

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

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
August 6, 2013

Approved October 2013

TABLE OF CONTENTS

Call to Order, Chairman Douglas Grout..... 1
Approval of Agenda 1
Approval of Proceedings, May 20, 2013..... 1
Public Comment..... 1
Consider Draft Addendum XXI for Final Approval 3
 Review of the Management Options..... 4
 Public Comment Summary 5
 Consider Final Approval of Draft Addendum XXI 8
Review of NOAA Fisheries American Lobster Proposed Rule..... 19
Adjournment 24

INDEX OF MOTIONS

1. **Approval of Agenda by consent** (Page 1).
2. Motion to adopt the following elements of Addendum XXI for Area 2 (Page 15):
3. **For 3.1.1, Part C (multi-LCMA trap allocation): Adopt Option 3, which allows all areas to be fished; and to add a phrase at the end of which says, “and the multi-LCMA history to be retained in the database”.**

For 3.2.3, (ownership caps): Adopt Option 2, which creates a single ownership cap of 1,600 traps. For 3.1.3 (sunset provision for the single ownership cap): Adopt Option 3, which would sunset after two years after the trap cap. This means that two years after the last of the six annual scheduled traps allocation reductions, permit holders would not be allowed to own more than the Area 2 trap limit that is currently at 800 traps.
4. **For 3.1.4 (aggregate ownership cap or ownership accumulation limit): Adopt Option 2, which replaces the status quo of two permits per entity and replaces the limit with 1,600 traps.** Motion by Dan McKiernan; second by Pat Augustine. The motion carried (Page 15).
5. Motion to adopt the following elements of Addendum XXI for Area 3 (Page 15):

For 3.2.1, Part C (Multi-LCMA Trap Allocation): Adopt Option 3, which allows all areas to be fished; and add “and the multi-LCMA history to be retained in the database. For 3.2.2 (LCMA endorsements): Adopt Option 1, which maintains status quo - no Area 3 sub-area designation.

For 3.2.3 (Active Trap Cap): Adopt Option 2, which would cap traps at 2,000 in Year 1 and 1,548 by year 5. For 3.2.4, adopt status quo; and for 3.2.5, adopt status quo. Motion carried (Page 17).
6. **Motion that the implementation date be effective November 1, 2013** (Page 17). Motion by Pat Augustine; second by Willard Cole. Motion carried (Page 18).
7. **Motion to approve Addendum XXI as discussed today** (Page 18). Motion by Pat Augustine; second by Terry Stockwell. Motion carried (Page 18).
8. **Motion to initiate Addendum XXII to include revised sections from Draft Addendum XXI** (Section 3.2.4 and Section 3.2.5) (Page 18). Motion by Bill Adler; second by David Borden. Motion carried (Page 23).
9. **Move to adjourn by consent** (Page 24).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Pat Augustine, NY (GA)
Steve Train, ME (GA)	Anthony Rios, NY, proxy for Sen. Boyle (LA)
Rep. Walter Kumiega, ME (LA)	Peter Himchak, NJ, proxy for D. Chanda (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Tom Fote, NJ (GA)
G. Ritchie White, NH (GA)	Adam Nowalsky, NJ, proxy for Asm. Albano (LA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Loren Lustig, PA (GA)
Dan McKiernan, MA, proxy for P. Diodati (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Bill Adler, MA (GA)	Roy Miller, DE (GA)
Mark Gibson, RI, proxy for R. Ballou (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Bill McElroy, RI (GA)	Tom O'Connell, MD (AA)
David Borden, RI, Governors Appointee proxy	Catherine Davenport, VA (GA)
Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)	Bill Cole, NC (GA)
David Simpson, CT (AA)	Peter Clark, NMFS
Rep. Craig Miner, CT (LA)	
James Gilmore, NY (AA)	

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

Ex-Officio Members

Joe Fessenden, Law Enforcement Representative

Staff

Robert Beal
Kate Taylor

Toni Kerns

Guests

David Pierce, MA DMF
Kelly Denit, NMFS
Raymond Kane, CHOIR
Charles Lynch, NOAA
Aaron Kornbluth, Pew Trusts
Bonnie Spinazzola, AOLA

Benson Chiles, Chiles Consulting
Gregory Blackler, MEFA
David Spencer, AOLA
Bonnie Hyler, AOLA
Janice Plante, Commercial Fisheries News

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 6, 2013, and was called to order at 11:10 o'clock a.m. by Chairman Douglas Grout.

CALL TO ORDER

CHAIRMAN DOUGLAS GROUT: Welcome, folks. This is a meeting of the American Lobster Management Board. My name is Doug Grout, I'm the Chair. We have an agenda before you. Are there any changes to the agenda or additions?

APPROVAL OF AGENDA

WILLIAM A. ADLER: I would just like to take this opportunity to congratulate Bonnie. This will be her last Lobster Board meeting. She has had a long, successful tenure on the Atlantic Offshore Lobstermen's Association and has been a fixture here at the ASMFC Lobster Board. I think she will be missed, and we want to thank her for contributions to the lobster management and the lobster resource. I just wanted to bring that to the board's attention. (Applause)

CHAIRMAN GROUT: Thank you, Bill, for recognizing that. Yes, Bonnie has been a fixture here for a number of years, long before I was, but we do appreciate the work that she's done here. Are there any other agenda items that people would like to either change or add? Seeing none; I'll consider the agenda approved.

APPROVAL OF PROCEEDINGS

At the last meeting we discovered that we had the wrong proceedings in the packet; so for this meeting we need to approve both the February and the May proceedings. Are there any suggested changes or comments on any of those proceedings? Is there any objection to approving both of those proceedings? Seeing none; we'll then move on to public comment.

PUBLIC COMMENT

This is public comment for items that are not on the agenda. Does anybody have that? Bonnie.

MS. BONNIE SPINAZZOLA: I would just like to let the board know that as with the groundfish closed area comments that the commission sent to the council quite a while ago, the council is now looking at opening Groundfish Closed Area 2 to scalloping. The same issues are prevalent that were before with the groundfish areas.

We've tried to work as an industry to get the scallop industry to sit down and work out an agreement with us. We've been unsuccessful to date; but as time goes on, we would appreciate it if the commission might get involved in this and send a letter to NMFS to ask them to look at the ramifications of opening the closed groundfish area because of the resource issues and gear conflict issues to scalloping and to at least perhaps try and mitigate some sort of a problem or to bring together the two groups to come up with some sort of an industry agreement or something. Whatever it might be, I'm just throwing it out there so that you're aware of it at this time. Thank you.

CHAIRMAN GROUT: Thank you, Bonnie, for bringing that up. What does the board feel? Do you think it would be worth sending a letter to the council to express our concern about potential gear conflicts and the impacts on egg lobsters if they were to allow scallops into certain parts of Closed Area 2? Is there an objection to us sending a letter? Okay, I'll work with staff on crafting that letter to the council. I have Roger Frate. Again, this is on items that are not currently on the agenda.

MR. ROGER FRATE: Thank you, Mr. Chairman; for letting me speak for a while here. My name is Roger Frate; I'm president of West End Long Island Sound Lobster Association, owner of Darien Seafood Market. I've been coming here with Senator Gunther for the last 14 years now and Doc passed away, it will be a year ago Saturday.

I want to talk about that 15-year rebuilding plan after the die-off in 1999 Hurricane Floyd. I would like to know, and I'm asking you people, the commission and our DEP, if they could seriously look at redoing this or completely getting rid of it. Fourteen years later we have no industry in the Long Island Sound; 1,200 families are bankrupt. We have about maybe 15 or 20 part-time fishermen like myself.

It was a hundred million dollar industry before West Nile 1999. We have spent thousands of dollars, myself, v-notching and trying to get this industry back. Every time they use pesticides, those lobsters die. I have something that is really important to know. Our state last year gave money to the DEP and to the pathologists to look at these lobsters for chemicals.

They have found methoprene and resmethrin in the lobsters in the west end of Long Island Sound, which I fish, where 70 percent of the lobsters were caught. Now the 24th of July, Darien Seafood had a press conference. Craig Miner and Terry Backer, God bless you. They had a bill passed outlawing methoprene and resmethrin.

Senator Duff, Senator Leone came, Linda Wright wasn't there, but she had a big part of getting this bill passed. Lance Stewart was there. Governor Malloy, God bless him, signed it. I'll tell you Senator Gunther is so proud and so proud of Craig Miner, a young man who has been here for two years who read and listened to the fishermen and listened to the research and got this bill passed.

Now New York, at this time I called the Godfather to the pesticides, Dom Ninivaggi, from Suffolk County, and he didn't care. He is still using the methoprene, the resmethrin, the scourges. There is no way I could talk to this man. I've been talking for the last 14 years. Brian Backer in Albany tried to get him to change, but for some reason he has the power over Albany.

Now with this plan, as lobsters come back knee deep – and I know, Dave Simpson, you heard me talking – no one is going to be able to make

a living. They are going to be part-time fishermen. Trap reduction; I don't want to go through the plan, but if this Sound was cleaned up without the pesticides, these lobsters would migrate back in like they have done over the years.

Where Lance Stuart and Eric Smith, all the best breeding grounds really in the world, in the United States and any lobster organization, when I saw the logbook in 1974, I could speak here all day, all night. My biggest point here, Doc Gunther said, before he passed away was keep bringing up Rhode Island and Newport, Al Gettman. Now those fishermen in, I think it was 1999 and 2,000, the inshore boats were all bankrupt. Lobsters ran 100, 200 miles out.

