

**RHODE ISLAND MARINE FISHERIES COUNCIL**  
**Minutes of Monthly Meeting**  
**February 11, 2008 – 6:00PM**  
**URI Narragansett Bay Campus**  
**Corless Auditorium**  
**South Ferry Road**  
**Narragansett, RI**

RIMFC Members Present: G. Allen, J. King, S. Medeiros, C. Anderson, S. Macinko,

RIMFC Member(s) Absent: D. Preble, K. Ketcham, S. Parente

Chairperson: M. Gibson

RIDEM F&W Staff: J. McNamee, N. Scarduzio, M. Burnett

DEM Staff: R. Ballou, L. Mouradjian

DEM Legal Counsel: G. Powers

Law Enforcement: Chief Hall

Public: 35 people attended

Chairman M. Gibson called the meeting to order. M. Gibson stated there was one adjustment to make to the agenda; he moved item 5(a) update on comprehensive aquaculture plan, to just after item 2, out of consideration for D. Alves not having to sit through the entire Council meeting. Gibson asked if there were any other changes to the agenda. There were no other changes. He asked if there were any objections to amending the agenda as suggested. Hearing no objections, the agenda was approved as amended. **There were no objections to approving the agenda as modified therefore the agenda was approved as modified.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the January 7, 2008 meeting. M. Gibson asked if there were any requests to discuss or modify the minutes. Hearing none, he asked for a motion to approve the minutes. **J. King made a motion to approve the minutes. M. Gibson asked Council members if there were any objections to approving the January 7, 2008 meeting minutes as written. There were no objections therefore the minutes were approved as written.**

*Update on meetings regarding comprehensive aquaculture plan – D. Alves:*

D. Alves summarized the points that the biology subcommittee group had recommended; the first recommendation was to limit the amount of aquaculture to 5% to any specific water body until estimates of RI waters can be generated. The second recommendation was to seek funding to determine the ecological carrying capacity. D. Alves stated this had been accomplished by obtaining a NOAA grant. The third recommendation was to create an inter-departmental advisory board for disease issues. Provide funding for disease monitoring. Participate in the aquatic nuisance species panel. In aquaculture sighting, continue the special protection for

eelgrass and native species and the last item was to encourage growers, regulators, researchers to conduct studies on stock densities.

There was Council discussion about the 5% limit and how conservative that number was and what types of monitoring would be in place. D. Alves elaborated on these topics.

D. Alves then discussed the charting project and showed Council members the charting for Point Judith Pond. He explained that many groups heavily use the pond. He estimated that the current aquaculture operations represent about 3% of the pond. Alves also pointed out that due to other uses of the pond there is little chance for further expansion of aquaculture in this pond. He indicated that the 5% is not a goal but a guide when considering other applications. He felt that generally the salt ponds would not offer that much more room for further aquaculture. D. Alves indicated that the working group would be looking at regulations next.

D. Alves also commented that the group had come up with consistent markings for all aquaculture sites, which would include CRMC and aquaculture registration numbers. He explained that individuals had complained about not know where aquaculture sites were located under the current marking system or what was being done in an area. The last item Alves discussed was an informational sheet with frequently asked questions about aquaculture that would be distributed to fishing groups, the public, etc.

#### **Advisory Panel Reports:**

*Striped Bass (1/10/08) – C. Anderson:* C. Anderson explained that the striped bass AP had four items on the agenda; the first item was to review of the current stock status. However, the latest stock assessment was still under peer review so final results were not available at the time of the AP meeting. Working off the last assessment showed that striped bass was not overfished and overfishing was not occurring.

Anderson stated that the AP also addressed recommendations for the various gear sectors. He indicated that the primary change from last year was in the commercial fish trap sector for a return to the November 1<sup>st</sup> rollover date from the October 1<sup>st</sup> rollover date that was used last year. That proposal was unanimously approved by the AP. Anderson explained that there was a proposal for the general category to remain at status quo for 2008 which was also unanimously approved by the AP. For the recreational striped bass fishery, there were no proposals submitted therefore the AP voted unanimously to remain at status quo for 2008.

M. Gibson added that the peer review for the stock assessment for striped bass had been accepted by the ASMFC at a meeting last week. The status for that resource still stands as not being overfished and not subject to overfishing.

