



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

(401) 423-1920 Fax: (401) 423-1925

RIMFC: Robert Ballou, *Chairman*; David Monti; Jeff Grant; William Mackintosh, III; Michael Rice, Ph.D.; Christopher Rein; Andy Dangelo; Mike Roderick; Travis Barao

MEETING NOTICE RI MARINE FISHERIES COUNCIL

October 3, 2016 – 6:00 PM

**URI Narragansett Bay Campus, Corless Auditorium
South Ferry Road, Narragansett, RI**

AGENDA

Agenda item	ePacket Attachment(s)	Recommended action(s)
1. Approval of tonight's agenda	<ul style="list-style-type: none">• Tonight's agenda	Approval of agenda and/or recommendations for modifications.
2. Approval of minutes from last meeting	<ul style="list-style-type: none">• Meeting minutes 9-5-16	Approval of minutes and/or recommendations for modifications.
3. Public Comments on any items not on agenda		Discussion and/or possible future action.
4. Election of Vice-Chair		Nomination and election of vice-chair
5. <u>Advisory Panel Meeting Minutes approval:</u> <ul style="list-style-type: none">• IAC 8/23 - <i>C. Rein</i>	<ul style="list-style-type: none">• IAC Minutes 8/23• IAC presentation	Approval of minutes
6. <u>September 19 Public Hearing Items:</u> <i>J. McNamee</i> <ul style="list-style-type: none">• Licensing• Definitions	<ul style="list-style-type: none">• Presentation• Annotated regs<ul style="list-style-type: none">• Licensing• Definitions• Written comments received• Summary of oral comments	Provide recommendations to the Director regarding proposed regulations.
7. Other matters.		FYI, discussion, and/or consideration of future actions.
8. Adjourn		

All RIMFC Meetings are open to the public

Posted 9/28/2016



Rhode Island Marine Fisheries Council

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(401) 423-1920 Fax: (401) 423-1925

MEETING MINUTES

September 13, 2016

Chairperson: *B. Ballou*

RIMFC Members Present: All members present

DEM: *L. Mouradjian, G. Powers, S. Olszewski, J. Lake, P. Duhamel.*

CRMC: *D. Beutel*

Public: *G. Duckworth, G. Carvalho, K. Hess*

1. **Approval of the Agenda:** The Chair requested modifications to the agenda or objections to approving; hearing no other such requests or objections, the agenda was approved.
2. **Approval of RIMFC meeting minutes from April 20, 2016:** The Chair inquired as to any proposed modifications or objections to approving the minutes. Hearing none, the minutes were approved.
3. **Public comments regarding other matters not on agenda:** *Gregg Duckworth* requested Council involvement with review of regulations regarding monetary penalties for marine fisheries violations, specifically the length of time that a violation remains on the record and the monetary amount associated with certain penalties. The Chair inquired to the Council if they would like to take the matter up. *B. Macintosh* offered that any such discussion needs involvement with Division of Enforcement. *G. Powers* offered that such matter may be beyond the purview of the Council. After discussion on the matter, the *Chair* offered that the matter would be taken under advisement and handled administratively in terms of determining the most appropriate means by which to address the issue. He informed *Mr. Duckworth* that a matter would be placed on a subsequent Council agenda and determination as to process would be provided.
4. **Introduction of new members:** Recently appointed members Mike Roderick and Travis Barao were introduced and welcomed.
5. **Aquaculture application review:** *J. Grant* provided a summary of the meeting of the Shellfish Advisory panel (SAP) in which the application was discussed, and the SAP vote of 3-1 in favor of objecting to the application based on navigational hazards to commercial fishermen and conflict with wild harvest based on a viable surveyed density of quahaugs. *D. Beutel* offered details of the proposed expansion and that the only objection received was from the SAP. He offered that his surveyed density was 2.8 quahaugs/m. sq. in a sticky muck sediment that was very difficult to harvest from. He offered that his belief was that navigational issues were minimal/non-existent due to its location and minimal boating activity observed within the cove. *D. Monti* inquired as to the specific navigational issues that were raised at the SAP meeting. *J. Grant* offered that he visited the site and found it

difficult to enter into the cove due to the shallow narrow inlet. He also found shellfish with very brittle decomposing shells. Upon conclusion of the discussion, **motion made by D. Monti to recommend to the CRMC to offer no objection to the application based on no navigational hazard posed or conflict with wild harvest fisheries and is therefore consistent with competing uses; 2nd by C. Rein. The motion passed 8 - 0.**

6. **Review of updated Council Policies and Procedures:** *B. Ballou* provided an overview of the policy document. *M. Rice* offered use of the book *American Institute of Parliamentarians Standard Code of Parliamentary Procedure* rather than *Robert's Rules of Order* as a better source of parliamentary procedures. Discussion ensued regarding Council participation at public hearings and subsequent Council meeting. *B. Ballou* then focused on Part B., section 1.G. regarding communication of Council members with members of the public after the close of the administrative record (i.e., *ex parte* communications). *C. Rein* offered that such language was very important and is an industry standard, and stressed the importance that Council members refrain from discussing regulatory matters after the close of the comment period. *J. Grant* offered that such practice was not currently being followed, and that communication occurs at any time. *M. Rice* offered that any communication at any time is desirable, but supports the intent of the policy and believed would be easily followed. *D. Monti* offered that information needs to be out for public review as soon as possible, and that the current practice of providing the workshop presentation so close to the workshop is insufficient time to review the regulatory proposals, in that groups have insufficient time by which to hold meetings and draft proposals. *P. Duhamel* offered that the regulations are posted 30 days prior to the hearing date per the APA. *D. Monti* offered that holding the workshop on a separate date prior to the hearing would help provide the public and groups the time needed to formulate comments and proposals. Regarding Part B., section 1.H., *J. Grant* inquired as to the difference between discussing matters with the public after the close of the comment period, with discussing during a Council meeting, which is also after the close of the comment period. *G. Powers* offered that it is at the Council's discretion whether to seek additional input or not, but that discussing the regulatory matters at the Council meeting, which is after the close of the comment period, was the unique structure of the Council, but that their advice was also statutorily required. *J. Grant* offered that he would like a better understanding of when the Council should be seeking public input at the Council meeting, such as to help understand a given issue more thoroughly before rendering a recommendation. *B. Ballou* offered that he would not automatically go out to the public, which is current practice, but would amend this SOP such that he would seek public input only at the request of a Council member. *A. Dangelo* offered that only new information should be sought when seeking public input. Discussion ensued Part B. section 2. *Recusals*. It was discussed that recusal need only occur when a matter effects the person or their business solely and directly (i.e., financially), rather than effecting the member as part of larger group that may be effected. *G. Powers* offered that gray areas of applicability will always exist and offered his advice to the Council when such matters arise. *M. Rice* offered support for the language as consistent with SOP of the legislature. *B. Ballou* then continued with the details of the policy. Discussion then ensued regarding the aquaculture review policy, with *M. Rice* offering support for maintaining the entire document as currently written into the updated Policies and Procedures document. **Motion made by M. Rice; 2nd by A. Dangelo, to approve the policy, with minor edits made as discussed.** *D. Monti* offered that he would prefer additional language be added regarding the Division's timeframe for posting of the workshop presentation. *J. Grant* offered that such was not for Council

policy, to which *G. Powers* concurred. *L. Mouradjian* offered that the regulations are posted 30 days prior to the hearing, and that the workshop isn't new information, but only another way of presenting the same information that was provided in the notice and annotated regulations filed with the notice. Upon conclusion of the discussion, it was determined that while the matter of advance notice of the workshop or other information needed by the public to formulate comments and proposals is of critical importance, such was not needed for the Council policy at this time, and if needed could be added in the future. **The motion to approve the policy passed 8 – 0.**

7. **Advisory Panel Meeting Minutes approval:** Shellfish Advisory panel meeting of 4/27 and 8/10 were unanimously approved; IAC minutes of 8/23 were deferred to next meeting when Licensing regulatory proposals that are subject of the September 19th workshop and public hearing will be discussed.
8. **SAP Agenda Approval:** *J. Grant* explained that the agenda item for the meeting would be the annual review/discussion regarding winter harvest schedules in Shellfish Management Areas, but that the need for the meeting was still in question, as he was unaware of any proposed change to the default harvest schedule as currently written. Also however, the matter was deemed moot due to the Council approval of the revised *Council Policies and Procedures* document, which was revised to provide for the approval of Advisory panel agendas without a full Council meeting. The discussion of the winter harvest schedules is an automatic agenda item for the Council's October meeting in order for any changes to be in effect for the first scheduled opening (~ Dec. 1st).
9. **AP Membership:** *B. Ballou* first offered that new Council member *M. Roderick* needs step down from the IAC as cannot be both a Council member and a member of a panel, thereby opening an additional vacancy on this panel. *P. Duhamel* offered that membership attendance and effects on quorum and ability of committees to provide useful recommendations remains a constant challenge. He offered that due to many members as listed do not currently attend meetings, and may not have attended a meeting in years, it is unclear what the active membership is. *J. Grant* offered that he was aware that many of the SAP members as currently listed are no longer active and are probably no longer interesting in serving. **Motion made by J. Grant; 2nd by C. Rein to contact members and then solicit for vacant slots. The motion passed 8 – 0.** *P. Duhamel* offered that members need to be reminded of their responsibility as a panel member, that being to provide recommendations that may affect the greater public, rather than only matters that affect them or their personal business interests, and that meeting attendance is required so as to maintain a quorum and have a productive meeting. *C. Rein* offered to write a letter to IAC members imploring their attendance and outlining their responsibility as panel members. Discussion ensued regarding the SAP membership. *J. Grant* offered that the current membership as listed needs to be culled to only active members, as he is aware that some of the members are no longer active fishermen. He offered that he would like to first solicit for new membership, followed by a re-configuration of the membership categories based on interest, as he doesn't want to limit participation from anyone interested, and slots can be created at the pleasure of the Council if such interest exists. **Motion made by J. Grant; 2nd by A. Dangelo, to solicit for new SAP membership, and then re-configure the membership categories after membership is determined. The motion passed 8 – 0.**

10. **FYI:** Items provided. *P. Duhamel* provided upcoming hearing and meeting dates

11. **Other Matters:** No other matters were discussed.

Meeting adjourned at approximately 8:30

Prepared by *P. Duhamel*

Industry Advisory Committee Meeting
August 23, 2016
6 PM Hazard Room, URI Coastal Institute

Members in attendance:

Chris Rein, RIMFC, Chair (CG)	Robert Mattiucci (RM)
Mike McGiveney (MM)	Mike Roderick (MR)
Steve Anderson (SA)	Gerald Carvalho (GC)
Aaron Gewirtz (AG)	Lanny Dellinger (LD)
John Lake RIDFW, Staff (JL)	

The meeting began at 6 PM having achieved a quorum of 7 out of 10 members. JL gave a brief overview of exiting license trends and last year's actions.