Now Al Gettman is the head of mosquito control. They only used methoprene; they didn't use the adulticides. He listened to the fishermen. They outlawed the methoprene. They had lobsters right back in the harbors again, Wesley, Rhode Island, 26 boats. Whatever hung on, they're all in business.

But boats, I was up there last week, four boats sold because of these restrictions, the lobsters are getting too big. Like Long Island Sound they run off to the shelf. I would just like to ask Dave Simpson if he could really look at this; and the commission, if you could look at this. It is the only way that we're ever going to have a lobster industry in Long Island Sound.

It was a hundred million dollar industry. The graph from 1 to 10; we were at an 8, Maine was at a 3 before the pesticides started. Now every year they are killing them. It is not the die-off in '99. I fish in the western end, right against Greenwich and Port Chester. I knew by Darien Seafood what was going into those catch basins and storm drains; what pesticides.

When I changed, those lobsters came back. Whatever stayed there, they were healthy for a couple of years. Then here they come in 2005, 2006; right back to the worse chemicals, the adulticides. The methoprene has got two parts according to our DEP pesticide committees are adulticides. When it hits the chlorine and

nitrogen, it brings it to the bottom, we see what is in our traps. Everything is dead; and when the lobsters die, they stink.

I wish Lance Stewart was here, he is the head pathologist, but he is flying here now. I met him up in Mystic last week. I guess he missed the plane. But I would ask the commission from 1,200 fishermen that are bankrupt, lost families – two of my friends dropped dead in the middle of the night. One of them, it was sad. He had the check in him from the federal money, Don Boise. My friend went to pick him up and he had a check after losing a home; dropped dead.

I would just ask – and I know our state has worked so hard. That v-notch program worked so well. It was done out of our store. When those helicopters flew, any larvae that floated up to the top – when Ernie Beckwith was there, they flew and sprayed and the larvae just disappeared. It died. Eventually it gets to the bottom, because they are putting these methoprene pellets that last 60 days to 90 days in the catch basins.

The lobsters don't know where to swim. Now our side has been great. We haven't been using; very little inland. Our lobsters stayed alive for a good month, month and a half, before they died in New York and down the middle. I just would ask our DEP, who now found the pesticides in the lobsters – New York is not going to stop. Albany has no power over this one guy, Dom Ninivaggi, and I hope he hears me speaking, because he spoke – I spoke to him during the press conference just before they came.

Terry Barker, Sounds keeper state rep, who is a friend of mine, who has brain cancer; who is fighting it now; and when we went up to Hartford, he questioned the methoprene company. He literally told them what you are telling me is you are putting poison on the bottom of our water. That is in the food chain. Now I am clamming with my son and oystering now. Now I know chlorine and nitrogen, taught to me by the state, lives in the clam's bellies. Now the adulticides are all cancerous. When you cook them, as Senator Gunther said, they get four times as strong.

I just think there has got to be a way our DEP could look at this. No one is making fun of anyone; no one has tried harder in our state to get this going. I've been talking to Mr. Pat Augustine about this and Owen Johnson's man about this, but for some reason they can't control their chemicals.

Our politicians are going to go over and try to work with these guys, but it is too late. If you don't change these laws, trap allocation down to 500 traps, gauge is going to three and a half; the lobsters are too big right now. When the water hits near 80 degrees, which it will, they will run a hundred miles off the shelf like they do.

Now we v-notch, we v-notch shorts. In Newport I met a boat, Bill Colombo owned the boat, Timothy McVane; two or three years ago, catching thousands of short lobsters, v-notch keepers, and v-notch; I said where are they coming from? He says from Maine. They are about 80 to 100 miles out.

I asked our biologist, it was Colleen I asked, she goes they don't v-notch shorts up in Maine. I don't want to hear our lobsters don't run in and out that Sound, because half went through to Hells Gates and sat there in '99, because four fishermen went out there and the black lobsters that don't live in Jersey were all along the shoreline.

CHAIRMAN GROUT: Roger, I know you said you could talk all day and all night, but if we could wrap it up I would appreciate it.

MR. FRATE: Thank you very much for listening. I begged the commission; I beg our DEP and God Bless Craig Miner and our state for passing this one bill. It is a start. Thank you very much.

CONSIDER DRAFT ADDENDUM XXI FOR FINAL APPROVAL

CHAIRMAN GROUT: Any other public comment? Well, seeing none, we'll move to Agenda Item Number 4; Consider Draft Addendum XXI for final approval.

REVIEW OF THE MANAGEMENT OPTIONS

CHAIRMAN GROUT: Kate, would you like to go through a review of the management options and the public comment summary?

MS. KATE TAYLOR: This presentation is going to go through Draft Addendum XXI and the public comment that was received. We are currently at the Stage 2; approve final management of the document. In December 2011 the board approved the development of this addendum in order to respond to the poor condition of the Southern New England stock by scaling the size of the fishery to the size of the resource.

This addendum addresses changes to the transferability programs to Areas 2 and 3. These changes are designed to allow for flexibility in the movement of traps as the consolidation programs for Area 2 and 3 to address latent effort are implemented. The document is divided into two sections addressing proposed options for Area 2 and proposed options for Area 3.

Under Area 2 measures, the first issue under consideration is the trap allocation transfers. Current ASMFC rules allow entities to transfer full or partial allocations of qualified traps from one owner to another in accordance with the specific criteria in each state and federal law. NOAA Fisheries currently does not allow for the transfer of partial allocations, but is in rulemaking to consider this regulation. They do allow for the transfer of full business sales.

Under Section A of this option, Option 1 would be to maintain the status quo. Option 2 would be that allowance of two areas to be fished under the partial transfer of the multi-LCMA trap allocations. Under Option 3, two areas could be fished and this could be chosen annually; and under Option 4 all areas would be allowed to be fished.

Under the full business transfers, Option 1 would be the status quo. Option 2 would only allow for one area to be fished in a full business

transfer. Under Section C, the transfers of a multi- area trap allocation full or partial; Option 1 would be to allow two areas to be fished. Option 2 would allow two areas to be fished, and these designations would be chosen annually.

Option 3 would allow all areas to be fished. If the board would like to consider the same measures for full and partial transfers, they can choose from Section C here. If they would like to consider them separately, then they can choose from A and B. Under the single ownership cap, this was previously called trap banking. Under Option 1, the status quo; no trap banking would be allowed.

Under Option 2, this would be a single ownership cap or an individual permit cap. This would allow for the purchase and accumulation of traps over the current 800 active trap cap for Area 2, up to a single ownership cap of 1,600 traps. There is also an option for a sunset provision. Under Option 1, there would be no sunset provision to the single ownership cap.

Option 2, the single ownership cap would expire one year after the last trap reduction; and under Option 3, this single ownership cap would expire two years after the last trap reduction. The Area 2 aggregate ownership cap is the next option item. Under Option 1 is the status quo. Under this option no single company or individual may own or share ownership of more than two qualified Area 2 permits. This option limits permits and not the number of traps.

Under Option 2, an entity could not own more than 1,600 traps; so this would be the 800 active and 800 banked traps. For both options, those individuals who had more than two permits in December 2003 may retain the number they had at that time, but they can't own or share ownership of any additional permits.

Under the measures for Area 3, the first section is very similar to what was in the document for Area 2 dealing with trap transfers. Under Section A, the partial transfers of a multi-area trap allocation, Option 1 would be the status quo. Option 2 would allow that two areas can be

fished. Option 3 would allow that two areas can be fished, and those areas can be chosen annually. Option 4 would allow for all areas fished.

Under Section B, this deals with the full business transfers. Option 1 would be the status quo, and Option 2 would only allow for one area to be fished in a full business transfer. Section C would allow the board to consider partial and full business transfers the same. Option 1 would allow for two areas to be fished.

Option 2 would be that two areas can be fished, and this would be chosen annually. Option 3 would mean that all areas can be fished. Section 3.2.2 proposed as an Area 3 endorsement; under the status quo there would be no change. Under Option 2, the LCMA 3 designation; under this option, the area selected would be noted on the permit and remain in effect for the entire fishing year. Fishermen would be allowed to change the area of designation once per year as part of the annual permit renewal process effective in the following fishing year.

Endorsement of Area 3, Southern New England, would not restrict fishing in all of Area 3; however, the most restrictive rule would apply. The rationale is to allow the Southern New England portion of the area to fish at a higher number of traps as they historically have. The next three options address measures to inhibit the excessive consolidation of the industry.

Under the active trap cap, this refers to the maximum number of traps that any Area 3 lobster permit holder may actively fish. No single vessel with an Area 3 permit may fish more than the maximum number of active traps. Under the status quo, no action would be taken. The trap cap for all of Area 3 would remain at 2,000 traps.

Under Option 2, the active trap cap option, the active trap cap at the commencement of transferability will be 2,000 traps. This cap would be reduced by 5 percent per year over 5 years for Area 3. Individuals opting to designate the Area 3, Southern New England endorsement area will continue to reduce traps below this

endorsement area's 1,800 active trap cap to complete the required trap reductions of 5 percent per year for 5 years.

The permit owner would then have to buy his way back up to the 1,800 active trap cap. Under Section 3.2.4, the single ownership cap or individual permit cap, this allows for the purchase and accumulation of traps over and above the active trap limits. Newly purchased traps along with traps already owned by the permit holder may combine to equal the number of traps necessary to go through the active reductions, so that the final trap level of the holder is 1,800 traps.

This schedule assumes that NOAA Fisheries will implement a 2,000 trap cap with the next set of federal rules and phase in a 25 percent trap cut during the next five years. Section 3.2.5 proposes an aggregate ownership cap or dealer accumulation limits. Under the status quo, no single company or individual may own or share ownership of more than five Area 3 permits.