#### *Groundfish/Federally Managed Species AP (1/22/08) – M. Burnett:*

M. Burnett explained that since this was the first meeting of the groundfish AP Chairman D. Preble went through his expectations and intensions. She indicated that the priorities for the AP would be monkfish and codfish at this point. The AP reviewed history and current status of the monkfish. Four monkfish proposals were discussed. The AP also discussed codfish proposals. M. Burnett explained that the 2006 monkfish data that was presented at the AP meeting was requested on short notice just prior to the meeting and there was no time for a through review of the data to check for errors. Staff found afterwards that there was a small glitch in the SAFIS database for the 2006 data, which did not correctly identify federal vessels from state vessels.

Therefore, the number of state vessels was overstated. Burnett stated that the glitch had been corrected which was an error with the program. D. Preble had been notified of the program issue. Staff was waiting to hear from Preble as to how he would like to proceed.

M. Gibson commented that the data would be presented to Council members prior to them having to give recommendations to the Director.

*Menhaden AP (1/23/08) – S. Medeiros:*

S. Medeiros stated that the AP met on January 23, 2008 with eleven people present. They reviewed the 2007 menhaden fishery and a presentation by the Division of Fish & Wildlife (DFW) on the 2007 monitoring program. The panel then discussed the emergency regulations that went in to effect in 2007 and discussed proposed regulations for 2008. Medeiros explained that most AP members felt that what occurred in 2007 was satisfactory. The panel discussed alternate proposals and the DFW proposal. There was also discussion on the call in requirement but no final proposal was made to alter the call in requirement. The panel discussed adding a gear restriction to the regulation or a length restriction such as 100 fathoms and a depth restriction of 15 fathoms.

S. Medeiros summarized an alternate proposal, which was unanimously approved by the AP to go forward to the public hearing as the advisory panel recommended proposal:

1. Change the starting possession limit to 120,000 pounds per vessel per day
2. Add a gear restriction consisting of no greater than 100 fathoms (600') length and no greater than 15-fathom (90') depth restriction.

S. Medeiros reported there was a comment regarding the call in requirement, which on more than one occasion the second boat fishing the area called DEM Enforcement to inquire about Ark Bait's fishing location, and DEM Enforcement provided this information. Ark Bait stated that they did not want DEM Enforcement providing this information to their competition. An Ark Bait representative also requested that something be done about the licensing situation where anyone with a valid RI fishing license could jump on any vessel and begin fishing, even if they did not work for that vessel.

*Tautog AP (1/23/08) – G. Allen:*

G. Allen stated there were nine people present at the AP meeting. The first part of the meeting pertained to the commercial fishery. G. Allen explained that J. McNamee gave a presentation covering the 2007 tautog fishery, review of the ASMFC addendum IV and V to the Tautog Fishery Management Plan, and DFW recommendations for the 2008 commercial and recreational fishery.

G. Allen explained that because of some good work done by the DFW, in particular J. McNamee, RI along with MA were able to remove themselves from the full coast-wide reduction which was approximately a 25% reduction, to an ASMFC approved reduction of only 12%.

G. Allen then address the recreational proposal which was to maintain the current June Closure, keeping the fishery closed after December 15, opening the fishery 2 weeks earlier (April 15), and dropping the fall bag limit to 8 fish.

J. McNamee clarified that the only language change to the proposal, which was recommended by the AP for the commercial fishery, was the fall bag limits where the AP requested that the date be stated as the third Saturday of October rather than a specific date.

J. McNamee also clarified the intention and use of overages in the commercial fishery. He explained how it worked out last year, in 2007, and the language that would be used for 2008.

J. McNamee also commented that F. Blount had forwarded some written comments that were handed out to Council members as part of their packets, which would be incorporated in to the public comments for the February public hearing.

*Scup/Black Sea Bass AP (1/17/08) – M. Gibson:*

The Scup/Black Sea Bass AP was able to continue their discussion and review proposals for the 2008 commercial scup management plan since the National Marine Fisheries Service (NMFS) had finally adopted a summer quota (May 1 – Oct 31) equivalent to the quota adopted by the Atlantic States Marine Fisheries Commission (ASMFC).

M. Gibson stated that the floating fish trap sector recommended status quo, and for the general category, there were two proposals that came forward:

1. A Starting possession limit on May 1 of 1,000 pounds minus the % reduction in the 2008 quota. A starting possession limit of 100 pounds minus the % reduction on July 1 and a starting possession limit of 100 pounds minus the % reduction on September 15. This option also included an aggregate landing program during all three periods.
2. The second option was the same as the first option without the aggregate landing program.

M. Gibson stated that these proposals would be on the public hearing document and presented at the public hearing on February 26, 2008.