1. The first item for consideration was the number of restricted finfish licenses to be issued by DEM in 2017. JL briefed the committee that 15 licenses eligible to land restricted finfish were not renewed in 2016, 3 of which had activity (>1 day of landing restricted finfish) in 2015. The result would be 3 new restricted finfish licenses offered by RIDEM based on current regulations.

A motion was made by RM, 2nd by GC, to offer new restricted finfish PEL license endorsements at a ratio of 1:1 of licenses *eligible* (i.e., change criteria from *active* licenses to *eligible* licenses) to land restricted finfish.

JL noted that the result of the motion would be 15 PEL Restricted finfish license endorsement opportunities in 2017. RM noted that the current methodology is not increasing the number of restricted finfish licenses and that in fact the number is still declining, this is hurting the fishery by not allowing opportunities to younger fishermen. GC asked if RIDFW had a goal as to how many restricted finfish license should be issued during any given year. Jason McNamee (JM), RIDFW Chief, replied stating that he is working on a statistical model to address that question based on those used for stock assessment and that it should be ready for next year. The model would be a tool for the group to use, he stated that the group's advice on the number of licenses issued should also consider the economics of the fishery. GC asked if increasing the number of licenses issued would make a difference as far as the resource is concerned. JM stated that it would not as the species involved are managed on a quota system. GC stated that the state of the resource and the economics of individual fishing operations would ultimately dictate participants and license issuance should not be the limiting factor. GC also noted that the average age of the commercial fleet is 57 years old and that a lack of younger participants will ultimately hurt the fishery. MR stated that he thought the status quo option should be followed (1:1 ratio of exiting *active* licenses) and that next year when the model is available changes could be made with better understanding of the potential impacts.

The motion passed 5 in favor; 2 opposed.

2. The next item up for discussion was the number of restricted shellfish endorsements to be issued by DEM in 2017. JL briefed the committee that 39 licenses eligible to land quahaugs, 34 licenses eligible to

land soft shell clams, and 26 licenses eligible to land whelk were not renewed in 2016. The result would be 39 new quahaug licenses, 9 new softshell clam licenses, and 0 new whelk licenses issued in 2017 based on current regulations of a 1:1 ratio of exiting quahaug licenses, 5:1 ratio of exiting soft shell clam licenses, and allow whelk endorsements to be issued only to fishermen who currently hold a quahaug or soft-shell clam endorsement.

A motion has made by MM, 2nd by MR, that current exit/entry ratios should be maintained for all restricted shellfish licenses. The motion passed 6 in favor; 0 opposed; 1 abstained.

3. A new motion was made by GC 2nd by LD: Amend the current shellfish sector license structure to eliminate 4 shellfish categories in favor of a single (1) license (category) governing the harvest of all species of shellfish.

GC stated that the current system limits shellfishermen's ability to access the entire resource and is not on a level playing field with the license structure of the other two sectors, in that a shellfisherman must acquire 4 endorsements to harvest the entire suite of shellfish species, while the other 2 sectors only require 2. JM stated that legal review would be needed and that the fee structure is in RIGL. JL stated that this concept is part of DEM's legislative initiative to consolidate shellfish licenses. MM stated that he is in favor of the motion but thought there was potential for a shift in effort within the sector. The effect would likely be minimal.

The motion passed 7 in favor; 0 opposed.

4. A new motion was made by GC 2nd by RM: The possession limit for all species of shellfish should be the same across all license categories.

Currently only PEL and MPURP licenses can harvest at the full level, this is restrictive to shellfishermen and disadvantages new entrants to the fishery. MM noted that the licenses that only can harvest the lower possession limits have lower fees. RM stated that he agreed with the motion citing that cost of license should not be a factor in determining possession limits.

The motion passed 4 in favor; 2 opposed; 1 abstained.

5. The next item up for discussion was the number of lobster endorsements to be issued by DEM in 2017. JL reminded the group that RI is currently under a moratorium on the issuance of new licenses per the Atlantic States Marine Fisheries Commission (ASMFC) fisheries management plan. LD requested that work be initiated to reopen lobster licenses. He stated that most of the attrition in the lobster sector has been from the inshore fishery which needs to be replenished. He stated that more licenses would result in more lobster trap allocation transfers which would reduce effort by reducing the overall number of traps via the conservation tax on each transfer. Brian Thiebault, RILA, stated that he and his membership agree with the request. JM advised that this would have to be accomplished through the ASMFC process and would be helped along by industry feedback. RIDFW will organize a workshop to discuss the possibility of re-opening lobster licenses.

6. The next item up for discussion was amending the regulations concerning the sale of business and gear. JL outlined DEM's proposal of clarifying that the vessel involved in the sale of a fishing business resulting in a new license being issued to the buyer be at least registered and commercially declared at some point during the period establishing the license's activity.

GC made a motion, 2nd by MR: Remove any criteria associated with sale of a commercial fishing business and transfer of license. Remove the activity standard requirement, and all such criteria restricting the sale of the business or transfer of license, including no vessel or gear requirements. The business would either be comprised of some gear or a vessel but not necessarily both. A business should qualify regardless of assets.

GC stated that the state should not limit business practices with management plans that determine the number of participants in a fishery. Many issues with license attrition would be solved with a mechanism allowing easy business sales. The resource and associated economics would dictate the fishing effort and number of licenses being sold. LD stated that the current system is too restrictive and was not the intention. It is a waste of effort to have business owners meet artificial requirements to sell a business. He cited the example of a business being sold and the vessel involved being sold right back to the original seller after the transaction is complete. Al Eagles, lobsterman, stated that the restrictive rules hurt the lobster industry because many of the people leaving the industry are not selling all of their business as one single piece, but instead assets are sold separately, which only serves to impede that process and potentially limit the lobsterman from selling all of his/her assets.

The motion passed 6 in favor; 0 opposed; 1 abstained.

7. The next item up for discussion was amending the regulations concerning the fishing activity standard. JL outlined DEM's proposal of liberalizing the standard to 40 days of landing over 2 years.

GC made a motion 2nd by RM: Eliminate all landing activity criteria from transfer of license when concerning family member/crew, or sale of business.

GC stated the activity standard is difficult to maintain and impedes a fisherman from selling his business. Family members/crew have lost license opportunities because of the activity standard. A license should stay in a family or fishing business to maintain an opportunity to conduct a fishing business. Megan Lapp, Seafreeze, stated that the standard is difficult to meet for fishing vessels employed year round that make long trips and less frequent landings. JM asked if the use of the activity standard in the license issuance prioritization process should also be abolished. LD stated that the standard can be gamed and is another artificial impediment. MR stated that he thought that it should remain for license opportunity priority. The committee agreed and offered no resistance.

The motion passed 7 in favor; 0 opposed.

8. The next item up for discussion was amending the regulations concerning the provisions of issuance of a license to a family member/crew under hardship provisions. JL briefed the committee that Jeff Grant (JG), RIMFC, had submitted a proposal to address cases where a licensee is disabled or dies and

the license is not renewed over a calendar year change resulting in the license no longer being active and not reissued. JL presented both JG's proposed language and a RIDEM response. Both of which were intended to attain the same result. The group agreed they were both similar. JG wanted to make sure the licenses activity remained intact. GC stated that wouldn't matter if the abolishment of the activity standard occurred. The RIDFW proposed language would allow the issuance of a license to a family member/crew a full calendar year after the establishment of disability (or death).

GC made a motion 2nd by RM which was amended by MM and LD: In the event of hardship, issuance of license to family/crew member to be allowed for two years from the time of hardship or settlement of probate. The activity standard should not apply to these cases.

MM amend: **Activity standard will not apply.**

LD amend: **Probate cases could allow extension of license issuance to time after case is settled.**

The committee and RIDEM agree that whenever possible a license should be retained by a family or crew if desired in established hardship cases.

The motion passed 7 in favor; 0 opposed.

Having no other business the meeting adjourned at 8:00 PM.

RIMFC Industry Advisory Committee

August 23, 2016



2015 -2016 License Activity Summary

LICENSE TYPE	ENDORSEMENT	2015 Totals	2016 Totals	15-16 DELTA
CFL		412	416	4
	CLOBS	14	12	-2
	CNLOBS	95	95	0
	CQUOH	189	197	8
	CNQUOH	N/A	N/A	N/A
	CSSCLM	148	139	-9
	CSFOTH	152	142	-10
	CNFIN	243	248	5
	CRFIN	N/A	N/A	N/A
	DOCKC	16	15	-1
	CPURSE	43	41	-2
	CMWPT	39	40	1
	CWLK	65	58	-7
	RSA	0	0	0
MPURP		804	802	-2
	MGILL	218	218	0
	DOCKM	236	245	9
	FTRAPM	5	7	2
	MMWPT	137	139	2
	MPURSE	129	136	7
	RSA	0	0	0
PEL		593	580	-13
	PLOBS	21	20	-1
	PNLOBS	33	33	0
	PNQUOH	N/A	N/A	N/A
	PSSCLM	194	183	-11
	PSFOTH	177	177	0
	PQUOH	340	322	-18
	PRFIN	251	252	1
	PNFIN	130	152	22
	DOCKP	11	13	2
	PPURSE	5	9	4
	PMWPT	7	10	3
	PWLK	62	53	-9
	RSA	0	0	0
STUDSF		37	48	11
SFO65		309	350	41



Shellfish Sector

2015

- 32 CFL CQUOH new licenses issued
- 12 CFL SSCLM new licenses issued
- 0 CFL CWLK new licenses issued

2016

♦ Commercial Fishing Licenses (CFL)

- 14 CFL Quahaug endorsements not renewed
- 14 CFL Soft Shell Clam endorsements not renewed
- 7 CFL Whelk endorsements not renewed

♦ Principal Effort Licenses (PEL)

- 15 PEL Quahaug endorsements not renewed
- 10 PEL Soft Shell Clam endorsements not renewed
- 9 PEL Whelk endorsements not renewed

♦ Multipurpose Licenses (MPURP)

- 10 MPURP not renewed



Shellfish Sector

2016

- Quahaug License opportunities: 39 eligible licenses not renewed
 - ♦ **At 1:1 ratio = 39 new CFL w/ QUOH available**
- Soft Shell Clam License opportunities: 34 eligible license not renewed
 - ♦ **At 5:1 ratio = 9 new CFL w/ SSCLM available**
- Whelk License opportunities: 26 eligible licenses not renewed
 - ♦ **Status Quo: No new WLK endorsements. Open to PEL or CFL QUOH/SSCLM license holders**