However, those individuals who have more than five permits prior to December 2003 may retain the number that they had at that time, but may not own or share ownership of any additional permits. Under Option 2, under this option no single company or individual may own traps greater than five times the single ownership cap.

If the existing lobster management program is revised, the American Lobster Board will designate the dates by which the states will be required to implement this addendum and the board will also determine which measures are appropriate and should be recommended to NOAA Fisheries for the implementation in federal waters. Thank you, Mr. Chairman.

CHAIRMAN GROUT: Any questions for Kate on the addendum at this point? Seeing none; can you provide us an overview of the public comment received on this?

PUBLIC COMMENT SUMMARY

MS. TAYLOR: I would just like to make a note in the memo that went out to the board. In the

final table, AOLA and Cote Fisheries were both in favor of Option 2 under Section 3.2.3; the Area 3 active trap cap; and Options 2 under Section 3.2.5, the Area 3 aggregate ownership cap. This was included in the text, but the accompanying table put the X in the wrong box. The text reflects the correct comments by these organizations.

For written comments, one individual comment was received. Seven comments were received from organizations. The majority of comments received were in favor of the active trap cap in Area 3; a single ownership or individual permit cap for Area 3; an aggregate ownership cap for Area 3; and half were in favor of the status quo for the Area 3 endorsement.

Other comments were in support of the status quo for Area 2, partial transfers. Option 2, one area could be fished for full business transfers for Area 2; and Option 3, all areas could be fished for transfers of multi area trap allocations in Area 2. One joint public hearing was held between Massachusetts and Rhode Island on June 26, and four individuals attended.

For Area 2 options, comments were provided in support of allowing all areas to be fished when transferring a multi-area trap allocation, to have a single ownership cap which will sunset after two years, and to have an aggregate ownership cap of 1,600 traps. For Area 3 options, comments were in favor of the status quo for partial transfers; and Option 2, all areas can be fished for full business transfers as well as for an active trap cap.

CHAIRMAN GROUT: Questions?

MR. PETER HIMCHAK: Kate, I'm going to have to ask you when you started out talking about the public comments you said that AOLA and Cote Fisheries; there weren't boxes checked in 3.2.3, Option 2; and then there was another one that I didn't have the chart in front of me to mark. Could you give me those again?

MS. TAYLOR: Yes, they were in favor of Option 2 under the Area 3 active trap cap; and Option 2 under 3.2.5, which is the Area 3 aggregate ownership cap. The text reflects the

correct comments submitted by these organizations.

MR. HIMCHAK: Okay, could I ask you one additional question? A joint public hearing, Rhode Island and Massachusetts and four people show up, is that a reflection of the complexity of this document or is it a reflection of the fact that the organizations such as the AOLA has better communicated and gotten the consensus of the fishermen to make the comments on this addendum? This addendum is tough; I'm telling you.

When I look at what is in the best interest of New Jersey fishermen, I want to know where their comments; how they're being funneled into the process. I'll be very straightforward from the beginning here. In Area 2, since I view this as a business plan essentially, I am reluctant to vote. I'm deciding to abstain on Area 2 issues with this trap transferability program strictly because I don't see a resource implication for; that may trickle down to New Jersey.

If I don't understand the complexities of this transferability program, I don't want to be a factor in somebody's business being harmed. Just so you have that understanding of where I'm coming from.

CHAIRMAN GROUT: Thank you Pete; this has been a complex process. I think we've gone through a number of iterations with this to get down to this particular point. One of the main goals of this is to have a reduction in latent effort in both Area 2 and 3. At least personally I feel this also has a resource impact, too. Are there any other questions or comments on the public comments that were provided?

MR. PETER BURNS: I just wanted to briefly address the comments that NOAA Fisheries submitted to the commission on Addendum XXI. Really, in general our comments were that we were concerned that now that – as the board knows, NOAA Fisheries is in the process now of implementing the foundational elements of the lobster trap transfer program that are already incorporated into the existing management plan.

As we move forward toward that end very soon, we're concerned about new elements being added in Addendum XXI and also changes to some of the measures that are already in the plan that we're getting ready to implement now. When we received – I guess it is just difficult for us to begin to implement a program and then have changes coming that would also need to be added to be part of the full plan, I guess.

When we provided our comments, we were also receiving comments on our proposed rule for transferability from the industry. There were some common themes from the commenters in that, which were implement transferability as soon as possible, because the trap cuts that are coming are going to have devastating effects on some fishermen.

That is what they're saying. That is not coming from me, but from the industry. They are also saying you can't do transferability without a database being complete, and at this point the database isn't done and it hasn't incorporated anything in Addendum XXI that is going to be able to allow transferability to get to the next level.

The critical element to Addendum XXI I think, and I think the board would agree, is banking; because without banking you can't bank yourself up to prepare for these trap reductions that are coming in the future. I think the thing we wanted to point out is that we're getting to the point now where we're implementing the basic elements of this program, and some of this isn't done yet.

Maybe some of those additional elements are going to be decided upon today, like banking, but it is going to take time to add those things into the process and into the database. I think we all need to know; and based on these comments that we got from the public, from the fishermen saying that these trap cuts coming were going to be devastating, I think we all know that we have to get transferability right the first time, because there is no turning back once people start paying real money for lobster traps.

Just with the trap cuts coming, with these changes coming, as we're approaching the point where we're trying to have a very aggressive timeline in place to not only qualify and allocate federal lobster permit holders in Area 2 and in the outer Cape, to complete the whole circle of area qualification; but then to try to get in a transferability opportunity for these folks, I think some people may very likely know who they are going to be transferring with, but there may be some who aren't.

I think that there needs to be some kind of lead time to allow that market to develop for finding buyers and sellers, if you will. Without going much further, I think what NOAA Fisheries really just wanted to do was get on record and indicate that there are a lot of things that are going to be happening very soon. Some of them aren't done yet. It is not just about Addendum XXI. It is about the current transferability measures that are already in place and ready to go out.

It is also about trap reductions that are coming and using transferability as a means to mitigate around those things. A lot is going to happen very soon, and I think when the commission's Lobster Board looks today to approve Addendum XXI or do whatever they end up doing, we have to look at this in the whole picture and not just the sum of its parts.

CHAIRMAN GROUT: Thank you, Peter; I have a question for you. There isn't anything in this plan if we were to approve that would prevent you from continuing to move forward with your rule-making process and qualifying – assuming those rules go through, qualifying people and then finishing implementing trap transferability at the federal level. There is nothing, if we approve today this particular document in some form, that is not going to prevent you from continuing to move forward, correct?

MR. BURNS: We intend to move forward with our final rule to implement trap transferability. Anything that gets approved in this plan today would have to go through a separate rulemaking, so banking or any of these other measures that

may be critical to the effective implementation of a trap transferability program.

We'll do our best with what we've got to move forward and qualify, work with the states to do that. We sent out letters this week to the relevant states to ask for their data for Area 2 and Outer Cape qualifiers to be able to work toward that end. We're doing that; but without a database that is going to do this, our rule could come out tomorrow, but trap transferability isn't going to work.

CHAIRMAN GROUT: I think what is also a critical point right now is the fact that the database does not appear to be ready. We need to be talking to our counterparts at ACCSP and the people that are in the process of developing this database; that it needs to be ready for implementation and ready to go here as soon as possible. Is there anything that we could do here as a board to try and push that along?

MS. TONI KERNS: Doug, I think that the states and ACCSP recently have been pushing that a lot faster and more. We are actively meeting probably every couple weeks, maybe every three weeks on the database, trying to iron out a couple of issues. It is moving forward. I can't give you a definite date of when it will be ready, but we are shooting for September 1 to be able to use it as a trial to work out any kinks.

CHAIRMAN GROUT: That sounds excellent. Are there any other questions on the comments at all? Okay, we're at a point now to consider final approval of Addendum XXI. Is there any discussion right now?

CONSIDER FINAL APPROVAL OF DRAFT ADDENDUM XXI

MR. DAN McKIERNAN: Doug, how would you like to handle this? Would you like to deal with Area 2 first?

CHAIRMAN GROUT: Sure, we could do that.

MR. McKIERNAN: At least first as a discussion point.

CHAIRMAN GROUT: As a discussion point, yes.

MR. McKIERNAN: Well, I would like to discuss Area 2 in some detail. I would like to make a set of motions that will accomplish the following. First of all, I would like to just thank the states who aren't part of this process for all of their patience, because it must be painful and I appreciate that.

But what we're trying to do is we're trying to create a complex system that is crossing jurisdictions and lobster management areas. It is a tough, complicated solution to some of these problems. But what we would like to do is we would like to accomplish with the motion I would like to make flexibility in the areas that a fisherman can retain.

Because if you recall, we have two; actually three lobster management areas that each have their own historical performance period, and traps were allocated to each person who was eligible. These independent allocation schemes, independent datasets have to be brought together. When the fishermen see that they are going to be brought together, well, they really want to maintain all of the aspects of those.

A strong theme coming out of the inshore fishermen of Area 2 is that they want to maintain that flexibility to the degree possible. That is an area that I've been watching very closely in working with the ACCSP folks as the database is developed to see if it is possible to retain the so-called multi-area trap allocations, a boat or an entity or however we describe this.

That is part of the challenge of this database; who are we permitting, who are we licensing, who are we identifying? In the state level it is the person and on the federal level it is the boat, so it is complicated to finally force these together. It is worthwhile, but it is complicated. The industry really wants to maintain that flexibility.

