

**RHODE ISLAND MARINE FISHERIES COUNCIL**  
**Minutes of Monthly Meeting**  
**September 11, 2006**  
**URI Narragansett Bay Campus**  
**Corless Auditorium**  
**South Ferry Road**  
**Narragansett, RI**

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

Chairperson: M. Gibson

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

DEM Staff: B. Ballou, M. Sullivan (Director of DEM)

DEM Legal Counsel: G. Powers

DEM Law  
Enforcement: S. Hall, K. Blanchard

Public: 25 people attended

Chairman M. Gibson called the meeting to order. He asked if there were any changes to the agenda. There were several requests made for agenda modifications. They were as follows: The first was to expand the FYI section to include a letter that went from M. Gibson to the Coastal Resource Management Council (CRMC), the next issue was the addition of an agenda item on the summer flounder advisory panel draft agenda. J. King asked for the addition of a discussion agenda topic about the lobster v-notch definition. M. Gibson stated that a discussion about this could take place, however the motion from the Council about this subject cannot be revisited. S. Parente asked to have a discussion as agenda item 5c about the advisory panel notification format. **There were no objections by the Rhode Island Marine Fisheries Council (RIMFC or Council) to approving the agenda as modified.** M. Gibson asked if there were any objections to approving the minutes of the July 10, 2006 Rhode Island Marine Fisheries Council meeting as amended as well as the minutes of the August 7, 2006 Rhode Island Marine Fisheries Council meeting as submitted. **K. Ketcham made a motion to approve both sets of minutes as submitted. G. Allen seconded the motion. The Council approved the motion unanimously.**

**Advisory Panel Reports**

*Industry Advisory Committee:* K. Ketcham gave the report. The panel began with a discussion about licensing issues for 2007. The panel weighed the issue of new restricted finfish endorsements, however they concluded that due to decreasing quotas on a number of the most important restricted finfish species, the panel reiterated its recommendation

that no new finfish endorsements be issued in 2007. Regarding lobster endorsements, the panel recommended tabling any recommendation until the Director makes a determination on the effort control plan that went before the public back on May 18, 2006. Further, they went on to recommend that the Director sign the effort control regulations as proposed during the May 18, 2006 public hearing. The panel then moved forward with a review of current gillnet rules and regulations. The chair decided that because voting on proposals was not noticed the panel kept the agenda topic as a discussion. A proposal was brought forward from J. Low. The panel discussed the items in the proposal. Some of the meeting attendees felt that some of the measures in the proposal were drastic (removing nets at night) and went on to say that many of the other proposed changes are already in regulation. Some in attendance felt that the problem has arisen because of the small gillnetters who are not following the existing regulations. The panel suggested sending this topic to the enforcement advisory panel. J. Low requested that B. Ballou present the issue to the Director as an enforcement issue. The panel declined to make any recommendations on whelk licensing as they needed more information on the topic from whelk industry representatives.

M. Gibson asked whether the Council wanted to act on the advice of the IAC to forward the gillnet issue to the Enforcement advisory panel (AP). **The Council had no objection to forwarding the gillnet issue on to the enforcement AP.**

S. Macinko asked whether “new entry” in to an endorsement category referred to endorsements being issued based on non renewed licenses. K. Ketcham stated that it did refer to this and elaborated that if an inactive license is relinquished and a new endorsement is issued based on this, it would be new entry in to the fishery.

*Shellfish:* J. King gave the report. The panel reviewed proposed whelk regulations, the first version of which was developed by industry and put into regulatory language by the Division of Fish and Wildlife (DFW). The DFW will come forward at a later date with their proposal. One item that came up during the discussion of the proposal points was an issue with licensing. The shellfish AP members were all under the impression that a Principal Effort License with a quahog endorsement could harvest non-quahog species, however this may not be the case. The panel wanted this issue addressed on a future agenda. The panel went on to discuss the Greenwich Bay shellfish management area proposal. The panel was informed that development of an alternative proposal to that of emergency closures was being developed. The panel requested that the draft Greenwich Bay proposal be forwarded to the shellfish AP for comment and then it should be brought before the Council. The panel continued with its membership modifications as well as reviewing the CRMC aquaculture policy that went before the Council. The final item was a discussion about the opening of eastern Greenwich Bay, which was a one year experimental opening. This open area was about to close and the RI Shellfishermen’s Association was requesting that it remain open. The DFW stated that the survey work was not complete and needed to be reviewed before any permanent changes were made. The panel also requested that this item be placed on a future shellfish AP agenda.

