

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
March 11, 2003
(AS CORRECTED APRIL 1, 2003)
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

RIMFC Members: R. Boragine, S. Macinko, S. Medieros, D. Preble, and S. Cobb

Chairperson: J. Reitsma

RIDEM F&W Staff: M. Gibson, B. Murphy, T. Angell, and J. McNamee

DEM: B. Ballou and D. Borden

Legal Counsel: G. Powers

Enforcement: S. Hall

Public: 12 people attended

J. Reitsma introduced himself as the chairman of the meeting. A comment was put forward by R. Boragine regarding the February 25, 2003 meeting minutes. He stated that the Director was listed as a DEM attendee but he also chaired the meeting, therefore he should have been listed as such, otherwise it could be mistaken that there were only four RIMFC members present, which would not represent a quorum. The director asked DFW staff to alter meeting minutes in the future to alleviate this problem. **Minutes of the February 25, 2003 Rhode Island Marine Fisheries Council (Council) meeting were unanimously approved. The agenda was unanimously approved.**

Advisory Panel Reports

Lobster: S. Cobb stated that concern and anxiety about the area 2 stock collapse was very high at the meeting. M. Gibson gave a report at the meeting on the most recent DFW information on the lobster stock status. Various thoughts on how to reduce mortality of lobsters was discussed at the meeting. A buyout plan was discussed at this meeting. S. Cobb stated as a member of the council, not as a representative of the advisory panel, that he feels shell disease and natural mortality is a major issue to look into. He also felt a group should be convened to look into a buyout program. R. Boragine asked S. Cobb if he would like an endorsement put forward by the council to the DEM to look into funding a project to research shell disease. J. Reitsma suggested looking to Sea Grant for funding for this project. **R. Boragine made a motion that on behalf of the council, they would like the department to pursue all avenues of for potential research dollars to investigate shell disease in the lobster population. This motion was seconded by D.**

Preble and unanimously approved by the council. G. Carvahlo stated that the state of Connecticut is looking into this problem also and that the state of Rhode Island should coordinate with the state of Connecticut to ensure no overlapping research is occurring. T. Angell supported this statement. There was some discussion about natural mortality between J. Reitsma and S. Cobb. M. Gibson made a statement in support of S. Cobb's thoughts on natural mortality, but went on to say that some of what is being called natural mortality is in fact mortality created by the fishing process. J. Reitsma and S. Cobb had a discussion about how to reduce effort through a buyout program. R. Boragine stated that he thought they should include many different entities, including those who have participated in a buyout program before, to be involved with a potential Rhode Island buyout program discussion group. R. Boragine gave a statement from RILA that quantified the reduction in effort due to attrition. T. Angell stated that while reduced effort due to attrition would positively affect the lobster fishery, he felt that we need a way to keep effort out of the fishery once it was removed. M. Gibson stated that ASMFC is definitely developing a plan for 2004. R. Boragine stated that watching the state of Maine would be a good indicator of what we need to do in Rhode Island. T. Angell stated that trap tag requests have gone up dramatically over the past year, therefore he is leery about any alleged reduction in effort due to this indicator. R. Boragine asked whether RILA was a legitimate association, those in attendance were not sure so it was suggested that the council look into this. G. Carvahlo suggested being very cautious when moving forward with a buyout program. J. Reitsma asked G. Carvahlo to submit in writing some of the pitfalls he feels are inherent in a buyout program.

Old Business

Questions regarding ASMFC meeting week: J. Reitsma invited questions from the Council and the audience regarding ASMFC meeting week. Bruce Knight questioned the circumstances surrounding the adoption of a weekly trip limit for scup. D. Borden responded that industry representatives requested a different strategy than a 10,000 pound possession limit during the Winter I period because of the potential that vessels, especially from New Jersey, could make five or six trips a week at 10,000 pounds a trip, which would decrease the value of scup. A proposal was offered to allow states the option of instituting a weekly trip limit of 15,000 pounds per week or 2,000 pound possession limit. He indicated that the 2,000 pound possession limit is not appropriate for large vessels because of the distance to reach the fishing grounds but a weekly limit would be a decent amount, making a long trip worthwhile. The higher weekly limit would also reduce discards. The National Marine Fisheries Service (NMFS) testified against adopting the proposal because they could not administer a weekly limit but did not object to implementation by the states. Therefore, NMFS adopted a 15,000 pound daily possession limit while the states agreed to promulgate the weekly limit.

