

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
October 18, 2006
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

RIMFC Members: D. Preble, K. Ketcham, S. Parente, S. Macinko, G. Allen, J. King

Chairperson: M. Gibson

RIDEM F&W Staff: T. Angell, J. McNamee

DEM Legal Counsel: G. Powers

DEM Staff: R. Ballou, M. Sullivan (Director DEM)

DEM Law

Enforcement: S. Hall, K. Blanchard

Public: 38 people attended

Chairman M. Gibson called the meeting to order. He asked if there were any changes to the agenda. **There were no objections to accepting the agenda as submitted.** M. Gibson asked if there were any objections to approving the minutes of the September 11, 2006 Rhode Island Marine Fisheries Council (Council or RIMFC) meeting as submitted. **G. Allen made a motion to approve the minutes as submitted. D. Preble seconded the motion. There were no objections to approving the motion.**

Advisory Panel Reports

Enforcement: J. McNamee gave the report. The first topic the panel discussed was a proposed filet law for RI. The Department of Environmental Management Division of Law Enforcement (DEM Enforcement) had brought some proposed options to the meeting. A statement from the panel was to continue discussion on this topic; however the panel voted 2 to approve the statement and 2 to oppose the statement. S. Hall stated that the reasons for bringing this proposal forward were that RI is one of the only states on the east coast without a filet law and Enforcement also thought there was the potential for being found out of compliance by ASMFC for not having one on the books. Further, Enforcement felt this would be a useful tool for them when enforcing marine regulations. K. Ketcham stated that his only concerns were that the proposals would make it completely illegal to possess a filet on a boat. He did not dislike the concept but the language needed to give people the ability to filet somehow. He suggested having minimum amount of filets per person. G. Allen wanted to continue the discussion on this topic, stating that he does witness a lot of undersized fish being kept and filleted, particularly tautog. **He suggested that the issue be brought back to the Enforcement**

advisory panel with the panel tasked to come forward with a recommendation for the Council, which could be brought to public hearing. There were no objections to this course of action. J. McNamee continued with the report. Another topic that came forward was a proposal on commercial vs. recreational designations for vessels. **This topic had not been noticed on the agenda therefore the panel wished to have this item moved to a subsequent meeting.** The next item discussed was concerns about illegal fishing around Block Island. DEM Enforcement's response was to have any specific violations reported to them. The final item discussed was the gillnet proposal brought forward by the RI Commercial Rod and Reel Anglers Association (RICRRAA). **The panel decided this topic should be remanded back to the Industry Advisory Committee at which point that panel should discuss and vote on both this proposal and any other gillnet proposals which may come forward in writing.** K. Ketcham stated as chair of the Industry Advisory Committee (IAC) that he agreed to take this topic back on and wanted a very specific agenda for the meeting during which they tackle this issue. **The Council had no objections to the panel's recommendations.**

Summer Flounder: D. Preble gave the report. He stated that this was a follow up meeting to continue discussing proposals for changes to summer flounder management in RI. The panel discussed several proposals. The first was from the RI Commercial Fishermen's Association (RICFA), which proposed lower possession limits, an aggregate landing program for the summer, closed days in the summer, and combined the summer sub periods. The next was a proposal from the RI Marine Trades Association (RIMTA), which reallocated the quota to 1/12 per month but kept the same seasons that currently exist. The RICRRAA brought forward a proposal that reallocated the quota like the RIMTA proposal, but changed the seasons so that the month of May was combined with the winter 1 sub period. The next proposal came from J. Shelley and had qualification for participation in the fluke fishery and a gear requirement for gillnetters. E. Baker brought forward a proposal that combined the summer sub periods. The E. Baker, RIMTA, and the RICRRAA proposals stated that the 100 pound possession limit they cited for the summer periods would be a starting possession that would be decreased based on the decrease in RI's quota, not to be less than 50 pounds. **The panel approved the RICFA proposal, the E. Baker proposal, and they also supported moving J. Shelly's gillnet proposal forward.** D. Preble noted that the E. Baker proposal was contained within the RICFA proposal and therefore he noted that the RICFA proposal would be brought forward as the AP approved option for fluke management. **The other agenda item was a proposal from the DFW to alter the summer flounder exemption certificate program so that the permits could be transferred exactly as federal permits can be transferred. The panel approved this change by consensus.** J. McNamee stated that all of the proposals would be brought forward to public hearing with a note about which were the advisory panel approved proposals. S. Parente questioned D. Prebles characterization of the RICFA proposal as the advisory panel approved option. There was further discussion on these proposals; no action by the Council was necessary.

