



# Rhode Island Marine Fisheries Council

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April 7, 2014

URI Narragansett Bay Campus, Corless Auditorium  
South Ferry Road, Narragansett, RI

## MEETING MINUTES

Chairperson: *B. Ballou*

RIMFC Members Present: *K. Booth, R. Hittinger, D. Monti, W. Mackintosh, J. Grant, M. Rice, C. Rein, R. Bellavance*

DEM: *L. Mouradjian, M. Gibson, G. Powers, J. McNamee, N. Lengyel, T. Angell, T. Rosa, P. Duhamel, Sgt. Dan White (DLE)*

Public: Approximately 20 persons.

1. **Approval of the Agenda:** *B. Ballou* inquired as to objections to approving the agenda; hearing none, the agenda was approved by consent.
2. **Review of new “epacket” format for Council agenda and accompanying materials:** *R. Ballou* announced the new format by which Council would receive the meeting agenda and accompanying materials that was discussed and approved at the last Council meeting, and that this would now be available to the public prior to the meetings in order to provide the public with the same materials that are before the Council. *J. McNamee* provide a brief overview of instructions to login to the internet at Corless Auditorium, and how the epacket was set up to allow for review and navigation to the various materials. It was acknowledged that as the total package of materials included approximately 300 pages of documents, a significant savings in paper and staff time preparing packages.
3. **Approval of RIMFC meeting minutes from February 10, 2014:** *R. Ballou* inquired as to any proposed changes to the minutes or any objections to approving the minutes. Hearing none, **the minutes were approved by consent.**
4. **Public comments regarding other matters not on agenda:** No comments were made.
5. **New business – review and recommendations to the Director on the 3/25/2014 public hearing items; and review and approval of Advisory Panel reports for Summer Flounder, Tautog, Scup/Black sea bass, Striped Bass, and Whelk Ad Hoc:**
  - 1) **Hearing items 8, 12, 15, 17, 19, and 21, regarding non-management/non-regulatory general editing of each of the regulations subject to the public hearing:**

*R. Ballou* inquired as to the Council’s preference to address these individually or together for a single discussion and vote. *M. Gibson* offered emphasis that these items do not represent any regulatory or management changes, and that the proposed changes were the beginning of a larger effort to streamline and improve the clarity of all the RIMF regulations. He therefore suggested that these items be addressed as a single item and recommended adoption of the

proposed changes. *R. Ballou* then moved for a vote to recommend adoption of the changes proposed for each of these hearing items; to which *K. Booth* offered a motion to **recommend adoption of the proposed changes for hearing items 8, 12, 15, 17, 19, and 21 regarding general editing; 2<sup>nd</sup> by M. Rice.** *K. Booth* then inquired as to a proposed deletion of language in Part XI (hearing item #19), specifically section 11.5 relating to setting seine nets in the Harbor of Refuge, and that he was concerned with this proposed deletion as it did not appear to be contained elsewhere in the regulation; to which *P. Duhamel* replied that the language was duplicate with language contained in section 11.6.2 of the regulation. *J. Grant* inquired as to steps that would be taken if it was discovered that a deletion was made that was significant in nature (was not simply a deletion of duplicate or non-regulatory language). It was determined that any errors found would corrected via either a technical revision regulatory filing, or if necessary, would be presented for correction at a subsequent public hearing. *M. Rice* inquired as to the reasoning for removal of statutory citations in the regulation; to which *P. Duhamel* replied that all language that was not prescriptive in nature, i.e., did not specifically provide regulations to the regulated community, was subject to removal as non-regulation. *R. Ballou* clarified that the question was regarding statutory citations, to which *P. Duhamel* replied that references to either DEM or Council adopted regulation was unnecessary, and that there was a great deal of inaccurate references, such as reference to repealed statutes. **The motion passed by a vote of 8 – 0.**

2) **Hearing item #1 and AP report - recreational Summer flounder:**

*R. Hittinger* provided an overview of the AP meeting. *R. Ballou* inquired as to any objections to approving the AP report (minutes). Hearing none, **the minutes were approved by consent.**

