the state of law enforcement, especially as it relates to trap numbers.

We then discussed possession versus landing laws, and the advisors considered the implications resulting from states implementing gauge size increases by way of possession versus landing laws.

The Panel noted that dealer state and federal permits can be affected by possession laws because the point of enforcement is extended to land operations. We also discussed the problems associated with possession laws and interstate transport of product.

The National Marine Fisheries Service noted that landing laws were preferred to possession laws to avoid problems associated with the Mitchell Bill. As such, we decided to recommend that states implement gauge size regulations by way of landing laws rather than possession.

The last item I'll report on has to do with the most restrictive language as it applies to trap numbers for people that fish multiple areas. I think the best way to describe this is to give an example, and I'll use the one in the minutes.

If there were an Area 2 fisherman who also will qualify for Area 3, we all expect that his total trap allocation would be 800 traps. If he qualified to fish 500 in Area 3, I think as fishermen we've always assumed that the 500 would be able to go into either Area 2 or 3, and that the additional 300 would stay in Area 2.

It's my understanding that the way it's written currently, his total allocation under most restrictive would only be 500. And, that was something that we thought could potentially pose a great hardship on people that have historically fished in more than one area.

We did come up with some language that could be used as a strawman and strongly recommend that we do change the language in Section 3.2.1 to reflect the way that I believe most people envisioned this would work. Thank you.

CHAIRMAN COLVIN: Thank you, David. Are there any questions with respect to the AP report? Let me get Gerry Carvalho.

MR. GERALD CARVALHO: David, were there any non-trap participants on that Advisory Panel?

MR. SPENCER: There were none present. We did have one. We had two, one was lost to attrition I believe when the Panel got whittled down, and there was one fellow who wished not to participate, but there was nobody at this meeting.

CHAIRMAN COLVIN: Carl.

MR. CARL WILSON: Yes, David, this is in reference to the most restrictive. Some areas are using trap limits or trap caps as conservation measures to enhance the biological status of their area.

The way I interpret the e-mail that's provided from Bonnie is that conservation measures by one area in the form of trap limits could be exploited by an adjacent area bringing more than that limit into the area that's chosen to limit traps or reduce traps.

And I don't know if that would be a -- At first glance I would say that would be competing measures and then also degrading what one area has decided to do as opposed to the next.

MR. SPENCER: Honestly, I'm not sure I follow, but we're not proposing this language necessarily be it. We just put something together to stimulate discussion and perhaps work from there. I think our fear is that it's going to adversely impact people that fish multiple areas in a way that I don't think we ever envisioned.

CHAIRMAN COLVIN: Any other questions for the Advisory Panel? Gil.

MR. GIL POPE: Thank you very much. It's just when I'm reading the findings, I guess it's on the second page where you have four things here that starts "the 100/500 rule was originally adopted as means to eliminate directed fisheries for lobster in the mobile gear sector"; I'm having a hard time believing that that was the main reason to eliminate the directed fisheries.

The second part here, it says that "injury and mortality to lobsters during the shed and the problem is significant." I don't know if that has been studied or anything or I'd like to see a study like that if I could.

And the third thing, it says "if conservation equivalency is allowed and mobile gear types can again harvest lobsters" -- well, they are harvesting them. It's just the fact that they're only allowed 100.

Instead of whether they got 125 or whether they got 75, there is a limit now to what they can keep, so they still can harvest lobsters but only have 100. And "the redirection of effort from the groundfishing fleet on the lobsters may occur" -- it may; it may not. That's just a guess.

And "allowing conservation equivalency in one state will open this option up to other states in all bodies of water" -- well, it's in almost every fisheries management plan that we have. We have some form of one state saying that this would fit better if we did this and it won't hurt the fishery.

So we have conservation equivalency in just about every fisheries management that we have. I'm not in total agreement with much of these four statements, unfortunately. And I look at this more, instead of conservation equivalency, as conservation equality in a way. Thank you, David.

CHAIRMAN COLVIN: Okay, let me again ask that we focus on questions of the Advisory Panel on their report. If there are no further questions, thank you, and we hope that, David, as issues come up for action later, today you'll speak up on behalf of the Panel for anything that is consistent with their views.

We now turn to the Technical Committee report which we will take in four sections, the first two of which will require some actions. The first issue will actually require us to take action on two specific updates of LCMT proposals.

Let me say that between A and B of this agenda item, I will also ask Carl to address a letter which has been received from New Hampshire with respect to certain questions regarding lobster management issues as well. So at this point let me, I guess, Heather, you start this off and then we go to Carl.

MS. STIRRATT: Okay, just to create a link from the July meeting week to this meeting week, you may recall that all seven area plans were submitted back in July for review by the Board.

It was at that time that the Board decided that we would be giving Areas 1 and the Outer Cape some additional time as they did not achieve the F 10 percent required under Addendum II by 2008. Those LCMTs did reconvene prior to the October 1st deadline that was submitted by the Board in a motion in July.

I will be focusing on presenting those two revised proposals, only the new elements. When we get to the agenda item which discusses Addendum III, I will be going through each of the area plans on a very specific basis.

You should have received in your mailing packets copies of the revised Area 1 plan. And I believe you should be getting right now copies of the Outer Cape plan.

For Area 1 you will note that the team voted 15 to 1 on September 12, 2001, that following the next stock assessment or following a technical review using another model, it is determined that Area 1 is not on target to reach its EPR goal by 2008, Area 1 will increase the rectangular escape vent size on traps two inches in 2007 with a complementary increase in the circular escape vent size. I will let Carl speak to the issues of the Technical Committee's review of that revised proposal.

Moving on to the Outer Cape, again, they have proposed multiple measures but I'm going to focus on the new ones. You may recall that the Outer Cape's proposal ran into some difficulty at the Technical Committee review in June given that they did not have specifics on their trap reduction program.

The Outer Cape has produced a revised proposal which would reduce the overall number of traps allowed to fish in the Outer Cape Lobster Conservation Zone by a 20 percent reduction. This would be followed if in fact they were not going to meet their egg production goals by a subsequent 5 percent increase in reduction.

In addition to that, they have also noted that they will have a closed area, that the annual trap transfer period will be January 1 through March 31.

Trap tags may be transferred amongst the Outer Cape lobster fishers to allow for an individual business to build up or down within the maximum allowable 800 trap limit. However, a passive reduction in traps will occur with reach trap transfer event at the rate of 10 percent.

The trap haul-out period will occur between January 1 and March 31 of each year and there will be no lobster traps in the waters in the Outer Cape Lobster Management Zone during that period of time.

As I mentioned before, it is very important to note that they have added on to their 20 percent reduction by a subsequent 5 percent reduction on trap numbers should they need that to achieve their APR goals. Mr. Chairman, that concludes the review of the revised proposals.

CHAIRMAN COLVIN: Thank you and I'll turn to Carl for the Technical Committee evaluation.

MR. WILSON: Thank you, Mr. Chairman. There were two votes cast for each area on their revised plans. For Area 1 the motion to recommend approval of Area 1 satisfying the egg production goals of F 10 percent carried on a vote of five to three.

Those in favor voted so on the basis that Area 1 proposal meets the egg production goals required under Addendum II to Amendment 3 to the IFMP for American lobster.

Those opposed voted no on the basis that a swift jump to 100 percent v-notching was unlikely to occur by 2002. Because there is no effort reduction plan included within the proposal, it is likely that effort has increased, and because the analysis provided did not account for fishing mortality reductions needed to achieve the egg production rebuilding schedule.

The vote on the overall LCMT proposal was a split four-four and it failed. Those voting in favor of the overall management program did so on the basis that there is a record level abundance, high landings, decreasing fishing mortality since the early 1990s, and stable or increasing potential egg production.

Those opposed to the overall management program for Area 1 voted so on the basis that they did not believe 100 percent v-notching will result in an instantaneous jump in egg production of approximately 3 percent to 9 percent by 2002.

They do not believe that the current fishing mortality rate upon

which the egg production calculation are based is accurate because effort has increased and escalations in fishing effort without future controls on fishing mortality will ensure that a high number of females will continue to be harvested before they have had a chance to extrude eggs.

If I may, I'd like to talk to John's letter right now, Gordon, or would you like me to wait until after the Outer Cape?

CHAIRMAN COLVIN: It had been our intention to defer that until action on these two proposals, unless it is required in order for the Board to address them. I don't know.

MR. WILSON: I think it can wait then, that's fine. Regarding recommendations for action to the Board by the Technical Committee, based solely upon the egg production rebuilding schedule contained in Addendum II to Amendment 3, the Technical Committee recommends approval of the Area 1 LCMT proposal.

Based upon review of the overall management program offered by Area 1, the Technical Committee cannot recommend approval of the Area 1 LCMT proposal at this time.

Moving on to Outer Cape Management Area. The motion on the proposal to attain F 10 percent by 2008 passed with vote of eight to zero. Those in favor voted so on the basis that the Outer Cape Cod proposal meets the egg production goals required under Addendum II to Amendment 3 to the Interstate Fisheries Management Plan for lobster.

The vote on overall LCMT proposed management program carries on a vote of seven in favor, zero opposed and one abstention. Those in favor of the approval of the overall management plan for the Outer Cape Cod voted so on the basis that the plan contained effort control and reductions, an attempt to address growth recruitment overfishing via increases in minimum size and wording that additional measures will be put into place if necessary.

Those that abstained voted so because of the concerns regarding the loose relationship between trap reductions and reductions in fishing mortality.

It is important to note that we voted for on the evaluation of egg production with the knowledge that the reductions in traps would be 25 percent, which was an "if necessary" in the Outer Cape proposal and, in fact, it is necessary for them to achieve the F 10 percent.

As far as one final bit would be recommendations for action by the Lobster Board. Based solely upon the egg production rebuilding schedule contained in Addendum II to Amendment 3, the Technical

Committee recommends approval of the Outer Cape Cod Area LCMT proposal.

Based upon review of the overall management program offered by the Outer Cape Cod area, the Technical Committee recommends approval of the Outer Cape Cod LCMT proposal.

CHAIRMAN COLVIN: Thank you. At this point I'm going to ask for Board action on the two proposals before we continue with the Technical Committee report. I would like to take them one at a time in the order presented. So initially let us turn our attention to the Area 1 revised proposal. George Lapointe.

MR. LAPOINTE: Mr. Chairman, I have a motion if it's appropriate.

CHAIRMAN COLVIN: Please.

MR. LAPOINTE: And the motion will be up on the board in a moment, and the motion is to accept the additional LCMT 1 elements for inclusion in Addendum III.

CHAIRMAN COLVIN: Is there a second to the motion?

MR. WILLIAM A. ADLER: Yes, I'll second.

CHAIRMAN COLVIN: Bill Adler seconds. Discussion on the motion?

MR. JAMES J. FAIR, JR.: A question, Mr. Chairman. This motion is just relating to the two-inch vent increase?

MR. LAPOINTE: That is correct because that is what the LCMT did at their September 6 meeting. You will recall we approved there the LCMT 1 proposal through the year 2007 at our last meeting.

We sent that final year back to the LCMT and at the meeting on the 6th of September they came up with the additional measure of the increase in the vent.

CHAIRMAN COLVIN: Does that cover it, Jim?

MR. FAIR: I think so. I'd like to add an amendment to the motion, if I may, but it relates to the entire plan. It doesn't relate to just that one section.

We still have concerns about the effectiveness of this plan mainly in the areas of overfishing and effort control, and we would like to have the option -- I know we have the option of being more restrictive if we see that our portion of the area is not meeting the requirements, but we would like to have that recognized as part of the plan itself.

I can explain that a little bit more clearly, I think, because we're basically constrained by the plan. In some areas of our statutes, the plan is actually referenced.

What we would like to do is allow ourselves the option following the first year of implementation to run out some of the other regulations that we're promulgating for the other areas in our state.

As you know, we have four areas landing in our state. The other three areas are going to have very similar looking regulations. The Gulf of Maine will have something different. This is going to create law enforcement problems. It's going to create a lot of confusion.

We would like to have the option of making these regulations statewide if we don't see a dramatic increase in the percentage of egg bearing female lobsters in the commercial catch during 2002. So with your permission, Mr. Chairman, I'd like to make an amendment to the main motion.

CHAIRMAN COLVIN: Go ahead and offer it.

MR. FAIR: The amendment would read, "The Commonwealth of Massachusetts will monitor the percentage of v-notched egg-bearing female lobster in commercial catches during 2002.

