

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
March 15, 2004
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

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

Chairperson: D. Borden

RIDEM F&W Staff: M. Gibson, N. Lazar, T. Angell

DEM Enforcement: S. Hall

Legal Counsel: G. Powers

Public: approximately 26 people attended

D. Borden called the Rhode Island Marine Fisheries Council (RIMFC or Council) meeting to order. He asked if there were any additions to the agenda. G. Allen stated that the Council has the minutes to the floating fish trap advisory panel minutes but he would rather put making the report off until next months meeting so that the chair people could get back together and make sure they had the wording that they wanted correct. D. Borden asked that they make a report without any specifics. D. Borden asked if there were any comments on the minutes for the February 2, 2004 meeting which were included in the packet. There were no comments. **G. Allen made a motion to approve the minutes as submitted. The motion was seconded by J. King. There was no further discussion on the motion. The Council voted unanimously to approve the motion.**

Advisory Panel Reports

Lobster: J. King gave the report. He stated that the first of the two meetings were called mainly so that he could meet with the panel members, as he is the new chairperson for the advisory panel. The panel discussed addendums 4 and 5 from the Atlantic State Marine Fisheries Commission (ASMFC) and gave comments on the options discussed within those plans. They also discussed a project which would utilize the T.J. Wright (Division of Fish and Wildlife (DFW) research vessel) and convert it to a lobster boat for use in lobster fishery research and also for enforcement of lobster fishery regulations.

The second meeting was held to discuss ASMFC Addendum 4 and 5. The lobster advisory panel requests that the RIMFC send the options listed in these addenda to public hearing. The panel also requested that the DFW look at compatibility of trap transferability issues with Rhode Island's neighboring states as well as with the National

Marine Fisheries Service (NMFS) prior to the implementation of addendum 4. M. Gibson stated that this would and is currently being done. **D. Borden asked if there were any objections to taking the requirements from addenda 4 and 5 to public hearing. There were no objections from the Council, therefore the options were authorized for public hearing.**

Floating fish trap: G. Allen gave the report. He again stated that he would go through the minutes provided by B. Murphy but that the items in the report were not currently finalized. The meeting included representatives from the coast guard. The process that will be followed will be that early in the season the fish trap operators will notify B. Murphy where there traps will be located and this information will then be passed on to the coast guard in Boston. At this point the coast guard will determine whether or not the trap or group of traps needs to have day and/or night markers.

There was also a discussion about the number of traps, the dimensions, and the method of deployment. The panel agreed to follow the application process outlined by the coast guard representatives. Regarding coordinates of traps, the coast guard stated that they are looking for area around sets of traps, not the location of the actual trap. They discussed the buoy requirements for the traps. The coast guard stated that the buoys should be of a standard design that is acceptable to them.

The panel discussed several parts of the floating fish trap regulations. One of the important issues was reporting of trap locations. This will be done by January 10th of each year for where the companies intend to put there traps for the upcoming season and then the DFW will produce a map indicating these locations. They also discussed including a safety zone around fish traps.

B. Mattiucci brought up a bill which he had found on the internet which had been put forward by S. Sosnowski which deals with floating fish traps, and deals with many of the issues being taken up by the floating fish trap advisory panel. G. Allen stated that he is familiar with the bill but doesn't know how to comment on it yet. D. Borden accepted a copy of the bill from B. Mattiucci.

S. Parente asked a question about the 100 foot safety zone that they had discussed, if they included one for fish traps, why don't they also include one for lobster pots. G. Allen stated that they will have a public hearing on this issue when they get it finalized and that would be the appropriate time to voice concerns like that over the proposed changes to the regulations.