Finfish Sector

2015

- ◆ 6 PEL PRFIN new licenses issued

2016

◆ Commercial Fishing Licenses (CFL)

- CFL restricted endorsement no longer exists

◆ Principal Effort Licenses (PEL)

- 5 PEL restricted endorsements not renewed, 2 had some activity in 2015 (> 1 landing)

◆ Multipurpose Licenses (MPURP)

- 10 MPURP not renewed, 1 had some activity in 2015 (> 1 landing)

◆ Restricted Finfish License opportunities:

- ◆ 15 eligible licenses not renewed
- ◆ 3 licenses considered active (> 1 landing in 2015)
- ◆ **1:1 ratio of active license = 3 new PEL w/ RFIN**



Crustacean Sector

2015

- ♦ 0 CFL CLOBS new licenses issued

2016

- ♦ Commercial Fishing Licenses (CFL)
 - ♦ 2 CFL lobster endorsement not renewed
- ♦ Principal Effort Licenses (PEL)
 - ♦ 1 PEL restricted endorsements not renewed
- ♦ Multipurpose Licenses (MPURP)
 - ♦ 10 MPURP not renewed
- ♦ Lobster License opportunities
 - ♦ ASMFC moratorium on issuance of new lobster licenses still in effect
 - ♦ Transferability of traps in regulation window for transfers June – November
 - ♦ Trap reduction schedule started 2015 continuing through 2021 (5% per year)



Sale of Business: License, Vessel and Gear

- RIDEM proposes to clarify the requirements for the sale of a fishing business resulting in a new commercial fishing license being issued
- RIDEM standard operating procedure requires 75 landings over the previous two years to meet the activity standard tied to both the commercial fishing license and vessel involved in the sale
- Regulation is vague and results in applicants attempting to conduct a transaction involving a vessel which does not meet the activity standard
- Those transactions are denied initially but often end up in the RIDEM Administrative Adjudication Division
- RIDEM proposes to make vessel requirement less restrictive to reduce the number of these cases
- New regulation would not require landings history used for activity standard to be linked to the vessel involved in the sale
- Vessel involved in the sale must have been registered and commercially declared with RIDEM during the period used to meet activity standard



Sale of Business: License, Vessel and Gear

Proposed Language:

(6.7-8) Issuance of New Licenses upon Sale of Vessel and Gear

(b) Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and gear is prohibited; provided, however, that if the seller of a vessel and gear who is actively fishing his or her license and **said vessel must be employed and declared in the fishery during the period of the actively fished time frame**, shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear, pursuant to the terms and conditions of this section.

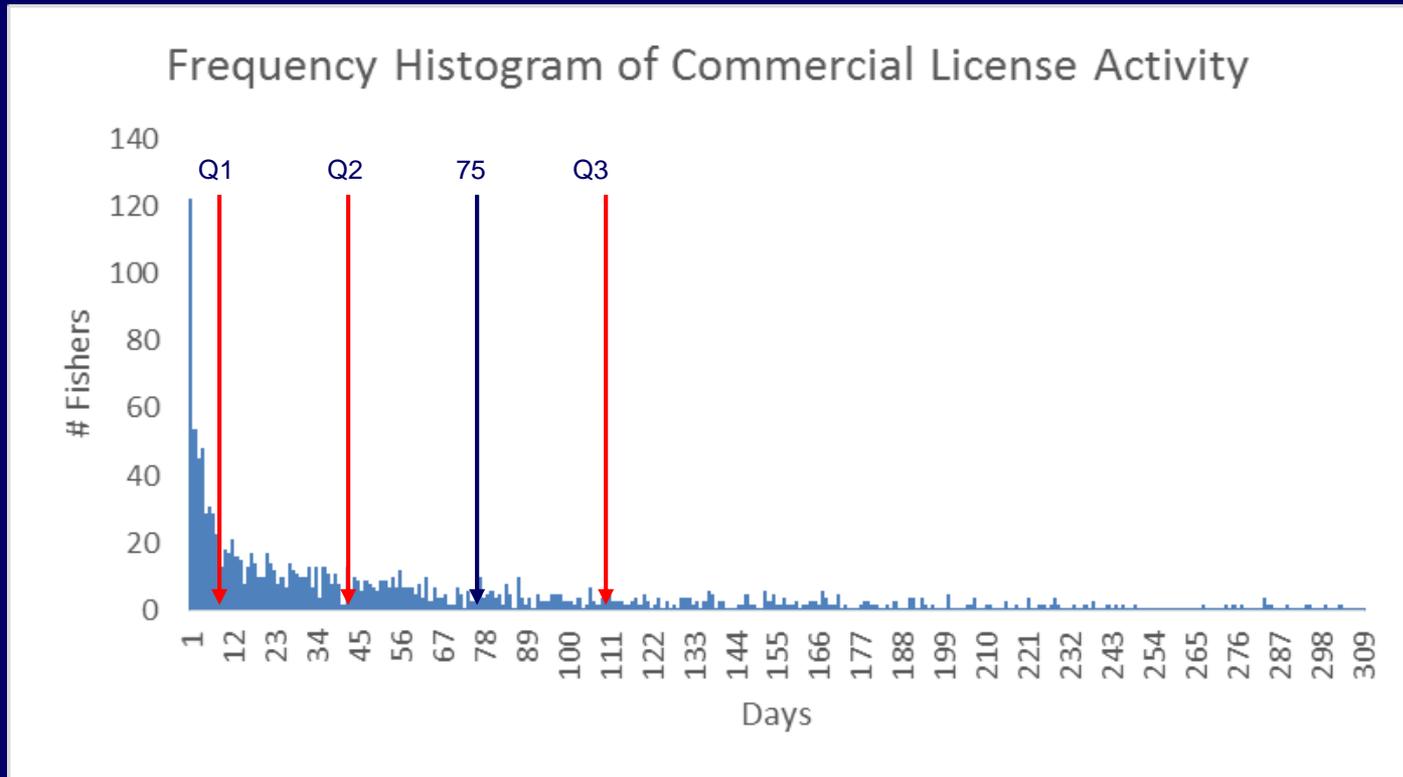


License Activity Standard

- RIDEM proposes to amend the activity standard used to determine whether a fishing license is actively fished
- Current standard enacted in 2003 requires 75 landings over the previous two years to establish activity
- Feedback from industry that the 75 landings is difficult to maintain and not appropriate for all types of fishing operations
- RIDFW proposes 40 landings over the previous two years to establish activity



Commercial Fishing Activity (2013 – 2014)



- Landing days pooled by license from 2013 – 2014
- 1510 licenses with 1 or more day landed
- 1st quartile = 8 days, 2nd quartile = 39 days 3rd quartile = 110 days
- Approx. 65% licensees below active fishing standard of 75 days



License Activity Standard

Proposed Language:

(6.7-11) Demonstration and Verification of Actively Fishing and Actively Participating Standards

(a) To meet the standard of actively fishing, an applicant must be able to demonstrate by dated transaction records, and for multiple-day trips, Vessel Trip Reports, that he or she has fished at least ~~seventy-five (75) XX~~ days in the preceding ~~two (2) X~~ calendar years, pursuant to a valid RI license. Such fishing activity must have spanned the preceding ~~two (2) X~~ calendar years, meaning that some activity occurred in each of the ~~two (2) X~~ years. Such fishing activity may need to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in sections 6.7-4, 6.7-6, 6.7-7, 6.7-8, and 6.7-9 herein.

(c) To meet the standard of actively participating, an applicant must be able to demonstrate via one or more affidavits that they have worked as a paid crew member for one or more licensed captains for at least ~~seventy-five (75) XX~~ days in the preceding ~~two (2) X~~ calendar years. To be considered a paid crew member the crew member must have valid record of being paid by the vessel owner or person licensed to fish commercially such as a W-2 form, 1099 form, and/or paycheck stub from a financial institution. Such activity may need to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in sections 6.7-6 and 6.7-7.



License Activity Standard Definitions

Proposed Language:

Actively Fishing: A license holder will be considered to have been actively fishing that license/endorsement if he or she demonstrates by dated transaction records, as verified by dealer reports to the Department, that he or she has fished at least ~~seventy-five (75)~~ **XX** days in the preceding ~~two~~ **X** calendar years, with some of the fishing activity occurring in each of the two years. Evidence as to days fished may be supplemented by one or more Vessel Trip Reports, which specifically reference the license holder's name and license number, and correspond to dated transaction records, where in the determination of the Department such dates are verified by dealer reports to the Department; where such reports verifiably reflect two or more calendar days at sea during a single trip, those days may be used to establish fishing activity. For the purpose of this definition the term "day" shall mean any 24-hour period or part thereof.

A license holder with a dockside sales endorsement who sells all of his or her lobster and/or crab landings dockside may utilize documentation other than dated transaction records to establish fishing activity, pursuant to the standards and criteria set forth in section 6.7-11(f) "*Commercial and Recreational Saltwater Fishing Licensing Regulations*".

Actively Participating: A crew member will be considered to have been actively participating in the fishery if he or she demonstrates via one or more affidavits that he or she has fished in the fishery with one or more licensed captains at least ~~seventy-five (75)~~ **XX** in the preceding ~~two~~ **X** calendar years, with some of the fishing activity occurring in each of the ~~two~~ **X** years. Crew members may also demonstrate longevity in the fishery via one or more affidavits from licensed captains who they fished with in previous years.



Hardship Conditions: Renewal

- Industry proposal received from Jeff Grant, RIMFC
- Addresses issuance of a fishing license to a family member following death or disability of the licensee
- If license is not renewed during the calendar year when fishing ceased licensee is no longer active and cannot be renewed
- Suggested changes would allow license to be issued during the year following establishment of hardship provisions as well as preserve the licenses activity
- Proposed Language:
- 6.7-9 Issuance of New Licenses and Operator Permits Under Hardship Conditions

Industry Proposed:

(a) A hardship shall be deemed to exist if a license holder who is actively fishing, **or would be actively fishing on January 1 of the following year**, dies or becomes permanently or temporarily disabled by illness or injury so as not to be able to fish for any period in excess of fourteen (14) days.

RIDFW Response:

(g) Issuance of a new license or operator permits resulting from a licensee classified under hardship status pursuant to subsection 6.7-9(a) will be allowed during the current or next calendar year following the establishment of hardship status.