"If the observed percentage does not reach 50 percent by the end of 2002, the Commonwealth will consider additional management measures in 2003 to help achieve the goals of the FMP. At a minimum all regulations promulgated to implement Addendum III in Management Areas 2, 3 and OCC will be expanded to include the Massachusetts portion of Management Area 1."

CHAIRMAN COLVIN: That's offered as a motion to amend. Is there a second?

MR. PATTEN D. WHITE: I'll second it.

CHAIRMAN COLVIN: Pat White. We are now on the motion to amend. Discussion on the amendment? John Nelson.

MR. JOHN I. NELSON: Thank you, Mr. Chairman. I think that the motion to amend is partially addressed or probably wholly addressed by what I had requested the Technical Committee to take a look at as far as another approach or having another option available for us to go to or various states go to if they needed to in order to make sure that they were comfortable meeting the egg production level.

And the amendment is a little bit too narrow right now. I think

it should allow all states to monitor and modify as necessary additional regulations. I guess I could address that afterwards, Mr. Chairman, if you would just have the Technical Committee address what I had requested in that letter, and that would probably provide some further clearance and then we can get into the language.

CHAIRMAN COLVIN: Thank you. The Chair would agree that it's now timely to take that issue up so I'll turn to Carl and ask him if he can briefly outline the three questions that were posed to the Technical Committee by some of the Board members and the Technical Committee's responses.

MR. WILSON: Yes, absolutely. I'll read the entire letter for the record. This was received on September 26, 2001, addressed to Heather Stirratt.

"Dear Heather: Considering the outcome of the latest LCMT meeting held on September 6, I would like to revise the request for Technical Committee evaluation.

"I would now like the American Lobster Technical Committee to evaluate three items prior to the Lobster Board meeting held during the week of October 15. These include:

1. Whether the two-inch vent size increase proposed by Area 1 will indeed get the area to F 10 percent by 2008;
2. Should New Hampshire, Massachusetts and National Marine Fisheries Service decide to go up on the minimum gauge size starting in 2003, what would be the equivalent vent size increase associated with such an increase; and
3. Are the gauge increases and ultimate vent increase equivalent to number one or does it provide greater or less egg production levels than number one?

"If you have any further questions or comments, please contact Clare McBane."

The Technical Committee did take this up in our last meeting, John, and the first two questions can be answered pretty quickly. And the heart of the matter goes to number three.

First, the two-inch vent size reaching F 10 percent, that was voted on five to three, achieving 10.6 percent. Should New Hampshire and Mass decide to go up on the minimum gauge, what would be the equivalent vent size associated with an increase? And the minimum vent size or minimum gauge size would be three and three-eighths inches with a two-inch vent. And that would result in approximately an 11.5 percent egg production.

Are the gauge increases and ultimate vent increase equivalent to number one or does it provide greater or less production than just the two-inch vent proposed by Area 1? It would be greater egg production, so more, but at this time we don't know exactly how much more that would increase over all in Area 1.

CHAIRMAN COLVIN: Go ahead, John.

MR. NELSON: As a follow up, Mr. Chairman, if Massachusetts was thinking of additional regulations which were in line with what that letter is, which is having the flexibility of doing a gauge increase starting on '03 and finishing up in the 1/32 over a four-year period, then I would like us to make that a little bit more of a generic and allow any of the states to either implement what the LCMT has offered or additionally be able to go up in the gauge starting in '03.

So however that language works out, I'd just like to have not just the Commonwealth of Massachusetts be singled out for that. It may be that other entities may also wish to do that, so it's an either/or situation, I guess, Mr. Chairman. I don't know if that makes it awkward for the Board or not, but that's what I would suggest.

CHAIRMAN COLVIN: Bill.

MR. ADLER: Thank you, Mr. Chairman. I'm opposed to this, my little one-third vote over here. The main reason for this is that the LCMTs for Area 1 did not put this into their plan.

And although the option is available later on down the road, if you approve the Area 1 plan as submitted by the LCMT Area 1 and down the road more is needed, it is possible under the current system that other measures such as a decrease in the maximum size or an increase in the minimum size is still an option which is doable under our system, that if that's necessary, it can be done down the road; not in 2003, but it can be done down the road to fulfill the requirement.

But right now the Area 1 plan as submitted by the LCMT fishermen's group determined that they wanted to go with the two-inch vent and their 100 percent v-notching proposal. It was approved by the Technical Committee.

And, to change their procedure would be to deny the Area 1 lobster fishermen the same rights that the other teams had. They put in a plan; you may not have liked what they said but it was approved. And I think that we should stick to what the Area 1 LCMT fishermen put in that got approved. So I am opposed to this amendment as written. Thank you.

CHAIRMAN COLVIN: We are discussing the amendment to the main motion which is on the screen. Is there further discussion? George.

MR. LAPOINTE: A question, if I might, Mr. Chairman, to the Massachusetts representatives. It's my understanding that one of the reasons they're seeking this is because they can't make the changes they need without this sort of language being in our plan?

MR. FAIR: In one respect that's true, yes.

CHAIRMAN COLVIN: Do you want to follow up?

MR. LAPOINTE: Can you fill in a little bit? That's kind of a half pregnant response.

MR. FAIR: For instance, our minimum size is presently constrained by statute to be the same as Maine and Rhode Island and Connecticut and one other state, New Hampshire.

So, out of this process we know that all of these states aren't going to have the same minimum size and that leaves us in the middle like we always are. We have four of these groups advising us about how to manage lobsters right now.

We would like to have one set of regulations for our whole state. We're proposing that if this Board accepts the proposal for Area 1, we'll let it play out. If it doesn't work, then we want to be able to extend all of our regulations statewide.

It makes more sense for us in terms of enforcement and in terms of public education and every other aspect that I can think of. But we didn't want to do that without giving it at least a chance to see how it will work.

CHAIRMAN COLVIN: Further discussion on the motion?

MR. FAIR: One additional thing, Mr. Chairman. I have no objection if the state of New Hampshire wishes to add onto this. I didn't want to speak for any of the other states.

CHAIRMAN COLVIN: John.

MR. NELSON: I might have some language, Mr. Chairman, and let me write it out and give it to Megan.

CHAIRMAN COLVIN: Can you write it out quickly?

MR. NELSON: Well, let me try it.

CHAIRMAN COLVIN: I sense we're getting very close to a vote on this and we don't have a lot of time.

MR. NELSON: Well, all it would say, Mr. Chairman, at the very end is that "other entities of Area 1 may also consider additional management measures in 2003 to help achieve the goals of the FMP." I think that covers it.

CHAIRMAN COLVIN: Is that acceptable to Jim Fair?

MR. FAIR: Yes, Mr. Chairman.

CHAIRMAN COLVIN: Pat White, is that acceptable, the addition offered by Mr. Nelson?

MR. WHITE: Yes.

CHAIRMAN COLVIN: Is there objection to making that perfection to the amendment? Is there further discussion on the amendment as it appears on the screen? Go ahead, David.

MR. SPENCER: Thank you, Mr. Chairman. Obviously the Advisory Panel has not discussed this amendment but we have talked many times, and there's nothing that the Advisory Panel members agree on more than area management.

Even if we disagree on other things, everybody is very strongly in support of area management, and something like this I feel is going to erode that somewhat. Thank you.

CHAIRMAN COLVIN: John Carter.

MR. JOHN CARTER: John Carter, Chairman, LCMT Area 1. Thank you, David. I echo David's sentiments. The Area 1 team has not discussed this. What we have discussed at our meetings is absolutely no way were we looking at a change in the minimum gauge. This would circumvent the whole process that Area 1 LCMT has done at this time. Thank you.

CHAIRMAN COLVIN: Further discussion on the motion? Harry.

MR. HARRY MEARS: Mr. Chairman, just for clarification, what would the end result -- if this motion were approved, what would be the end result? Would it be to incorporate it into a draft Addendum III to take to public hearing? Is that the end result?

CHAIRMAN COLVIN: To be honest with you, we're a little unclear up here what the end result is in light of the fact that there is nothing in our management program that precludes these actions or actions equivalent to these in any event.

And the actual effect of the amendment with respect to down-the-road compliance, required implementation dates or anything else is unclear from the amendment as we read it here. Harry.

MR. MEARS: In a sense, my question goes back even to the original motion which this seeks to amend where I believe the original motion was to approve the Area 1 or --

CHAIRMAN COLVIN: The original motion would express the Board's endorsement of the revised, the supplemental, I'll call it, Area 1 management recommendations for inclusion into the draft Addendum III.

MR. MEARS: And the draft Addendum III would then go to public hearing?

CHAIRMAN COLVIN: Yes, it will.

CHAIRMAN COLVIN: Paul Diodati.

MR. PAUL DIODATI: Thank you, Mr. Chairman. I just want to say that I don't believe this motion erodes the bottom-up type of management that we've been abiding by in this process at all.

All it does is what I've heard earlier is that many members of the Technical Committee did not approve this strategy because they don't seem to have much confidence in the ability of the industry to conduct 100 percent v-notching.

You know, given that, all this does is provide us with a tool to monitor the effectiveness of the v-notching program. So, I think that not only is that a good idea for Massachusetts, I think every entity should have this type of provision in place. Thank you.

CHAIRMAN COLVIN: Pat White.

MR. WHITE: I seconded this for the point of discussion, but I also absolutely agree with David Spencer. I don't think this has been run through the advisory process adequately, and so therefore at this point I wouldn't support it.

I wonder if there's any salvation in it in the wording where it could be put "subject to the approval of the Advisory Board and the LCMT 1 Area Management Team". Otherwise I couldn't support it.

CHAIRMAN COLVIN: George.

MR. LAPOINTE: The review of our management programs is inherent in everything we do. We have a yearly plan review team report. And so I think that's redundant.

One of the things I think this offers is what the Commonwealth says is the need to have some language in the plan to allow them to move forward in the future, and I think that's worth thinking about.

CHAIRMAN COLVIN: Is there any further discussion? Mark.

MR. MARK GIBSON: I would say that if Area 1's LCMT proposal requires some sort of monitoring to prove that it has achieved the objectives of the FMP, then that creates uncertainty in my mind as to the usefulness and the efficacy of that proposal, and that is reflected in the Technical Committee's vote, which there is controversy about surrounding that vote to begin with, whether or not there was an approval or not because the representative from Rhode Island attempted to retract and change his vote after the fact because of his belief he had erred in his vote in support of the measure, so I'm not convinced that it has been approved by the Technical Committee.

I don't think that tangling up the motion to approve the LCMT 1 proposal by this additional language is the way to go. I think we should look at that LCMT 1 proposal on its face value and deal with that without this amendment. Thank you.

CHAIRMAN COLVIN: Bill.

MR. ADLER: Thank you, Mr. Chairman. First of all, I don't think that the way this is worded here really to 2003, that something would be done if 50 percent isn't reached. There has been no reason as to how we're going to get to 50 percent in one year, whether that's going to be activated.

I think that, as I said before, it's possible down the road that this could happen, some type of decision could come later. I don't think this is the place for this particular amendment to be in, even though I know technically it should go into the addendum and go out to public hearing and then come back.

But I don't think this is the place for that. And, lastly, Massachusetts is always facing different regulations within its lobster areas because we have two maximum size gauges right now. We have a five inch and we have no five inch.

And in some areas they're going to go to 3-3/8 and in other areas they're thinking of going to 3-1/2, so we'll always have that problem and it is enforceable. So, I'm still against inclusion of this even if it is my own state that's doing this. Thank you.

CHAIRMAN COLVIN: Is there any further discussion on the amendment? I see no hands. Let's take a minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN COLVIN: We are voting on the motion to amend. All in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries. We're establishing a pattern here.

We are now on the main motion as amended. Is there further discussion on the main motion as amended? Harry.

MR. MEARS: Once again, Mr. Chairman, as I understand it, the end result of this motion would be incorporated into a draft addendum which would then be taken to public hearing and then come back to this group for final deliberation; is that correct?

CHAIRMAN COLVIN: Yes.

MR. MEARS: Okay. One follow-up question for Carl. To the best that you can, could you describe the nature of why the votes were different between the two votes concerning the Area 1 plan, one whether it achieved F 10 and the second whether it achieved the overall goals of the plan?

MR. WILSON: I think the first vote on strict F 10 percent, does it achieve that goal, that given the assumptions within the model and those are covered in the blanket statements, I think that was a pretty simple vote, just on the model runs, does the plan achieve F 10 percent, yes or no, and their opinions with that.