Enforcement: J. McNamee gave the report. This was the first meeting of this newly formed panel. The purpose of the meeting was to get together and figure out the mission of the panel. The ideas the group came up with was to use the panel as a formalized suggestion box, a way for fishermen to get official answers from the DFW and The Department of Environmental management (DEM) Law Enforcement on ideas that they had for improving their particular sector of the fishery. The second idea was to have the panel be a place where fishermen can clue DEM Law Enforcement in to violation trends

which they see occurring on the water. The next step was for the Council to decide after reading the minutes and hearing the report whether they would like to see the panel continue. S. Hall stated that DEM Law Enforcement felt that the initial meeting was a good meeting and they felt it was a worthwhile panel to continue on with. He also felt that this panel could help enforcement to mirror their good relationship that they have had with the shellfish sector with some of the other sectors of the industry. **D. Borden asked if the Council had any objections to the panel meeting again in April. There were no objections therefore the panel was authorized to meet again in April.**

New Business

Aggregate landing meeting report: M. Gibson gave the report. He stated that this meeting was set up to comport with the Council's recommendation to hold a workshop with the various stakeholders to see if a generic aggregate plan could be worked out, as per the DFW's suggestion. During the meeting J. McNamee gave a brief overview of the programs which were in place and highlighted some of the problems inherent in those programs. Following that discussion, the sector of the industry which had put forward a proposal had an opportunity to discuss their ideas and they also answered some questions posed by people in attendance. During this discussion DEM Law Enforcement gave their perspective on the issue by describing the inherent enforcement problems with the programs which were in place and also gave suggestions as to how to improve the programs. It was also stated that both DFW and DEM Law Enforcement were very willing to work with industry in the development of a program that is good for the industry and which is also enforceable.

M. Gibson stated that he felt the next step in the process was for the Council to weigh in and decide whether or not they would like to proceed with more meetings to decide two things: 1. whether to develop a better winter program which M. Gibson stated was an easily achievable goal and 2. whether to extend a program into other sub periods and species. The second of the two problems was the more contentious issue. There is widespread opposition to this at the current time.

D. Borden asked if there were any objections to the DFW staff continuing on with workshops to discuss the first of the two issues, namely developing a better plan for the winter summer flounder fishery. There were no objections.

D. Preble asked M. Gibson about the possession limits specified in the industry proposal, did he think they were reasonable. M. Gibson stated that they had not gone in to this issue in depth yet because they were at the beginning stages of talking about these programs but he felt there will be an issue with some of the possession limits as shown due to increased effort. The potential increased effort will be from boats which may not be enticed by a smaller daily limit, but will be interested in a larger weekly limit. These are the types of issues that need to be addressed before a program like this can be put in place.

D. Borden asked whether to keep the second issue on the workshop agenda, namely

discussing extending the program into other sub periods and other species. K. Ketcham stated that he would like to continue with discussions on this issue. He went on to say that he would like to perfect the winter period first.

M. Gibson stated that there was one other concept that came up, which was to allow more than one licensed individual, and therefore more than one possession limit on a single vessel. This would be an alternative to an aggregate landing program because it would allow for the same issues to be dealt with while not having to develop a whole new set of regulations. This may be a third item to discuss if the Council wanted to add it.

D. Borden asked if there were any objections to adding this to the discussion items. K. Ketcham stated that he would like to keep this discussion open as well, there were people present at the meeting who were interested in pursuing this as an alternative.

G. Allen wanted to make sure that once something is set up by this working group that it must then go through the public process. Everyone concurred that this would be the correct process.

C. Brown stated that the fall or winter 2 period may be another period which an aggregate landings program could be set up because again you are dealing with a single user group and the same issues of safety are present during this period.

Other Business

Update on RIMFC nominations: J. McNamee stated that a memo was in the packet which deals with these two issues. The first part is the current RIMFC nominations. There are currently three nominees, Bruce Knight, Michael Marchetti, and Stephen Parente. Stephen Parente is a recent addition to the list of nominees and the Council has been issued his bio so that they may read it and offer any comments they may have.