Thank you



Questions, Comments, Follow up:

john.lake@dem.ri.gov

401 423 1942



Tiered Lottery Priorities

- First tier: Resident license holders who have been actively (75 days/2 year) participating in the fishery sector in which the endorsement is being offered
 - Three categories: CFL, PEL license holders and crew members
 - Endorsements split evenly between category rounded up if necessary
- Second tier: Resident license holders who have been actively (75 days/2 year) participating in the another fishery sector from which the endorsement is being offered
 - Two categories: CFL license holders and crew members
 - Endorsements split between categories
- Third tier: Residents over 16
- Fourth tier: Non-residents over 16



RI Department of Environmental
Management

Marine Fisheries

**Rhode Island Marine Fisheries
Council**

October 3, 2016



2017 SECTOR MANAGEMENT PLAN

- Purpose of Plan is to formulate licensing recommendations and exit/entry ratios to manage effort and harvest of marine species
- Developed for each fishery type (sector):
 - Finfish
 - Shellfish
 - Crustacean
- Management recommendations formulated based on stock status and health of species
- Final exit/entry ratios included in Licensing regulations



PART 1

FINFISH



2017 Sector Management Plan

Restricted species

(Restricted Finfish endorsement)

Summer flounder

- Stock Status:
 - Not overfished
 - Overfishing is occurring as of 2014
 - Quota decrease of 30% for 2017
- Recommended 2017 effort:
 - Maintain effort at or below 2016 level
 - Continue in restricted category



2017 Sector Management Plan

Scup

- Stock Status:
 - ♦ Not overfished
 - ♦ Overfishing is not occurring
 - ♦ Quota decrease of 6% for 2017
- Recommended 2017 effort:
 - ♦ Maintain 2016 effort during Summer
 - ♦ Continue in non-restricted category during Winter sub-periods only



2017 Sector Management Plan

Tautog

- Stock Status:
 - ♦ Is overfished
 - ♦ Overfishing is occurring
 - ♦ Benchmark assessment complete; stock units awaiting ASMFC approval
 - ♦ Fishing mortality rates have increased in recent years and is currently above the overfishing threshold
- Recommended 2017 effort:
 - ♦ Maintain effort at or below 2016 level
 - ♦ Continue in restricted category



2017 Sector Management Plan

Striped Bass

- Stock Status:
 - ♦ Not overfished
 - ♦ Overfishing is not occurring
 - ♦ Addendum IV implemented in 2015
 - ♦ Stock assessment update being completed, to be reviewed at October board meeting
- Recommended 2017 effort:
 - ♦ Maintain effort at or below 2016 level
 - ♦ Continue in restricted category



2017 Sector Management Plan

Black Sea Bass

- Stock Status:
 - Not overfished
 - Overfishing is not occurring
 - Stock still managed by constant catch; new method for assessing the SSC level 4 stocks introduced in 2015, resulting in increased quotas for 2016. In parallel with the new data poor approach, a new benchmark assessment has been initiated and should be completed at the end of 2016 for potential use in 2017 management
- Recommended 2017 effort:
 - Maintain effort at or below 2016 level
 - Continue in restricted category



2017 Sector Management Plan

- 2016 Licensing Activity - Restricted Finfish endorsement:
 - 5 PEL restricted endorsements not renewed in 2016; 2 with activity in 2015
 - 10 MPURP not renewed in 2016; 1 with activity in 2015
- Licensing Recommendation:
 - Option 1*: Maintain 1:1 exit/entry ratio on active licenses (= 3 new endorsement (PEL w/ RFIN) opportunities
 - Option 2/IAC recommendation*: 1:1 **active eligible** licenses (= 15 new endorsement opportunities

* Division in support of either option



2017 Sector Management Plan

Non-restricted species

(Non-restricted Finfish endorsement)

Winter Flounder

- Stock Status:
 - ♦ Is overfished
 - ♦ Overfishing is not occurring
- Recommended 2017 effort:
 - ♦ Consider changes in management to allow more liberal commercial possession limit in state waters
 - ♦ Any changes in state waters management would be the result of and in accordance with an increased ACL allotted to states from the ASMFC Winter Flounder Management Board



2017 Sector Management Plan

Bluefish

- Stock Status:
 - ◆ Not overfished
 - ◆ Overfishing is not occurring
 - ◆ Benchmark assessment completed in 2015; update currently underway
 - ◆ Expected quota increase 24% for 2017
- Recommended 2017 effort:
 - ◆ Continue implementing sub-period possession limits
 - ◆ Maintain effort at or below 2016 level
 - ◆ Maintain in non-restricted category



2017 Sector Management Plan

Menhaden

- Stock Status:
 - ♦ Not overfished
 - ♦ Overfishing is not occurring
 - ♦ Socioeconomic study is currently scheduled to be completed in 2017; will allow sufficient time for the findings to be considered in Amendment 3 management options
 - ♦ Amendment 3 is being developed
- Recommended 2017 effort:
 - ♦ Maintain effort at or below current level
 - ♦ Maintain in non-restricted category



2017 Sector Management Plan

Monkfish

- Stock Status:
 - ◊ Not overfished
 - ◊ Overfishing is not occurring
- Recommended 2017 effort:
 - ◊ RI state-water quota was not reached in 2016 federal fishing year
 - ◊ Allow effort to increase above current levels
 - ◊ Maintain in the non-restricted species category



2017 Sector Management Plan

Cod

- Stock Status:
 - ♦ Is overfished
 - ♦ Overfishing is occurring
- Recommended 2017 effort:
 - ♦ RI state-water quota was not reached in 2016 federal fishing year
 - ♦ Allow effort to increase above current levels
 - ♦ Maintain in the non-restricted species category
 - ♦ If effort increases and/or quota related closures are enacted, DEM will re-assess whether cod should be moved to the restricted species category, or to reduce possession limits and/or seasons to manage harvest.



2017 Sector Management Plan

- Licensing Recommendation - Non-restricted Finfish endorsement: Maintain open entry



PART 2

SHELLFISH



2017 Sector Management Plan

Bay Quahaug

(Bay quahaug endorsement)

- Stock Status: Stable; fishing mortality under 0.3 which is below overfishing threshold.
- Licensing Activity 2016: 39 eligible licenses not renewed
- Licensing Recommendation:
 - IAC/Division: Status quo 1:1 exit/entry ratio (= **39** new endorsement (CFL w/ QUOH) opportunities)



2017 Sector Management Plan

Soft-shell Clam

(Soft-shell Clam endorsement)

- Stock Status: Status is poor, 2012-2014 landings were down ~94% from the 2005 – 2010 average
- Licensing Activity 2016: 34 eligible licenses not renewed
- Licensing Recommendation:
 - IAC/Division: Status quo 5:1 exit/entry ratio (= **9** new endorsement (CFL w/ SSCLM) opportunities)



2017 Sector Management Plan

Whelk

(Whelk endorsement)

- Stock Status: Abundance is declining; fishing mortality is increasing; likely that overfishing is currently occurring.
- Licensing Activity 2016: 26 eligible licenses not renewed
- Licensing Recommendation:
 - Division/IAC: Status quo – new endorsements only available to PEL or CFL QUOH/SSCLM license holders



2017 Sector Management Plan

Shellfish Other

(Shellfish Other endorsement)

- Stock Status:
 - Oysters: Sharp decline in abundance since 1990's
 - Other species: Data largely unavailable
- Licensing Recommendation: Status quo – open entry



PART 3

CRUSTACEAN



2017 Sector Management Plan

American Lobster

- Stock Status:
 - Is in poor condition
 - Is below the abundance threshold (depleted)
 - Is below the fishing mortality threshold
 - Benchmark assessment completed
- Licensing Recommendation: Maintain ASMFC moratorium on the issuance of new licenses
- IAC request: DEM to engage ASMFC regarding the moratorium on the issuance of new lobster licenses



2017 Sector Management Plan

Non-lobster Crustacean endorsement

- Jonah and Rock Crab:
 - ♦ Stock Status:
 - Unknown;
 - ASMFC Fishery Management Plan approved for Jonah crab August 2015.
- Blue Crab:
 - ♦ Stock Status:
 - Abundance currently above the time-series mean;
 - Insufficient data to assess.
- Other crabs: Insufficient data
- Licensing Recommendation: Maintain open entry



2017 Sector Management Plan

Horseshoe Crab

- Stock Status:
 - As of last regional and state stock assessment in 2013, continued trend in low abundance.
- Licensing Recommendation:
 - Maintain open entry for the issuance of Horseshoe Crab harvest permits.
 - The Division feels that the current approach is not providing adequate management. Creation of an endorsement category should be continued to be reviewed as a future management option.



PUBLIC HEARING ITEMS



Hearing Item #1: Licensing Regulations

1a. Annual review of endorsement exit/entry ratios

Finfish sector

- **Option 1:** Status quo - Maintain status quo for all endorsement categories
 - Restricted Finfish: 1:1 active licenses; **results in 3 new endorsements opportunities**
 - Non-restricted Finfish: No ratio established; open entry
- **Option 2:** IAC proposal
 - Restricted Finfish: 1:1 **active eligible** licenses; **results in 15 new endorsement opportunities**
 - Non-restricted Finfish: No ratio established; open entry

- **Division in support of either option**



Hearing Item #1: Licensing Regulations

1a cont'd. Proposed amended language to accomplish option 2

(6.1-10) Exit/Entry Ratios

(a) Restricted finfish – For every one (1) license eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement that ~~had some reported landings of restricted finfish during the prior calendar year and are retired~~ not renewed, one (1) new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.



Hearing Item #1 cont'd: Licensing Regulations

1a. Annual review of endorsement exit/entry ratios

Shellfish Sector

- Option 1 (IAC recommendation): Status quo - Maintain status quo for all endorsement categories
 - Quahaug: 1:1 eligible licenses; results in 39 new endorsements opportunities
 - Soft-shell Clam: 5:1 eligible licenses; results in 9 new endorsements opportunities
 - Whelk: No ratio established; no new Whelk endorsements available; open entry only to PEL or CFL w/Quahaug or SS Clam endorsement
 - Shellfish Other: No ratio established; open entry

- Division in support of status quo



Hearing Item #1 cont'd: Licensing Regulations

- Non-hearing item: IAC motion that all shellfish be governed by a single Shellfish license
- DEM response:
 - RIGL requires 2 shellfish endorsements: quahaug, non-quahaug (20-2.1-3(6))
 - Cannot implement at this time as would need legislative change to effectuate.