I think on the second vote, which was the overall management plan, I believe the majority of the concerns who opposed the overall management plan were concerned about the escalations in effort as the primary reason.

MR. MEARS: Just one follow-up question. They were concerned that the escalations of effort would not be in accordance with the results which were achieved by running the model from --

MR. WILSON: The model run was run with a baseline period of '96 to '98, and there's concern that effort has increased beyond those baseline years.

CHAIRMAN COLVIN: Further discussion on the main motion as amended? Seeing none, take thirty seconds to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN COLVIN: Ready for the question? All in favor, please signify by raising your right hand; opposed, same sign; abstentions; null votes. The motion carries.

That concludes action on Area 1. We now need to turn to action on Outer Cape. The Chair will recognize Mr. Lapointe.

MR. LAPOINTE: It is a motion similar to my last. The motion is that the Board approve the additional items in the Outer Cape Lobster Management Area LCMT Plan for inclusion in Addendum III.

CHAIRMAN COLVIN: Is there a second? Jim Fair. Discussion on the motion. Seeing no discussion, are we ready for the question? Is there a need to caucus? No. All in favor, please signify by raising your right hand; opposed, same sign; abstentions. The motion carries.

That concludes Item 6A on the agenda. We have addressed the intermediate item on responses to John's questions. And so we are at Item 6B which is the Socio-Economic Subcommittee report, and for that we will hear from Jim Wilson.

DR. JIM WILSON: Good afternoon. This report, which I believe was passed around or is being passed around, is the first report you will have received from the Socio-Economic Subcommittee of the Lobster Technical Committee.

Heather tells me that this is the first time ASMFC has ever had a report from a socio-economic group like this. I want to say very few things. I want to be short, first of all. I've learned that being short when you're talking about economics is always wise unless you have a sleepless audience that needs sleep.

This report is a consensus report of the committee but it is a very broad report. All the committee members feel a certain level of comfort at a broad level and a certain level of discomfort when it comes down to the particular context of the fishery and the particular application of policies in particular places at particular times.

It is our understanding as a committee that as the Commission refines its policies and narrows down towards particular options, that our response will be to, at that time, explore these questions with more attention to the context in which these policies can be applied.

On the first two pages of the document, we list a number of caveats, and I'll just mention three of these that I think are particularly important.

The first of those is one I've mentioned already and that is the importance of context, and that is that some policies under some circumstances obviously can make a lot of sense.

When you look at them in a broad way, they can make a lot of

sense. When you try to apply them to a particular place with particular a history with a particular situation, then don't make sense at all.

All right, we have not had the ability to ask these questions about a particular context and this paper does not reflect those contextual issues.

The second one is the interdependence of policies. And that is sometimes a policy, again, could make a lot of sense but in conjunction with another policy it doesn't make any sense at all.

Again, this is a variation on the context issue, and that is you'd better be very careful about the particulars before you reach any conclusions from the socio-economic point of view about these policies.

A third caveat -- and it's actually the last one that we list in our list, but it was a matter of some discussion in the committee -- is that we were at a loss when it came to a number of policies with regard to this question of conservation equivalencies.

And the discussion of the committee or perhaps a recommendation, if I could go that far, was that there should really be a set of standards developed or principles for the application of conservation equivalencies.

Without that set of standards, it's always possible, may always be the case, in fact, that one of the LCMTs may try "beggar thy neighbor" policies, may be very tempted or always tempted by "beggar thy neighbor" policies, and these can be forestalled through the development of a set of principles on the conservation equivalencies.

Just a quick overview of the proposal or of the document. We talk about three different kinds of management measures; input controls, which are things like trap limits, license limitations, limitations on time, gear restrictions and so on; technical controls, things like minimum size, maximum size, v-notching; and output controls.

And, again, I'll leave this for you to read the detail but just mention and emphasize once more the importance of context in the application of all of these policies. And I will leave my presentation to that.

CHAIRMAN COLVIN: Thank you very much. I am going to ask the Board for a motion to accept the report. We certainly appreciate the effort that's gone into it. A great deal has been accomplished in an all to brief time and we look forward to continuing to receive the kind of strong effort and support we've had from this Subcommittee. Pat.

MR. WHITE: I move that we accept the Socio-Economic Report.

MR. ADLER: Second.

CHAIRMAN COLVIN: Seconded by Bill Adler. Discussion on the motion? Is there objection to the motion? The motion stands approved. Would anyone have any questions at this point? I know everyone has just received the report and -- Heather, go ahead.

MS. STIRRATT: I just wanted to provide the Board with a few statements about this paper. Just to jog your memory, the Technical Committee had originally asked that a very detailed literature review be done on the socio and economic implications of specific lobster management issues.

That was actually back in August of 2000. That idea over time, leading up to the November Board meeting, I believe, which was held last year, resulted in a dinner meeting between various Commissioners who serve on this Board.

Susan Shipman was also part of that discussion as well as Jack and the National Marine Fisheries Service. It was noted at that time that everything that the Commission could do to provide additional socio and economic information to the Service would in some way assist them in their federal rulemaking or rather to come into consistency with the rulemaking that we currently had on the books.

So this is the first attempt to really meet that request and to also address the Technical Committee's request of August of last year. And as Gordon has said, this document really has resulted in a significant amount of work.

It's intended to be a framework, something to build upon. And as Jim has mentioned, certainly the intent of the Subcommittee is to evaluate further proposed management actions that may come before this body and present to the Board recommendations on the specifics of those elements.

But for the time being, this is an all-encompassing, far-reaching document that evaluates all of the current management measures that we have in place and all management measures that may be considered in the future. And that is why it is, at least in my opinion, one of the first documents of its kind for the Commission.

CHAIRMAN COLVIN: Thank you. Harry.

MR. MEARS: Very briefly, Mr. Chairman, in follow up to Heather's comments the National Marine Fisheries Service is very appreciative of Dr. Wilson's report and also what has been accomplished to date, and certainly to the degree that it can

serve both the mainstream interest of the Commission's Lobster Interstate Plan and at the same time help us compile a database and begin the analyses of the type of recommendations that are made to the Service for lobster regulations, that will be very important and very critical both in the short term and long term so thank you very much.

CHAIRMAN COLVIN: Thank you, Jim. The next item, then, will be a progress report by the Model Development Subcommittee, Mark Gibson.

MR. GIBSON: In your packet of information for the Lobster Board, you have a meeting summary from our inaugural meeting of the Lobster Model Development Subcommittee where we're beginning to look at alternative biological reference points as well as the existing reference point.

In the first section there, the three main tasks are identified, which is an evaluation of the current F 10 policy, which is the operational overfishing definition in the current FMP, how that computation and calculation is done, the so-called EPR model, the elements of it, assumptions that are in it and the calculations that are embodied in that approach.

And then task three is an evaluation of alternative reference points in the associated stock assessment models. Those are the three tasks that we understand are the focus of this Subcommittee.

The Committee agreed that there needs to be an objective set of criteria of which to evaluate the current as well as possible alternative candidates for biological reference points.

Our next series of discussions centered around the terms of reference that were approved at the July Management Board as well as our interpretation of some of those.

The first two are fairly straightforward and all we are saying there is we're going to think out of the box and we're not going to be constrained by the conventional thinking concerning the F 10 policy, overfishing definition policy we have.

We're going to think out of the box in a conceptual mode and consider other possibilities. That shouldn't be too controversial.

Number three, where we talk about using simulated data, that ties back into the task section where we need an objective basis to evaluate alternatives.

And by simulated data we simply mean that we're going to use data that we know the answer already. We know what fishing mortality rates are, we know what biomass levels are, we know what the

catch-size composition is, because we simulate a dataset from known answers.

When we have a simulated dataset in terms of a catch stream, abundance indices, landings at size, we can then apply the assessment models that we want to evaluate and see if they give us the right answer, since we already know the answer.

And that becomes an objective performance basis to some of these new methods. Some of them may be biased and in that case that will fall out when we test them against known simulated datasets.

So that's an important, part and the whole Committee agreed that we need to have that objective basis to evaluate new approaches.

Number four probably doesn't need to be stated but we're going to focus on the terms of reference that the Board approves, so that just goes without saying.

Numbers five and six, I don't have the terms of reference in front of me, and I don't remember exactly what number four and number seven said, but all we're saying is that we clearly, under five, have to provide documentation in the proceedings of our deliberation so it's documented as to how we came to a particular set of conclusions and/or recommendations; that is, that the process is as transparent as it can be so those that aren't at these meetings and participating in the work can see what we did and why we came to the conclusions we did.

Under item six, that falls back into one of the main tasks. We're to review the current F 10 policy but from a hierarchal standpoint; first, the most important, the concept of F 10, whether it's an appropriate overfishing definition and/or threshold combination, threshold-overfishing definition for the species.

Second in priority is the parameter assumptions and inputs that go into the model in its current form. And the third or the lowest priority is to investigate whether or not there are calculation errors, programming missteps, that sort of thing.

So we want to proceed in our F 10 calculation from a hierarchal standpoint from the concept of it and its appropriateness as an overfishing definition for American lobster and then on down to the actual mechanics of how it's calculated and whether there are any areas in the computation.

One of the purposes of the meeting was everybody to meet each other and find out who's doing what at this point and to try to ensure that what people are doing is consistent with the terms of reference and has some likelihood of converging down the road.

So the various parties presented updates on what they had been doing up to this point. Larry Jacobson from the National Marine Fisheries Service, Woods Hole, is following up on one of the recommendations that came out of the original peer review and that was to combine the biological reference point model for American lobster with the assessment model. Currently they're independent.

The F 10 computation from the egg per recruit model is independent of the DeLury model calculation of what current fishing mortality rates are.

So Larry is working on a means to imbed the biological reference point model into the assessment model so that it would become more of a dynamic calculation of egg production per absolute number of recruits in the fishery which are estimated from the assessment model instead of with this theoretical construct that exists now on an equilibrium basis.

And in effect, the eggs per recruit model can be tuned against other information. The eggs per recruit model can spit out projected catch at size distributions and those can be compared and tuned against the actual information that goes into the assessment model.

So it would be nice to have the whole thing under one umbrella so that they both emerge from the same analysis, your biological reference point and your status of the stock as it relates to those reference points.

Vic Crecco from Connecticut DEP is doing some interesting work, which is probably more interesting now in view of the multi-species presentation that some of you saw today here at the Commission's technical workshop.

But he's looking at surplus production of biomass dynamic modeling using covariats; that is, including abundances of predators, incorporating oceanographic variables such as water temperature, to try to get better fits to the production models.

And one of the things we've noticed in production modeling of lobster, when you only use abundance indices and catch data, that we have evidence of what we call "non-stationarity" is lack of fit. There are bursts of production in the historical lobster stock database that don't conform to a single parameter set in terms of just a production model.

But some of this additional variability or mismatch or lack of fit can be explained by some of the predators, changes in the abundance of predators. So he's working on incorporating those with the objective of being able to provide a biological reference point that either is an average for the different suite of

predator conditions and oceanographic events that have existed up to that point or potentially allows the biological reference points to shift over time depending on lobster stock productivity as it's reflected in the oceanographic features or the predator-prey relationships that it's undergoing.

Yong Chen -- he's from the University of Maine -- presented work on calculation of uncertainty around the F 10 estimates. In the past, when you've gotten F 10 estimates, they're simply, you know, just a single number. For Southern New England inshore lobster, it was 0.85 or something like that, with no uncertainty bounds around it.

And he has worked out the methodology by which through Monte Carlo simulation you can estimate the uncertainty or reasonable level of uncertainty around the biological reference point as well as the assessment models which now spit out biological uncertainty around the existing fishing mortality rates.

And he laid out the statistical procedures by which you compare those two distributions, how much they overlap, so that we have some notion of what kind of power we have to detect actual deviations in our existing fishing mortality rates from the target.

And he also presented a proposal, which I understand has been funded now, to developing a more modern and sophisticated stock assessment model which would be a length-based assessment model based on basin assessment procedures whereby prior information on a number of variables and factors which would influence the lobster assessment could be incorporated into a length-based assessment model.

So I understand that has been approved for funding and he'll be continuing on with that work. And I reported on the biomass dynamic modeling that I've been doing in Rhode Island relative to the Rhode Island inshore area and indicated that in the future I would be trying to expand that to a larger area using multiple abundance indices and inshore and offshore catch data.

And that was a recommendation that came out of the second peer review panel. So that's sort of a quick summary as to where we're going, and you can see the commitments that other individuals have made to these areas of work.