Six options were presented at the hearing. Option 1 - status quo; Options 2 – 5 of varying management parameters; and option 6, the “Fish for the Future” proposal. *M. Gibson* discussed the most recent ASMFC meeting and action requiring that RI enter into a region with Massachusetts. He offered that disagreement remains regarding Summer flounder recreational regulations. *R. Ballou* offered and *J. McNamee* concurred that the ASMFC allowed RI regulations to differ from Mass. if RI remained with the current status quo regulation. *W. Macintosh* inquired how the “Fish for the Future” proposal would be addressed if voting to recommend adoption of status quo. *R. Ballou* offered that the status quo option was currently the only option that was ASMFC compliant and therefore the only viable option. ***D. Monti* offered a motion to recommend adoption of option 1, status quo; 2<sup>nd</sup> by C. Rein. The motion passed 8 – 0.** Discussion then ensued regarding the **Fish for the Future** proposal. *D. Monti* and *R. Bellavance* then officially excused themselves from the Council and took seats as members of the audience in order to provide information to the Council as proponents of the proposal and to solicit input from the Council. *R. Bellavance* provided an overview of the main aspects of the proposal; that he was looking to provide for economic stability in the *For Hire* industry, and move forward with a pilot project to learn and develop tools that are equitable and biologically sound. *D. Monti* provided additional summary and offered that the proposal has three main aspects: provide for robust software and a database to help manage the fishery; to promote conservation; and to develop a business model to help understand the economic viability if implemented. *W. Macintosh* offered that he was a strong proponent of Sector management as a tool for scientific data, a means to reduce discards, and as a means to understand other management options. *K. Booth* offered support for the data that the program would provide, but that sector management is a sensitive issue, and he was therefore concerned of the program potentially leading to greater sectors and reducing the available quota for other fishermen. *R. Bellavance* offered that the

program would need to be implemented to better understand the value of the program, and then determine if the program should continue. He offered that the business viability is unanswered at this time, but can only be answered by implementing the program. *R. Hittinger* offered that he objected to sector management in the recreational fishery due to loss of quota from other recreational fishermen. *R. Bellavance* offered that *For Hire* recreational fishermen are a very important element of the entire recreational fishery and therefore needs a strong voice in representing their interests. *J. Grant* offered that he thought the program was well thought out and that sector management was a viable option. *M. Rice* offered that he was in support of the proposal and that a pilot program should take place. *C. Rein* inquired as to the next steps with implementing the program. *D. Monti* inquired if the Council should vote on support for the project. *K. Booth* inquired if the program could be implemented under the RSA program; to which *R. Bellavance* answered he thought that it could. ***W. Macintosh* offered a motion to recommend to the Director to authorize DFW staff to work with advocates of the “Fish for the Future” program for further development, and to determine the necessary process for implementation and adoption of a program for year 2015; 2<sup>nd</sup> by M. Rice.** An audience member (*R. Grasso*) asked if the program would involve different management options; to which *R. Bellavance* responded that different seasons, possession limits and sizes would be proposed. An audience member (*M. Bucko*) asked if the proposal should be presented to the ASMFC Summer flounder technical committee; to which *R. Bellavance* responded that it was, and recommendations were provided, but that the full board did not support the program. He offered that support from RI would help with ASMFC support. *R. Hittinger* requested clarification if the program would be part of the RSA program, and that he wouldn't object if this was the case; to which *M. Gibson* replied that it was not an RSA proposal; that it would involve 2% of the recreational harvest limit. **The motion passed 4 – 1, with 1 abstention (D. Monti and R. Bellavance not voting).**

3) **Hearing item #2 - Recreational Winter flounder:**

*J. Lake* provided an overview of the AP meeting and the stock status of the fishery.