Update on Commercial Fishermen's Committee nominations: On the same memo was a list of nominees to the Commercial Fishermens Committee. The majority of the nominees are also members of the Licensing Board with a couple of extra people added to that group. R. Smith had responded to the original letter of solicitation and while he is not a member of one of the major associations (he did not indicate that he was a member of one of these groups), J. McNamee included his name for the Council to comment on.

K. Ketcham made a motion to accept the nominees as submitted to the Council. He read off the names: G. Carvalho, R. Boragine, C. Brown, C. Grandquist, M. Marchetti, M. McGiveney, J. Low, R. Mattiucci, and R. Smith. J. King seconded the motion. J. McNamee added that not all of the associations had given two nominees as was the original intent of the Council so he wondered if they wanted to leave it open for an association to add a second person to the committee. D. Borden asked whether they wanted to add the second person as an alternate. **D. Borden asked if there were any objections to this, there were none. The Council voted unanimously to accept the**

motion.

D. Borden stated that there was already a charge to this committee which was to begin working with DEM on the next round of licensing regulations. There have been many non-renewals so the critical question was going to be who gets priority for upgrading their license.

Old Business

Draft regulations for High Banks and Potowomut shellfish management areas: M. Gibson stated that the Council has seen the evolution of this topic as far as the original industry proposal and the subsequent compromise to the management area. M. Gibson stated that the Council had the proposed new language for this compromise. They also had maps indicating what the new management area looks like. **J. King made a motion to approve the language for the Potowomut Shellfish Management Area as proposed. K. Ketcham seconded the motion. The Council voted unanimously to approve the motion.**

Council action on March 2, 2004 public hearing proposals: J. McNamee stated that he would go through the slides and briefly describe the item and give a synopsis of the public comments which were received at the public hearing. D. Borden suggested taking each item one at a time. The Council agreed.

1. Amend current lobster commercial regulations to limit the trap tags allowed on a pot at any one time: G. Allen stated that he was not clear on the suggested change made by K. Blanchard at the public hearing. S. Hall stated that they would like to change the penalty portion of the suggested language to refer to the general penalty clause which is in Rhode Island general law. He gave the exact language for RIGL 20-3-3. **K. Ketcham made a motion to accept the language as proposed with the change suggested by DEM Law Enforcement to insert the general penalty clause instead of the specific penalty clause indicated on the slide. G. Allen seconded the motion. The Council unanimously approved the motion.**
2. Amend current lobster commercial regulations to increase the circular escape vent size: **J. King made a motion to approve the language for increasing the size of the circular escape vents with the inclusion of an effective date of 12/31/04. G. Allen seconded the motion. The Council voted unanimously to approve the motion.**
3. Modify possession limits, seasons, and quota allocations for the commercial tautog fishery: **K. Ketcham made a motion to adopt the advisory panel preferred option. G. Allen seconded the motion.** G. Carvalho stated again that he did not feel the DFW had proven the necessity for stricter regulations on tautog but if he did have to choose an option he felt the plan should start January 1 and allow the fishery to continue at 10 fish a day until the quota is harvested. He also did not feel it was fair

for the commercial fishery to be closed while the recreational fishery was still open because they landed a majority of tautog in the state.

A question about possession above the spawning closure line was raised. D. Borden stated that the language would be written as a “possession while fishing” restriction, thus allowing a fisherman to transit a closed area with fish in their possession as long as they were not actively fishing in that area.

Two audience members voiced their support for the advisory panel preferred option.

P. Brodeur stated that some lobstermen fish their traps, which catch tautog in the spring, north of the proposed line therefore closing this area would create a hardship for them.

C. Brown stated that the Commercial Fishermen’s Association supported the advisory panel preferred option.

K. Ketcham modified his motion to say that the language would be “in possession while fishing” rather than just a possession limit. G. Allen seconded the motion. The Council unanimously approved the motion.