We're going to meet again. I guess the next thing we're going to do is have a conference call in the winter to update again on where people are and we'll have periodic meetings and/or calls to see that these parallel lines of work are complementary of one another and we're ultimately trying to get to the same point down the road.

There was considerable discussion about the time line for the

deliverables, and one line of thought was that since the assessment and evaluations of potentially new biological reference points needs a database to work from, that some of the deliverables here should be on a similar time frame as the upgrading of the comprehensive centralized database.

But then there was some other thoughts relative to the scheduling of the Board meetings that are coming up. I don't know if the Board wants to have some discussion about what they think the time line on these deliverables should be.

Ultimately, it's to give you some advice relative to the adequacy of your current biological reference point and where this Committee thinks we could go to improve it.

CHAIRMAN COLVIN: Thank you, Mark. I think there may come a time shortly when the Board needs to do that. There's obviously so much very productive work being done by the Technical Committee and the various subcommittees that perhaps at the next or an upcoming Board meeting some kind of an overview discussion of these activities and where they might converge and how they affect the future of our management program would be in order, but that will be to another chairman to decide.

Let me recognize Geoff White for a report of the Lobster Database Subcommittee.

MR. GEOFFREY G. WHITE: Thank you, Mr. Chairman. The disk that's being handed out to you right now has the product of the work from the Lobster Database Subcommittee on it. You'll be happy to know we chose not to hand out this document which is on the CD.

But that is the product of the subcommittee. Joe Idoine, Kevin Kelley and Bruce Estrella have worked very hard to come together and look at different systems and come to some agreement on what the core data elements should be, looking forward to developing the centralized database.

The document that is on there is really just for your information. It was created for the computer contractor to proceed with the development as stated in the request for proposals. Now if you go into your briefing book documents, there is a five-page request for proposals to continue the development of this database.

Just some of the highlights out of the long document: It does set up standard data storage formats and codes for landings, effort and fisheries-independent trawl surveys. The landings and effort were pulled basically from the standardized ACCSP design.

And the fisheries-independent trawl surveys were offered up by the National Marine Fisheries Service, FSCS, which is the Fisheries

Scientific Computing System, very comprehensive and flexible database designs that can be matched together and paired to hold the information from all the different agencies that go into the raw data sources.

The basis for the socio-economic and trap tag parts of the management system have been written in here and are part of the documentation but will not be part of the original implementation under the first contract.

The reason for that is there are no long-term data sources for that and the actual structures have not been agreed to yet by the subcommittees and so it is just not at a standpoint where it's ready right now. It is something that can be added in the future, though.

In terms of data, they really focused on the core data which is the landings and the fisheries-independent trawl data, abundance indices. That will go into the database from 1981 to the present and then annual updates will follow that.

The choice of years and really focusing on those elements, that's the biggest trouble that the Technical Committee had last time in terms of preparing the data, and the last assessment really focused on the years of 1981 through 1997 or 1998.

So that was the reason for that choice, and there was a fair amount of discussion about that. There will also be additional computer storage space available for ancillary datasets. So just because it's not part of the central oracle database doesn't mean that the Technical Committee can't consider other data sources and store it somewhere that they can come back to it in the future.

They will also store the final approved model run for historical reference. That's something that we haven't had in the past and was one of the recommendations coming out of the last peer review.

The other really exciting part, from a computer standpoint, is we've got a written documentation of what happens through the entire process of preparing the data for the stock assessment. There's several raw reports that have been identified to present the data, including where there are gaps in the month and area designators and where unknown data needs to be filled in.

That filling and interpretation will not be done by the computer. That will be done by humans, by the Technical Committee and Stock Assessment Subcommittee.

But once that has been filled, the filled data tables will go back into the computer for storage and it's going to compare the originals to the filled and we'll make sure that they get

documented as to why, so we will know going on into the future how those changes were made.

From there, it does use the designated stock areas and growth equations plugged in by the appropriate people to develop the catch at length matrix by sex and stock area, et cetera.

That catch matrix is the end points, really, of the centralized data management system. That catch matrix is also the beginning point for basically whichever assessment model is chosen to be used. So it's really a point to get up to the data inputs for whatever model the Modeling Subcommittee ends up deciding upon.

If a different catch matrix or different preparation reports are necessary, we can obviously modify what we have or come up with what they need to support it, but the raw data storage formats is really the biggest part of agreement that the subcommittee has worked on with this.

So that's why the document is so thick. And that's pretty exciting from that standpoint. The part that I think the Board will be a little bit more in tune with today is an estimate of the time line and the process under which the development is going to occur.

Within that, the request for proposals that you have in your briefing books was posted to the Commission's website on October 1. We've gotten a fair amount of response and interest on it, and proposals are due October 19.

The Subcommittee and Heather and myself will be reviewing the proposals and coming up with a recommendation. Stepping out into how it's going to actually occur, on page 5 of the RFP it has kind of a four-phase development process. The Commission has funds to be spent by the end of this year to complete Phase 1.

The contractor will be working with staff and the Technical Committee to kind of revise and fill in any holes and make sure that they know and have all of the requirements that the need to go ahead and build the database design.

So that part should be complete and will be interactive with the Technical Committee until the end of December. The next step, Phase 2 is really the database design and the data transformation, the historical data from '81 up to the present.

That we've sent a proposal to ACCSP, which went in August 1. It was reviewed and the recommendation has gone to the Coordinating Council to fund that. If the Coordinating Council follows the recommendation from the Operations Committee and the additional \$1.5 million that the ACCSP is expecting comes through, then the

Lobster Database will be funded and we'll be able to follow the time schedule.

That money would come through in March of 2002, and the database would be basically built by the contractor between March '02 to March '03. Staff will be receiving training and will work with the contractor and the Technical Committee to develop the data management system and migrate the data into it.

The plan is to support the next lobster assessment in time with what the Board has requested, which is probably mid- to late-2003. And so that's the update from the Database Subcommittee.

CHAIRMAN COLVIN: Thank you, Geoff. Any brief questions? Okay, once again, you know, an enormous amount of progress is being made and the more I hear the more I agree with Mark Gibson's recommendation that at an upcoming meeting the Board should spend some time to give greater consideration of thought to the meaning of all this and where it will take us and its significance to the future of our management program. Thank you.

MR. ADLER: Mr. Chairman.

CHAIRMAN COLVIN: Bill.

MR. ADLER: I didn't know what the appropriate time this would be and we moved so quickly through the Technical Committee report, I wanted to actually go back very briefly to the technical report and just correct something that was on page 6.

CHAIRMAN COLVIN; Go ahead, Bill.

MR. ADLER: Can I do that?

CHAIRMAN COLVIN: Would you be specific as to what document you're referring to.

MR. ADLER: Okay, it is the Supplemental Report, Revised LCMT Management Proposal for American Lobster, October 2. Okay, page 6, there was a misconception here apparently and I just wanted to correct it for the record. Down like the second paragraph from the top, "comments by Bruce Estrella" and this particular comment refers to the fact that the Massachusetts lobstermen will not support the 100 percent v-notch requirement.

I just want to correct that. What was said there was that the President of the Massachusetts Lobstermen's Association was worried that it would be hard to get the 100 percent v-notching and so he was proposing a plan which was to be developed as a backup plan for Massachusetts to comply with the 100 percent v-notch.

And it was a plan that would kick in for Massachusetts' people that would make sure that it did its part in the 100 percent. And so it must have been misconstrued that the fishermen down there would not support it.

That wasn't it. He was worried about getting up to it and he was making a proposal. That was not in here, and I just wanted to correct this for the record.

CHAIRMAN COLVIN: Bill, thank you. The record will be clear on the issue. Let me also make it clear that the text to which you referred was text that was verbatim, supplied by the individual to which it was ascribed. It was not written by ASMFC staff.

MR. ADLER: I understand that, sir.

CHAIRMAN COLVIN: Thank you. Let us move on, then, to Item 7, review and approval of the draft Addendum III. Heather.

MS. STIRRATT: In July of 2001 this body directed staff to begin development of Addendum III. The content of this document was determined by the Board during discussion and subsequent approval of the seven LCMT proposals and the elements that were approved at that time.

Staff has drafted this document in accordance with the Board's directives and has also asked the Plan Review Team to review an earlier draft which just happened to be absent of the revised Area 1 and the Outer Cape elements as those were to be discussed at this Board meeting.

Before I begin to walk you through it, I just want to note a few things that should be highlighted throughout the document, the first of which is, again, the Area 1 provisions have been inserted in the draft that you have in front of you.

In other words, the reference to the two-inch escape vent increase, that has been inserted in the document because it was available to me before this document was distributed.

The Outer Cape elements, which would be in reference to the 20 percent reduction in traps, that has not been included, but following today's discussion it will be included in this draft.

I should also note that there is a compliance schedule throughout this document which defines the calendar year for 2001 to be through December 31 of this year. That is a consistent definition with the definition provided in Addendum II.

For the other years, 2002 through 2008, staff fully recognizes

that there have been some difficulties with an openended definition of a calendar year, and as such I asked the PRT to make recommendations as to what a deadline for implementation would be.

There were two separate responses to that. Clare McBane provided a suggestion of January 1st of each year. I also received a suggestion from Bob Ross which would be July 1st of each year. In the draft I have inserted July. I personally do not have a preference.

I bring it to your attention because at the time that this was distributed, I only had Bob Ross' comments. So if you prefer January 1st, it can certainly be changed. I just put it in there for the purposes of the recommendations that I had at that time.

Okay, what I'd like to do is just start to walk you through the document, refresh your memory. Section 1 is an introductory section. It basically walks the public and anyone who may be interested in this document through why we have this addendum.

Section 2 begins to get into the area-by-area management specifications. It starts off with Section 2.1.1 which deals with Area 1. Area 1 has proposed a vent size increase which would be initiated in 2007.

That would be an "if necessary" provision. In addition to that, Area 1 has also suggested a zero tolerance definition of v-notching and mandatory v-notching requirements.

Area 2, which is found in Section 2.1.2, has suggested mandatory v-notching. I'm sorry, correction -- Area 3, which is found in Section 2.1.2, has suggested mandatory v-notching above the 42 degree, 30 minute latitude line.

They have also suggested an overlap boundary between Areas 3 and 5. You will note that there is highlighted text there because at the point of distribution I did not have the exact coordinates. I do have those. If Board members wish, I can divulge that information today.

Area 3 has also suggested a "choose-and-use provision." Information has been included in here consistent with the Area proposal.

Area 4, which is found in Section 2.1.3, consists of a minimum gauge size increase which would start either in 2001, according to the schedule listed in the box which includes the text, or in 2002. It will be the decision of the Area as to what schedule works best for them.

They have also proposed a maximum gauge size. That would be, if

necessary, following the next stock assessment, they would institute a maximum gauge size in 2002.

For Area 5, which is found on page 5, Section 2.1.4, they have suggested a minimum gauge size increase, again, in accordance with two separate schedules, whichever meets their needs best.

They have also proposed an "if necessary" maximum gauge size which would be implemented in 2004, and they have also suggested that there be a vessel upgrade limit.

This would be a little bit more restrictive than what's required under the provisions of Amendment 3 and Addendum I, limited to a 10 percent increase in length and 20 percent increase in horsepower.

In Area 6, which is Section 2.1.5, there is a minimum gauge size increase. That would occur in 2004 and 2005. There is a minimum escape vent size increase which would occur in 2006. And, again, throughout this entire document you will see references to the July 1st deadline but, again, that's up for discussion.

In Section 2.1.6 we deal with the Outer Cape Lobster Management Area. They have proposed a minimum gauge size increase. Again, in this section, I have not included the trap reduction program and that will have to be added following today's discussion.

It's highlighted text in this document because at the time I was referring to the previous proposal, and that will need to be updated.

And, finally, in Section 3 we have recommendations for actions in federal waters. Again, this is just to be consistent with all of our fishery management plans. We will ask the National Marine Fisheries Service to implement all provisions of Section 2.1 to be consistent in the EEZ.

And then Section 4 gets into a compliance schedule. I should note that the compliance schedule, according to Addendum II, is to have Addendum III approved and ready for state implementation by January 1, 2002.

So, that probably raises some hairs on the back of the state managers' necks in that that means that following this meeting, if you all can approve this document contingent upon the added elements that were discussed here earlier, that I would have to go immediately to public hearing, hold the public hearings for 30 days, allow two weeks after the last public hearing to compile all of the comments, hold a Board meeting outside of meeting week, the first week of December, and this document would hopefully be finalized and approved at that time, based upon the review of the

comments provided during the public hearing phase, and then Board members would have ultimately what boils down to about three weeks to get these regulations ready to go. Mr. Chairman, that concludes my review of Addendum III.