*Industry Advisory Committee (1/28/08) – N. Scarduzio*

N. Scarduzio stated that she was giving the report on behalf of K. Ketcham who was the Chair for the IAC. There were two items on the agenda; 1) a presentation on wind power, and 2) continued discussions on revisiting the gillnet regulations.

Scarduzio stated that Applied Technology & Management staff gave the wind power presentation. Advisory committee participants had a number of concerns about the project and the direct effects on fisheries and fishery habitat. Audience members felt there was a lack of information pertaining to the effects this project would have and indicated that no environmental impact studies (EIS) had been conducted. IAC members recommended that the Council take a precautionary approach since there were many uncertainties and recommended that no action was necessary until more information was available and an EIS had been completed.

N. Scarduzio stated the second agenda item was the continuation of gillnet regulation discussions. There were three proposals that were discussed and voted on. The committee agreed on a combined proposal that incorporated T. Platz and G. Duckworth comments.

M. Gibson was not sure where to go from this point since there was already a public hearing conducted and recommendations from that public hearing were made to the Director. Thus far, the Director had declined to act on those recommendations, because of concerns about

interaction with the whale protection plan. He was not sure if this was a new proposal or refinement to the recommendations already submitted to the Director.

J. McNamee commented that this proposal was so different from what was published for the last public hearing that he thought it may have to go back out to public hearing.

M. Gibson stated that he would have to speak to the Director to see what direction this proposal should take.

S. Medeiros made the observation that there were only two IAC voting members present at the meeting, how could they come up with such drastic changes to the gillnet regulations and only have two people vote on it. He indicated there was not enough representation from other stakeholders for this proposal to go forward.

M. Gibson suggested that the Council give some direction as to what should happen with this proposal.

G. Allen commented that the proposal was very different from what was presented at the public hearing and suggested it be kept separate. Secondly, the items in the proposal seemed to be drastically different and should go back to the IAC for further discussion with the rest of the committee members present.

The majority of the Council members indicated that having only two IAC members present was not enough representation for them to accept the recommended proposal. The IAC did not do their diligence because there were not enough members present to make a recommendation to the Council.

M. Gibson asked if the council wished to send this back to the IAC for further discussion with at least five to six IAC members present or whatever was needed to make a quorum. Council members agreed to send it back.

**New Business:**

*February 26, 2008 Public Hearing Summary document – J. McNamee:*

J. McNamee explained that Council members had copies of the public hearing summary document in their packets and that the document was available on the DEM Marine Fisheries website and hard copies were available at the Division of Fish and Wildlife offices. He indicated that there would be six items on the docket for the February 26, 2008 hearing. The hearing would be held at 6:00 PM at the URI Narragansett Bay Campus Corless Auditorium. J. McNamee listed the six items:

- 1) Proposed amendments to the commercial tautog quota management plan,
- 2) Proposed amendments to the recreational tautog management plan,
- 3) Proposed amendments to the commercial scup quota management plan,
- 4) Proposed amendments to the commercial striped bass quota management plan,
- 5) Proposed amendments to the RI menhaden regulations, and
- 6) Proposed amendments to the RI monkfish regulations

*Approval of combined Scup/Black Sea Bass and Summer Flounder AP Agenda – N. Scarduzio:*

N. Scarduzio reviewed the proposed Scup/Black Sea Bass and Summer Flounder AP Agenda, which had two agenda items 1) proposal for 2008 recreational scup fishery, and 2) proposals for

2008 recreational summer flounder fishery. The meeting was scheduled for February 19, 2008 at 6:00 PM at the Government Center in Wakefield.

M Gibson asked if the Council had any question or comments regarding the draft agenda. Hearing none, the agenda was approved.

*Reporting of recreational data online – G. Allen:*

G. Allen commented that he requested to have this press release from ACCSP, regarding “Striped Bass Anglers in New Jersey are the First to Report Recreational Data Online”, as part of the Council packet. He explained this was a volunteer striped bass bonus fish program to provide a better method of analyzing catch data more quickly and accurately. He wanted to ask the DFW to look at this program to see if this was something RI could do or if it would be worthwhile. If so, he encouraged this information be passed on to the striped bass advisory panel for their consideration.

M. Gibson clarified G. Allen’s request indicating that RI did not have a striped bass bonus program. Gibson’s understanding was G. Allen would like to know from the Division if SAFIS could be used generically to capture better recreational fishing data.