4. Adopt a weekly landing permit program for the commercial summer flounder fishery during the winter 1 sub period: D. Borden stated that during the previous discussion on aggregate landings, the Council had come up with the proper way to proceed on this issue which was to have the aggregate landing working group reconvene and continue to work on a plan. D. Borden suggested tabling this item until they get a report from the working group. **D. Preble made a motion to table this issue until a report from the aggregate landing working group was brought forward. J. King seconded the motion. The Council voted unanimously to approve the motion.**
5. Adopt a weekly landing permit program for the spiny dogfish fishery: D. Borden stated that the program will not exist next year because the federal government has promulgated regulations which take effect on May 1, 2004, that only allow for 300 and 600 pound trip limits, thus the weekly landing program will not be available next year. D. Borden suggested promulgating the regulation to allow for the framework to be in place so that if the opportunity arises again, the regulation would not have to go back out to public hearing. **K. Ketcham made a motion to adopt the weekly permit program for spiny dogfish as it currently exists. D. Preble seconded the motion. The Council approved the motion unanimously.**
6. Modify season, bag limit, and minimum size for the recreational scup fishery: J. McNamee stated that since the public hearing the reduction for the recreational scup fishery was lowered. N. Lazar had developed a number of new options based on the new 25% reduction. The new options were presented in a table on the powerpoint presentation. G. Allen asked to get comments from the party and charter boat representatives because decreasing the large bag limit affects them the most. D.

Borden wanted to note that the decreased reduction was a direct result of the jointly sponsored letter to ASMFC from the Council and the DFW. D. Borden went on to suggest that the Council table this item so that the advisory panel could get together and recommend one of the new options presented to them. N. Lazar requested that the Council take action on that evening due to time constraints. K. Ketcham stated that he concurred with G. Allen's request to get comment from the audience and take action on this evening. F. Blount stated that he preferred option 3 as presented which was 50 fish at a 10.5" minimum size with a season from January 1st through December 31st including a 9 day closed period from July 26th through August 3rd. J. Rainone stated that he concurred with F. Blount's recommendation. H. Leonard stated that it was difficult for enforcement to have a closure during the fishing season. **G. Allen made a motion to accept option 3 (as stated above) with the closure running from July 26th through August 3rd. K. Ketcham seconded the motion.** K. Court suggested that closing down a fishery in the middle of the season was a hardship on the recreational fishermen. He stated he was in support of option 5 which goes up to an 11" minimum size. D. Borden asked if the Council wanted to change their motion. They did not. **The Council voted unanimously to approve the motion.**

7. Modify season, bag limit, and minimum size for the recreational summer flounder fishery: J. McNamee stated that there was an additional option presented in the slide show which came from a request at the public hearing. N. Lazar stated that the two largest percentage increases occurred from changing the minimum size and changing the season. Changing the bag limit had little to no effect on the percent increase. M. Gibson stated that he felt the Council should be precautionary in their approach because summer flounder was not a regionally assessed species so if RI went way over their limit, they would pay for it the following year. F. Blount also felt that the Council should be cautious when decreasing the minimum size. An audience member stated that he would like to stay at 17.5" and have an 8 fish bag limit, season being April through December. A second audience member stated that he wanted 17" and 8 fish (same season as above). M. Bucko stated that he supported 17" and a 5 fish bag limit (season same as above). J. Rainone supported option 3 with an 8 fish bag limit. **G. Allen made a motion to accept option 3 as stated in the slide. D. Preble seconded the motion. The Council unanimously approved the motion.** Due to urging from the audience the Council took more discussion. Several audience members stated that they supported option 3 but with an 8 fish bag limit as opposed to a 6 fish bag limit as indicated on the slide. K. Ketcham asked M. Gibson to comment. M. Gibson stated that the bag limit makes no difference in the percentage, but this is based on old data. Due to the increasing size composition of the fishery he felt that going up to an 8 fish bag limit would put RI in jeopardy of going over their limit. **D. Preble made a motion to reconsider. K. Ketcham seconded the motion. The Council unanimously approved the motion to reconsider. D. Preble made a motion to adopt option 3 with an 8 fish bag limit. K. Ketcham seconded the motion.** G. Allen stated that he would rather go to a 7 fish bag limit to be on the safe side. **D. Preble made a motion to amend his motion to specify option 3 with a 7 fish bag limit. K. Ketcham agreed to perfect the motion. The Council voted unanimously to approve the motion.**