CHAIRMAN COLVIN: Thank you. The action before the Board is approval of the addendum for public hearing purposes. Is there discussion? John Nelson.

MR. NELSON: Thank you, Mr. Chairman. I know Heather probably addressed this in her last comments but when she went through the Area 1, 2.1.1, we didn't note "to be modified as by today's action", and I just want to make sure that we have got that in there.

As far as the issue on July, as far as deadline for implementing regulations in all the years from 2002 through '04, well, we suggested January, and the reason we did was because our licenses run on a calendar year.

I suspect that there will be a lot of problems if we have a gauge change in the middle of a fishing year, so I'm throwing it out for people to consider and see if they agree with me. If they don't, hey, it won't be the first time, nor the last.

CHAIRMAN COLVIN: Can I just ask a question about this because I'm trying to conceptualize. If we've been operating up until now on a year that's based on a date, that means that implementing a measure any time up to December 31st of that year is in compliance, and then we switch over to a year that any time in that year ending January 1st is in compliance, haven't we accelerated the implementation of all plan elements by a year? That was my sense of it, how it would work out mechanically. I just wonder if I've missed something somewhere.

MS. STIRRATT: I don't think you're wrong.

CHAIRMAN COLVIN: Even if we move it to July 1st, we've accelerated it by five months, unless I'm wrong somewhere. John.

MR. NELSON: Well, Mr. Chairman, would it be, then, that the first year should be by December 31, 2002 and the remaining years -- I don't know, could they be by six months?

CHAIRMAN COLVIN: I think it has the same effect.

MR. NELSON: It does? Yes, all right.

CHAIRMAN COLVIN: Gil.

MR. POPE: Thank you, Gordon. I think you have to go back to the

original reason as to why it was probably January 31st and for some reason it got delayed back to December 31st. There was some kind of problem there.

CHAIRMAN COLVIN: I guess the point is what is before us is a document prepared by staff and the PRT that has certain dates specified therein, most of which are July 1st, for the various measures to be implemented.

What I would be looking for at this time is a motion with respect to that addendum which could then be subject to amendment if folks wanted to substitute other dates. George.

MR. LAPOINTE: An amendment to approve the addendum for public hearing?

CHAIRMAN COLVIN: That is correct.

MR. LAPOINTE: Mr. Chairman, I would like to move the approval of Addendum III to Amendment 3 to the Interstate Fisheries Management Plan for American Lobster to go to public hearing.

CHAIRMAN COLVIN: And I would ask does that not include subject to the motions passed previously with respect to Area 1 and Outer Cape.

MR. LAPOINTE: With the inclusion of the motions on Area 1 and Area 3 for finalizing their plans as we approved previously. I haven't thought enough about the January date, but I think -- I mean the July date -- I would think that we should make the compliance schedule -- Heather, when's our first meeting -- this isn't part of the motion, Tina -- when's our first meeting in 2002?

MS. STIRRATT: February.

MR. LAPOINTE: It strikes me that -- well, I'm going to make it right now for March 1, 2002, just so we can start discussing it. And if I get a second, I'll talk about that specific issue.

CHAIRMAN COLVIN: Is there a second to the motion? Bill.

MR. ADLER: I'll second.

MR. LAPOINTE: If I may, Mr. Chairman, it strikes me that the January 1 deadline sounded great when we started this process and now just isn't reasonable. Heather would have to -- we would all have to get public hearings scheduled within like three weeks.

We like to give four weeks' notice on public hearings. I know the Commission does, too. It would require that following the public

hearings staff would have to compile comments in very short order, and this Board would need to meet as a solo meeting in December, and it strikes me that that is an unrealistic prospect.

CHAIRMAN COLVIN: So the effect of the motion, then, if I understood it, is to defer those dates which are specified in the staff draft as January 1, '02 to 3/1/02?

MR. LAPOINTE: That's my intention. And in discussion with other Board members and staff, I'm flexible on that exact date, but it strikes me that it's a more realistic schedule than January 1st.

CHAIRMAN COLVIN: Okay, and the other compliance dates remain, for the moment at least, as they are suggested in the staff draft?

MR. LAPOINTE: That's correct.

CHAIRMAN COLVIN: Okay, that's clear to the seconder as well I assume. Ernie Beckwith.

MR. BECKWITH: Yes, thank you, Mr. Chairman, just a couple of comments. The first comment is on the Area 6 plan. And, Heather, the way it's written here -- and I don't have the original plan that we had submitted and was approved by the Board, but we had some more detail in there.

I think in '06 we had a couple of other options that weren't captured here. I don't know why, but I'd like to leave it open so that we could talk about this and perhaps make some minor adjustments, if it's needed.

MS. STIRRATT: Ernie, unfortunately, I don't have the original plan in front of me either, but what I do recall from the last Board meeting was that there were two schedules provided by Area 6.

One of those schedules, -- I think it was Path 1 and Path 2, although I can't recall -- one of those schedules was approved by the Technical Committee as meeting what it needed to do according to the egg rebuilding schedule.

The other was not, and so what is reflected in Addendum III is the result of the TAC that was approved by the Technical Committee at that time.

MR. BECKWITH: Okay, I had forgotten that that happened. I'd just like to check back with you after the meeting and just make sure everything is the way it should be.

MS. STIRRATT: Absolutely.

MR. BECKWITH: And the other comment I have -- and I was just looking through the plan, and there are at least two areas here that have options that are supposed to go into place in '01, for instance, Area 4 and Area 5 gauge increases, and how do we deal with that in this addendum when it's not going to be approved probably until after '02?

CHAIRMAN COLVIN: I can speak for the New York side of Area 4. There's a 2001 start-up option and there's a 2002 option. We are into the 2002 start-up option mode in New York. Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. I have several discussion points relative to this motion. Let me just take the first. On page 5 on 2.1.4.3, there is a vessel upgrade provision. I thought our report of LCM 5 reflected the opinion that this should be dropped.

The reason for this is originally this upgrade provision was supported by Area 3, 4 and 5. It subsequently was indicated, I believe by the federal service, that they would not be able to implement this and therefore that provision was dropped from Area 3 and 4.

The way this now reads, the only area that would have a vessel restriction would be Area 5; that is, the states of New Jersey, Maryland and Virginia, which have an active fishery, would be restricted in vessel upgrades and there would be no other provisions for any other area.

But I know from conversations with our LCMT members, that they now oppose this because of the impact that would occur in part, certainly in the part of the southern fishery.

If in fact our LCM 5 report didn't reflect this, we could take this to public hearing, but I'm quite certain this will be rejected. I'm not certain, Heather, if that was in the report or not.

If it is, I would suggest we just leave that out; and if we didn't have it in the report, we'll take it to public hearing, but I suspect there will be negative comment on this aspect.

MS. STIRRATT: Bruce, I'm fairly certain, almost positive 100 percent, that it was in your report as an option that was supported by LCMT 4, Area 5.

MR. FREEMAN: Five.

MS. STIRRATT: And just a note of clarification, there is a limit on vessel upgrades which has been imposed in Area 3. It's a little bit different than what you have proposed for Area 5, and

that's why I said it is certainly more restrictive than what we have on the books to date.

What is on the books for Area 3 is the following: "It shall be unlawful for a vessel over 50 feet in length or upgrading over 50 feet in length, receiving an Area 3 trap allocation to upgrade and/or replace their vessel by more than 10 percent increase in length overall, nor 20 percent increase in propeller horsepower for two years from January 1, 2000 through December 31, 2000. So that does exist or did exist on the books. And certainly, Area 5 wouldn't be the only area working in that.

MR. FREEMAN: Now that would be for the Commission. As I understand, that was commented against by the Service. Then if in fact the Service does make a change to comply with what we're requesting, we would have no difficulty as long as everybody is subjected to that.

So, we in New Jersey could go back and make that modification, but then the states would be compelled to adhere to that; and if the federal agency wouldn't, it would make it a little complicated.

Let me deal with another issue; I think we can handle that. That is dealing with the recreational dive fishery that exists off the middle Atlantic area. One of the major reasons for this dive fishery is for those people engaged in this -- and there is a substantial number -- to catch a very large lobster -- that seems to be their major goal -- with a maximum size, would prevent that from occurring, which would then greatly diminish the reason for that activity.

It's our understanding that the number of lobsters in excess of either 5-1/4 or 5-1/2 inches is relatively small, probably amounting to no more than a few hundred lobster in any one year. There have been letters sent to us, and I believe there have been letters sent to the Commission by the dive industry objecting to a maximum size for their activity.

We've been involved almost entirely with this plan looking at the commercial side and really have not spent any time looking at the recreational implications. This group of recreational divers have no difficulty supporting the increase in gauge of the smaller size, but this larger size limit would have tremendous implications.

CHAIRMAN COLVIN: Bruce, I think that the area management size limits are applicable to commercial and not to recreational fisheries. Are these lobsters sold?

MR. FREEMAN: No.

CHAIRMAN COLVIN: Then I'm not sure there's an issue there. There shouldn't be.

MR. FREEMAN: We're certain that it only applies to the commercial side? If it does, then fine. If it doesn't, then -- I would suggest, though, Mr. Chairman, that those states that have an involvement monitor that because I suspect at some time the question will be asked what is the harvest of lobsters in excess of some maximum size, and at the present time we don't have that information.

But those vessels do keep logs and I think it would be reasonable to request that they include in their log reports the number of lobsters in excess of some minimum size.

CHAIRMAN COLVIN: We're flipping through documents here. Are you suggesting an amendment to the motion?

MR. FREEMAN: Well, at this time, as long as it deals only with the commercial, then I think --

CHAIRMAN COLVIN: I refer you to the title of Section 2.1, "Measures applicable to Commercial Fishing and Lobster Management Areas."

MR. FREEMAN: All right, because in our opinion it hasn't been clear, but if that's the determination, then it takes care of it.

CHAIRMAN COLVIN: Well, that's as clear as it gets.

MR. FREEMAN: Okay, good.

CHAIRMAN COLVIN: If we need to make it clearer at public hearing, that will be up to who holds the hearings.

MR. FREEMAN: But I would suggest that we look at the issue of trying to get more detailed records of that harvest because the issue will probably be raised in the future.

CHAIRMAN COLVIN: Okay, anything else? Ernie.

MR. BECKWITH: This comes under the category of "Oops, I didn't know." Thank you for pointing it out that the title says, "Measures applicable to Commercial Fishing."

I was under the impression that if we're going to do gauge increases, it would apply across the board to all lobsters in our waters, whether they're taken recreationally or commercially. That raises the issue, do we need to deal with the recreational fishery?

CHAIRMAN COLVIN: Discussion on the motion, please? Mark.

MR. GIBSON: Heather, could you just state again what the Board's schedule upcoming is for the February meeting?

MS. STIRRATT: Sure. There's a February -- Bob may have to jump in or someone -- there's a February, I think a May, an August and a December meeting next year.

MR. GIBSON: All right, so this motion effectively precludes any Board evaluation of states' progress in February.

CHAIRMAN COLVIN: On the motion? Jim.

MR. FAIR: I'd like to speak in favor of George's motion if the states need a little extra time this year and the Board needs a little extra time to do their business.

I would be totally opposed to going to any kind of a July implementation date for any of these measures, especially things like gauge increases and vent increases. To do that in the middle of the season would be very difficult and costly.

I think it's much better to do these things in the dead of winter and publicize them and let people get ready for the upcoming season than to do it in the middle of a season.

So I think as far as this year goes, if we need a little extra time, that's fine, but I wouldn't want to accelerate the whole program by six months by coming right behind these measure with additional measures in July.

CHAIRMAN COLVIN: Further discussion? Ready for the question? May I ask the mover to read the question.

MR. LAPOINTE: Certainly. Move approval of Addendum III to Amendment 3 to the American Lobster Management Plan -- should say Fisheries Management Plan -- as revised today, including revisions to the Area 1 and Outer Cape Lobster Management Area Management Program for public hearing and modifying the January 1, 2002, compliance date to March 1, 2002.

CHAIRMAN COLVIN: Take a minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN COLVIN: Ready to vote? All in favor, please signify by raising your right hand; opposed, same sign; abstentions; null vote. The motion carries.

That concludes agenda item number 7. We will now proceed to

discussion of Item 8, which is the draft of Amendment 4. I'm going to recognize Heather for a discussion and review of the comments received on the draft amendment.