I just want to go on the record and say that I was initially opposed to the flexibility concept. In our view back home in Massachusetts if the

industry wants area management, well, make them fish areas, specific areas and stay there. But with these massive trap cuts coming and the fact that especially for Area 2 and Area 3 in Southern New England – it is a single stock – it makes sense to accommodate to the degree possible the maximum flexibility; so that if fishermen did obtain allocation to fish in the offshore zone, that Area 2 fisherman could venture out there.

I want to accomplish flexibility in the areas retained. I want to accomplish some flexibility in the system to allow allocations to be kind of stored up, to withstand the cuts. The cuts in Area 2 are going to be almost 50 percent; and so a lot of guys are ready to weather that storm, and they want to be able to grab some allocation in advance of that from someone who is retiring.

We need the system to accommodate that. We want to accomplish some ownership caps. Area 2 is still an inshore area. It is like Maine, like inshore Massachusetts, the features of this fishery are like single boat for the most part, owner/operator. Not everybody, but I think that the predominant characteristic of this fishery is owner/operator, single boat; so I want to retain that.

Of course, the sunset thing is important; because if we create a system where everybody is allowed twice the allocation as the trap limit, then that business model could become really common where you have a bunch of entities that all own two boats. I think in my conversation with the industry they want to retain that kind of one boat owner/operator, small business feel. One boat accomplishes that better than two boats per entity. Those are the things that I heard from this Southern New England inshore area, too. I would be prepared to make some motions to accomplish that.

CHAIRMAN GROUT: Any other discussion at this point or would you like to have a motion on Area 2? I want the board to be aware of something that was brought to my attention concerning Area 3; and that is that the document that went out for public hearing had some tables

in it that did not reflect what the Area 3 LCMT plan wanted.

They specifically apply to – and I will bring the board over to Page 13 and 14 – a single ownership cap table there; we were made aware of last week should have another year on it, Year 6, and a reduction to 1,800. Under Option 2 on Page 14, that table should have also reflected a Year 6 of 9,000 traps as the maximum number of aggregate traps.

There was also a part of Option 2 there on Page 14 that indicated that an owner may not increase trap ownership once NMFS control date has been published. That was applying to the people that already had in excess of five times the single ownership cap; the point being that if they had a bunch of permits with 1,800 traps associated with them, and one was, say, 800 traps associated with them; this would prevent them from buying up to their 1,600.

According to the comments from AOLA, that wasn't the intent here; that they should be able to have an aggregate ownership cap that would be essentially whatever the single ownership cap is times the number of permits that they have. In talking with staff about this – and I'll turn to Bob for his specific interpretation of this – I was concerned as chairman that this was a significant enough change that we might have to go out for public hearing, because that table does not reflect – both those tables on Page 13 and on Page 14 don't reflect what the intent of LCMT 3 was. I think there were three significant changes here, but, Bob, can you provide your input as to whether we need to go out to public hearing again on this?

EXECUTIVE DIRECTOR ROBERT E. BEAL: My take is similar to yours in that the text on Pages 13 and 14 didn't synch up with the numbers that were in the table. When folks were commenting on this, we don't know if they were commenting based on the text or based on the table. There is some discrepancy there.

I think the bigger concern, in my opinion, is the ability of fishermen to increase the number of traps for a permit under the grandfather clause.

That ultimately could potentially result in more traps in the water and more fishing effort, which is less restrictive on the fishermen and provides more flexibility to the fishermen; but on the other side it provides less conservation for the species.

There may be some folks that are interested in commenting either way on that issue. My opinion, as I said, is similar to yours, it probably should go back out to public comment. But if the board is very comfortable that they've got a record that reflects folks were commenting based on the table and not the text or the text and not the table; the public was clearly indicating they wanted the ability and increased flexibility to be able to increase permits associated – I mean, increase; traps associated with certain permits under the grandfather clause, then you may not need to. But the more stable position, more durable position for the board may be to go back out to public comment and just have a quick turnaround between this meeting and the October annual meeting and revisit those issues at that time.

CHAIRMAN GROUT: As I said, that was my thought on this, and I think we would be on firmer ground if we went back out to public hearing. Now, also one of the things I think we have to deal with here is when this is going to be implemented. Hearing some of the comments from the National Marine Fisheries Service, even if we were to approve this today, a lot of this we would have to be recommending to National Marine Fisheries Service that these be put in place, and they are going to have to go through a completely separate rule-making process.

Otherwise, we wouldn't get trap transferability in place next year, which is what I think the states and the public wants to have put in place right away. I don't see at this point any critical loss in time if we were to just send this back out for public hearing with the corrected document and then make the final decision at the annual meeting in October. I will leave that open to the board to see if anybody seriously objects with this process.

MR. PATRICK H. AUGUSTINE: I don't object to the process. I do object to the process of going through the full-blown process. It seems as though the number of people that did show up to pass judgment and make comments on it were so minimal, that to go through an extended period doesn't make sense.

On the other hand, could we not send out a corrected document to the public and put it on our website and so on and accomplish exactly the same thing, if we could do that. It is not going to speed up the process with the federal side. They still have to deal with that full process they have to go through.

But it will show I think the public that we have all good intentions of moving quickly and as appropriately as we can with this without slowing it down. Can we do that in a shortened time as opposed to going out as a full 30-day cycle or 60-day cycle, Bob? I'm not sure; can we do it on a 10 day or 20 day, and would it be beneficial? If it wouldn't be beneficial, then no.

EXECUTIVE DIRECTOR BEAL: I don't think we can short-circuit the 30-day public comment period. That is hardwired into the plan; to make changes, you need 30 days for public comment. That does not require public hearings. The changes in the table versus text issue are relatively minor, all things considered. The states don't have to have public hearings. We don't have to have staff running up and down the coast doing these hearings. It is a fairly simple 30-day process. There is plenty of time between this meeting and the October meeting to do that.

MR. McKIERNAN: But I hope that in the next 30 minutes maybe we can take some votes on some of the non-controversial parts so that the document, when it goes out, will only highlight the parts that were unresolved. Can we resolve some of the options today?

CHAIRMAN GROUT: Is that important to you to have the decision-making split up into two different meetings?

MR. McKIERNAN: I think it is. I think because we are developing this database, it sends a signal to the database developers about how this is going to function in the future. I think we need to make as much progress as we can. I think that about 80 percent of this is resolvable today. Then final approval could come on the total document, but I think it would be better if we took those votes today and then cleaned up the document and got rid of the nonessential parts that we'll throw on the cutting room floor today and then have a cleaner document to comment on.

CHAIRMAN GROUT: Bob, do you see any problem with taking votes on part of this document and then going out to public comment on the whole document, putting it out there knowing that half the document we have already made decisions on; do you see any problems with that?

EXECUTIVE DIRECTOR BEAL: It is obviously different than a normal process. I think staff can probably capture those transactions pretty well in the document, but it does create a strange spot where you've got an addendum that is partially approved, and then you go back out for public hearing for the remainder of it. You could do an entirely separate document and go back out, and that becomes Addendum XXII, if that is what the board chose to do. There is nothing that prevents it, but it just needs a pretty good paper trail of what happened.

CHAIRMAN GROUT: Yes, I would almost think you would have to separate and have a separate document. I think it would be much more advantageous, personally, if we made these decisions all in one document. This is essentially going to be a quick 30-day turnaround. In two months from now we're going to be making these decisions at this point.

But if the board feels that this is important to move forward right now with essentially the first half of the document and split it out, if people want to speak strongly for that, I'll be glad to take that into consideration. I'm going to go to Dave Borden; you had your hand up. I would

also like to at this point, since I'm calling on Dave for the first time, recognize that Dave is acting as a proxy for Bill McElroy, and Dave was a long-time administrative commissioner for the state of Rhode Island. Welcome back, Dave, to the commission.

MR. DAVID BORDEN: It is great to be back and seeing a lot of old friends. I would just like to follow up on Bob Beal's suggestion. I think it is a good one. There is nothing in the rules that require us to send this out to public hearing. This is a minor technical revision to a document. For the point of clarity, I think the option that he suggested is the appropriate course of action.

You basically clarify these points that you rightly raised, Mr. Chairman, in the document, and then put it out to notice for 30 days and solicit comments from the industry on the point. That way the record is clear, everyone is clear on what the proposals are, and everyone has an opportunity to comment.

On the issue of whether or not we need to vote today, I would encourage us to vote on the items in this packet that are clear and where there are preferences. We can defer action on these other points that you've raised until a subsequent time and then vote on those. The point that others have made here, I think it is critical to send a message both to the National Marine Fisheries Service and to the industry as soon as possible these are the items that we support, so that there is a very clear record that everyone can utilize in support of their deliberations.

I urge Dan, who sounded like he was willing to make a motion on Area 2; I would urge him to do that. The other point I would make, and then I will be quiet, is that I think it is very helpful to discuss Area 3 and Area 2 measures entirely separately. They are different issues, and they will get confused if we jump back and forth from Area 2 to Area 3. I just urge us to focus on Area 2, take whatever progress we can do and then move on to Area 3.

MR. THOMAS P. FOTE: If we're going to go through the process of looking at this and then basically three months from now we'll start

going through the same document again, the only way I could support this is we split them out. The things that we can approve today, we approve that and you start a new addendum on what you basically can't approve today, if you want to go back out. This process is long and dragged out and we've been doing it for a while.

I just don't feel comfortable voting on things and then three months from now things are going to change, or maybe something else comes up and we go revisit the same things we started today, because I know that has happened on every meeting on lobsters and everything else. If we're going to start discussing, then we should pass it, separate it out and then that is finally done.