Shellfish: J. King gave the report. The first agenda item was to discuss the Eastern Greenwich Bay opening. **The panel voted unanimously to open Eastern Greenwich bay on a permanent basis.** The next item was the western Greenwich Bay area schedule.

The panel had drafted some language regarding this schedule; this language was provided to the Council. The Division of Fish and Wildlife (DFW) had reviewed the language drafted by the panel and made some revisions to it; the Council also had this language. **The panel unanimously approved the Western Greenwich Bay language that had been drafted by the panel.** The panel wanted to add that notification would be an important aspect and should come from the Directors office. The next item the AP discussed was whelk regulations. The panel discussed a set of regulations developed by panel members and a version developed by the DFW. The panel voted to continue the whelk regulations at the next meeting. The next item the panel discussed was the reorganization of the panel membership. **The panel requested to move L. Ricciarelli from a bullraker position to a diver position.** The final item the panel discussed was about new soft shelled clam regulations. **The panel asked to have this put on the next agenda. The Council recommended that the Director move forward with the Eastern Greenwich Bay opening.** M. Gibson suggested putting the western Greenwich Bay decision off until the Council had had a chance to review the two proposals. J. King and M. McGiveney objected to delaying because the season was approaching. There was discussion about the objections or lack of objections from shellfish dealers on the proposed schedule. **J. King made a motion to approve the December opening of Greenwich Bay but table the January opening until the next meeting.** G. Powers stated that because the action had not been specifically noted on the agenda, taking action on both the current motion and the previous action about Eastern Greenwich Bay would be against open meetings regulations. **The Council did not object to backing out of both the Eastern and Western Greenwich Bay actions but requested that these items be put on the agenda for their next meeting.** M. Gibson suggested the Council authorize a November meeting. **The Council had no objections to convening a meeting on November 6 to discuss both of the Greenwich Bay issues. Further, the Council had no objections to approving the draft shellfish advisory panel agenda as submitted.**

Industry Advisory Committee: K. Ketcham gave the report. The panel met to discuss two issues. The first was to get a recommendation on lobster endorsements for 2007. The panel had previously tabled the recommendation pending the Director taking action on the lobster effort control plan. **The panel was advised that the Director was going to take action on the effort control plan and they therefore recommended that there be no new lobster endorsements issued for 2007.** The second order of business was to clarify the endorsement categories. They were advised that an individual needed both the restricted and non-restricted endorsements to be able to harvest all species in that sector. **The panel recommended that the regulations be changed to allow for an individual with only the restricted category endorsement to be able to harvest all species.** They felt this was the original intent of the regulations.

New Business

Council approval of scup/black sea bass advisory panel agenda: J. McNamee stated that the Council had a draft agenda before them. The panel was meeting to bring forward proposals on the 2007 management plans for scup and black sea bass as the public hearing on these topics was soon approaching. **The Council had no objections to**

approving the agenda as submitted.

Council recommendations to Director on public hearing items: J. McNamee went through the public hearing slideshow. **D. Preble made a motion to recommend that the Director approve the three sector management plans as submitted. J. King seconded the motion.** S. Macinko asked about the phrasing of the endorsements as “new” and further wanted to know if there would be a conversation in the future within the finfish and crustacean sectors to add endorsements in a similar manner to the shellfish sector. He felt that the 2002 licensing restructuring intended to do this. There was further discussion on this issue. It was discussed that the SAFIS data should be used in the future to better define what level of attrition is actually occurring and whether exit entrance ratios are needed. M. McGiveney stated that he supported the exit entrance ration proposed for the shellfish sector. He went on to support keeping the student shellfish licenses open. **The Council voted unanimously to approve the motion.**