MS. STIRRATT: Okay, starting with what was distributed, you should have received on your CD-rom a copy of the draft amendment.

Just to refresh your memory, this amendment considers allowing conservation equivalency for two primary elements in Amendment 3, those being the provisions which prohibit the possession of v-notched females and the provisions which apply to the non-trap gear limits.

That would be the 100/500 rule under Amendment 3. Currently there is no consideration of conservation equivalencies for these two elements.

Draft Amendment 4, which you have before you, if approved, will allow for conservation equivalencies to be considered for these two elements. The examples that have been provided in Draft Amendment 4 are specific to Outer Cape Cod and the state of Rhode Island; however, it needs to be understood that if Draft Amendment 4 is approved, that any state or any interested party could go to their state and request conservation equivalency to these two elements under Amendment 3.

So, with that said, I would just like to go over the public hearings that were held. There were a series of public hearings held between the dates of September 1st and September 29th.

The first public hearing that was held was held in Portland, Maine. There was pretty good attendance at that meeting. I think it's fair to say that the state of Maine spoke with one voice, yet again. This is the second round of public hearings on this draft document.

And there was very strong opposition to moving forward with Draft Amendment 4 on any level. I have also been in receipt, it is fair to say, of substantial written comment from lobstermen in Maine.

You have received verbatim copies of all of the letters that were received by staff, with one exception and that is the first letter that is received by you that is being handed out now. In the packet is a copy of 168 of those letters received by staff, which I have up here if you all want to take a look at, which speak in opposition to Draft Amendment 4 moving forward.

And I would note that that is on both issues, including the prohibition of possession of v-notched females and the non-trap gear limits. They would prefer that no conservation equivalency be considered at this time.

The second hearing that was held was in Ellsworth, Maine. And, again, there was no differing opinion from that meeting from the Portland meeting. I would just note that, again, there was strong opposition to both elements in Draft Amendment 4, and therefore there is a recommendation that we not proceed with consideration of that draft amendment.

The third hearing was held on the 10th of September in Sandwich, Massachusetts. The results of this hearing were mixed. We had some individuals that were in support of moving forward, certainly, with conservation equivalency consideration, and others that would be more in favor of opposing that perspective.

And so I can only offer that there was a mixed pot of comments offered on Draft Amendment 4 from the public hearing which was held in Maine. You should have all of the verbatim comments in front of you.

And if you have questions, again, I'll be happy to try to answer those or defer to the state personnel which were in attendance at those meetings.

The fourth hearing that was held was held in New Jersey. This hearing was inconclusive in terms of providing substantive comments on Draft Amendment 4. There were comments that were offered; however, they were not specific to the elements considered at this time under public hearing process. So, again, you should have copies of the comments that were offered and they were not specific to Draft Amendment 4.

And the fifth hearing that was held was held in Narraganset, Rhode Island, on September 5. This hearing resulted in support for Draft Amendment 4. Primarily the discussion focused on the non-trap gear limits and conservation equivalency consideration for that element in Draft Amendment 4.

I think it is fair to say that in general there is support in Rhode Island to move forward with consideration of this document.

In addition to that, I just want to note that in addition to the first letter of the packet that I mentioned before with reference to the 168 form letters that were received by staff, there are numerous other letters that were received by staff from a variety of interest groups, primarily from fishermen in Maine, but also from sport divers in the state of New Jersey and other interested parties. And if you have questions, I'd be happy to answer those.

CHAIRMAN COLVIN: Thank you, Heather. Are there any questions about the public hearings or the public comment received? Very well. The issue before the Board, then, is action with respect to Amendment 4. A draft of the amendment is in the packet.

The Chair will recognize any member for the purpose of discussing or taking action on the amendment. Are you ready to move to the next -- I didn't think so.

MR. FAIR: Mr. Chairman, for purposes of discussion, I would move that we accept Amendment 4 as presented.

MR. GIBSON: Second.

CHAIRMAN COLVIN: It's been a while since we've done a real management plan amendment. We've done a lot of addendums, but I think the procedure at this point is that this Board is to recommend that the ISFMP Policy Board accept the amendment and recommend to the Commission its approval, and I think that's what the motion needs to reflect to be consistent with the intent of the mover. Discussion on the motion? George.

MR. LAPOINTE: Mr. Chairman, I am going to speak again in opposition to Amendment 4, as we've done in the past. The state of Maine has opposed and will continue to oppose an expansion of non-trap harvest of lobsters.

And on the v-notch conservation equivalency, we have opposed it in the past because of the concern that it reduces the effectiveness of the v-notch program that has been in place for Maine for a long time and is now embodied in the LCMT 1 approach. I think that is the wrong way for this Commission to go. Thanks.

MR. WHITE: I, again, also would like to speak against this. It was my understanding quite a while back that this was the cornerstone of Amendment 3, that these were two immovable objects that are now moving.

The v-notch program, if allowed to have a conservation equivalency, in my mind would be just allowing people to live off the sacrifices of others. And the 100/500 mobile gear allocation, if you will, was the result of a long, long standing, I mean, quite a few years of negotiations and compromise, and I think it would be unfortunate to have to start that deliberation all over again.

CHAIRMAN COLVIN: Joe.

COL. JOSEPH FESSENDEN: I would like to go on record for the Law Enforcement Committee that this conservation equivalency adds to the enforcement nightmare for us to enforce different plans within a state and certainly Massachusetts -- I've talked to the officers down there -- are concerned about this.

We have a quarter-inch v-notch provision in Massachusetts for all fishermen, and this exception right here would create a loophole

for the Outer Cape fishermen. It certainly impacts law enforcement and compliance throughout the industry. So, as a law enforcement officer, I think it's a big mistake.

CHAIRMAN COLVIN: Further discussion? Yes, David.

MR. SPENCER: Thank you, Mr. Chairman. If I could, it seems timely that I just review the Advisory Panel's feeling on this, and it boils down into three sections.

They were in favor of conservational equivalency as a concept. They were not in favor of the specifics of Amendment 4 and had very strong concerns about the conservational equivalency process under ASMFC. Thank you.

CHAIRMAN COLVIN: Yes, sir.

MR. CARTER: As chairman of LCMT Area 1 whose plan is based on v-notching and bordering the Outer Cape, it would undermine the existence of the people fishing on the line; and as well as being a fisherman in Maine who has been v-notching for 75 years or so, there wouldn't be a fishery. They wouldn't be catching v-notch lobsters if we hadn't already caught them and released them. It does not make sense to me. Thank you.

CHAIRMAN COLVIN: Mark.

MR. GIBSON: I would say I hope any states that are opposed to otter trawling or mobile gear fishing on lobsters, I hope you won't start if this amendment passes because all we're asking for is that Rhode Island get an opportunity to decide how to allocate the lobsters in the state's territorial waters as we see fit.

We're not asking anybody else to do anything that they don't want to do. We hope you'll allow us that discretion within our state's waters. Thank you.

CHAIRMAN COLVIN: Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman, just a summary of the concerns that New Jersey expressed. First of all, none of our lobstermen, some of which had fished for over 20 years, have ever seen a v-notched lobster. Most of them didn't even know what it meant and asked for an explanation.

But there was some concern relative to that particular area, if in fact there needed to be a maximum size, it would apply to both males and females and therefore no need to v-notch.

And then the other issue is in warmer waters, does the act of v-notching actually create a problem where pathogens now will be

introduced and you'll start to see mortalities.

In areas where you have colder water, I suspect that's not a problem because it has been practiced, but the issue is in more southern areas, what will this do to the incidental mortality of lobster; and, again, whether in fact there should just be a maximum size and there would be no need to v-notch if that were the case. So there really wasn't much interest in that the fishermen didn't see an application.

CHAIRMAN COLVIN: Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. I'm going to oppose this motion, and my concern here is basically having to do with the non-trap 100/500 rule. I don't want to go into the litany, which would take us into the lobsterbake tonight, so with regard to why it was put where it was, when it was put where it was, it was a long process.

And part of it had to do with discussions for the good of the lobster. Part of it was to stop any further requirement by non-trap lobster fishermen from having to do effort reduction and on and on. So, I am opposed to that section being moved into conservation equivalency, and I will not prolong this discussion but I am opposed to it for that reason. Thank you.

CHAIRMAN COLVIN: Jim.

MR. FAIR: I'd just like to say that the specifics of these proposals are not before us, just the opportunity for the fishermen in these two areas to propose a plan that might be equivalent to these measures.

Most of the folks that we had at our public hearing that were nervous about this concept were obviously in favor of area-based management and thought that as long as the measures were indeed equivalent, then our position wouldn't be as vociferous.

I think the bottom line here, obviously, we originally proposed this to the fishermen in the Outer Cape as a way to use the ASFMC process instead of seeking some other route that was problematic. This was the only option available to them.

We assisted them with this process, and we still think that they should have the option of proposing something. Given what we've done here today, I'm not sure that equivalency is possible, but I think they should have the option to propose something and have it evaluated through the system. That is the spirit of area-based management as opposed to what some people have said. This is indeed the bottom line.

CHAIRMAN COLVIN: Further discussion? Gil.

MR. POPE: Thank you, Gordon. As I've spoken earlier for probably the last couple of years, I'm in favor of this basically from what I would consider to be an equality point of view.

I see it as one group of fishermen coming into a meeting and saying, "You will be limited and I won't" as to the number of lobsters that can be brought in.

Two boats, side-by-side, one of them fishing with one type of gear and another with another, one is allowed to bring in whatever he catches that day as long as it's the correct length; the other cannot. The other is limited to 100.

So, if there were a conservation involved in this where it showed some type of conservation, especially since it's only 1.6 percent of the landings or whatever it is, then I would say, yes, it's a needed provision. I have yet to be convinced of it and see it as something other than conservation.

And by putting it in the area of the current plan that it's in, 3.1.7, the other provisions all deal with parts of lobsters, all deal with egg bearing lobsters and so on, and the last provision in there deals with fishermen and one type of fishermen versus another type of fishermen rather than type of lobster and one rule that works for all as far as possession limits.

So, again, I've said all this before and I wanted to say it one more time. And in that packet of letters that I was given there was one letter that was for it by a Miss Maggie Raymond from the state of Maine and she wrote in support of it.

And I guess she represents 28 fishing vessels with Associated Fisheries of Maine. So, there are people in all the states, some that are for and some that are against. But I do not see this as a conservation measure. Thank you very much.

CHAIRMAN COLVIN: John Connell.

MR. JOHN W. CONNELL: I'm not going to belabor the issue. I think Gil brought up some very good points. I'm certainly not going to repeat them. I support them and I would like to call the question.

CHAIRMAN COLVIN: Before we take the question, the Chair will ask whether there are members of the audience who wish to address this issue? Yes, please come up, sir. Please identify yourself.

MR. DAVID COUSENS: My name is David Cousens. I'm a lobsterman from South Thomaston, Maine. I'm President of the Maine Lobstermen's Association, and I was involved in the non-trap

tagging discussion that went on years ago. I'll speak to that first.

There are definite conservation benefits for not having otter trawls harvesting lobsters. The only place in the world that allows any dragging for lobsters is south of Maine down to the Mid-Atlantic and that's it.

Every other lobster fishery in the world prohibits dragging as a method of harvest, and there's reasons for that, and I'm not going to go into all of them now but they're pretty obvious.

This discussion was -- we were told by the New England Council to come up with an agreement that would please everyone. The mobile gear fishermen went into this not willing to even think about negotiating. They wanted 50,000 pounds and they didn't negotiate for about four meetings. They sat there.

Consequently, the New England Council could not come up with a clearcut decision, so it went to Congress. And what you got, we weren't happy with because we wanted zero; they weren't happy with because they wanted unlimited.

But it was the fairest thing to happen. And if you open that up now, that can of worms, you will never see the end of it. I mean, you'll have meetings forever on it.

I can't have a codfish with my lobster trap but no one seems to worry about that. I mean, you want to talk about "fair and equity." You know, Rhode Island is worried about their fishermen dragging for lobsters.

If they're that worried about the guys going lobstering, then let them go lobstering with lobster traps. If they've got a federal permit to harvest lobsters, then they can use the trap fishery.

They're out there supposedly fishing with otter trawls for fish, not lobsters. Lobsters are bycatch and we have accommodated that bycatch with the 100/500.

On the v-notch proposal, there is no conservation equivalency for v-notch. I've been involved in this probably since 1980. And, there's a guy behind me that's going to speak after I am, I'm sure, that's been involved with it a lot longer than I have.