Hearing Item #1 cont'd: Licensing Regulations

- Non-hearing item: IAC motion that a uniform possession limit apply to all regulated shellfish species
- DEM response:
 - CFL, student, and over 65 would be increased from basic to full harvest levels (upwards of 500 licensees affected)
 - CFL licenses would need to be upgraded to PEL licenses to address discrepancy in fee structure
 - License upgrades would result in fee increase for ~500 CFL licensees
 - Fee changes CFL License \$50, Endorsement \$25; PEL License \$150, Endorsement \$75
 - Recommend further vetting before moving forward



Hearing Item #1 cont'd: Licensing Regulations

1c. Proposed amendments regarding the Issuance of new licenses upon sale of vessel and gear

Background:

- Proposed clarification of requirements regarding the sale of a fishing business resulting in issuance of a new commercial fishing license
- Currently 75 landings/previous 2 years to meet the activity standard tied to both the commercial fishing license and vessel involved in the sale
- Regulation is vague and results in applicants attempting to conduct a transaction involving a vessel which does not meet the activity standard. Those transactions are denied initially but often end up in the RIDEM Administrative Adjudication Division
- RIDEM proposes to make vessel requirement less restrictive to reduce the number of these cases
- New regulation would not require landings history used for activity standard to be linked to the vessel involved in the sale
- Vessel involved in the sale must have been registered and commercially declared with RIDEM during the period used to meet activity standard



Hearing Item #1 cont'd: Licensing Regulations

1c cont'd. Proposed amendments regarding the Issuance of new licenses upon sale of vessel and gear (section 6.7-8)

- Option 1 - Status quo: Maintain current language regarding the sale of the business
- Option 2 – Noticed language: Vessel involved in sale must have been registered and commercially declared during period of use

Proposed language: (6.7-8)(b) Issuance of New Licenses upon Sale of Vessel and Gear: Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel *and* gear is prohibited; provided, however, that if the seller of a vessel and gear who is actively fishing his or her license, and said vessel must be is employed and declared in the fishery during the period of the actively fished time frame shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear, pursuant to the terms and conditions of this section.



Hearing Item #1 cont'd: Licensing Regulations

IAC proposal: Remove all criteria associated with the sale of a business

DEM response:

- Statute does not allow for the direct sale of the licenses as it is not a property right; any transaction requires the transfer of gear or a vessel with the license (RIGL 20-2.1-4(c))
- However, the statute (20-2.1-5(3)(ii)) is ambiguous in that the issuance of a new license requires *vessel and/or gear* as part of the transaction; a vessel is required only per regulation, and therefore can be amended

Option 3 – Division proposal to loosen requirement based on recommendation from IAC and consideration of statutory requirements:

(6.7-8) Issuance of New Licenses upon Sale of Vessel and/or Gear:

Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and/or gear is prohibited; provided, however, that if the seller of a vessel and/or gear who is actively fishing his or her license, and shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and/or gear, pursuant to the terms and conditions of this section.



Hearing Item #1 cont'd: Licensing Regulations

1d. Request for comments for possible amendments regarding Activity Standards “*Actively Fishing*” and “*Actively Participating*”

- Option 1: Status quo: Maintain status quo – 75 landings/2 years
 - Option 2: Division proposal:
 - Actively Fishing (fisherman): (~~75~~) **40** days in the preceding two (2) calendar years
 - Actively Participating (crew member): (~~75~~) **40** days in the preceding two (2) calendar years
 - Based upon 50% of active fishing licenses fished = \approx 40 days
 - Option 3: IAC proposal
 - Actively Fishing and Actively Participating: Remove activity standard as it applies to sale of business or transfer to family member/crew; maintain as it applies to prioritization for issuance of new licenses
-
- DEM in support of IAC proposal



Hearing Item #1 cont'd: Licensing Regulations

Option 1 - IAC proposal: Hardship Conditions: Renewal

- Section addresses issuance of a fishing license to a family member following death or disability of the licensee
- If license is not renewed during the calendar year when fishing ceased licensee is no longer active and cannot be renewed
- Suggested changes would allow license to be issued during the year following establishment of hardship provisions as well as preserve the licenses activity
- **Proposed intent:** In the event of hardship issuance of license, allow 2 years from the time of hardship or settlement of probate to re-issue license to family/crew member. The activity standard would not apply in these cases

Proposed language:

6.7-9(a) A hardship shall be deemed to exist if a license holder ~~who is actively fishing~~ dies or becomes permanently or temporarily incapacitated by illness or injury so as to not be able to fish for any period in excess of fourteen (14) days.

(g) Issuance of a new license or operator permits resulting from a licensee classified under hardship status pursuant to subsection 6.7-9(a) will be allowed during the current or next two calendar years following the establishment of hardship status or settlement of probate.



Hearing Item #2 (&1b): RIMFR Part 1 - Definitions

- Re-location of terms from Licensing regulations to Part 1 Definitions to house all terms in a single location
- Proposed clarification of several terms
- Proposed removal of terms not used in RIMFR
- Proposed addition of several terms found in statute
- Proposed addition of terms commonly used in RIMFR
- Amend “Actively Fishing” and “Actively Participating” dependent upon outcome of hearing item 1d.
- Need to amend “Land/landing” due to inconsistency as used in Licensing and Part 1
- Full review of terms as defined and used in RIMFR is on-going.



End of Slides!



Hearing Item #1a

Annual review of endorsement exit/entry ratios

Option 1: Status quo

- Restricted Finfish: 1:1 active licenses; results in **3** new endorsements opportunities
- Quahaug: 1:1 eligible licenses; results in 39 new endorsements opportunities
- Soft-shell Clam: 5:1 eligible licenses; results in 9 new endorsements opportunities
- Whelk: No ratio established; no new Whelk endorsements available; open entry only to PEL or CFL w/Quahaug or SS Clam endorsement
- Shellfish Other: No ratio established; open entry

Option 2: IAC proposal

- Restricted Finfish: 1:1 ~~active~~ **eligible** licenses; results in **15** new endorsements opportunities
- Quahaug, Soft-shell Clam, Whelk, Shellfish Other endorsements: Status quo (see above)

Proposed annotated language to accomplish Option 2:

(6.1-10) Exit/Entry Ratios

(a) Restricted finfish – For every one (1) license eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement that ~~had some reported landings of restricted finfish during the prior calendar year and~~ are ~~retired~~ **not renewed**, one (1) new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.

(b) Quahaug -- For every one (1) license eligible to harvest quahaug, namely, Multi-Purpose Licenses and Principal Effort Licenses with a quahaug endorsement, that are ~~retired~~ **not renewed**, one (1) new Commercial Fishing License with quahaug endorsement will be made available; provided, that if the application of the exit/entry ratio yields one (1) or two (2) licenses/endorsements, three licenses/endorsements will be made available.

(c) Soft Shell Clam – For every five licenses, eligible to harvest soft shell clam, namely, Multi-Purpose Licenses, Principal Effort Licenses with a soft shell clam endorsement, and Commercial Fishing Licenses with a soft shell clam endorsement, that are ~~retired~~ **not renewed**, one (1) new Commercial Fishing License with soft shell clam endorsement will be made available; provided, that if the application of the exit/entry ratio yields one or two (2) licenses/endorsements, three licenses/endorsements will be made available.

Hearing Item #1c
Proposed amendment regarding the Issuance of New Licenses upon Sale of Vessel and Gear

- **Regarding the vessel requirement as part of the sale of a business.**

Option 1: Status quo

(6.7-8) Issuance of New Licenses upon Sale of Vessel and Gear

(a) This section applies only to purchasers, of vessels and gear, who are residents.

(b) Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and gear is prohibited; provided, however, that if the seller of a vessel and gear who is actively fishing his or her license, and shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear, pursuant to the terms and conditions of this section.

Option 2 (noticed language): Amend such that vessel involved in sale must be registered and commercially declared during period of use

(a) This section applies only to purchasers, of vessels and gear, who are residents.

(b) Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and gear is prohibited; provided, however, that if the seller of a vessel and gear who is actively fishing his or her license, and **said vessel must be is employed and declared in the fishery during the period of the actively fished time frame** shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear, pursuant to the terms and conditions of this section.

Option 3: Division proposal to loosen requirement based on recommendation from IAC and consideration of statutory requirements

(a) This section applies only to purchasers, of vessels and gear, who are residents.

(b) Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and **/or** gear is prohibited; provided, however, that if the seller of a vessel and **/or** gear who is actively fishing his or her license, and shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and **/or** gear, pursuant to the terms and conditions of this section.

Hearing Item #1d
Activity Standards

Option 1: Status quo – 75 landings/preceding 2 years

Option 2: Division proposal to relax activity standards:

Division proposed language to accomplish Option 2:

Actively Fishing – A license holder will be considered to have been actively fishing that license/endorsement if he or she demonstrates by dated transaction records, as verified by dealer reports to the Department, that he or she has fished at least ~~seventy-five (75)~~ **40** days in the preceding two calendar years, with some of the fishing activity occurring in each of the two years. Evidence as to days fished may be supplemented by one or more Vessel Trip Reports, which specifically reference the license holder’s name and license number, and correspond to dated transaction records, where in the determination of the Department such dates are verified by dealer reports to the Department; where such reports verifiably reflect two or more calendar days at sea during a single trip, those days may be used to establish fishing activity. For the purpose of this definition the term “day” shall mean any 24-hour period or part thereof.

A license holder with a dockside sales endorsement who sells all of his or her lobster and/or crab landings dockside may utilize documentation other than dated transaction records to establish fishing activity, pursuant to the standards and criteria set forth in section 6.7-11(f).

Actively Participating – A crew member will be considered to have been actively participating in the fishery if he or she demonstrates via one or more affidavits that he or she has fished in the fishery with one or more licensed captains at least ~~seventy-five (75)~~ **40** days in the preceding two calendar years, with some of the fishing activity occurring in each of the two years. Crew members may also demonstrate longevity in the fishery via one or more affidavits from licensed captains who they fished with in previous years.

(6.7-11) Demonstration and Verification of Actively Fishing and Actively Participating Standards

(a) To meet the standard of actively fishing, an applicant must be able to demonstrate by dated transaction records, and for multiple-day trips, Vessel Trip Reports, that he or she has fished at least ~~seventy-five (75)~~ **40** days in the preceding two (2) calendar years, pursuant to a valid RI license. Such fishing activity must have spanned the preceding two (2) calendar years, meaning that some activity occurred in each of the two (2) years. Such fishing activity may need to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in sections 6.7-4, 6.7-6, 6.7-7, 6.7-8, and 6.7-9 herein.

(b) Transaction records, and Vessel Trip Reports, if applicable, submitted in accordance with subsection (a) above, must correspond to fisheries in which the applicant is licensed to fish commercially. Such transaction records, and Vessel Trip Reports if applicable, shall

be subject to verification by the Department in accordance with dealer reports submitted to the Department via the SAFIS reporting system.