Then the items you didn't feel comfortable, Mr. Chairman, approving today, and we want to go out to the document, split them out. We've done that many times in management plans, split out an addendum and handle things for later on. I don't want to start a discussion going through approving things and then three months in October we're sitting here going through the whole plan, because we've got to approve the whole plan. It has got to be a roll call vote. We can't do any of that today unless we're going to approve the whole document – unless you split it out.

CHAIRMAN GROUT: Before I go to Ritchie I have a suggestion here on how we could accomplish this without taking final vote and still get it where what Dan and Dave would like to do is put out a message that this is the direction we're going, at least with our preferred direction, and maybe what we could do is what the councils do.

We could select preferred options at this meeting and put that out in the document that these particular options are preferred options, and then make final comment, make final decisions of the document as a whole at the October meeting. That way we wouldn't have to split things out. We wouldn't be making final decisions, but we would be telling the public and the people putting the database together that these would be our preferred options contingent upon what

comes out of public comment during our public comment period. I would be interested in hearing comments using that process.

G. RITCHIE WHITE: I would support your suggestion. I would not support voting on the Area 2 for the following reason. We could vote those in; and then as Tom suggests in October change it. We would be telling the public, when we send this document out, that we passed certain things, and then we could undo those at a later date.

That would not be fair to the public, I don't think. I think your suggestion would work. I am not convinced of the argument that there is any reason not to wait until October. The National Marine Fisheries Service has talked about their timeline, and I don't see that we're delaying anything by waiting until the October meeting.

MR. FOTE: I would be more comfortable if we went and split it out, because you are still doing the same thing by having preferred options. Now you would change the document that you basically sent out to hearing before, because you put preferred options in there. Are you going to go through the whole process of the whole document since you've now changed the document with preferred options in there?

I think it is really confusing and it doesn't suit the process well. I truly think if you want to vote on certain parts of the plan today, a vote put them down, put them up; because then we're done with them. Then we only have to deal with the ones that come up in October that you feel comfortable like you have to go out to public comment for.

MR. MARK GIBSON: I think we could act on this on the whole thing today. I think these inconsistencies between tables and the text are minor. This is an action by and for the industry. We've never had this much industry input. They are well aware of what it is about, what its intentions are, and they know what they want in it.

I suspect I can't get that entire enchilada today, but I would strongly encourage actions and votes on those issues where there isn't any confusion, because we've been meeting by phone every couple of weeks with the ACCSP folks, and they are on a fast track to develop this database. They ask us very difficult questions every week.

One of the refrains we get back, once we've answered those questions to the best of our ability, is but you really don't know what is going to be in the addendum, because you are still developing and so on. We have to provide definitive answers for them now if we're going to have a database available to support transferability in the next fishing year. That doesn't just start in the spring of 2014; that starts at the end of 2013.

We have to start entertaining orders, evaluating transfers between that former allocation to the allocations; and the Service needs answers as well, as they pointed out. They are still implementing parts of an existing program, and these have some differences relative to past actions. I think we've got to make some significant decisions today on those areas where there is clarity and not leave them to a further development in an annual meeting decision. I think we'll put ourselves in a difficult spot and ACCSP in an impossible spot.

MR. ADAM NOWALSKY: I appreciate your attempt at creativity with regards to the preferred option scenario. I would just be very cautious of that approach based on the idea that we're saying we're doing that because of a typo or two in this document, essentially an omitted line from a table.

What happens when we're sitting here tomorrow and somebody comes up from public comment when we're dealing with eels, where somebody finds a typo in the document and suggests to us; well, let's fix it, give us your preferred options and then we can come back and comment again on that at a future meeting? I appreciate that idea, but being that it is not something we typically do, basically showing our cards ahead of time, I think that it would be a dangerous precedent to set at this point today.

CHAIRMAN GROUT: Any other comments?

MR. AUGUSTINE: It has taken a long time to get to this point. To see it all go for naught does not seem to make sense. The document that we've got before us is probably about the best we're going to get. We listened to the issue that we've got with the National Marine Fisheries Service. They're doing the best they can. In the meantime we've gotten this far. There is no reason to send it out twice.

The idea is just send it out once and be done with it. We sent it out once; we got the comments back from it. I think it is incumbent upon us to make the move. This is one of those cases where the board has to step up to the plate and do what they have to do. The information that was incorrect is going to be corrected simply, if I understand it. It is not going to take any action on the public's part.

It is going to take action on the staff's part to get the information out to the public for information purposes, if you will. It is not for assessment; it is not for change; it is not for suggestions or recommendations. It is just correction. I would hope that the folks that want to move this along will make some motions to get it done. If not, I will take the bull by the horns and make some choices and get them on the table for debate purposes or second purposes.

CHAIRMAN GROUT: I'm going to go to the audience. There is one person that has had her hand up very patiently. Bonnie.

MS. BONNIE SPINAZZOLA: I would like to agree with what Pat just said and also with what Mark said. There are technical corrections that have to be made, there is no doubt. The language in the document is absolutely correct. Getting back to what Pete was asking earlier, the industry is well aware of what the meaning and the intent of this document is.

Frankly, I don't even think they looked at the tables, because they didn't need to. They knew what they said; they know what is being done. They know that the industry representatives and the agency and everybody else worked together

to craft the document, and you guys have voted on it and we've worked on it for so long.

I think if you feel that it needs to go out to public hearing, I would take just those areas that specifically need to. The rest I think you should really go through it, get it done. My preference is it is a technical problem. The language is correct. You really don't even need to go out to public comment.

But if you all feel that you need to, then couldn't you possibly just bring those three issues out, let the public know that it was a technical issue and that the language is there, the tables should be thus, and then the board can vote on the things that you've already sent out for public comment today. Just get it over with, and make an agreement that you will send it out 30 days, public comment, and then the board will then vote by e-mail to approve what has come in and then send it off to NMFS. I would assume – and I didn't give them time to answer the question, but 30 days is okay. When you start talking about 60 days or three months; that starts to eat into their time schedule, and I think that is what we're all trying to keep from happening. It is just a suggestion.

EXECUTIVE DIRECTOR BEAL: Hopefully, this will be helpful and not hurtful. Listening to the comments around the table, especially the states that are associated with Area 2 and the folks that have been very involved with the database management; they make very good points I think that the folks at ACCSP need more detail to keep moving forward.

Without those questions answered, they are sort of wandering around developing a database that they don't know all the final rules for. It seems process-wise that the cleanest thing maybe to do is go through Addendum XXI, approve everything that you can. Then that is a final, done product, Addendum XXI. Then there is a new addendum called Addendum XXII, which is going to correct the three issues and include any other issues you could not approve through XXI.

Then that will be the document that is approved via e-mail vote or some sort of vote, and it will go out for 30 days public comment. Then they

will have the final decisions on Addendum XXII at the annual meeting. At least listening to what folks are saying, there seems to be a number of pieces that can be approved under XXI, and the board can make some progress today.

CHAIRMAN GROUT: Hearing that; would you be comfortable with splitting that out and we would choose options and approve XXI with everything but Sections 3.2.4 and 3.2.5? We would split those two out, make the changes that need to be made, we'd go to public comment period on that and then have those two sections, which would be for Area 3, the individual permit cap and the aggregate ownership cap sections.

MR. DENNIS ABBOTT: Can you do that in the next 12 minutes?

CHAIRMAN GROUT: I think some motions are up there; and if there are no objections – is there any objection to going through that process? Keep in mind that we also have to come up with an implementation date with the motions that are being – as part of one of the motions that we're going to need here. Without any objection, do we need to take a formal vote to separate this out, Bob, into two addendums at this point?

EXECUTIVE DIRECTOR BEAL: No, I don't think so. I think what you're doing really is status quo on those two issues that you're not taking action on here, which is always an option, and then you're going to revisit those in Addendum XXII.

CHAIRMAN GROUT: But we'll have to at the end of this process move to initiate Addendum XXII that would include those two sections.

EXECUTIVE DIRECTOR BEAL: Yes, and I think you can do that through board concurrence, if you wanted to, when you get done with all the work on Addendum XXI, the final approval there.

MR. McKIERNAN: I have some motions that will accomplish some of this, and I've given them to Kate. Kate, if you could put them up on the screen and hide the first two, I've been told

that the first two are redundant and that the third motion accomplishes what is intended in the first two. Doug, shall I read them?

CHAIRMAN GROUT: Yes, you're going to have to read the motion. Are you going to take them all at once?

MR. McKIERNAN: I would like to take four motions up for Area 2 first. **It starts with for 3.1.1, Part C (multi-LCMA trap allocation): Adopt Option 3, which allows all areas to be fished. I would like to add a phrase at the end of that which says, "and the multi-LCMA history to be retained in the database.**

My next part of this motion is for 3.2.3, (ownership caps): adopt Option 2, which creates a single ownership cap of 1,600 traps.

Next part, for 3.1.3 (sunset provision for the single ownership cap): Adopt Option 3, which would sunset after two years after the trap cap. This means that two years after the last of the six annual scheduled traps allocation reductions, permit holders would not be allowed to own more than the Area 2 trap limit that is currently at 800 traps.

The last part is 3.1.4 (aggregate ownership cap or ownership accumulation limit): Adopt Option 2, which replaces the status quo of two permits per entity and replaces the limit with 1,600 traps.

CHAIRMAN GROUT: Do we have a second? Okay, Pat Augustine seconded it. Is there any discussion on this motion?

MR. ABBOTT: On the first part of the motion, there was verbiage added in the multi-LCMA history to be retained in the database: is that something that was in the document?