I was at a symposium or meeting of the Canadians this July, along with John Carter. The Canadians have finally come on board with v-notch and mandatory v-notch with zero tolerance, so now we have pretty much the Gulf of Maine in the loop.

We have LFA 34, which is the biggest lobster producing area in Canada; we have Maine, Area 1; and now we have Area 3. Also, I

believe Rhode Island, with their oil disaster, is putting 1.2 million lobsters back that are v-notched to help bring the resource back.

So v-notching, they may not see them in New Jersey, but they probably haven't looked for it either. But v-notching now is a continuous loop in the Gulf of Maine. Everyone's doing it. And if you want to let one little segment reap an economic benefit on everyone's conservation effort, then you would approve this.

But if you approve this, I'll tell you, you're going to have a war on your hands, with not just Maine but with everyone. It does not make sense to take a lobster that people have put in there. This is a mechanism for allowing lobsters to get to the maximum size, a v-notch.

In the last three days I have thrown back over 500 v-notched lobsters and renotched everything that needed to be renotched. I'm not the only one doing it. Everyone's doing it. We've been doing it for years. It works.

This is a way of one group of fishermen to reap a benefit on everyone else's resource and it's not right. We saw a presentation from Susan Watty, who I don't know if you guys are familiar with, but she works with DFO in Canada.

One five-inch maximum size lobster is equal to 27 just legal size lobsters in egg production; 1:27. There is no way you can make that up. If you take five, say, four- or five-inch lobsters that are v-notched, you'd have to put 125 or 130 back. I don't think they're talking about doing that.

So, it really does not make sense. And Dave Spencer is right, the Advisory Council is made up of fishermen all up and down through the LCMTs, and everyone agrees that these are two cornerstones that should not be messed with. Thank you.

CHAIRMAN COLVIN: Thank you. Yes, sir.

MR. ED BLACKMORE: Ed Blackmore, a Maine lobsterman, member of the New England Fishery Management Council during the mid and late '80s, 17 years as President of the Maine Lobstermen's Association.

I can't believe that I'm here defending the v-notch proposal today. It's like defending the ten commandments, which we all know don't need any defense.

So if this passes, Amendment 4, it's going to create a serious negative impact on the lobster fishery. There will be people who will try to circumvent the measure, who will try to bring lobsters from one area where these lobsters are illegal to an area that is

legal to possess these lobsters.

It's, as David has said, you know, it's a case of one group having a license to steal from another group. To look at it in another context, this would affect the people who are already v-notching.

It doesn't give them much incentive to, in a manner of speaking, pump water into a bucket that's got a hole in it, and that hole is going to get larger and larger because people will get more clever about thinking up ways to do this.

You may think that Maine lobstermen, they don't mind accepting conservation measures, doing all this, that and the other thing for conservation, and you'd be right. We've done it time and time and time again.

All we ask is that the other people in this resource practice the conservation measures that would sustain the resource. We want to keep this resource. We want to keep it healthy, but we don't want to support conservation equivalency.

For my part, conservation equivalency is just two words. We call those "unregulated greed." That's the words they're using, unregulated greed as conservation equivalency. That's not acceptable.

We can't manage this resource in a healthy, productive manner if we go that route. I also agree with David about the dragged lobsters. This is something that hasn't been done in Maine. It hasn't been done anywhere except in areas south of Maine.

The greed that has surfaced here, I really can't believe. I've chased this so-called "v-notch dog" a long, long ways. When I was on the New England Council, I brought this to the Council. I managed to get it into the Lobster Committee; from the Committee to the Full Council voting on the proposal at a meeting in Mystic, Connecticut, and succeeded putting it in the Federal Plan; not covering everything. Then it wasn't really what we needed but it was a place to go, a start.

I'm certain that the motto for these people who possess this kind of greed is "on my honor I'll do my best to help myself and to hell with the rest." Thank you.

CHAIRMAN COLVIN: Thank you. Are there any other comments? Yes, sir.

MR. BILL ANDERSON: I will be as brief as possible. I'm Bill Anderson from Trescott, Maine. I've written to you on this subject a number of times.

My concern is allowing one area to present a management plan that is going to undermine the efforts of the management plans in all other areas. V-notching is the cornerstone of the management plan in our area.

The reason it is the cornerstone of the management plan in our area is because where I am I do not catch any lobsters under 3-1/2 inches that carry eggs, maybe one a year. All of the lobsters in the area are large lobsters, over two pounds in size, and that's what is our brood stock.

I v-notch every female with eggs that comes aboard my boat. That is at least ten lobsters a day every day I fish. I start seeing those in August and they go right through into December and January.

And toward the end of the year most of the lobsters that you catch with spawn are then notched. If we did not v-notch and have an oversized measure in the Gulf of Maine, you wouldn't have any lobsters to spawn because we would catch them all. This is what protects our lobsters and we need this measure.

And I have written to you and indicated to the circulation of lobsters in the Gulf of Maine, indicated by numerous different tagging studies that indicate that the Outer Cape is part of the circulation in the Gulf of Maine, and all of these larger lobsters circulate in large areas.

I have released lobsters where I am in the Lubec-Trescott-Cutler Area, the Grand Manan Channel, that were then caught in the same year off of Cape Cod. And that's all I have to say. Thank you.

CHAIRMAN COLVIN: Thank you.

MR. MARSDEN BREWER: Thank you, Mr. Chairman. My name is Marsden Brewer. I'm a selectman. I'm a commercial fisherman and I'm also a selectman in a small fishing community 16 miles to the east of here. Our harbor has over 500 moorings of which almost 400 are registered to commercial fishermen.

I'm appalled at this amendment. The gentleman from Massachusetts earlier added an amendment to allow for consistency in his state on the length of the lobsters, and now he's turning around and asking to have to manage under two or three different rules again.

What I've got here is v-tails over the last couple of years. I didn't count them but they're substantial. I'd give them to the guy from Massachusetts. Perhaps they could use them as a puzzle to, you know, put them back together.

But this is crazy, totally nuts. National Standard 4, wherever practical, the resource needs to be managed as one unit. In this case it's not just practical, it is essential. I urge you folks to deny this amendment. Thanks.

CHAIRMAN COLVIN: Thank you. Is there any other public comment at this time? Yes, sir.

MR. DANA RICE: Yes, my name is Dana Rice. I'm a lobster dealer from Downeast Maine, involved on several boards. My family has been fishing down there since there's been a fishery, and I'm definitely opposed to Amendment 4.

Probably 20 years work has been done and the cornerstone of 20 years lobster management is the v-notch. It is getting widespread approval now along with the Canadian Maritimes coming back aboard.

There's a lot of scientific work that's involved with the v-notch process that hasn't been applied yet. We're talking about new models here and doing better scientific work and to adopt Amendment 4, which would basically wipe away the v-notch.

It would be the biggest disaster, I think, we've ever seen in my lifetime. It would undermine the trust that's been built up in the last six or eight years where the fishing community and regulators and scientists have started to talk to each other.

Equivalency is a bad word. It isn't an equivalent. It's a scapegoat. If somebody finds themselves in default, they're looking for an easy way out and the word you're using is "equivalent."

There is no equivalent. If any state wants to adopt a more stringent rule than the federal plan to help themselves out of that, I'm all for it. But I'm not for letting anybody get away with something that undermines what has been done or all of the good work that has been done over a long, long period of time.

This is just wrong, and it would turn everything completely upside down. There have been a lot of good points made here, and I'm not going to run on like I usually do, but I know of anybody that is - as a matter of fact, I would like to address one thing.

The lady that sent one letter in support of this from the state of Maine represents 28 groundfishing vessels. There are over 5,000 other vessels in the state of Maine that are opposed to this. So, the numbers should tell you something about that. Thank you.

CHAIRMAN COLVIN: Thank you.

MR. NEWELL McCLAIN: My name is Newell McClain. I live in a

little town down the road called Martinsville. I got my first lobster license in 1957. I v-notch as many lobsters as I possibly can. I can't add anything that's original to this debate.

Everybody has said what's all in our hearts. I feel like I came to a gunfight with a knife. We feel like we're outgunned. In addition to being a conservation measure, it's a matter of pride with us. We take this to heart.

And to have somebody, a small group of fishermen, undo what we've been trying to do for years just goes against us. And as far as dragging for lobsters, if that's the only way you can catch them, you're a damned poor fisherman.

CHAIRMAN COLVIN: Are there any further comments? Seeing none, I'm going to return to the Board. Let me recognize Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman. I appreciate this opportunity and I'll be as brief as possible, Mr. Chairman. There's a lot of good words said here that people believe in.

Several of the words have been "fear, equity, greed and conservation." Yet in the name of conservation, not too long ago we took the harvesters that harvest less than 2 percent and just about put them out of the fishery.

I'm just trying to figure out the conservation behind that. Less than 2 percent were harvested by the mobile gear segment, 2 percent, and we said in the name of conservation we're going to eliminate them. I support the motion, Mr. Chairman, and I appreciate the opportunity. Thank you.

CHAIRMAN COLVIN: Dennis Abbott.

MR. DENNIS ABBOTT: Thank you, Mr. Chairman. It's not always that the state of New Hampshire agrees with the state of Maine, but I think that this amendment is probably management gone bad. I think that conservation equivalency, on its surface, seems like a good thing.

We supported two years ago Rhode Island's position to go forward with the proposal for the 100/500. But I must say that I was -- I felt it not a sympathy but I felt an obligation to the state of Rhode Island because New Hampshire came before this Board and asked for conservation equivalency for our two-tiered trap limits, which we think to this day is a good idea.

But, I also see similarities to what I see in the Striped Bass Plan where we have eleven size limits along the coast where everyone is professing to do the right thing for the resource. And what do we have; one state catching big fish; one state

catching small fish. And as a result, I don't think that we're managing the way that we should.

I think that we should make our decisions based on the science, and I don't think we should eventually make political decisions. And it surely does not make sense, as a number of the Maine fishermen said, that something as base as protecting egg-bearing females that you would allow someone to do -- not allow them but have them do that to the vast majority of the resource and let a small segment of that resource exploit them.

It does not make sense. I would ask all the Board members to look deep in themselves and say we should not go ahead with Amendment 4. Thank you.

CHAIRMAN COLVIN: Thank you. Yes, go ahead.

REPRESENTATIVE DAVID ETNIER: Okay, thank you. I haven't spoken to you folks on this panel before, since I've been here for almost a year. My name is David Etnier. I'm the legislative representative from Maine.

And I served on the Marine Resources Committee in Maine for six years and I worked in the lobster fishery as a sternman for seven years a long time ago.

I want to mention something that hasn't been mentioned by some of my colleagues from Maine, and you've heard a lot and I don't want to go over any of that ground because I think it speaks for itself and they've done a good job.

Part of what I've done in the six years, seven years I've been in the legislature -- and thankfully I'm term limited and will be out soon -- is to defend the Atlantic States process to the best of my ability against repeated attacks upon its integrity and its validity in terms of how Maine perceives it.

Twice I've seen efforts to try to get Maine to pull out of Atlantic States Marine Fisheries Commission because of bitterness largely felt about the lobster fishery and how it's managed and how it's perceived to be managed by fishermen in the state of Maine.

And both time I've fought against those, voted against those, led the fight against those and was successful arguing against our pulling out.

And I'm not saying today I would be arguing in favor of it, but it's going to be increasingly difficult for me as a legislator and as a representative of my constituency and as someone who serves on boards and whatnot to defend the process that we engage in here

should this Amendment 4 be passed.

To me it is going to be -- it doesn't even pass the bare minimum of a straight-faced test, these two amendments that are before us today. I think the science is quite clear on both these areas.

The history is quite clear of how we got to where we are, the immense work, the immense compromise that was achieved with the measure, especially in relation to mobile gear that has been mentioned, and I don't need to go over that.

I also want to mention the good work of the Advisory Panel, their concerns about how the conservation equivalency is derived at. And also I want to mention the comments from the Socio-Economic Subcommittee, their concerns about how the conservation equivalency is arrived at.

The bottom line is that this goes far beyond the two individual states that are raising these seemingly small, innocuous concerns for their constituencies. I understand how that works.

To me it casts a far greater pall upon the entire process of Atlantic States Marine Fisheries Commission and is going to greatly endanger the work that this good Commission does in the future and in the eyes of the state of Maine and our interaction with you. Thank you for the time.