*Summer Flounder:* D. Preble gave the report. The panel began with a discussion about

the most recent stock assessment. The panel then went on to discuss user group conflicts. One of the suggestions that came up was time-area-gear closures in the summer, which is the problematic period for the fluke fishery. A summer aggregate landing program could also be implemented with the caveat that winter aggregate boats not be able to participate. Another proposal was to divide the quota equally throughout the year into the four sub periods. Another proposal was to combine summer 1 and 2 and then divide the quota equally into the three sub periods. Another proposal was to set the possession limit at 100 pounds, which would keep the fishery open all year. The panel agreed that the upcoming cuts in quota be distributed equally to all users, but there was no consensus on how this would occur. Control dates were also proposed. The chair decided that the proposals would not be voted on but would be brought forward to the Council, giving them the opportunity to endorse particular proposals if they wished. Other proposals were to increase the minimum size for commercial fishermen, establish a minimum hook size for hook and line fishermen, and dividing the quota among gear types. The panel went on to discuss gillnet regulations and enforcement. D. Preble went on to discuss a proposal that came forward to him after the meeting. The proposal was to make fishing violation penalties extremely severe as a solution to the enforcement problem.

### **New Business**

*Council recommendations to the Director on public hearing items:* The first public hearing item was the floating fish trap regulation changes. G. Allen gave some background on the issue stating that due to the non-responsiveness of the Coast Guard, the regulations would require the buoys originally cited by the Coast Guard and then in all other cases high flyers would be required in the specified locations. **G. Allen made a motion to recommend that the Director approve the regulatory changes as proposed.** He went on to request the boating safety course include a section on floating fish traps. S. Medeiros stated that he did not see a penalty clause in the new regulations. **G. Allen made a friendly amendment to his motion to make sure the penalty clause as it currently exists in regulation remain in place. K. Ketcham seconded the motion.** A. Parascondolo stated that he didn't think he should be held to the original buoy requirements as put forth by the Coast Guard because the Coast Guard presently did not want to be involved with the fish traps. The Council discussed that the Coast Guard did make the original designations and the Council did not feel the Coast Guard was withdrawing any of its previous advice; they simply were too difficult to deal with in a timely fashion for updated recommendations. Other trap operators stated that they had lost buoys this year and they were very costly to replace. **The Council approved the motion with one abstention (S. Macinko abstained from the vote).**

The next public hearing item was the Safe Harbor regulations. **K. Ketcham made a motion to recommend to the Director that he move forward with implementing these regulations as they have been revised. J. King seconded the motion. The Council approved the motion unanimously.**

The next agenda items were the state regulation proposals for monkfish, cod, and sea scallops that intended to mirror the federal fishery management plans for these species. M. Gibson suggested that the Council may want to request from the DFW more

information and table their recommendations until the October meeting at which point they would have had the opportunity to review the background information. S. Macinko and S. Parente felt they needed more information before making a recommendation. G. Allen stated that in the case of monkfish, they had a petition with 50 signatures, which he felt weighed heavily with him, however he was not opposed to delaying until October. He went on to ask what specifically the DFW was going to give them for back ground information. **The discussion resulted in requesting stock status in state waters, fishing effort in state waters, neighboring states regulations, equipment restrictions for scallops, and the effects of the implementation of any of these options on the state fishery.** K. Ketcham stated that the concern that people will drop there federal permit to go to a state license is a greater concern now as the fisheries are wide open in state waters. He went on to state that he did not mind tabling it to next month as long as it was addressed in October and doesn't get brushed aside. S. Medeiros stated that he would like to see a possession limit and a bag limit for cod but did not know what to specify. The Council decided they would group this in with monkfish and table it until October pending further information. **The Council had no objections to tabling recommendation on the three federal management plan species (monkfish, cod, and sea scallops) until the October meeting pending further information (see bolded above) from the DFW.** F. Blount stated that the cod regulations should exactly mirror the federal plan as this plan was developed over twelve years and the Council should not think that they could develop a plan that was better in a month. M. Marchetti recommended putting in a 10.5 foot dredge size along with the limits for sea scallops to be consistent.

*Council approval of AP agendas:* M. Gibson started with the summer flounder AP. The Council had a draft agenda that had a continuation of summer flounder management proposals as well as an added topic of a discussion on the summer flounder exemption certificate program. The Council discussed specifying a list of proposals that they will look at. The Council decided to keep the discussion on this open with the exception of dropping the minimum hook size/circle hook discussion. **The Council had no objection to approving the draft agenda as written with the caveat that the minimum hook size/circle hook proposal will not be discussed.**

The second draft agenda was for the lobster AP. J. King stated that the agenda was fine as written, he has to check on the date. **The Council had no objection to approving the agenda as written pending the date is open for the chairman.**

The next draft agenda was for the Industry Advisory Committee. R. Ballou commented that the Department has made some technical changes to the regulations that will be going to public hearing and he will brief the IAC on these changes at the next meeting so they are aware of the changes. **The Council had no objection to approving the agenda as written pending the date is open for the chairman.**

The final draft agenda was for the shellfish AP meeting. **The Council had no objection to approving the agenda as written pending the date is open for the chairman.**