One option was proposed at the hearing: To liberalize the season from two 30-day seasons to a single season open March 1 – Dec. 31. *M. Gibson* offered that the Division was in support of the proposed season. ***M. Rice* offered a motion to recommend adoption of this option, to liberalize the season as proposed; 2<sup>nd</sup> by R. Hittinger. The motion passed 8 – 0.**

4) **Hearing item #3 and AP report - recreational Tautog:**

*R. Hittinger* provided an overview of the AP meeting. *R. Ballou* inquired as to any objections to approving the AP report (minutes); hearing none, **the minutes were approved by consent.**

Two options were proposed regarding the season: Option 1 – status quo, April 15 opening date; and option 2, earlier opening date of April 1. *M. Gibson* offered that while aware of the business interest in the earlier opening date (option 2 as proposed), there was concern with stock status of the fishery, but that impact would most likely affect later sub-periods. He offered no objection from the Division regarding the earlier opening date as proposed. *J. Grant* offered support of the option 2 to be in effect for April 1, 2015. *J. McNamee* offered that if option 2 was chosen, there would be difficulty with reversing it in time to be effective by April 1 due to timing of meetings and hearings to re-address the matter; and that accounting of a season that wasn't fished could be an issue. *R. Hittinger* offered that the same situation occurred last year and that it is necessary to act now for the 2015 season; to

which *D. Monti* concurred. *M. Bucko* offered support of earlier opening date and that there would be minimal fish caught and therefore minimal impact to fishery. ***M. Rice* offered a motion to recommend adoption of option 2; 2<sup>nd</sup> by *J. Grant*. The motion passed 8 – 0.**

5) **Hearing item #4 - Commercial Tautog:**

One option was proposed – status quo. *M. Gibson* offered that status quo was preferred, and that if the possession limit was increased to 40 fish/vessel/day (public hearing comment), the season would close much earlier. *R. Hittinger* offered that this higher limit would also result in higher discard mortality and did not support a higher bag limit. *K. Booth* offered that he did not support a higher bag limit. ***K. Booth* offered a motion to recommend adoption of option 1 – status quo, and to also recommend that any overage that occurs be taken from the Summer sub-period of the following year; 2<sup>nd</sup> by *C. Rein*. The motion passed 8 – 0.**

6) **Hearing item #5 - recreational Scup:**

*W. Macintosh* provided an overview of the AP meeting. He offered that there was support for additional special recreational shore fishing locations.

One option was proposed – status quo. *M. Gibson* offered Division support of this option as ASMFC compliant. *J. McNamee* offered that the report on these special shore sites indicated a minimal amount of 9”– 11” being caught; that most fish caught was greater than 11”. He also offered that there was minimal public awareness of this program. ***R. Hittinger* offered a motion to recommend adoption of option 1 - status quo, and to add additional special recreational shore sites including Fort Adams, Newport; the West Hall of the Harbor of Refuge, Narragansett, and Fort Wetherill, Jamestown; 2<sup>nd</sup> by *D. Monti*. *W. Macintosh* offered that the quota was undercaught. *D. Monti* offered that better communication was needed to publicize this program. *J. Grant* offered that the Fort Wetherill site possessed a boat ramp, to which *J. McNamee* offered that it was minimally functional and used, so the site would be acceptable. *C. Rein* inquired as to an additional fourth site that had been discussed, to which Rocky Point in Warwick was mentioned. *R. Ballou* offered that DFW staff would work with the Division of Enforcement to finalize site selection. It was also discussed and determined that boat ramps at Fort Adams were not in close proximity to the shore fishing locations, and this site was therefore an acceptable location. An audience member (*S. Medeiros*) offered that RISA would pay for signs to help publicize the sites. **The motion passed 8 – 0.****

7) **Hearing Item #6 and AP report - Recreational Black Sea bass:**

*W. Macintosh* provided an overview of the AP meeting, highlighting the required 3.2% reduction. *R. Ballou* inquired as to any objections to approving the **AP report (minutes) for recreational Scup/Black Sea bass**. Hearing none, **the minutes were approved by consent.**

Three options of shortened seasons were proposed. At the time of public notice, a 3.2% reduction was required from ASMFC. At the time of hearing, a second proposal to accomplish a new required 7% reduction was presented. *R. Ballou* asked for clarification regarding the 3.2% reduction, in light of a 7% reduction also now being considered. *M. Gibson* offered that the projections are difficult to ascertain, so it is difficult to know precisely which percentage would ultimately be required. He suggested that the Council go forward with recommending the 3.2% reduction with the understanding that this may have to change as new information is obtained. *R. Ballou* offered that it was his understanding that the ASMFC was now requiring a 7% reduction. ***J. Grant* offered a motion to recommend**