CHAIRMAN COLVIN: Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. There are several issues that have been discussed. I understand the interest in the long history of Maine v-notching female lobsters, but there's a couple issues now that start to affect other areas.

This amendment affects the entire range of lobsters, not just the Gulf of Maine. And there are a number of lobstermen from Maine who indicated that they have a sincere concern about the Gulf of Maine, but we have areas south of the Gulf of Maine which are very different.

And these rules and regulations are going to have implications on those areas, and those people who live in those areas have a different feeling from what people up here have, but now you're desire are going to be imposed on others.

And that's exactly what you're arguing about, that what you feel other people shouldn't influence and yet what you're doing is influencing other people. So that was just a point.

Second point -- and perhaps I'll direct this towards George -- but has Maine considered putting a maximum size in place for lobsters,

not just females but males as well? Is that something that is a legitimate concern?

MR. LAPOINTE: We already have it.

MR. FREEMAN: So the v-notching is both males and females, whether they're berried or not?

MR. LAPOINTE: V-notching is for females and the maximum size is for any lobster.

MR. FREEMAN: I see. All right, thank you.

CHAIRMAN COLVIN: Is there any further discussion on the motion? Gil.

MR. POPE: Thank you. Just one quick comment that I, too, would hope that Maine does exactly what it wants and I think that it is great. If they want to v-notch, I think it's great. If they don't want to allow mobile gear, that's great; that's fine.

That's what you've always wanted and I applaud you on that. It's just like what Bruce said, there are other areas that have different types of fisheries and we would like to possibly have different laws on the books that do have conservation equivalency just like in Maine with striped bass.

You have conservation equivalency where you can catch one fish that's well below the standard that everybody else has and you have one fish that's above. So conservation equivalency is used in lots and lots of other fisheries, including your own, including in your own striped bass fishery. Thank you.

CHAIRMAN COLVIN: Any further comment? Bill.

MR. ADLER: This moves right off both issues right here, but the reason I'm saying this is because I just want to know from you if these things needs to be done in an amendment when its voted on or not.

One is the section on the rewording with regard to that trap allowing most restrictive versus and the history based that was brought up by the Advisory Panel before, is that something that can be discussed and dealt with later -- and I don't mean two years down the road but I mean that is one thing.

And the second thing I want to address to Bob Ross at the NMFS. Bob, we had an incident with regard to a fisherman that was laid up. His boat was laid up. And you remember that the federal government would not permit him to go out on another boat. And you said it was a policy decision that should be brought

before this Board. Is that something that has to go into an amendment or can it just be a policy decision by this Board that might help change that?

You're familiar with the issue, right? Is that something that needs to go into an amendment or is that a policy thing, since we've got an amendment up on the table here.

CHAIRMAN COLVIN: Hold it. Bill, those are important questions but they're really not on the subject of the amendment unless you can explain to me how they are.

MR. ADLER: Okay, the only reason I was saying it, just tell me that they don't have to go into an amendment and I'll be quiet.

CHAIRMAN COLVIN: Whether they are in an amendment or not, they can't be in this one.

MR. ADLER: Okay, thank you.

CHAIRMAN COLVIN: The motion on the Board relates to this one. Is there anything further on the motion? Seeing none, let's take a minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN COLVIN: Will the Board come to order, please. I indicated that we would take the question. I have been asked during the caucus period for a roll call vote. The Chair's intention is to honor that request. Mr. Carvalho.

MR. CARVALHO: Yes, on the roll call vote. Mr. Chairman, thank you. These are two distinct issues. Can we split the vote on these issues because they are two distinct and separate issues?

CHAIRMAN COLVIN: The Chair would take the position that if a motion were made to divide the question, it would be up to the body to decide whether or not to pass such a motion.

MR. CARVALHO: I move that, to divide the question, Your Honor, Mr. Chairman.

CHAIRMAN COLVIN: We need more than that, don't we, Jack? I'm not sure we're going to have any more agenda items at this point. We're going to have to address that. We're going to take a two-minute break to let Jack -- but don't leave the table -- try to assess the parliamentary ramifications of whether or not and under what circumstances a motion could be split.

Let me ask this question. We have ten minutes in which to cover the remaining agenda items, and Item 11 shouldn't take more than a

minute but I'm wondering whether Board members have any sense of whether all of these items need to be discussed now.

Harry, I think you briefly have to just tell us about the notice of intent to prepare an EIS. Is there anything further?

MR. MEARS: No, there's actually two actions. We're waiting for a proposed rule to be published on Addendum I and also we published a notice of intent --

CHAIRMAN COLVIN: So that's brief. And I'm not sure what item 9 is. Where's Mark? I understand Mark has asked for item 9. I told him not to get up. Mark, can you give us an idea of what -- I understand Item 9 is your item.

Can you give us an idea of what that will entail, just to help us understand? I mean, is that really a 15-minute discussion? In that case, I don't know how we're going to handle it.

MR. GIBSON: What we brought up earlier relative to the reference point discussion; what are we talking about?

CHAIRMAN COLVIN: Item 9 on the agenda I understand is your item.

MR. GIBSON: Agenda 9 is not mine.

MR. POPE: On Addendum II requirements?

MR. GIBSON: No.

CHAIRMAN COLVIN: Something to do with timing of gauge increases. Good, then we won't do it. We'll drop it. Jack has an answer for us on the process.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Mr. Chairman, I could spend a lot more time looking at this, so recognize that it's sort of quick and off the top of my head and might not reflect what some of you legislators have heard from your own parliamentarians.

But, my impression is that this is a motion that only has one part to it, and that is to approve the plan or in the alternative, if you didn't pass it, that you could consider it disapproved.

The better way to have dealt with this would have been to take votes during the preparation of it on the individual pieces. But the rules do say that motions that are not obviously and easily up-front divisible shouldn't be.

So, given that the motion that's up there is a singular motion to approve or to disapprove, I think the better view at this point is that it's not divisible.

CHAIRMAN COLVIN: Well, the Chair will accept the staff's advice and that the motion is not divisible. That means that unless the motion is tabled or otherwise amended, we are prepared to take the question on the motion before us. Then that is what we will do. I have been asked for a roll call vote. I will ask Heather to call the roll.

MS. STIRRATT: State of Maine.

MAINE: Nay.

MS. STIRRATT: State of New Hampshire.

NEW HAMPSHIRE: No.

MS. STIRRATT: Massachusetts.

MASSACHUSETTS: Yes.

MS. STIRRATT: Rhode Island.

RHODE ISLAND: Yes.

MS. STIRRATT: Connecticut.

CONNECTICUT: No.

MS. STIRRATT: New York.

NEW YORK: No.

MS. STIRRATT: New Jersey.

NEW JERSEY: Yes.

MS. STIRRATT: Delaware. (No Response) Maryland

MARYLAND: No.

MS. STIRRATT: Virginia. (No Response) North Carolina. (No Response) National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

MS. STIRRATT: Just a confirmation that the state of Maine voted no, correct?

REPRESENTATIVE ETNIER: Correct.

MS. STIRRATT: Mr. Chairman, that's five opposed; three in favor;

zero abstentions.

CHAIRMAN COLVIN: The motion does not carry.

MS. STIRRATT: I'm sorry, one abstention.

CHAIRMAN COLVIN: Thank you. The motion does not carry. Is there any further action to come before the Board with respect to proposed Amendment 4? Thank you. Let us move on to Item 10, then, NMFS status report. Harry.

MR. MEARS: Thank you, Mr. Chairman. We actually have two pending actions. One is the proposed rule which we hoped to bring to this meeting but were not able to. It has not yet been published. We expect it to be published imminently.

The second action which happened since the last Board meeting has been the publication of a notice of intent to go forward with federal rulemaking, responding to Commission recommendations concerning Addendum II to the Plan, which involves a gauge increase for all areas except Area 1, corresponding vent increases and an expedited trap schedule for Area 3 and also a vessel log requirement for federal permit holders fishing traps in Area 3. That concludes my report.

CHAIRMAN COLVIN: Thank you. Are there questions for Harry? Bill, now you can ask your question.

MR. ADLER: I mentioned this. I just want to mention it on the record. In the Federal Register Notice there is wording with regard to the two-inch vent -- and I know Bob is aware of this -- there is a wording glitch I believe because it doesn't say that the vent increase is only in the area where there are gauge increases.

It says "lobster area" and that could mean Area 1, which isn't ready for that yet. So it's just a wording glitch, I think, but I think it should be on the record. Thank you.

MR. MEARS: That will be corrected in the forthcoming rule.

CHAIRMAN COLVIN: Bill, with respect to the question you asked earlier about whether a change to the FMP's provisions about the most restrictive of, we're actually somewhat uncertain as to whether that can be done by amendment or addendum based on just sitting here from the Chair looking at the text of the plan. It may well be a decision that the Board can make but it would clearly require one or the other.

MR. ADLER: Okay, thank you. I just wanted to keep it on the burner so that we can address it. It was what the --

CHAIRMAN COLVIN: Fair enough.

MR. ADLER: And the other one to do with I wanted to get NMFS to indicate to me what the process was on a situation which can occur in any fishery probably. What happened was a boat breaks down.

They request permission to go out and haul gear using another guy's boat. That is permitted if the guy is sick but not if his boat is broken. And he's got a rule he's got haul within thirty days his gear. If he's sick he can get it.

The federal rule, however, says that under this situation, the most NMFS can do is to issue him some type of a waiver. He can go out on the other guy's boat, but he has to bring all the gear in. He can't haul it and leave it there.

And it was explained to me that this was a policy decision and I don't know who to bring this to. Is it this Board or is it Mr. Hogarth? I don't know. But it was suggested by NMFS that this be changed, and I don't know how you change that.

CHAIRMAN COLVIN: Again, with this very brief opportunity to look at it, that that is an issue that is specifically addressed in the Commission's FMP, which would make it entirely subject to the judgement of NMFS with respect to future rulemaking. Now, maybe you guys would like to get back to Bill on that, but that's how Heather sees it quickly here.

MR. MEARS: I would say that would be the way to handle it, Mr. Chairman. And, Bill, if you would entertain sending us a letter requesting a formal response to it, it would enable us to get a formal response in the way that we need to back to you.

MR. ADLER: Thank you very much.

CHAIRMAN COLVIN: And while we're on the subject of issues that may require amendments or addenda down the road, let me say that several Board members have made me aware of their concern with respect to the applicability of minimum and maximum gauges under our FMP to non-commercial harvest.

I think that may well be an issue that the Board may wish to consider for some future FMP amendment or addenda, whichever is relevant. And I think it's another one of those that may need to be on the radar screen for the future.

We arrive then at other business on the agenda. The first issue is an Advisory Panel nomination. Heather.

MS. STIRRATT: Yes, it has come to our attention that there is a new nomination on the floor for this Board to either approve or

take some other action on. His name is James Fox. He's a representative from the state of New York. And, again, the action before this Board is to approve that nomination at this time.

MR. ABBOTT: Move to accept, Mr. Chairman.

MR. FREEMAN: Second.

CHAIRMAN COLVIN: Moved by Dennis Abbott, seconded by Bruce Freeman. Is there objection to the motion? Without objection, the motion carries. Let me recognize David Spencer.

MR. SPENCER: Thank you, Mr. Chairman. I just wanted to go back to Bill's first point about the most restrictive language. We feel there's a very timely part to this issue because when NMFS implements Addendum I, this issue will take shape and we feel that there will be a significant number of fishermen that are severely impacted. So if there's any way for the Board to expedite discussion of this, I think it would be beneficial. Thank you.

CHAIRMAN COLVIN: Thank you, David. We now arrive at your chairman's favorite agenda item --

MR. LAPOINTE: Motion to adjourn, Mr. Chairman. (Laughter)

CHAIRMAN COLVIN: Not a chance. Nobody eats lobster tonight until we do this one. I will entertain one motion and one motion only for nominations for Chairman of the Lobster Board.

MR. ABBOTT: I nominate George Lapointe.

CHAIRMAN COLVIN: Thank you, Dennis. Second to the nomination?

MR. ADLER: I'll second it.

CHAIRMAN COLVIN: Is there objection to the motion? Without objection, congratulations, George, it's all yours.

CHAIRMAN LAPOINTE: Thank you, Mr. Chairman -- or no longer, Mr. Chairman. My first item as chairman is a motion to adjourn, please.

MR. COLVIN: My second favorite, I'll be happy to make it.

CHAIRMAN LAPOINTE: Without objection, we are adjourned.

(Whereupon, the meeting adjourned at 5:03 o'clock p.m., October 16, 2001.)

- - -