D. Borden in response to a question from the audience gave a statement about going to a regional approach in the recreational summer flounder fishery. He stated that New York proposed such a plan to alleviate some of the overage which they accrued in 2003. D. Borden, G. Carvalho, and G. Pope lobbied to discourage implementation of such a program and they accomplished blocking this regionalized plan.

8. Amend commercial floating fish trap scup regulations: J. McNamee stated that since the public hearing, the floating fish trap companies had gotten together and come up with a compromise plan which they had presented to the Council (they handed in a written proposal). K. Ketcham asked A. Lotz whether they meant the regulation to read as a possession limit per boat or per license holder. He stated that it was meant as a possession limit per fish trap license holder. M. Gibson asked what to do about a quota roll over date. It was decided that they would go with the August 1st roll over date which currently existed in the regulations. **K. Ketcham made a motion to accept the floating fish traps proposal with the amendment that the possession limit is per license holder rather than per boat and also including a roll over provision stating that no later than August 1st, the DFW in consultation with the fish trap companies will decide on a quota roll over. G. Allen seconded the motion. The Council approved the motion unanimously.**

Added agenda items

Winter flounder update: M. Gibson stated that the winter flounder board had an addendum before them which sited several measures for the stock of winter flounder along the east coast. The board declined to adopt the addendum or any of the particular options contained within it. They sent the addendum back to committee to draft further options which focus on inshore stocks of winter flounder. M. Gibson stated that what he thought would come out of the deliberations would be a redrafted addendum which acknowledges the overall rebuilding targets in Amendment 13 and will emphasize inshore stock rebuilding. The addendum will most likely also cover habitat issues also.

Groundfish relief fund update: J. O'Grady wanted an update on where the groundfish relief fund compensation program was and he also wanted to know why industry was being circumvented in the compensation process. M. Gibson stated that there had been disagreement about a direct payout or the formation of a research trust fund and the final word was from the Governor, where he instructed the Director of DEM to proceed with a direct payout. The DFW was going to follow the criteria as laid out by NMFS to certify people for their days at sea (DAS) and they would be notified in a letter as to the number of DAS they qualify for compensation. The DFW didn't feel they were circumventing anyone. J. O'Grady stated that he had received a letter and if the process was going to proceed as written in the letter, the process would not be fair to fishermen. M. Gibson stated that the letter that J. O'Grady had in his possession was an early draft which has been updated to correct the problems he cited. C. Brown stated that the industry would be satisfied if the final compensation program gives more money to people who actually used their permit and were done actual damage rather than those who had their permit

stashed away in a drawer. N. Lazar stated that the newly drafted letter takes care of this and solves the majority of those types of problems. N. Lazar went on to say that they could give out any non-confidential information but could not give out any confidential information. C. Brown made a comment about the \$150,000 which was set aside by the state to administer the program. D. Borden stated that he had instructed the staff to set aside 10% of the total amount for this purpose. The staff would then charge their time to this account as they worked on administering the payout program. In the end they would only use the amount that was charged to the account; the rest would be reimbursed to the fishermen. P. Ruhle stated that the preceding Director had stated that the DFW would not use any money to administer the program. D. Borden stated that this may have been the case but he (D. Borden) has instructed the DFW to do this. J. O'Grady stated that he would like to see the revised letter before it is sent out so that they were afforded the opportunity to comment on the letter or any of the wording pertaining to the research trust fund.

The chairman adjourned the meeting.

Jason E. McNamee, Recording Secretary