**adoption of option 1 for either the 3.2% or 7% reduction, whichever is ultimately decided as necessary for ASMFC compliance; 2<sup>nd</sup> by M. Rice.** *W. Macintosh* offered that the shortened season is preferable for the earlier sub-period due to better fishing in the Fall. *M. Bucko* offered that if further reductions are deemed necessary, that the season not be closed any later than the dates proposed so as to not impact the July 4<sup>th</sup> holiday period. **The motion passed 8 – 0.**

8) **Hearing Item #7 – Coastal sharks:**

One option for commercial and one option for recreational was proposed. *J. McNamee* offered a brief summary of the proposal and the federal requirements that preceded the proposed change. *M. Gibson* offered Division support as a compliance matter. ***R. Hittinger* offered a motion to recommend adoption of options 1 for both the commercial and recreational proposals; 2<sup>nd</sup> by C. Rein. The motion passed 8 – 0.**

9) **Hearing Item #9 – recreational Striped bass:**

*K. Booth* provided an overview of the AP meeting regarding the recreational fishery. One option was proposed – status quo. *M. Gibson* offered Division support of status quo. ***M. Rice* offered a motion to recommend adoption of option 1 – status quo; 2<sup>nd</sup> by K. Booth. The motion passed 8 – 0.**

10) **Hearing Item #10 – commercial Striped bass:**

One option was proposed - an earlier opening date to provide for opening on a Sunday instead of a Friday, as the fishery is closed Friday and Saturday. *K. Booth* provided an overview of the AP meeting regarding the commercial fishery. *M. Gibson* offered Division support of option 1 – change in opening date as proposed. *J. Grant* offered that he was concerned about an overlap in seasons between the RI and MA fisheries. ***K. Booth* offered a motion to recommend adoption of option 1; 2<sup>nd</sup> by M. Rice. The motion passed 7 – 1 (*J. Grant* voting against).**

11) **Hearing Item #11 – commercial Striped bass floating fish trap; and Striped bass AP report:**

*K. Booth* provided an overview of the AP meeting and offered support of the roll-over provision as proposed. *R. Ballou* inquired as to any objections to approving the **AP report (minutes) for Striped bass.** Hearing none, **the minutes were approved by consent.**

One option was proposed regarding a roll-over provision; and one option was proposed regarding the season. *M. Gibson* offered Division support of both the roll-over provision and change in season as proposed. *N. Lengyel* offered that the change in season was due to Division reporting requirements, and that this change should have no impact to the fishery as traps are not set until after this time period. ***J. Grant* offered a motion to recommend adoption of both options as proposed; 2<sup>nd</sup> by K. Booth. The motion passed 8 – 0.**

12) **Hearing Item #13 – correction of the boundaries of the Bristol Harbor Shellfish Mgmt. Area:**

*J. Grant* offered an explanation of the reasoning behind the need for the correction. An audience member (*K. Eagan*) offered support for the correction. ***C. Rein* offered a motion to recommend adoption of this language; 2<sup>nd</sup> by D. Monti.** *M. Gibson* offered Division support of the proposed language. **The motion passed 8 – 0.**

13) **Hearing Item #14 and AP report – commercial and recreational Conch:**

*J. Grant* provided an overview of the AP meeting and recommendations regarding the various elements of the Conch fishery that were brought to public hearing. *R. Ballou* inquired as to any objections to approving the **AP report (minutes)**. Hearing none, **the minutes were approved by consent**.

Regarding the proposed season, *M. Gibson* offered Division support for option 1 – status quo. He offered that the Division was mainly focused on a need to increase minimum size to reflect the Division’s research findings of minimum size relative to sexual maturity.

Regarding the proposed minimum sizes, *M. Gibson* offered that the findings indicate a needed minimum size of 6” and the increase in size in 1/8” increments as proposed does not provide sufficient protection of the fishery in terms of protecting spawning biomass from fishing pressure. He offered that an increase in ¼” increments may be more appropriate.

Regarding the Fishery Closure due to Eminent Public Health Risk (Bio-toxins), *M. Gibson* offered Division support of the language proposed.