New Business

Discussion about changing meeting time to 1st Tuesday of the month: J. Reitsma commented that at a previous Council meeting he proposed changing the date for monthly Council meetings to the first Tuesday of the month because he has a conflict

with the last Tuesday. R. Boragine commented that five out of the next nine first Tuesdays conflict with New England Fishery Management Council, Mid-Atlantic Fishery Management Council, and Atlantic States Marine Fisheries Council meetings and one of the Tuesdays falls on election day, which is not a work day for state employees. He stated that there are only two conflicts with the last Tuesday and suggested that meetings only be held on the first Tuesday if there are no other conflicts. J. Reitsma did not object to R. Boragine's suggestions and suggested working out schedule using the schedule that J. McNamee put together.

Other Business

Council action on March 4, 2003 public hearing proposals: R. Boragine questioned the legitimacy of the public hearing process. There was discussion concerning the development of the proposals presented at the public hearing. R. Boragine stated that he would abstain from all motions because he does not agree with the process.

DEM proposals to amend commercial lobster regulations to comply with Amendment 4 of the Atlantic States Marine Fisheries Commission (ASMFC) Lobster Management Plan

Increase minimum gauge size by 1/32" or 1/16" effective July 1, 2003: B. Murphy reviewed the proposals submitted for increasing the minimum gauge size of lobsters. He stated that a third option presented at the public hearing to implement a 1/32" increase immediately followed by another 1/32" increase on July 1, 2003 is an ASMFC requirement. M. Gibson commented that the State of Massachusetts has committed to raising the gauge on March 15 and suggested that Rhode Island also raise the gauge on same date for consistency. There was discussion on how to implement the increase by March 15th and it was agreed that the regulation could be filed in the next couple of days and become effective in less than 20 days from the filing date. **S. Medeiros moved to recommend that the Director adopt option #3, 1/32" increase on March 15th if possible followed by another 1/32" on July 1, 2003. D. Preble seconded the motion. S. Cobb, S. Medeiros, D. Preble, and S. Macinko voted in favor. R. Boragine abstained. Motion passed.** J. Reitsma questioned if the new gauge size needs to be specified as a possession limit. M. Gibson replied that the gauge size has always been filed as a possession limit and the area specific gauge sizes would be unenforceable because enforcement would have no basis to determine where the lobsters were caught. J. Reitsma asked the council if filing the gauge increase as a possession limit changes anybody's opinion on the motion. There were no objections. R. Boragine commented that it has always been a possession limit.

Lobster pot vent size is proposed to increase to 2 x 5 3/4 inches for rectangular vents and a diameter of 2 1/2 inches for circular vents: B. Murphy informed the Council that the increase in the escape vent dimensions is required by ASMFC. M. Gibson commented that the vent size increases are compatible measures that go along with the gauge increase. **S. Medeiros moved to recommend that the Director adopt the proposal to increase the dimensions of lobster pot escape vents. D. Preble seconded the motion. R. Boragine abstained. All others voted in favor. Motion passed.**

DEM proposal to specify a time period during which recreational lobster trap tags are valid: B. Murphy commented that the Division recommended the proposal to make the recreational trap tag period consistent with the license period. **S. Cobb moved to recommend that the Director adopt the proposal to specify a time period during which recreational lobster trap tags are valid. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.** There was discussion about recreational lobster landings and their impact on the resource. The Council agreed to refer the issue to the Lobster Advisory Panel.

DEM proposal to implement a mandatory V-notching program for lobster and adopt a zero tolerance definition for v-notching as measures to offset the availability of 50 new lobster licenses. Other offset measures may include: prohibition on culls, season closures, area closures, possession limits, quotas, gear reductions, or vent size increases: M. Gibson commented that the plan was proposed to offset fishing mortality rates to account for 50 new lobster licenses issued this year. He stated that the need for the measures is not clear for offsetting new licenses and the Division does not recommend adopting any offset measures. Several individuals questioned why there is opposition for adopting an offset measure. G. Carvahlo commented that the accelerated gauge increases adopted by ASMFC were sufficient to address immediate conservation concerns and that the amount of attrition occurring in the industry would sufficiently serve as an offset measure. **S. Medeiros moved to recommend that the Director not adopt the proposal to implement offset measures accounting for 50 new lobster licenses. D. Preble seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.**

DEM proposal to adopt ASMFC Lobster Management Area specific regulations as required by the ASMFC ISFMP for American lobster for all areas outside of Rhode Island jurisdiction. These regulations duplicate existing language in the ISFMP: B. Murphy informed the Council that the proposed regulations duplicate ASMFC Management Area regulations and are required to be adopted by states. M. Gibson commented that the regulations would provide enforcement officers with rules for all lobster management areas, allowing enforcement of the most restrictive ruling. B. Murphy commented that the advisory panel did not object to adoption of the regulations. He also pointed out that a change was made to the original proposal and was contained in a supplemental document submitted to the Council. **Stan Cobb moved to recommend that the Director adopt the proposal as presented including the change contained in the supplemental document. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.** S. Hall commented that the regulations are unnecessary and difficult to enforce.