(c) To meet the standard of actively participating, an applicant must be able to demonstrate via one or more affidavits that they have worked as a paid crew member for one or more licensed captains for at least ~~seventy-five (75)~~ **40** days in the preceding two (2) calendar years. To be considered a paid crew member the crew member must have valid record of being paid by the vessel owner or person licensed to fish commercially such as a W-2 form, 1099 form, and/or paycheck stub from a financial institution. Such activity may need to be in the same fishery sector(s) or endorsement category(s) for which a new license/endorsement is being sought, as specified in sections 6.7-6 and 6.7-7.

Option 3: IAC proposal (Division supported): Remove activity standard as it applies to sale of business or transfer to family member/crew; maintain as it applies to prioritization for issuance of new licenses

Division proposed language to accomplish Option 3:

(6.7-6) Issuance of New Licenses and Endorsements; Prioritization

(a) First priority in the issuance of new licenses with applicable endorsement(s) shall be given to (i) licensed resident fishers holding Commercial Fishing Licenses, endorsed in the same fishery sector (see section 5.31) for which a new license/ endorsement is being sought, who have been actively fishing that endorsement, (ii) licensed resident fishers holding Principal Effort Licenses who have been actively fishing their license, and (iii) resident crew members who have been actively participating in the same fishery sector for which a new license/endorsement is being sought. One-third of the total number of new licenses with applicable endorsements will be made available to each of the three priority categories. If, in any of the categories, there are fewer eligible applicants than there are licenses/endorsements available for issue, then the balance will be evenly distributed to the other two categories. Within each category, eligible applicants will be prioritized based on the length of time, in years, they have been actively fishing their license, or actively participating in the fishery as a crew member, on a continuing basis. If the selection of qualified applicants cannot be resolved equitably by the initial prioritization and lottery process, and if the number of remaining endorsements cannot be distributed evenly between the remaining categories, the number of remaining endorsements will be rounded up to provide each remaining category with the necessary endorsement(s) required to complete the selection process.

(b) Second priority in the issuance of new licenses with applicable endorsement(s) shall be given to (i) licensed resident fishers holding Commercial Fishing Licenses, endorsed in any fishery sector, who have been actively fishing their license and (ii) resident crew members who have been actively participating in any fishery sector. One-half of the total number of new licenses with applicable endorsements will be made available to each of the two categories. If, in any of the categories, there are fewer eligible applicants than there are licenses/endorsements available, then the balance will be

distributed to the other category. Within each category, eligible applicants will be prioritized based on the length of time, in years, they have been actively fishing their license, or actively participating as a crew member, on a continuing basis. If the selection of qualified applicants cannot be resolved equitably by the initial prioritization and lottery process, and if the number of remaining endorsements cannot be distributed evenly between the remaining categories, the number of remaining endorsements will be rounded up to provide each remaining category with the necessary endorsement(s) required to complete the selection process.

(c) Third priority in the issuance of new licenses with applicable endorsement(s) shall be given to any resident, aged eighteen (18) or older.

(d) Fourth priority in the issuance of new licenses with applicable (i.e., restricted finfish) endorsement shall be given to any non-resident, aged eighteen (18) or older.

(6.7-7) Issuance of New Licenses and Endorsements; Automatic Eligibility for Family Members or Crew Members of Retirees

(a) Anyone who is qualified as a priority applicant pursuant to subsections 6.7-6~~(a)~~(c) ~~or 6.7-6(b)~~ may automatically obtain a Commercial Fishing License with applicable endorsement(s), or a Principal Effort License with a Restricted Finfish Endorsement, if they are the family member or crew member of a license holder (any type) ~~who has been actively fishing and~~ who chooses not to renew their license.

(b) The applicable endorsement(s) will be in the fishery sector(s) that was/were being actively fished by the retiring license holder.

(c) Only one new license will be issued for each one retired.

• Regarding the activity standards as part of the sale of a business.

(6.7-8) Issuance of New Licenses upon Sale of Vessel and Gear

(a) This section applies only to purchasers, of vessels and gear, who are residents.

(b) Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and gear is prohibited; provided, however, that if the seller of a vessel and gear who ~~is actively fishing his or her license~~ shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear, pursuant to the terms and conditions of this section.

(c) The new license/endorsement(s) issued to the purchaser by the Department will generally correspond to the license/endorsement(s) that ~~were being actively fished~~ was held by the seller. The Department may, however, issue the new license/endorsement(s) at a lower harvest and gear level than the license surrendered by the seller where necessary to accomplish the purposes of the applicable management plan

adopted pursuant to section 6.2. New licenses issued pursuant to this section are not subject to the application deadline provisions set forth under section 6.7-3.

~~(d) A seller of a vessel and gear who is unable to meet the actively fishing standard due to a material incapacitation, as defined in section 5.45, and as further described below, may seek consideration pursuant to this section, provided that all terms and conditions of this section are met.~~

~~(i) In order to establish a material incapacitation on the basis of a medical condition, a seller must present evidence, in the form of notarized documentation, demonstrating that the seller or the seller's family member had a physical or mental impairment, which prevented the seller from meeting the actively fishing standard, during the two (2) calendar years preceding the sale of the vessel and gear. The physical or mental impairment must have involved inpatient care in a hospital, a nursing home, or a hospice, or outpatient care requiring continuing treatment or supervision by a health care provider. If the material incapacitation involved a family member, evidence must be presented demonstrating that the seller had a direct role in the care of the family member.~~

~~(ii) In order to establish material incapacitation on the basis of military service, a seller must present appropriate documentation (namely, form DD214) establishing that he/she served, for one hundred eighty (180) or more days, either on active duty in the armed forces or as a member of a national guard or reserve component of the same, activated by order of an appropriate state or federal authority, during the two (2) calendar years preceding the sale of the vessel and gear.~~

~~(iii) Sellers seeking consideration pursuant to this subsection may be required to submit additional information, as deemed necessary by the Department, in order to establish eligibility pursuant to this subsection.~~

~~(iv) A seller seeking to establish eligibility pursuant to this subsection must have actively fished his or her license, as defined in section 6.7-11, during the two (2) calendar years preceding the onset of the material incapacitation.~~

IAC proposal
Liberalize regulation regarding issuance of license under
Hardship Conditions

(6.7-9) Issuance of New Licenses and Operator Permits Under Hardship Conditions

(a) A hardship shall be deemed to exist if a license holder ~~who is actively fishing~~ dies or becomes permanently or temporarily incapacitated by illness or injury so as to not be able to fish for any period in excess of fourteen (14) days.

(b) The Department will require proof of hardship in the form of a death certificate or a diagnosis and prognosis of the incapacity of the license holder signed by a medical doctor (M.D. or O.D.).

(c) In the case of permanent incapacity or death, the Department will issue, upon application, a single, new, equivalent license with applicable endorsement(s) to a member of the license holder's family who is a Rhode Island resident. That family member may be designated by the license holder or by mutual agreement among surviving family members if the license holder is deceased. Prior to issuance of the new license, the original license will be surrendered. The new license will be valid for the balance of the license year, and will be eligible for renewal pursuant to the terms and conditions set forth in section 6.7-3.

(d) In lieu of subsection 6.7-9(c), in the case of permanent incapacity or death, the Department will issue, upon application, an operator permit or equivalent license of the same category to a Rhode Island resident designated by the incapacitated license holder, or in the case of death, by the deceased individual's next of kin. Said permit or license will serve as the legal equivalent of the license held by the original licensee. Prior to issuance of the operator permit or equivalent license, the original license will be surrendered. The operator permit or equivalent license will be valid for the balance of the license year and will be eligible for renewal once, at a cost equal to the original license, upon approval by the Director.

(e) In the case of temporary incapacity, exceeding a period of fourteen (14) days, the Department will issue, upon application, an operator permit or equivalent license of the same category to a Rhode Island resident designated by the incapacitated license holder. Said permit or license will serve as the legal equivalent of the license held by the incapacitated license holder. Prior to issuance of the operator permit or equivalent license, the original license will be suspended. The operator permit or equivalent license will remain valid for the balance of the license year, or until the return to wellness of the incapacitated license holder, whichever occurs first. The operator permit or equivalent license will be eligible for renewal once, at a cost equivalent to the cost of the original license, upon approval of the Director. Upon the return to wellness of the incapacitated license holder, the original license will, upon application, be reinstated and the operator permit or equivalent license will be surrendered.

(f) New equivalent licenses issued pursuant to this section are not subject to the application deadline provisions set forth under section 6.7-3.

(g) Issuance of a new license or operator permits resulting from a licensee classified under hardship status pursuant to subsection 6.7-9(a)(b)(c) will be allowed during the current or next two calendar years following the establishment of hardship status or settlement of probate.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

DIVISION OF FISH AND WILDLIFE
DIVISION OF LAW ENFORCEMENT



RHODE ISLAND MARINE FISHERIES REGULATIONS

Part 1 Definitions

~~May 11, 2016~~

Proposed/annotated regulations

Public Hearing
September 19, 2016

AUTHORITY: Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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PURPOSE

The purpose of these rules and regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.

AUTHORITY

These rules and regulations are promulgated pursuant to Title 20, Chapters 42.17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the General Laws of 1956, as amended.

APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of these regulations shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

REGULATIONS

Hearing Item #2a

Request for comments regarding “Actively Fishing” and “Actively Participating” Standard

Actively Fishing: A license holder will be considered to have been actively fishing that license/endorsement if he or she demonstrates by dated transaction records, as verified by dealer reports to the Department, that he or she has fished at least ~~seventy-five (75)~~ **XX** days in the preceding ~~two~~ **X** calendar years, with some of the fishing activity occurring in each of the two years. Evidence as to days fished may be supplemented by one or more Vessel Trip Reports, which specifically reference the license holder’s name and license number, and correspond to dated transaction records, where in the determination of the Department such dates are verified by dealer reports to the Department; where such reports verifiably reflect two or more calendar days at sea during a single trip, those days may be used to establish fishing activity. For the purpose of this definition the term “day” shall mean any 24-hour period or part thereof.

A license holder with a dockside sales endorsement who sells all of his or her lobster and/or crab landings dockside may utilize documentation other than dated transaction records to establish fishing activity, pursuant to the standards and criteria set forth in section 6.7-11(f) "Commercial and Recreational Saltwater Fishing Licensing Regulations".