*M. Rice* inquired as to the differences between Channeled Whelk and Knobbed Whelk, and the possibility of needing regulations specific to each rather than addressing both together; to which *M. Gibson* concurred as the two species have different growth and maturation rates. *M. Gibson* offered that current data mainly characterizes Channeled Whelk. *M. Rice* then asked if the bio-toxins were an issue for Whelk, in that it might not as these animals are not filter feeders; and if the proposed regulation was therefore excessively cautious. *T. Angell* offered that this requirement exists in federal waters and that the toxins are generated in Whelk due to their consumption of other shellfish that have accumulated bio-toxins. *J. Grant* offered that such should not be an issue due to human consumption of muscle only.

*C. Rein* inquired as to why the current minimum size regulations do not appear aligned with the biology; to which *M. Gibson* responded that regulations regarding Whelk were initially developed prior to being researched, or by using older research data.

- **Minimum Size:**

***J. Grant* offered a motion to recommend adoption of a minimum size of 2-7/8” width and 5-1/8” length for the 2014 season; 2<sup>nd</sup> by *M. Rice***, with an implementation date as soon as the regulations can be filed. He offered that this was also the same as Massachusetts regulations and consistency would be beneficial. *M. Gibson* offered that this option was not supported by the Division as was not supported by the science, and therefore did not provide sufficient protection of the fishery. An audience member (*G. Schey*) offered that he supported this size regulation as the AP supported option, and added that regulations for subsequent years not be adopted at this time until further information is obtained. *K. Eagan* offered that a better stock assessment is needed prior to implementing subsequent year regulations regarding minimum size, and added that a larger increase in minimum size at this time would have significant negative socio-economic consequences to the fishermen engaged in this fishery. An audience member (*D. Ghigliotty*) concurred with *K. Eagan* and also offered that the two species need to be managed independently, and also offered that more information is needed, with particular attention to Knobbed Whelk, due to their impact to the Quahaug fishery. *G. Schey* offered that he was suspect of the rate of growth particularly as the animals surpass 4 – 5 inches, and that a larger minimum size would result in the animals remaining in the water longer and potentially negatively impacting the quahaug fishery. ***J. Grant* then offered to amend his motion such that the proposed regulation regarding**

minimum size apply only to Channeled Whelk; 2<sup>nd</sup> by *M. Rice*. He offered that his opinion was that the fishery could be properly managed with a 1/8" increase. **The motion passed 8 – 0.**

- **Season:**

*J. Grant* offered a motion to recommend adoption of option 1 – status quo; 2<sup>nd</sup> by *M. Rice*. **The motion passed 8 – 0.**

- **Fishery Closure due to Eminent Public Health Risk (Bio-toxins):**

*R. Hittinger* questioned the need for the regulation, stating that the DEM/state would be able to close regardless if determined that an eminent public health risk existed. *M. Gibson* offered that responsibility to make such determination is difficult, as closure of a fishery is not taken likely due to Freedom to Fish Act. ***M. Rice* offered a motion to recommend adoption of the proposed language; 2<sup>nd</sup> by *R. Bellavance*.** *D. Ghigliotty* inquired as to the need for specifics regarding conditions that would warrant a closure. *R. Ballou* then offered if the matter should be tabled for the time being, as the regulation is not essential as measures are in place to close the fishery if such risk exists. ***M. Rice* then withdrew his motion and offered a new motion to table the matter and not adopt the language at this time; 2<sup>nd</sup> by *R. Bellavance*. The new motion, to NOT adopt the language at this time, passed 8 – 0.**

- **Revision/clarification of general provisions for Conch pots:**

*J. Grant* offered a motion to recommend adoption of the language as proposed; 2<sup>nd</sup> by *R. Hittinger*. **The motion passed 8 – 0.**

- **Commercial Possession Limit and Annual Catch Limit:**

*M. Gibson* offered Division support for option 1 - status quo; but did not support the establishment of an annual catch limit at this time. He offered that a catch limit would in likelihood be proposed by the Division for the 2015 season, and offered that limiting catch is the most appropriate means by which to manage the fishery; that indirect means such as pot and possession limits was not. He offered that a total allowable catch to be monitored via SAFIS would provide for the best management, but that it is not ready for implementation at this time.