Emergency regulations adopted December 19, 2002 based on advice from shellfish advisory panel to change management area schedules for holidays: B. Murphy commented that the regulation was filed through emergency in response to a Shellfish Advisory Panel recommendation and is due to expire 120 days after the filing date unless it is filed again. He also commented that the regulation only accounts for Christmas and

the Council may want to consider modifying the language to account for other holidays. **D. Preble moved to recommend that the Director adopt the proposal as written. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.**

DEM proposal to adopt possession limits, seasons, and a prohibition on finning for the commercial spiny dogfish fishery to comply with the ASMFC Management Plan for spiny dogfish: M. Gibson stated that the proposed regulation is compatible with federal regulations. D. Preble questioned if finning of dogfish is a problem and if the language prohibiting the practice is necessary. D. Borden responded that the finning prohibition is an ASMFC requirement and was included in their plan at the request of environmental groups. **S. Medeiros moved to recommend that the Director adopt the proposal as submitted including the prohibition on finning. D. Preble seconded the motion.** M. Gibson commented that ASMFC has adopted a larger quota than NMFS and there might be a need for RI to increase the proposed possession limits to account for the larger quota and believes the DFW has the authority to increase the proposed limits if adopted. R. Boragine suggested that the State should adopt regulations to be in compliance with appropriate federal regulations so there is some leeway if a higher quota is adopted by ASMFC. D. Borden stated that ASMFC adopted a larger quota than NMFS in an attempt to convert discards into landings, which would provide an economic edge while keeping fishing mortality the same. Negotiations are currently taking place to allow states to implement higher possession limits during periods when there are high discards. He recommended tabling action until the next Council meeting. **S. Medeiros moved to withdraw the previous motion. D. Preble seconded the motion. No objections. Motion passed. R. Boragine moved to table the proposal until the next Council meeting. D. Preble seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.**

DEM proposal to adopt a commercial season with possession limits for weakfish to comply with Amendment 4 to the Weakfish Fishery Management Plan: B. Murphy informed the Council that the State is required to reduce commercial landings of weakfish by 28% from previous years landings. The plan presented at the public hearing proposes a closed period with a 300-pound bycatch limit during the closed season and unlimited possession during the open season. He stated that the open period options originally proposed have been revised based on recent developments with ASMFC and are presented in the supplemental document. R. Boragine commented that none of the revised options include an open period in the fall, which may affect some sectors. B. Knight commented that he agreed with any one of the original proposals because they included fall months in the open periods but the revised proposals are not acceptable because some big boats may need a possession limit larger than 300 pounds even though he personally would not. T. Hoxie commented that he mainly catches weakfish in May with floating traps. D. Borden commented that the traps start catching weakfish in May and there is a run in August when the trawlers get them. He stated that none of the revised options accommodate both sectors, but would recommend option #5 or #6 if one had to be selected. S. Macinko voiced concern about presenting a different set of options than those presented at public hearing. B. Murphy responded that the development and

approval of plans was ongoing with ASMFC during the public comment period. The original plan that was put out for public notice was not approved by ASMFC during their meeting week at the end of February. The Division therefore had to develop new options that would be acceptable. S. Macinko questioned if the new options could be adopted without going out to another public hearing. G. Powers responded that the public notice was sufficient and a new notice would not be necessary. M. Gibson commented that other options that include the fall months could be developed. R. Boragine suggested tabling the issue and reaching out to industry for input. Responding to J. Reitsma, B. Murphy commented that there was explanation at the public hearing that the proposal might need to be changed. **D. Preble moved to table action on the commercial weakfish proposal until the next Council meeting pending discussion with industry. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.**

Emergency regulations adopted February 6, 2003 to implement a commercial weekly trip limit of scup for compliance with ASMFC: B. Murphy reviewed the weekly scup limit permit program. B. Murphy stated that there were some statements made at the public hearing to apply the program to other seasons. There was discussion on the program and the necessity of permanently adopting the regulation if the program ends in April. **S. Medeiros moved to recommend that the Director permanently adopt the scup weekly trip limit regulation. D. Preble seconded the motion. R. Boragine abstained. All others were in favor. The motion passed.**