MR. McKIERNAN: Yes, it actually was part of Part A, 3.1.1, so I'm bringing that phrase down, because it was pointed out to me that Part C accomplishes what A and B does. I thought that point was important, because that is what is being debated intensely among the LCMTs and the state folks and ACCSP about this database.

Is it going to accept when a trap allocation is transferred, the historical aspects of it? For example, if somebody has an Area 2 allocation and an Area 3 allocation of 400 traps, when they transfer that, does the recipient get both aspects? By making that addition of being clear that, yes, the database is going to receive and the recipient will hold in the future both aspects.

CHAIRMAN GROUT: Any other discussion on this motion? Are you ready to vote on this? I'll give you ten seconds to caucus.

(Whereupon a caucus was held.)

CHAIRMAN GROUT: Okay, are you ready to vote? All those in favor of this motion raise your hand; all those opposed; abstentions; null votes. **The motion carries 8 to 0 to 3 to 0.**

MR. McKIERNAN: I have some motions for Area 3. I've given the staff seven and I would like to exclude the last two, because those are the ones that you pointed out need to be postponed. Move to adopt the following elements of Addendum XXI for Area 3. For 3.2.1, Part A (partial transfers of multi-LCMA trap allocations) –

CHAIRMAN GROUT: Dan, I think the same thing applies to this; because if you read in the document Parts A and B; if you're going to approve C –

MR. McKIERNAN: We'll go right to C. **For 3.2.1 Part C (Multi-LCMA Trap Allocation): Adopt Option 3, which allows all areas to be fished. Then I will add "and the multi-LCMA history to be retained in the database. Kate, are you good with that? Next part for 3.2.2 (LCMA endorsements): Adopt Option 1, which maintains status quo - no Area 3 sub-area designation. Finally for 3.2.3 (Active Trap Cap: Adopt Option 2, which would cap traps at 2,000 in Year 1 and 1,548 by year 5. Maybe I should delete that one, because that is the one that is in error as well, right Doug? Is that accurate?**

CHAIRMAN GROUT: That one is accurate.

MR. McKIERNAN: Okay, so we'll keep that one.

CHAIRMAN GROUT: I've been advised by staff that it might be more from a procedural standpoint, proper on Sections 3.2.4 and 3.2.5, that we make a motion for status quo for now and then approve that. Then go to an addendum that would include that Section 3.2.4 verbiage, including the two options.

MR. McKIERNAN: Would you like me to make that on the record?

CHAIRMAN GROUT: Yes.

MR. McKIERNAN: **For 3.2.4, adopt status quo; and for 3.2.5, adopt status quo.**

CHAIRMAN GROUT: Do we have a second? Pat Augustine. Discussion on this motion?

MR. BURNS: Not to complicate an already complicated motion here, I can see how the board would like to move forward with some of these where there is some clarity, but I do have some concern about actually selecting an option for those two elements that we think we're going to split out into another addendum. I'll just throw that out there and see if anyone else has the same concerns about that. I can see how it would help from a procedural standpoint, but it almost makes it look like we're making a decision already.

MS. TAYLOR: By choosing status quo, it would just assist in following the administrative record. In the press release we would mention that status quo was chosen, and that status quo was chosen in order to take these options back out for public comment for further consideration.

CHAIRMAN GROUT: Okay, are there further comments on this? I'm going to go to Pete and then I'll go to the audience for any comments on this particular motion.

MR. HIMCHAK: Yes, I agree with what Kate said, but make sure that it doesn't give the

impression that this is the preferred option in the explanation.

CHAIRMAN GROUT: It would be a decision that we're making on this, which would then be followed up with a new addendum that is going to include – and we are going to need a motion to initiate a new addendum that would include Section 3.2.4 and 3.2.5.

MS. KERNS: If it is helpful, Pete, sometimes when we adopt status quo we actually do not – oftentimes if we have an addendum where we adopt status quo, that addendum doesn't get published because the FMP already reflects those measures. When we publish this addendum for the options that we picked status quo for, those sections would be dropped. It wouldn't show those status quo measures in this addendum and Addendum XXII would have the options in there. The press release would be clear, and the introduction of Addendum XXII would be clear what the intent was and why we are moving in the direction that we are. We can have preferred options listed in the addendum as well.

CHAIRMAN GROUT: All right, I'm going to go to the audience right now on the motion that is on the board. Does anybody in the audience want to speak?

MR. DAVID SPENCER: My initial concern I think has been taken care of; but I think if we don't take those out of what goes out to industry, you are sending the message that is a preferred option. As long as that is very, very clear, I'm okay. But if the language stays like that, then I think the board is telling industry this is our preferred option.

MS. BONNIE SPINAZZOLA: Only because that does create confusion; if status quo is already status quo, why adopt it? As long as it is not being shown to the public, why not just leave it along or specifically state that you are going to drop 3.2.4 and 3.2.5 from this document and go out in a new addendum, just to ease the confusion.

CHAIRMAN GROUT: That is essentially what the staff was saying we're going to be doing is in the press release we're not even going to mention these sections, just the sections we've approved. Then we're saying we're initiating Addendum XXII that will address 3.2.4 and 3.2.5. I am going to give one last chance for comments on this motion.

MR. McKIERNAN: Is it clear in the motion that under 3.2.3, the active trap cap; that because we're not going to separate Area 3 by a sub-area designation, that the Area 3 Southern New England trap limits get dropped from this table. I just want that to be clear.

CHAIRMAN GROUT: I feel it's clear.

MR. McKIERNAN: All right, thank you.

CHAIRMAN GROUT: Seeing no further comments, I will give you 10 seconds to caucus and vote.

(Whereupon, a caucus was held.)

CHAIRMAN GROUT: All right, all states in favor, raise your hand; all those opposed; abstentions; null votes. **Motion carries, 9 to 0 to 1 to 0.** We now need a motion for an implementation date for Addendum XXI.

MR. AUGUSTINE: **Can we just add it in there move that the implementation date be effective; we said January 1 of 2014?**

CHAIRMAN GROUT: Is there a second to that motion? Are you raising your hand for a second, Mark?

MR. GIBSON: No, I have a question on the timing and the trap tag gear.

CHAIRMAN GROUT: I'll be glad to get the timing. Okay, Bill Cole has seconded it. Now I'll take discussion on it.

MR. GIBSON: Yes, I'm just thinking about the disconnect between the state and the trap tag gear. Given that we've posed thinking about initiating another addendum that wouldn't be

approved until the annual meeting, this board and the staff might need to be thinking about a process by which the trap tag year would need to be extended in the event that the database hits some unforeseen snags. Alignment of federal and state allocations doesn't happen as quickly as we thought; we might be in a position we need to extend the trap tag year.

MR. BORDEN: Just to follow up on that same point; is the trap tag issuance date incorporated into an ASMFC addendum that says it has to take place? If it is not in an addendum, then I think that the board would have the flexibility what Mark just said, which was if it turns out that you need two more months to pull all of the rest of this together, then you would simply send out a notice and say we're going to extend the existing tags for two more months and then do it on the following day.

CHAIRMAN GROUT: Staff is suggesting potentially an earlier date so that the notices could go out to the license holders November 1st.

MR. AUGUSTINE: If that is their suggestion, then I move to change it. **Let's change the date to November 1st of 2013.** I'm not clear on the reason why again, so the lobstermen will receive their notice prior to the effective date and it will give them an opportunity to react accordingly; is that why we're moving it back to November 1st?

MS. KERNS: Pat, so that when the states send their letters to their fishermen of how many traps they can purchase or trap tags they can purchase, they could be aligned. Some states send those letters out earlier than others. I know Rhode Island is one of the first states to send those letters out. I don't know if November 1st would work for Rhode Island or not, though, if that would make it consistent; just so that we don't have to extend the trap tag date.

MR. AUGUSTINE: Do they need at least a 60-day notice or just a 30-day notice? That is through 60 days. What is the reaction of the other states?

MS. KERNS: The rationale for how we send the letters out is in order to separate out each state's purchasing of trap tags in a wide enough span so that the trap tag company has ample lead time to make enough trap tags for the entire coastline, which has been a problem in the past if we don't spread that out.

CHAIRMAN GROUT: Are you making a motion to amend your motion?

MR. AUGUSTINE: Well, based on what she just said, I didn't hear any resistance from the states that might be affected; that might have a problem with it. If it seems to be the appropriate thing to do, let's change it accordingly.

CHAIRMAN GROUT: I'll take that as a friendly amendment of your own amendment, and I'll see if the seconder, Bill Cole; you're okay? Now, Peter you had a discussion on this motion?

MR. BURNS: Yes just a comment. Now that the rubber is hitting the road here, I don't have a preference over November 1 over January 1. I just want to point out I was talking about delays earlier and inconsistencies with state and federal measures here that can cause delays to the implementation of the full realization of the trap transfer program. This just brings up I think we're going to have talk offline with the states and just see how this is going to work; because if now somebody from Rhode Island with a federal permit can now get 1,600 trap tags, we're altering the date now to address that administrative specific issue. I just don't know how this is going to work, and I think it is going to be really confusing.

CHAIRMAN GROUT: I'd appreciate hearing from particularly the states in Area 2 about this disconnect that could potentially come forward and develop as a result of the people that are federally permitted.

MR. McKIERNAN: Yes, I agree with Peter, there won't be any trap allocations that will be amended until Peter's gang finishes allocating and their system is up and running for the transfers. Peter is right that regardless of what

this says, this doesn't actually kick off transferability. What kicks off transferability is the establishment of the database and Peter's work in his office.