Actively Participating: A crew member will be considered to have been actively participating in the fishery if he or she demonstrates via one or more affidavits that he or she has fished in the fishery with one or more licensed captains at least ~~seventy-five (75) XX~~ in the preceding ~~two X~~ calendar years, with some of the fishing activity occurring in each of the ~~two X~~ years. Crew members may also demonstrate longevity in the fishery via one or more affidavits from licensed captains who they fished with in previous years.

Hearing Item #2b
Proposed modifications to terms

Application Deadline: February 28, or the first business day following February 28 if that day falls on a Saturday, Sunday, or holiday. ~~See subsection 6.7-3(c) "Commercial and Recreational Saltwater Fishing Licensing Regulations" for additional clarifications.~~

Angling: To fish recreationally using hook and line. (RIGL 20-2.2-3)

Approved waters or Approved growing areas: **Marine** waters of the State that have been classified by the DEM Division of Water Resources as Approved Areas, fit for the taking of shellfish for human consumption on a regular basis, in accordance with the criteria established by the National Shellfish Sanitation Program (NSSP) Manual of Operations. These classifications may be subject to change as water quality conditions dictate.

Aquaculturist: A ~~individual, firm, partnership, association, academic institution, municipality, or corporation~~ **person** conducting commercial, experimental, or restoration aquaculture in Rhode Island.

Authorized: ~~Authorized by the Director.~~

Commented [DP(1)]: Used often

~~**Authorized person:** An Environmental Police Officer or any other representative of the Director authorized to administer or enforce these regulations.~~

Commented [DP(2)]: See "Director"

Commercial fisherman/fishermen: A person(s) who catches, harvests, or takes finfish, crustaceans, or shellfish from the marine waters for sale. (RIGL 20-2.1-3)

Commercial fishing: To take, harvest, hold, transport, or off-load marine species for sale or intended sale (RIGL 20-1-3)

Crew: ~~An individual person~~, aged sixteen (16) or older, employed for purposes of assisting in the operation of a commercial fishing vessel and its gear by another person licensed to fish commercially pursuant to the “*Commercial and Recreational Saltwater Fishing Licensing Regulations*”.

Day: A calendar day, or the 24 hour period of time beginning at 12:00AM and ending at 11:59:59PM.

Dealer: A ~~person, partnership, firm, association, or corporation~~ licensed to barter or trade in marine species.

Commented [DP(3)]: “Person” defined

Designated Temperature Control ~~or Thermally Impacted~~ Area means an area designated by the Department in which aquaculturists must comply with more stringent temperature controls for harvested shellfish. These areas have been determined to be Winnapaug Pond, Quonochontaug Pond, Ninigret Pond, Potter Pond, Point Judith Pond, Island Park Cove (Spectacle Cove), Hog Island Cove and Great Salt Pond.

Commented [DP(4)]: Not used

Discards: ~~fish, shellfish or crustaceans~~ **Marine species** that are discarded overboard by fishers because their possession is prohibited by regulations or for economic reasons.

Commented [DP(5)]: Term defined

Dual federal permit/state license holder: ~~An individual person~~ who holds both a federal limited access lobster permit and a State of RI commercial fishing license endorsed for American lobster.

Fishery: One or more stocks of **fish marine species** which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographic, scientific, technical, recreational, and economic characteristics; and any fishing for such stocks.

Harvest Level: The amount of ~~fish, shellfish or crustaceans~~ **marine species** that may be legally harvested, possessed, and/or sold by a licensed fisher during a given period of time, usually a calendar day. That amount may vary according to the type of license held and/or the species involved.

Land or landing: To offload ~~seafood marine products species~~ **including, but not limited to, finfish, shellfish, and crustaceans, harvested within or outside of Rhode Island waters** for sale or intended sale, or to secure a vessel with ~~the seafood marine products species~~ **on board to a shoreside facility where the marine products species** may be offloaded for sale or intended sale. (RIGL 20-1-3)

Commented [DP(6)]: Will be reviewing use of term as used throughout RIMFR at later date

Licensed shellfish dealer: Any ~~person, partnership, firm, association, or corporation~~ engaged in bartering or trading in shellfish taken, cultured, or possessed by licensed

shellfishermen, licensed aquaculturists, or other licensed shellfish dealers, or their authorized agents, and licensed by the State of Rhode Island under the provisions of RIGL §§ 20-6-24, 21-14, 22-24, 20-2-28.1, 20-7-5.1, 20-4-1.1, or 21.17

LTA transfer: A change in ownership of a partial or entire Department or NOAA Fisheries-issued LTA by an ~~individual or Corporation~~ **person**.

LTA transferee: The ~~individual, corporations~~ **person** or fishing vessel to whom/which an LTA transfer is made.

Marine species: Any animal species found in the marine waters of Rhode Island, including but not limited to finfish, shellfish, crustaceans, and squid.

Marine waters of the state/marine waters of Rhode Island: All tidal and territorial waters of the state out to three (3) nautical miles from the coastline. (RIGL 20-2-2-3)

NOAA: National Oceanic and Atmospheric Administration.

Open to the sea: A coastal salt pond, ~~as described in this Section,~~ will be considered open to the sea if any flow of water connects coastal salt pond with the sea.

Overfishing/Overfished: A rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

Commented [DP(7)]: From Licensing Regs. Used in Sector Plans

Permanently disabled: A person who is 100% permanently disabled in accordance with RIGL §20-2-31. (RIGL 20-2-2-3)

Possession limit: The maximum quantity of marine ~~product~~ species that may be possessed by a vessel or person per specified period of time (i.e., day or week) regardless of the means by which the marine ~~product~~ species may have been taken.

Qualifying Period: The ~~entire~~ three-year period from January 1, 2001 through December 31, 2003. For ~~individuals~~ **persons** meeting the standards governing material incapacitation, the qualifying period means the entire two-year period from January 1, 1999 through December 31, 2000.

Resident: An ~~individual~~ **person** who has had his or her actual place of residence and has lived in the State of Rhode Island for a continuous period of not less than six (6) months. Proof of residence may include a Rhode Island driver's license, automobile registration, voter registration card or a notarized statement from a City or Town Clerk. (RIGL 20-1-3)

Shellfish harvest tagging area: The ~~area of the~~ **marine** waters of the state where shellfish are harvested (refer to

<http://www.dem.ri.gov/programs/bnatres/fishwild/shelltag.htm>

Transaction Records: Invoices or similar records of the purchase of fish, shellfish, crustaceans or other ~~seafood~~ **marine products species** by a licensed dealer, which identify the boat, license holder, the Rhode Island dealer name, and the date sold, species landed, pounds landed, name of the seller, and license number of the seller.

Unreasonable Hardship: Substantial economic loss which is unique to ~~a individual~~ **person**, including but not limited to adverse medical or personal circumstances, and which has not been caused or exacerbated by prior actions of or inaction on the part of that ~~individual~~ **person**.



Rhode Island
Department of Environmental Management
DIVISION OF FISH AND WILDLIFE
3 Fort Wetherill Road
Jamestown, RI 02835

401 423-1923
FAX 401 423-1925

SUMMARY OF ORAL COMMENTS

A public hearing was held on **September 19, 2016** at 6:00 PM, URI Narragansett Bay Campus, Coastal Institute Building, Narragansett, RI. Approximately 4 persons from the public were present.

Hearing Officer: M. Gibson

DEM: L. Mouradjian, G. Powers, J. McNamee, N. Lengyel, S. Olszewski, P. Duhamel, D. Costa

Public comments were solicited on the following items:

1. **Proposed amendments to RIMFR - Commercial and Recreational Saltwater Fishing Licensing Regulations.**

Hearing item 1a. Annual review of endorsement exit/entry ratios

- Restricted Finfish endorsement:
 - *J. Kaczynski: In support of option 2 (resulting in 15 new Restricted Finfish endorsement opportunities).*
 - *G. Carvalho/RIFA: In support of IAC proposal that all shellfish be governed by a single Shellfish license and eliminating each of the existing endorsements*

Hearing item 1b. Proposed amendments to “RIMFR Part 1 - Definitions”

- No comments were made

Hearing item 1c. Proposed amendments regarding the Issuance of new licenses upon sale of vessel and gear

- *J. Kaczynski: In support of option 3 (Division proposal to loosen requirement).*
- *Donald Fox – Town Dock: In support of option 3*
- *J. Criscuolo: In support of option 3*
- *J. Riccitelli: In support of option 3*

Hearing item 1d. Request for comments for possible amendments regarding Activity Standards “Actively Fishing” and “Actively Participating”

- *G. Carvalho/RIFA: In support of option 3 as the least harm to the industry and as supported by the IAC*
- *J. Kaczynski: In support of option 3*

- J. Criscuolo: *In support of option 3*
- J. Riccitelli: *In support of option 3*

IAC recommendation regarding hardship conditions: Request for comments for possible amendments regarding Activity Standards “Actively Fishing” and “Actively Participating”

- G. Carvalho/RIFA: *Do not need to address hardship if activity standard were removed.*
- Donald Fox – Town Dock: *In support of option 1*
- J. Kaczynski: *In support of option 1*
- Unnamed: *In support of option 1 “with the death part being more effective”*

2. Proposed amendments to RIMFR – Part 1 - Definitions

- No comments were made

Additional comments:

- G. Carvalho/RIFA: *Regarding the IAC recommendation for opening lobster licenses. He offered that the ASMFC does not have the authority to dictate to the state of Rhode Island regarding the issuance of licenses. They can only set a standard for landings and harvest. Rhode Island has the authority to issue licenses so long as it continues to be compliant with overall FMP and conservation equivalency management measures.*

Prepared by P. Duhamel

To RIDEM and RIMFC,

I am writing to comment on the hardship provision for transferability. While the proposed language from DEM would fix part of that problem and should be adopted, it falls short of remedying the entire situation. Here is that situation

A person has a multipurpose license for several years, including this year, 2016. They have some landings in both 2014 and 2015, but less than 75 combined landings for 2014 and 2015, so the license is not "active" for 2016. The fisherman continues to commercially fish in 2016 and accumulates more than 75 SAFIS landings for 2015 and 2016, with some in each year. This would mean the license is active as of Jan 1, 2017. Now, prior to Jan 1, 2017 the license holder dies.

Under current regulations the license is not transferable to a family member. If the license holder had lived until Jan 1, it would be. They could die on Dec 31 and not be eligible for the same transaction that could occur had they survived one more day. This situation is not on par with other regulatory items and should be corrected. A license should not be lost because a person failed to live long enough for the current regulations to apply.