Industry proposal to modify possession limits, triggers, and quota allocations for the commercial floating fish trap fishery for scup and alternatives are sought to the starting possession limits for the commercial scup fishery, all gear types except floating fish traps, as currently set out in regulation: B. Murphy commented that three options were presented for the floating fish trap fishery based on recommendations made by representatives of the industry. One of the recommendations made by representatives at a meeting held by the Division was to eliminate a 50,000-pound set aside. One representative not at the meeting did not agree. Results of a poll indicated that two were in favor of keeping the set aside, two were in favor of eliminating the set aside, and two would support either option. M. Gibson commented that the Division would prefer an earlier roll over date than proposed but does not have a preference for either option. **S. Medeiros moved to recommend that the Director adopt the proposal regarding the floating trap fishery for scup as presented in the summary document, option #1 in the presentation, which does not include the 50,000 pound set aside for September. S. Cobb seconded the motion.** There was concern about making a recommendation on an issue that industry could not reach consensus. T. Hoxie stated that he was one of the undecided voters and stated that he would go with option #1. T. Hoxie asked M. Gibson what date for a roll over would be better for the Division. M. Gibson responded that if the date were moved forward a month to August 1, it would give the Division better latitude to manage a roll over and make sure that the quota is harvested. **R. Boragine and S. Macinko abstained. All others were in favor. Motion passed.** B. Murphy informed the Council that the Scup/Black Sea Bass Advisory Panel recommended status quo for the commercial scup fishery, "other gear types" sector, in 2003. In reviewing the

proposal submitted by the RI Inshore Fisherman's Association, G. Carvahlo commented that the proposal recommends a soft cap to keep the fishery open with no closures. M. Gibson responded that with a soft cap there is danger of exceeding the overall quota. The Council recommended remaining with status quo as recommended by the advisory panel.

Proposals to modify possession limits, seasons, and quota allocations for the commercial tautog fishery: B. Murphy commented that three options were presented at public hearing for the commercial tautog fishery, which differ only by the dates of the first sub-period. The Tautog Advisory Panel recommended the allocations presented. The first option was status quo while the other options include a one-week open period in the spring. The one-week seasons were suggested at the advisory panel meeting. M. Gibson commented that the Division prefers the option with the one-week season starting on May 1. R. Boragine commented that the gear types used during the first sub-period are also used during the second sub-period except for floating fish traps which mainly catch tautog in early spring and allocating a small quota to the first sub-period would impact the floating traps. He also stated that opening after spawning only puts spent fish on the market, which are not valuable. D. Borden suggested that another alternative is to divide the quota equally between sub-periods. G. Carvahlo commented that the quota is not large enough to target the species and suggested making the fishery a bycatch fishery. R. Boragine suggested remaining with status quo, continue with discussions until April and if a good proposal is not developed than let status quo remain. S. Medeiros recommended remaining with status quo. D. Borden suggested tabling the issue until the next meeting and work with industry to develop a consensus during the interim. **S. Macinko moved to table the proposal concerning the commercial tautog fishery until the next Council meeting and formally develop during the interim another plan. S. Medeiros seconded the motion. R. Boragine abstained from the motion. All others were in favor. Motion passed.**

DEM proposal to adopt regulations to administer a commercial quota for black sea bass allocated to the State consistent with the ASMFC Fishery Management Plan for black sea bass. Specifications in the plan include seasons, quota allocations, and possession limits: B. Murphy commented that the Scup/Black Sea Bass Advisory Panel recommended a proposal to administer a commercial quota for black sea bass allocated to the State for 2003. Four options were presented at public hearing, which differed in the allocation of the quota among seasons. The advisory panel recommended dividing the quota evenly into sub-periods. He informed the Council that the RI Inshore Fisherman's Association (RIIFA) and the offshore dragging fleet submitted proposals. G. Carvahlo commented that the proposal submitted by RIIFA recommends soft targets with no closures, a minimum possession limit of 100 pounds, and an even distribution of the quota into quarterly seasons. Another member of the audience favored option #4. **R. Boragine moved to recommend that the Director adopt option #4, proposal submitted by offshore dragging fleet. S. Cobb seconded the motion.** There was discussion on the various allocation scenarios and whether they should be based on historical landings or current landings. **No votes were in favor of the motion. Motion failed. S. Medeiros moved to recommend that the Director adopt Option #1, advisory panel recommendation. D. Preble seconded the motion. D. Borden**

commented that the Department has the discretion to lower possession limits when necessary to avoid overages. The Council agreed. **R. Boragine abstained from the motion. All others were in favor. Motion passed.** J. Reitsma pointed out that the intent of the Council is to keep the fishery open as long as possible.