J. McNamee went on to explain the changes to the licensing regulations. S. Macinko reiterated his concerns about not allowing new entry in the lobster or restricted finfish sectors. He went on to ask if there was no exit entrance ratio that was acceptable to allow for the availability of endorsements. M. Gibson stated that he felt the reasons cited for no new entry in the lobster or restricted finfish sectors were legitimate ones including the decrease in quota of the major commercially important finfish species and the required effort control plan being put in place for lobster. J. McNamee stated that there had been endorsements made available in the past in the non restricted categories as well as the restricted finfish and quahog categories. K. Ketcham reiterated the use of the SAFIS data in the future to better establish new endorsements. S. Parente voiced concern about the new transfer of license provisions with the sale of a fishing business. M. Gibson and R. Ballou said that the stated rationale was to allow flexibility to an individual who wishes to sell his business. K. Ketcham stated that this was another instance where the new regulations were written in a way that did not allow for the original intent, which was to allow an individual to sell to whomever they wished. **K. Ketcham made a motion to recommend that the Director accept the changes as proposed to the licensing regulations with the further advice to modify the language for the restricted endorsements to allow the quahog endorsement to allow the harvest of all species of shellfish, to allow the lobster endorsement to harvest all species of crustaceans, and to allow the restricted finfish endorsement to harvest all species of finfish. J. King seconded the motion.** There was discussion about the new change to the sale of business regulation as a way to allow for a one to one exit entrance ratio. M. McGiveney stated that he supported the motion except for the sale of business section; he felt this could drive up the price on gear. L. Dellinger supported the motion including the sale of gear section. **The Council voted 4 to approve (K. Ketcham, D. Preble, G. Allen, J. King) the motion and 2 opposed (S. Macinko, S. Parente) to the motion. The motion passed.**

Old Business

Council recommendations to Director on tabled public hearing items from 9/11/06: J. McNamee went through the tabled public hearing items. He also made reference to the

report the DFW had put together at the request of the Council that gave them further information on the three federally regulated species that the public hearing items dealt with. S. Hall stated that there is currently a loophole in state regulations created by the lack of regulations on these species in state waters. He felt that it would be a good idea to close that loophole with the proposed regulations and further felt the proposed regulations should mirror the closures in the federal fishery. **D. Preble made a motion to adopt option 2 which institutes a 50 pound tail limit and a 166 pound whole fish limit in state waters for monkfish. G. Allen seconded the motion.** S. Hall asked that the state regulations mirror the federal closures on monkfish. **D. Preble made a friendly amendment to his motion to mirror the federal closures on monkfish in the state regulations. The second to the motion accepted the friendly amendment.** An audience member stated that these regulations do not mirror the federal plan because there is no control date, which the federal plan allowed for. He felt the lack of a control date robbed state fishermen of the opportunity to qualify for higher than 50 pounds of monkfish. An audience member suggested that rather than specifying a poundage, the language should site the incidental permit, that way if that permit language changes, the state will not have to change their regulations. T. Sutton handed in a statement to the Council. He felt that there were other mechanisms that could be used to address this issue other than the proposed regulations which will decrease effort in state waters and put fishermen out of business. He stated that going with the 50 pound limit would be the easy way out for the Council, but it would put him out of business and he asked that the Council give this further thought. T. Mulvey stated that it would be discrimination against non federally permitted individuals for the Council to approve the proposed regulations. He went on to state that he did not think federally permitted individuals would be able to land over the 50 pound limit if it were to be approved because of the most restrictive rule. He finished by stating that the state landings are already factored in to the federal plan so the state fishermen are not hurting the federal rebuilding plan. M. Gibson stated that the intent of the proposed regulations were not to prohibit federally regulated individuals from harvesting what their federal permit allows. **The Council voted unanimously to approve the motion. D. Preble made a motion to recommend to the Director that he accept the recreational limit for monkfish to be equal to the incidental permit limit of 50 pounds tail weight and 166 pounds of whole fish weight. K. Ketcham seconded the motion.** F. Blount suggested removing the reference to the federal permit from the recreational language. **D. Preble made a friendly amendment to his motion to remove the language referencing the federal permit from the recreational section. The second to the motion accepted the friendly amendment. The Council voted unanimously to approve the motion.**

The next species was cod. **K. Ketcham made a motion to recommend to the Director that he approve the minimum size as presented of 22” as well as implementing a commercial possession limit of 75 pounds for non federally permitted state vessels and a 10 fish recreational limit. D. Preble seconded the motion.** J. McNamee asked whether the Council wanted to include the language allowing federally permitted vessels to harvest what their permit allows. The maker of the motion stated that this was his intent. There were audience objections to the motion. C. Brown stated that he thought as cod became available in state waters, the regulations should reflect this by increasing the

possession limit. There was further discussion both for and against the proposed cod language. **The Council voted 5 to approve and 1 abstention. The motion passed.** G. Braman suggested making the commercial language to state either 10 fish or 75 pounds.