*J. Grant* offered a motion to recommend option 1 – status quo, regarding the commercial possession limit; and also status quo regarding the proposed language for the Annual Catch Limit (recommend to NOT adopt language as proposed); 2<sup>nd</sup> by *D. Monti*. **The motion passed 8 – 0.**

14) **Hearing Item #16 – removal of descriptions of Shellfish and Marine Life Management Area from RIMFR Part III:**

*R. Hittinger* offered a motion to recommend adoption of the language; 2<sup>nd</sup> by *M. Rice*. **The motion passed 8 – 0.**

15) **Hearing Item #18 – Commercial fishing prohibition in designated experimental artificial reef locations in the Narragansett Bay Marine Life Management Area:**

*N. Lengyel* provided an overview of the project. *M. Gibson* offered Division support of the project and proposed language. ***C. Rein* offered a motion to recommend adoption of the language; 2<sup>nd</sup> by *K. Booth*.** *R. Hittinger* inquired as to why the restriction was specific to commercial activity rather than gear; to which *N. Lengyel* offered that the state's 25% match

is obtained from proceeds from saltwater recreational fishing licenses. *K. Booth* asked about marking of the sites; to which *N. Lengyel* offered the sites would be properly marked. *J. Grant* offered that the site should be re-opened upon conclusion of the project; to which *M. Gibson* concurred. ***C. Rein* then amended his motion to recommend adoption of additional language to assure a sunset provision upon completion of the study.** *W. Macintosh* offered that communication to the public is needed to publicize the closure; to which *M. Gibson* concurred and offered that a listserv email announcement would take place upon adoption of the regulation. *K. Eagan* asked for clarification regarding setting of pots; to which *N. Lengyel* replied that the prohibition would not apply to the setting of recreational gear. **The motion passed 8 – 0.**

16) **Hearing Item #20 and AP report – Menhaden:**

*D. Monti* provided an overview of the AP meeting. *R. Ballou* inquired as to any objections to approving the AP report (minutes). Hearing none, **the minutes were approved by consent.**

• **Option 1 – add possession limit during closure of Menhaden Mgmt. Area:**

*J. McNamee* offered rationale for the language. *M. Gibson* offered Division support of the proposed language and that it was within the construct of the parameters of regulations for the Narragansett Bay Marine Life Management Area. *J. Grant* offered support of the proposed language and clarification that the measure was to allow for a small amount to be possessed for the use as bait by commercial striped bass fishermen when the Management Area is closed. ***D. Monti* offered a motion to recommend adoption of the language; 2nd by *R. Hittinger*. The motion passed 7 – 0 (W. Macintosh abstaining).**

• **Option 2 – clarification regarding non-directed fisheries:**

***M. Rice* offered a motion to recommend adoption of the proposed language; 2nd by *R. Bellavance*. The motion passed 8 – 0.** An audience member (*J. Gardner*) asked if the regulation would apply seven days/week; to which *R. Ballou* replied that it would. **The motion passed 8 – 0.**

• **Option 3 – Episodic Event Set Aside Program end date:**

*R. Ballou* offered that this provision was required as an ASMFC compliance issue. ***D. Monti* offered a motion to recommend adoption of the proposed language; 2<sup>nd</sup> by *R. Hittinger*; The motion passed 8 – 0.**

A member of the audience inquired as to allowance of transiting through Menhaden Mgmt. Area when area is closed; to which *J. McNamee* offered that it was allowed as a general provision in RIMFR Part VII.

*M. Gibson* provided a summary of the proposal for Menhaden submitted by Save the Bay. He offered that the Division was not in a position at this time to consider or recommend such changes, but that this discussion would continue for future consideration. *R. Ballou* offered that the proposal was in the record as a public comment.

A member of the audience offered that the advisory panels should have better representation and an additional voting member added to represent the party/charter boat industry. *R. Ballou* offered that the topic would be placed on the next Council agenda

A member of the audience (J. Donahue) asked if cast netting for Menhaden for commercial purposes was allowed in the permanently closed areas of the Management Area; to which *R. Ballou* replied that the regulations prohibited this activity, and that it would have to be brought to public hearing for consideration. He offered that the matter would be referred to legal counsel for an opinion and an answer provided at the next Council meeting.

Meeting adjourned at approximately 9:00

Prepared by *P. Duhamel*