Advisory panel proposal to adjust seasons, quota allocations, and possession limits for the commercial striped bass fishery for floating fish traps and all other gear types: B. Murphy reviewed the proposed plan recommended by the Striped Bass Advisory Panel for the floating trap sector. M. Gibson commented that the Division concurs with the recommendation. **D. Preble moved to recommend adoption of the proposal for the commercial striped bass fishery, floating fish traps, as submitted by the Striped Bass Advisory Panel. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.** B. Murphy stated that the proposed plan regarding the commercial quota for the non-floating trap sector was recommended by the Striped Bass Advisory Panel. M. Gibson commented that the Division concurs with the recommendation. **D. Preble moved to recommend adoption of the proposal for the commercial striped bass fishery, non-floating trap sector, as submitted by the Striped Bass Advisory Panel. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.**

Proposals to amend summer flounder commercial possession limits and seasons: B. Murphy commented that the Summer Flounder Advisory Panel recommendation, presented as option #2, was to combine the 2nd and 3rd sub-periods and implement a 100-pound possession limit. He reviewed a proposal submitted by RIIFA. M. Gibson commented that the advisory panel discussed instituting a weekly possession limit program for the summer months, but was not pursued by the Division because effort was devoted to implementing a scup weekly trip limit program. He stated that the Division prefers option #2, combining the two summer periods would increase the likelihood of keeping the fishery open. R. Boragine commented that option #2, as presented, was not recommended by the advisory panel, rather the recommendation for combining the two periods was contingent upon a weekly limit. **R. Boragine moved to recommend status quo to the Director. There was no second to the motion. S. Medeiros moved to recommend that the Director adopt Option #2. D. Preble seconded the motion.** There was discussion about possession limits in April. **R. Boragine abstained. All others were in favor. Motion passed.**

DEM proposal to modify the closed season, bag limit, and minimum size for the recreational summer flounder fishery: B. Murphy reviewed the options proposed and stated that the Summer Flounder Advisory Panel recommendation was a five fish bag limit, 17.5" minimum size, and an open season of May 1 through September 20. He stated that the proposals are less restrictive than 2002 because the recreational landings in 2002 for RI were below the target. M. Gibson commented that the Division supports the advisory panel's recommendation. **S. Medeiros moved to recommend that the Director adopt the advisory panel recommendation, option #1 as presented in the**

slide show. D. Preble seconded the motion. R. Boragine abstained. All others were in favor. Motion carried.

DEM proposal to modify the bag limit and closed season for the recreational scup fishery: B. Murphy informed the Council that the proposed specifications for the recreational scup fishery are less restrictive than 2002 because the RI recreational landings in 2002 were below the target. The Scup/Black Sea Bass Advisory Panel recommendation was presented as option #1 in the slide show, 10” minimum size, 50 fish bag limit, and no closed season. M. Gibson stated that the Division concurs. **D. Preble moved to recommend that the Director adopt the advisory panel recommendation. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.**

DEM proposal to adopt a recreational bag limit for weakfish to comply with Amendment 4 to the Weakfish FMP: B. Murphy stated the proposal to adopt a 10 fish bag limit for the recreational weakfish fishery is an ASMFC compliance requirement. **D. Preble moved to recommend that the Director adopt the proposal regarding the recreational weakfish fishery as presented. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.**

DEM proposal to change the season and increase the minimum legal size for the recreational black sea bass fishery to comply with the ASMFC FMP for black sea bass: B. Murphy stated the proposal for the recreational black sea bass fishery is an ASMFC compliance requirement. The proposed regulation would increase the minimum size to 12” and add a closed season in September and December. **D. Preble moved to recommend that the Director adopt the proposal regarding the recreational black sea bass fishery as presented. S. Medeiros seconded the motion. R. Boragine abstained. All others were in favor. Motion passed.**

Post Agenda Discussion

The next Council meeting was scheduled for April 1, 2003.

Brian R. Murphy and Jason E. McNamee
Recording Secretary

RESOLVED: That the Minutes of the meeting of the Rhode Island Marine Fisheries Council held on March 11, 2003 be, and are hereby adopted and approved in their entirety with the following changes: The first paragraph under other business, the comment by R. Boragine as follows “R. Boragine stated that he would abstain from all motions because he does not agree with the process” be changed to “R. Boragine stated that he would abstain from all motions because he did not agree that the process was proper”. The second change occurs under the sub heading *Proposals to amend summer flounder commercial possession limits and seasons on*

page 8. The comment as follows “B. Murphy commented that the Summer Flounder Advisory Panel recommendation, presented as option #2, was to combine the 2nd and 3rd sub-periods and implement a 100-pound possession limit” be changed to “B. Murphy commented that the option presented as option #2, was to combine the 2nd and 3rd sub-periods and implement a 100-pound possession limit”.