The next item was sea scallop regulations. **K. Ketcham made a motion to recommend to the Director the proposed minimum size of 3.5” but he wanted the possession limit to mirror the federal general non-vms permit category which was a possession of 40 pounds of shucked scallops or 5 bushels of whole scallops for both commercial and recreational. D. Preble seconded the motion.** M. Marchetti suggested adding the 10.5’ width max dredge size. **K. Ketcham made a friendly amendment to his motion to add in the 10.5’ max dredge size. The second to the motion approved the friendly amendment. The Council voted unanimously to approve the motion.**

Council discussion on lobster v-notch emergency regulation: J. King began the discussion by giving some history behind the v-notch program in RI. He stated that the current fishery is dependent on strong recruitment, and described it as a ticking time bomb because if a poor recruitment event occurred it could collapse the stock. He felt that the Council asked to have consistent regulations with neighboring states, but J. King went on to say that MA doesn’t have consistent regulations within its own state. He felt the better move for RI would have been to be consistent with Maine and New Hampshire and go with a zero tolerance v-notch definition. He went on to state that Maine has had success with their v-notch program and has instituted a mandatory v-notch program in its industry. He described the Maine program. J. King read letters from fishermen in other states that supported a zero tolerance v-notch definition. J. King had gone out on 2 lobster boats to collect data. There were only a few lobsters that did not meet the new 1/8” definition so his question was what the big deal was about putting a few more lobsters back. T. Angell gave the information from J. King’s lobster trips, confirming that there were only a minimal amount of lobsters that were not protected by the 1/8” definition. J. King finished by demonstrating how difficult it is to measure a 1/8” v-notch at sea.

K. Blanchard had been in discussion with enforcement agencies from other east coast states and this group was supporting a zero tolerance definition for v-notches. K. Blanchard felt that DEM Enforcement could now support a zero tolerance definition if it were written like Maine’s.

M. Gibson gave the status of the emergency v-notch regulation. S. Macinko called in to question the process that had taken place for the emergency regulation and felt that J. King had tried to readdress the issue prior to the promulgation of the emergency but had been told that he could not. S. Macinko felt that this was not correct. Second, he did not feel that the Council had rendered specific advice in their original motion. M. Gibson stated that DEM had followed the advice of the Council specifically when developing the emergency regulation. **J. King made a motion to reconsider the Council’s advice on an emergency v-notch definition. S. Macinko seconded the motion.** L. Dellinger stated that he supported the 1/8” definition and felt that there were problems with the zero tolerance definition in MA. He went on to state that he would like RI to adopt the MA

language, as it was better than what RI currently has. He had handed in a written statement to the Council. M. Marchetti, after bringing v-notch tools and v-notch chads to the Council to view, stated that he supported the emergency rule that had been put in place and was opposed to the Council reconsidering its original action. S. Macinko stated that he wanted to ease the audience members anxiety on what the Council was attempting to do stating that it was strictly a process issue, he felt that he had been steamrolled into a motion that did not have the specificity that M. Gibson was claiming it had. S. Parente stated that he did not want to put our lobstermen at a disadvantage with respect to other states lobstermen and therefore felt that uniformity amongst states was imperative when developing this rule. K. Ketcham stated that he agreed with S. Parente's comments and went on to state that he wanted to see this play out through the public hearing process. D. Preble agreed with K. Ketcham's statement. **The Council voted 2 to approve the motion to reconsider (J. King, S. Macinko) and 4 to oppose (K. Ketcham, S. Parente, G. Allen, D. Preble). The motion to reconsider failed.**

Other Business

Report on River Herring Workshop: J. McNamee gave the report. The river herring working group had met in August to update regional river herring stock status. The group all felt that the stocks had seen little improvement in 2005 – 2006. Some ongoing academic research was presented to the group; none of the presented research had as yet been published. J. McNamee concluded by stating that the working group was going to reconvene in November of 2006 to discuss needed research and funding issues for that research. He also stated that he was shooting for a December date to have the RI state stakeholders meeting.

Council comments on 804 spending: M. Gibson stated that he had provided the Council with a summary of the 804 spending for 2005. M. Gibson suggested that the Council take a look at the memo and attached data and come forward at the November meeting with any comments or advice on this. **The Council had no objections to this course of action.**

Post agenda discussion

G. Allen requested that the DFW begin thinking about addressing the tautog fishery for 2007 so that we are not rushed at the end. The Director of DEM has also talked about convening a workshop in the near future to discuss tautog.

The chairman adjourned the meeting.

Jason E. McNamee, Recording Secretary