## **Other Business**

*Council comments on advisory panel nominations:* J. McNamee stated that the Council had been given four resumes for nominated advisory panel members. **The Council had no objection to approving the appointment of L. Dellinger to replace M. Marchetti on the IAC. The Council did not object to approving J. Grant for the primary tong position on the shellfish AP. The Council did not object to approving T. Platz to the IAC. The Council did not object to approving P. Brodeur for the next available primary position on the lobster AP.**

*Briefing to Council on fall tautog bag limits:* A letter had been issued to the Council from the Director stating his reasons for keeping the fall tautog bag limit at 10 fish. The main reasons were to not put the charter/party boat industry at a competitive disadvantage to other states, the tautog recreational fishery had taken some conservatory steps in closing the spring fishery for June and extending the 3 fish limit further in to the season, and the appearance of increasing biomass levels. G. Allen wanted to emphasize that he feels enforcement is the key to cracking down on illegal tautog fishing in the fall season.

*Discussion on the advisory panel notification format:* S. Parente requested that agendas get more specific as far as when they will be looking at and voting on proposals. Currently this is ambiguous on the agendas and has led to problems in the recent past as far as people bringing proposals forward but not getting them looked at during the meeting. G. Allen stated that the Council approves the AP agendas and this practice should be adequate for making sure the agendas are worded appropriately. This does not hinder people from bringing a proposal forward, this can happen and it can be discussed but then it needs to be brought back before the Council so that they can notice it on a future agenda for appropriate action. There was further discussion on this topic. The Council was comfortable with their current policy of accepting any proposal brought forward, discussing it with no action taken on that night, and transmitting it to the Council for further action if necessary.

J. Low asked if there would be any voting on proposals at the next Summer Flounder AP. D. Preble stated that they would vote on proposals which had been handed in at the previous meeting.

*Discussion on the pending emergency lobster v-notch regulations:* M. Gibson stated that the Council could have a discussion about this but if the Council wanted to re-address and take a formal action on this topic, they would not be able to do so at the current meeting. It would have to be noticed on a future agenda for action. J. King stated that the intent of the v-notch program was to replace the lost lobsters from the oil spill. J. King stated that the definition that was to go forward (1/8") was not conservative enough and did not provide as much protection as a zero-tolerance definition. He quoted some studies that showed more benefit from a zero-tolerance definition. M. Gibson gave background on where the v-notch definition was as far as regulatory process and also how the 1/8" definition was decided on. He went on to state that the definition still has to come forward at a subsequent public hearing as it was currently being filed as an emergency action. S. Macinko wanted clarification on the process as he was unclear why this

emergency action was back before the Council. J. King stated that his ultimate goal was the protection of the lobster resource. Due to continued discussion from S. Macinko, G. Powers clarified that the reason the discussion could not be acted upon by the Council was a procedural issue governed not by the Administrative Procedures Act but by the Open Meetings Act. **J. King made a motion to add a v-notch agenda item on to the next available Council agenda. S. Medeiros seconded the motion.**

M. Marchetti stated that the only compensation that the lobstermen received from the oil spill settlement was the v-notch program and the benefits of this program. He went on to state that the industry had come forward and asked for this emergency action because they were the ones who were concerned about the resource as it was their livelihood. He also stated that the reason the industry wanted the 1/8" was due to the ambiguity of a zero tolerance definition, to have something quantifiable was better.

L. Dellinger stated that they were under no mandate to do this, it was industry driven as a conservation measure. He stated that he was at a loss as to how long this had taken to get this in place and while this kept getting revisited, millions of eggs were lost due to the harvest of the now legal v-notched lobsters.

P. Brodeur stated that he felt the pain of throwing back many v-notched lobsters. He felt that the v-notch program was a benefit, however, and therefore supported it.

**The Council voted 6 to support the motion (D. Preble, G. Allen, S. Parente, J. King, S. Medeiros, S. Macinko) and 1 to oppose the motion (K. Ketcham). The motion carried.**

**FYI**

*Letter to DEM law enforcement on adding floating fish trap education section to required boater safety course:* M. Gibson stated that this was just a follow up to let the Council know that the DFW had written a letter on behalf of the Council to DEM Enforcement requesting the addition of a floating fish trap section to the boaters safety course. M. Gibson also stated that the request from J. King to develop a comprehensive shellfish plan for the state was put in to a letter and sent to CRMC, the Director of DEM also has had discussions with CRMC on this topic.

**Post agenda discussion**

P. Ruhle stated that he would like to discuss the provision about selling to only in-state permitted dealers with a few species. He stated that this puts fishermen at a competitive disadvantage because it limits who they can sell their fish to. M. Gibson asked J. McNamee to make sure that this was added as a follow up item and forwarded to an appropriate advisory panel.

The chairman adjourned the meeting.

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Jason E. McNamee, Recording Secretary