The functional implementation date is going to be when all those events occur and everybody is comfortable with it. This implementation date is fine if the states want to notify their fleets of what the ASMFC approved, but the logistics of doing it is going to create its own delays.

CHAIRMAN GROUT: Any further discussion on this motion? All right, I will give you ten seconds to caucus on this. I know Joe usually likes these amended motions read into the record, so I'll just read it once: **move that the implementation date be effective November 1st, 2013. Motion by Mr. Augustine and seconded by Mr. Cole.**

Okay, all those in favor; all those opposed; abstentions; null votes. **The motion carries 10 to 0 to 1 to 0.** We now need a motion for implementation of Addendum XXI. This will be a roll call vote, but I'll ask for objections. Yes.

MR. AUGUSTINE: **Move to approve Addendum XXI as discussed today.**

CHAIRMAN GROUT: Is there a second? Terry Stockwell seconds it. Do you need time to discuss this? This is supposed to be a roll call vote. Is there anybody that objects to approving the addendum? **Seeing none; it is a unanimous vote.** Oh, you're in abstention.

MR. BURNS: National Marine Fisheries Service abstains from the vote. Thank you.

CHAIRMAN GROUT: Okay, is that proper, Bob? The vote is 10 to 0 to 1 to 0. All right, now we need a motion to initiate Addendum XXII with Sections 3.2.4 and 3.2.5 with the changes that have been discussed today.

MR. ADLER: **I'll make that motion, Mr. Chairman, to initiate Addendum XXII as corrected, Section 3.2.4 and 3.2.5.** Is that what you need?

CHAIRMAN GROUT: Yes, it is. Seconded by Dave Borden. Is that what you meant, Bill?

MR. ADLER: Yes.

CHAIRMAN GROUT: Okay, discussion on this motion. Dave Borden.

MR. BORDEN: I hope we follow the advice we got from the Executive Director on this basically and craft the addendum and put it out for a 30-day comment period. The state agencies have done this numerous times in the past. Unless you get a group representing 25 or more people, you don't have a hearing on it.

You simply take the public record and then vote it up or down via an electronic vote. I think we need to try to minimize the additional work that goes into this. This is nothing more than a technical change, and that would allow the full public discussion of it, but people would have to submit written comments.

CHAIRMAN GROUT: I think we would ask each state if they would want a public hearing on it. If you don't want a public hearing, then we don't have it and we just put it up on the website for public comment.

EXECUTIVE DIRECTOR BEAL: Just real quickly on the timeline; what the process will be is the PDT will go back craft this document, Addendum XXII, and then we'll have to circulate that to the board for approval for public comment. Then once that happens, that can happen through an e-mail or a fax vote, I assume.

Then we'll have the 30-day public comment period with any hearings from any states if they do want them, but it doesn't seem to be a lot of folks raising their hands. Then we'll bring that document back to the board at the annual meeting for final approval. Is that the timeline everyone anticipates?

CHAIRMAN GROUT: Seeing no comment on that; I think we're good to go in that direction. Is there any further discussion on this motion? Is there any objection to this motion? Do you need to abstain? Is there any objection to this

motion? **Seeing none, this passes unanimously.** Okay, we'll go to Item Number 5 here, and I think we're going to hold off Number 6 until the next meeting, Kate.

REVIEW OF NOAA FISHERIES AMERICAN LOBSTER PROPOSED RULE

MS. TAYLOR: In June National Marine Fisheries Service published a proposed rule to limit access into Areas 2 and the Outer Cape Cod and to implement a trap transferability program in Areas 2, 3 and OCC. A memo was sent to the board detailing the items that were consistent with the commission's plans and also those items that were not consistent with the commission's plans.

The board did submit comments on some of the options under consideration prior to the public comment closure dates, which was on July 29th. I will be reviewing the options that went into the public comment letter and also those options that there was not a consensus on; and the board will need to determine if they want to submit comments to NMFS on those options.

The proposed rule is consistent with the commission's plan in that they intend to qualify individuals and limit access in manners that are consistent with the commission's plan for Area 2 and the Outer Cape Cod area. Additionally, they are consistent with the trap transfer programs in Areas 2, 3 and the Outer Cape Cod; specifically that NMFS is proposing the 10 percent partial trap transfer tax, the 800 trap tap for OCC in Area 2, and the implementation and use of the trap transfer database.

The proposed rule also will restrict allowable landings to those from ports or states that are in or adjacent to Area 2 and also is consistent with the Area 2 hardship appeal. Additionally, the proposed rule is consistent with the commission's plan with the two-month winter trap haul out. The commission recommended that the implementation for the two-month winter trap haul-out period would be consistent with those once they are promulgated by the Commonwealth of Massachusetts. NMFS has

said they will adjust the final rule to correspond with these closure dates.

Additionally, the proposed rule is consistent in that Area 1 qualifiers who hold a federal permit and purchase traps from Area 2, 3 or the Outer Cape Cod area would, upon selling any of their transferable allocation, forfeit their eligibility to fish in Area 1. For the management measures that are not consistent with the current or proposed commission plans and comments were not submitted to NMFS on include the Area 2 ownership cap, NMFS has said that they will consider an ownership cap once the commission implements these measures.

Additionally, there is the Area 3 trap cap of 1,945 traps. This is different from the Area 3 trap cap that was under consideration in Addendum XXI, which were 2,000 traps. NMFS has said that they will consider modifying this trap cap when the commission recommends amendments to the Service.

NMFS has stated that they will not impose a 10 percent conservation tax on full business transfers. Under the commission's plan, we require a 10 percent tax on all transfers regardless of if they are full or partial. Under the proposed rule, there would be an option for fishermen to opt into the trap transferability program.

The commission's plan contains no requirement to opt into the program. Additionally, the proposed rule has an allowance for dual permit holders to transfer traps with any other dual permit holder regardless of their state affiliation. However, the state/federal allocations must be synchronized at the end of the transaction.

This would allow for increased trap transfer opportunities for dual permit holders. Under the commission's current plan, a dual permit holder is restricted to transferring traps only to another dual permit holder from the same state. Under the proposed rule, if a dual permit holder purchases traps from a dual permit holder from a different state, then the buyer would not be able to fish the purchased traps in state waters until

an equal allocation is purchased from a holder in that state.

There are also options in the proposed rule for a clerical and director's appeal process for trap allocation. The clerical appeal would allow for the Service to correct any errors that occur when an application is processed while the director's appeal would allow the state to petition the Service for comparable trap allocation on behalf of any Area 2 or OCC applicant that was denied by NMFS in order to respond to the fact that the states can implement different appeals' qualifications when allocating traps and help to ensure consistency between state and federal trap allocations.

Additionally, with the measures passed today, there will now be – with the allowance of the history of all areas to be retained for partial trap transfers; this is not consistent with what is going forward in the proposed rule. Option Number 6 here should also include the allowance of the history of all areas to be retained for partial transfers along with these first five options that the board will need to discuss if they would like to submit comments to NMFS.

CHAIRMAN GROUT: All right, comments from the board? We need to provide staff with input on these six items that are up on the screen, the sixth one being the retention of the multi- area fishing designations on each permit during a partial transfer.

MR. McKIERNAN: I think the board made it clear its intent that we'd liked those multi-LCMA aspects of the trap allocations to be retained, so I'm not sure I need to go into that. I do have a concern about NMFS not opting for a reduction in the allocation when a full business is transferred.

In Massachusetts we've been transferring Outer Cape permits for the last nine years; and each time we do it, we take 10 percent of the trap allocation away. We thought that was a good idea for conservation and also to reduce risk to whales, assuming that trap numbers were correlated with buoy line numbers.

I guess we would stop that if we're in a new era where full business transfers are no longer going to be taxed. I hope NMFS will reconsider that position, because there are a lot of good reasons to continue to remove traps from the systems.

MR. AUGUSTINE: I was just wondering if – I'm not sure Peter would have an answer to that; but why the federal government decided not to do that in line with Dan's comments about trying to reduce pressure on the fishery or reduce the amount of traps that were out there. Maybe it is not a fair question, but they are doing it and we're not. Peter, I don't want to put you on the spot, but if you could help us, we'd appreciate it.

MR. BURNS: Thanks, Pat, for the question, and this is an important issue. First and foremost this is still a proposed rule, so we appreciate the comments here and are glad to have the opportunity to have the whole board here to be able to comment on some of these, because there are a lot of complicated issues here.

I think one of the big things that come to mind is that while we don't have trap transferability in Area 1, and we've got a lot of full business transfers that happen all the time with lobster permits, so this is a long-standing business practice that we've had in our permit operations. To start taxing people every time that they transfer their permit, which happens very frequently in lobster, especially in the Gulf of Maine area, would be a substantial change from how we do business now. I'll just leave it at that.

I think the whole point of transferability is to really allow people to transfer traps and not their whole business. To us, that is a different thing than just trying to adjust your business and have some flexibility in your trap allocation through transferability, which would be subject to trap reductions.

MR. BORDEN: Mr. Chairman, two suggestions. One would be I think this is a very critical issue to the success of this entire addendum. I think the commission should send a letter to NMFS and basically ask them to

reconsider that position and impose a 10 percent conservation tax on full business transfers.

I would also point out that all of the associations, the Offshore Association, the Massachusetts Lobstermen's Association, The Rhode Island Lobster Association all support that provision. It seems to me that if you look at the status of the resource; whale issues, turtle issues and conservation issues for lobster, it is kind of critical to do this. I would make a motion that the Commission Executive Director send a letter to the National Marine Fisheries Service asking them to reconsider that position and authorize the staff to fold in that logic.