**Old Business:**

*RI Marine Fisheries legislation – B. Ballou:*

B. Ballou stated there were two legislative proposals that were made with the Governor that were pending. He expected two bills to emerge this week. He indicated he would request that this Council have the opportunity to review the bills before going to hearing. Ballou commented that the bills have stayed intact so far. He stated the Governor was interested in what other state were doing particularly with enforcement. He explained one bill addressed assessment and monitoring namely observer coverage and the other bill was a multi faceted fisheries enforcement bill.

M. Gibson asked for comments from Council members. There were no comments.

M. Gibson asked if there were any other matters to come before the Council.

E. Duckworth explained that in state waters individuals could use crab traps so if someone did not obtain a lobster trap allocation they could fish as many crab traps as they wanted with out tags, catching 100 lobsters a day. He indicated there were no regulations against it and wanted to know if the Council was going look in to this issue. He suggested mandatory crab pot tagging or creating a crab pot definition so this does not adversely affect lobstermen.

M. Gibson stated that he had spoken to E. Duckworth by phone as well as to a number of other concerned fishermen about these issues and other fixed gear contrivances being deployed to trap lobsters. He indicated he had talked about this internally and that the Department agreed it needed to be addressed. Gibson stated that staff had solicited other states to see how they were handling the issue and he noted that other states simply ban the taking of lobster by any other fixed gear. He asked the Council if they would like to start discussion about this issue at a lobster AP meeting. He suggested that an agenda be submitted at the next Council meeting to start discussions. Council members were in agreement to proceed in that manner.

T. Mulvey had a question about enforcement of fishing licenses. He wanted to know if by purchasing a license in the state of RI you were obligated to abide by RI laws. He felt if this were

true this would be the stricter law and would supersede the federal law for the 1,800-pound monkfish landing limit. He felt the only way around this was if someone was fishing in federal waters with a monkfish permit, and bring fish in to RI, they should surrender their license and purchase a RI landing permit. The only stricter law would be the federal law, which is 1,826 pounds. He reiterated that by purchasing a RI license, you have to abide by RI law and this should be addressed because everyone who is landing more than 50 pounds with their federal permit is currently breaking the law. He felt this was an enforcement issue and should be reviewed.

M. Gibson stated this issue centered on interpretation and implementation of the most restrictive rule. He asked if the Council would like to hear an interpretation report on this rule. Council members indicated they would like to have an interpretation report on the issue.

I. Parente had a similar topic as T. Mulvey but relative to the codfish regulations. He was concerned about the interpretation of how much you were allowed when fishing in state waters but on a day at sea. He stated that fishermen he had spoken with were not under the impression that they would not be able to fish in state waters while still on a day at sea. He explained that it seemed everyone voted on one proposal but it did not pass with the language the way fishermen had intended.

M. Gibson indicated this may come up under the interpretation of the most restrictive rule if not he would take in under advice.

J. Houanesian had a question for enforcement; he wanted to know if he came in from his next fishing trip and had over 50 pounds of codfish would he be in violation.

M. Gibson explained that was the same question as the most restrictive rule and the Council had committed to having an interpretation report completed.

S. Hall commented that he recalled when that regulation was made it excluded federally regulated vessels to the restrictions listed on their permits. It was written specifically so the most restrictive rule would not have an effect.

G. Duckworth had a comment relating to a recent letter from DFW pertaining to area two and three lobster allocations. This was also a question pertaining to the most restrictive rule.

M. Gibson stated that he would address the lobster issue when he briefed the Council on the most restrictive rule interpretation. Gibson commented that the Federal regulations were the most restrictive rule and that was what was in the MOU. He stated there was a conflicting interpretation at the ASMFC, their addendum adopted the more liberal regulation that people have been fishing under and the federal government has simply stated that you cannot do that any longer. Gibson explained that he would report in more detail when the most restrictive rule interpretation was completed.

G. Carvalho stated that the most restrictive rule applied to federal vessels and that it was a federal restriction. He stated there was nothing in the federal law that let states have an option to avoid the rule. Federal vessels must adhere to the most restrictive rule. That means that the federally permitted vessels that hold a state license and have been bringing in more than the 50 pounds were in violation of their federal permit. He commented that the Council, which is a state

Council, took a position that favored people who were fishing outside the waters of the state of RI. He felt that the Council should be taking a position that benefits the people of RI not other states or people fishing in federal waters.

M. Gibson stated that he did not agree with what was said about what a federal permit holder can do, it pivoted on where the catch was taken. He indicated this topic would be discussed further after this issue had been investigated.

M Gibson asked if there was any other business to come before the Council. Hearing none, the meeting was adjourned.

The Chairman adjourned the meeting.

---

Nancy E. Scarduzio, Recording Secretary