CHAIRMAN GROUT: Do we need a motion for that? The commission was going to provide comments on the rules, and we were just trying to get input as to what aspects we should be commenting on – I think we've heard that loud and clear – and also concerning the multi-area being allowed to be retained with partial transfers. I think those are the two I've heard so far. Is there anything else?

EXECUTIVE DIRECTOR BEAL: Just a quick comment; if the group agrees with that sentiment to send a letter, we can do it. I think technically we should ask the Policy Board if that is okay since that has been the pattern or the practice; that letters going to the Service or anyone else under the Executive Director's signature approved by the Policy Board. We can do that as probably a formality more than anything else.

CHAIRMAN GROUT: Okay, I think that is appropriate. We'll just bring that up to the Policy Board.

MR. BURNS: Just for the sake of discussion on the topic, not to stymie the thoughtful comments of the board, I don't think I made my point clearly enough when I was trying to give the rationale for our stance on this full business transfer and the no conservation tax. I think this comes back to Area 1. We want to try to be consistent here.

We've already got an issue with the proposed rule that has to do with transferability, because

we don't have transferability in Area 1. We don't have individual trap allocations by permit. It is a flat trap cap; everybody has 800 traps. That was one of the issues that we have that is in our proposed rule is that somebody who has an allocation in an Area 3 or Area 2 or the Outer Cape, and also is Area 1, if they sell those under the commission's plan, as recommended to us – if they sell those Area 3 or Outer Cape or Area 2 traps, they lose their Area 1 eligibility, and they can't fish the traps there anymore.

One of the main reasons is because there is no mechanism in place to be able to deduct 300 traps from somebody's Area 1 allocation. This is the same thing. We understand that some folks on the board might think that this is an important issue from a conservation standpoint to be able to continually reduce traps with a conservation tax on a full business transfer; but the issue is how are we going to do it? Again, lobster businesses get transferred a lot. Lobster permits get transferred very frequently. As it is we don't have any way to deduct their allocation.

REPRESENTATIVE WALTER KUMIEGA: I think the difference with the issue in Area 2 and 3 is you are trying to match effort to the resource. In Area 1 we feel comfortable that our effort and resource are compatible. We're not trying to reduce effort necessarily in Area 1. If we were, then maybe we would be thinking about it. Different goals here; Area 1, we're trying to maintain effort at the level it is so we don't feel like we need a conservation tax. Area 2 and 3 is a different situation.

MR. ADLER: If I may, Mr. Chairman, I would like to ask Peter Burns on this Area 1 issue; if someone has an Area 1 permit and actually ends up having an Area 3 allocation that he qualified for, and he says that if he sells his Area 3 and retreats into Area 1 he can't fish there, the 800 thing is gone; what could a fisherman do if he's got that? Does he just hold his Area 3 and just not try to transfer them or sell them? What does he do? What does he do so he doesn't lose his right to fish in Area 1?

CHAIRMAN GROUT: Peter, do you want to respond to that?

MR. BURNS: Yes, Mr. Chairman. Our proposed rule hasn't gone final yet. We're proposing to do what the commission had recommended, which is if someone had a 300 trap Area 3 allocation, for instance, and wanted to sell those traps, they would lose their Area 1 allocation, because right now we don't have any mechanism to deduct 300 traps from their allocation.

By allowing them to sell those 300 traps, they would have an advantage over somebody in another area with an individual vessel allocation for each area where if we just let them keep fishing 800 traps and allowed them to be compensated for 300 in Area 3, we would have an issue there because we have no way to deduct it. That's it.

What they could do – I guess that is the other part of your question – is if we went forward with this the way it is, they could hold on to those 300 traps. They could buy 500 more in Area 3, and then they would have an Area 1 and an Area 3 allocation that balanced. Then they could work through it that way. Nothing would be taken away from them. If they sold the Area 3 traps, then they would lose their Area 1 eligibility under the current proposed rule.

MR. McKIERNAN: Let me just add some detail to this. When the industry adopted these plans, they referred to these as passive trap cuts. The active trap cut is different. That is when government comes down and says next year you're going to lose 25 percent of your traps, like is scheduled in Area 2 when we get to that.

But the passive trap cuts are upon transfer, so the recipient, when they go to obtain that permit, they are put on notice you are only going to get 90 percent of the allocated traps. Area 1 does not have an allocation; it is just a trap limit. In Bill's scenario, an Area 1 fisherman who has an Area 3 allocation probably isn't fishing it, because most people can't make a living on 300 traps in Area 3.

It is just sitting in his portfolio. In my view, when that person goes and sells his permit, that

is a functional transfer of that allocation from the holder to the recipient. They are going to lose 30 of those traps, if there is a 10 percent passive trap cut upon transfer. That is how we've been working it in the state in Outer Cape and Area 2 for the past half decade or more. I think it probably adds a little bit more work, because every person who is going to go in the database with an allocation for one of these areas that has an ITT, when they change ownership, you reduce it by 10 percent. I hope that NMFS can consider that model going forward.

CHAIRMAN GROUT: Does the board have any other comments that they would like to have the – yes, I realize that, I just want to check – would like the commission to recommend to the policy board that they send a letter on these comments. Seeing none; but I see one person in the audience that has a burning desire to have us stay another five minutes.

MS. SPINAZZOLA: It is my last meeting; I couldn't just let it go without doing this to you.

CHAIRMAN GROUT: That was the wrong person.

MS. BONNIE SPINAZZOLA: Oh, sorry. Well, that's okay, you have to let me go this time. Just getting to that NMFS issue that you're talking about now; I just want to say that as Pete said the Area 2, 3 and Outer Cape people have been impacted by the fact that if they sell anything, they can't go into Area 1 anymore. They've taken a hit or they've taken whatever it is.

They've eaten their medicine because of the Area 1 rules, and that's okay. But that being the case, as was said earlier; all of the industry understand and agree to the fact that these passive reductions are good for the resource and they want to see it happen. As an added benefit to maybe put into your letter, if you are going to write one to the commission, perhaps you could recommend that the only transfers that you recommend be taxed at 10 percent are those full business transfers that are participants in the

transferability program. That would leave Maine out.

CHAIRMAN GROUT: Does the board feel that would be an appropriate comment to make? No; okay.

MS. KERNS: I just want to point out that the board has not commented on Issue 4, and that is a difference from what is in our plan. If NOAA were to move forward with allowing dual state and federal permit holders from any state to transfer with each other; that would not be what was in the state rules. Right now in our plan it says you have to be from the same state in order to transfer with each other. We would need direction from the board on how we should comment on this issue.

MR. McKIERNAN: I'm in favor of it. I think it is a nice solution to what was a complicated aspect of the plans up until now. The problem with the plan as we wrote it at the ASMFC was that it meant that only the population – the pool of permit holders was basically within your state. Dual permit holder, meaning a state and a federal, had to find someone else in their state in order to get those like traps.

This gives somebody who is dual, if they can't find somebody in their state, a chance to go out of state for their federal traps and in state for their state traps. It actually doubles the number of traps that are going to be transferred, and you are going to get the conservation tax. I think NMFS came up with a nice solution to a problem that was going to be worse under our plan.

MR. TERRY STOCKWELL: I don't want to prolong this discussion much further, but I do need a clarification on Bonnie's comments referring to Maine in Area 1. If we have a Maine Area 1 fisherman with 800 traps and he or she sells 300 of them, those wouldn't be deducted from Area 1 limit or they would? I'm just confused.

MR. BURNS: Under the proposed rule that we have in place right now, we are proposing that someone with an Area 3 allocation, for instance,

and had an Area 1 permit, if they sell those Area 3 traps, they will lose their Area 1 eligibility. They can't fish with traps in Area 1. That is how the commission recommended that we implement that, because of the difficulties or the inability to – there is no transferability in Area 1, so there is no way to deduct somebody's allocation accordingly like in the other areas.

CHAIRMAN GROUT: Back to the second public commenter, Dick Allen.

MR. RICHARD ALLEN: I want to comment on the idea of the full permit transfer and there not being a conservation tax. I think it is important to keep in mind that NMFS permits boats. There can be a lot of transfers of permits, and somebody might classify it as a full business transfer. Say, an individual owns a boat and he incorporates. NMFS I think would automatically consider that a business transfer, a permit transfer.

If an individual got married and added his wife to the permit, I think NMFS would consider that a transfer. I just went through transferring a permit from one boat that I owned to another and found that because my wife wasn't on one of the papers, they couldn't transfer it until I demonstrated to them that I actually had a title that my wife was on and sent that in.

It might be important to try to really get together with NMFS to figure out what they would consider a transfer, and what they wouldn't. It would be quite different I think the way NMFS does it and the way the states do it, because of the state licensing the individual. I also wanted to comment on this Area 1 fisherman who wants to sell 300 traps and keep his 800 in Area 1.

I think it is important to remember that he never had 1,100 traps, because there is no way to account for the fact that he wants to keep 800 and sell 300. I think you just have to consider that he hangs onto those traps if he wants to maintain his Area 1 qualification.

CHAIRMAN GROUT: You've made your comments; so we are not going to make any

comments on Area 2 and 3 trap caps or the dual permit holder or the appeals process.

MR. McKIERNAN: I just endorsed Number 4.

ADJOURNMENT

CHAIRMAN: Okay, seeing no further comments; I'm going to seek a motion to adjourn here. Okay, motion to adjourn, second approved. Thank you.

(Whereupon, the meeting was adjourned at 1:15 o'clock p.m., August 6, 2013.)