If the activity standard were removed from regulation, it would fix that problem. However, if it is not the following language should be adopted to prevent the above situation:

6.7-9 (a)

A hardship shall be deemed to exist if a license holder who is actively fishing, or would be considered actively fishing on January 1 of the following year, dies or becomes permanently or temporarily disabled by illness or injury so as not to be able to fish for any period in excess of fourteen (14) days.

Thank You,
Earl Grant



Rhode Island Fishermen's Alliance

P.O. Box 337

East Greenwich, RI 02818

Public Hearing

September 19, 2016

Proposed amendments to **RIMF – Commercial and Recreational Saltwater Fishing Licensing Regulations** and the **Concise Explanatory Statement** and the **Reason for Proposed Changes**.

Comment: It is noted that the proposed regulations posted with the Office of Secretary of State for the public hearing were substantially different from the visual presentation made at the public hearing. The public hearing presentation reflected some of the actions taken by the IAC but could not reflect the results of the work session held immediately prior to the public hearing. With the exception of the administrative proposal to consolidate the licensing definitions to RIMFR and the minor administrative language corrections, the proposals submitted for the public hearing by the Division do not reflect the actions taken by the Industry Advisory Committee (IAC) and did not have a consensus of support from the licensing work session. .

1a. Minor administrative language corrections.
Not opposed

1b. The division proposes (x) number of licenses - does not reflect an actual number.
OPPOSED

1c. The division proposes to increase the restrictive measures in defining vessels for the transfer of licenses upon the sale of vessel and/or gear.
OPPOSED

1d. The division proposes to apply (xx) days to the standard defining “actively fishing” - does not reflect an actual number.
OPPOSED

NOTE:

The IAC meet on August 23, 2016 and took several actions in addressing licensing and reestablishing equity in the possession of shellfish. Following is a summary of the actions taken from my notes and participation in the IAC. The actions passed by the IAC were not included in the public hearing filing:

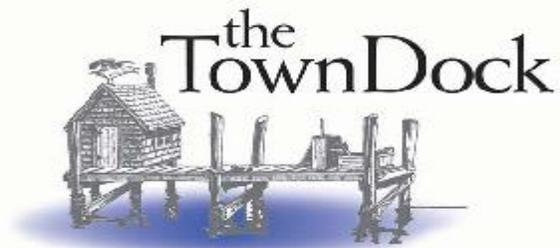
Rhode Island Fishermen's Alliance

P.O. Box 337

East Greenwich, RI 02818

1. **Move to offer new restricted finfish PEL license endorsements at a ratio of 1:1 of licenses eligible to land restricted finfish.** Motion by R. Mattiucci; second by G. Carvalho. Motion carried.
2. **Move to maintain all restricted shellfish licenses at the current exit/entry ratios.** Motion by M. McGivney; seconded by M. Roderick. Motion Carried
3. **Move to amend the current shellfish sector license structure to eliminate 4 shellfish categories in favor of a single (1) license category governing the harvest of all species of shellfish.** Motion by G. Carvalho; seconded by L. Dillinger. Motion carried.
4. **Move to make the commercial possession limit for all species of shellfish the same across all license categories.** Motion by G. Carvalho; second by M. Roderick. Motion carried.
5. **Move to initiate work to reopen lobster licenses.** Motion by L. Dillinger; seconded by G. Carvalho. Motion tabled and assigned to work shop.
6. **Move to remove all criteria restricting the transfer of a license upon the sale of commercial fishing business including the “activity standard” requirement and a “vessel” requirement.** Motion made by G. Carvalho; seconded by M. Roderick. Motion carried.
7. **Move to eliminate the “activity standard” criteria from the transfer of licenses to family or crew members.** Motion made by G. Carvalho; seconded by M. Roderick. Motion carried.
8. **Move to remove the “valid” license requirement following the death of a license holder for two years following the year of settlement of probate for the transfer of a licenses to family, crew member or upon the sale of vessel and/or gear.** Motion made by G. Carvalho; seconded by R. Mattiucci. Motion carried.

Jerry Carvalho, Vice President
RIFA



September 27, 2016

Peter Duhamel
Division of Fish and Wildlife
3 Fort Wetherill Road
Jamestown, RI 02835

Dear Mr. Duhamel,

We are writing to support the following changes to the commercial and recreational saltwater fishing licenses:

1. The offer of a 1:1 ratio of eligible licenses for restricted finfish licenses.
2. The elimination of any criteria associated with the sale of a business and transfer of a license (no activity standard, no specific vessel or gear requirement. However, any piece of gear or vessel must be offered, but NOT necessarily both. Business can be transferred regardless of assets).
3. Shellfish ratio to stay at 1:1.
4. All shellfish should be included under 1 license.
5. Same possession limits for all shellfish licenses.
6. No landings requirement for renewing of license.
7. In the event of a hardship, allow 2 years from time of hardship to reissue license to a family member (Probate cases should be extended).

Thank you for taking the time to consider our requests.

Sincerely,

Katie Almeida
Fishery Policy Analyst



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

(401) 423-1920 Fax: (401) 423-1925

Administrative Policies and Procedures of the Rhode Island Marine Fisheries Council

Adopted September 13, 2016

This document sets forth the administrative policies and procedures of the Rhode Island Marine Fisheries Council, with particular reference to the operations of the Council and its committees. This document updates and replaces the *Species Advisory Panel Policy*, adopted by the Council on June 4, 2007 and revised on January 5, 2009. It incorporates by reference the document titled *Shellfish Aquaculture Lease Proposals -- Policies and Procedures Governing RIMFC and DEM Reviews -- Adopted by the RI Marine Fisheries Council – August 3, 2009 -- As Amended September 2009*.

Part A – General

1. The RI Marine Fisheries Council (Council) is established in accordance with RIGL Section 20-3-1 to serve in an advisory capacity to the Director of the Rhode Island Department of Environmental Management (Director) and/or other state agencies on marine fisheries issues pertaining to the State of Rhode Island, particularly those involving the planning, management, and regulation of the State's marine fisheries.
2. Council members are appointed by the RI Governor, and subject to advice and consent by the RI Senate. Members serve four-year terms, and are eligible for reappointment once. Members appointed to fill a seat vacated during a term serve the remainder of the term and are then eligible for reappointment to a full term. Members whose terms have expired may continue to serve until replaced or reappointed.
3. No person may serve on the Council if assessed a criminal or administrative penalty in the past 3 years for a violation of a marine fisheries law or regulation, including any suspension or revocation of a commercial or recreational fishing license or permit or dealer's license, or any fine, donation, probation, imprisonment, or other filing, imposed administratively or by a court of law.
4. The Director or his or her designee shall serve as the Council Chairperson (Chair).

5. The Chair's principal role is to manage the agenda for the meeting and provide for an orderly flow of the meeting. The Chair shall follow Robert's Rules of Order codes of parliamentary procedure (such as Robert's Rules of Order or the American Institute of Parliamentarians Standard Code of Parliamentary Procedure) to the extent necessary and appropriate. The Chair shall call meetings to order, call for final approval by the Council of the meeting agenda, ensure that meetings are conducted in a civil manner, and manage the dialogue by the Council and comments from the public. The Chair may inform the discussion, but should not advocate a position, nor vote, unless a vote is deemed necessary and appropriate for the purpose of breaking an otherwise tie vote. The Chair may excuse any person(s) deemed disruptive and, in the case of serious disorder or some other emergency, adjourn a meeting prior to completion.
6. The Council shall elect a Vice-Chair, who shall serve as Acting Chair if the Chair is unable to attend all or part of a Council meeting, or opts not to participate in a given agenda item that is before the Council for consideration.
7. Meetings of the Council shall be held on an on-needed basis. All Council meetings are open to the public. Meeting agendas shall be prepared by the Chair in consultation with the Rhode Island Department of Environmental Management, Division of Fish & Wildlife, Marine Fisheries Program (Division) and Council members. Announcement of meetings and agendas will be noticed with the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings"), with hard copies posted at ~~the Department's main office in Providence and the Division's office in Jamestown~~ selected locations, and also noticed via the Division's listserv and website. In advance of Council meetings, meeting materials will be provided to the Council electronically, and made available to the public via the Division's website.
8. The Chair shall assure that a quorum is present at each meeting. In the event that a quorum is not present, the Chair shall decide whether to hold or cancel the meeting. No votes may be taken if a quorum is not present.
9. The Council shall deliberate and, by vote, provide recommendations to the Director on all proposed regulatory matters. The Council shall also deliberate and vote on any other matters brought before the Council for the purpose of rendering a recommendation to the Director, or another state agency. Such matters shall include, but are not limited to: commercial licensing; aquaculture lease proposals; annual plans for the allocation and use of funds from commercial license fees, tags, permits, and vessel fees; and the recreational saltwater fishing license program.
10. Agendas for all Council meetings shall include an opportunity for any member of the public to address the Council on any matter that is not on the agenda for that meeting. The Council may respond to any such comments, but shall not vote on the matter raised. The matter may be added to the agenda for a subsequent meeting of the Council, at the behest of the Council.

11. The Division shall provide a staff person to provide administrative support to the Chair and Council. Such support shall include, but not be limited to, the scheduling of meetings, the preparation, distribution, and posting of meeting agendas and meeting materials, and the preparation of meeting minutes.
12. Draft minutes of each Council meeting shall be reviewed by the Council at a subsequent Council meeting. Minutes shall be subject to modification to ensure accuracy and shall be subject to approval by the Council. Division staff shall post approved minutes to the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 (“Open Meetings”).
13. The Council shall establish and maintain two standing committees of the Council: an Industry Advisory Committee (IAC) and Shellfish Advisory Panel (SAP), in accordance with Parts D and E herein. The Council may also establish ad-hoc committees as necessary and in accordance with applicable procedures (see Part F herein).
14. For each calendar year, the Council shall report annually, by March 1, to the Governor and the RI General Assembly with regard to: the advice it has given to state agencies, particularly DEM, on marine fisheries issues; the response it has received to such advice; any findings or position it may have with regard to the status and/or condition of marine fisheries; and any recommendations it may have for maintaining, improving, or changing laws, regulations, or management programs for marine fisheries.

Part B – Roles and Responsibilities of the Council Relative to the Administrative Procedures Act and Code of Ethics

1. In accordance with the Council’s statutory responsibility to provide recommendations to the Director on proposed regulatory matters, the Council’s role is intertwined with, and thus influenced by, the State’s *Administrative Procedures Act*, RIGL Chapter 42-35 (APA). The Division, on behalf of and in coordination with the Director, is responsible for conducting the regulatory process, pursuant to the APA. The regulatory process, and the Council’s role and responsibilities relative to it, are as follows:
 - A. A notice is posted by the Division advising the public of proposed regulatory action and soliciting written comments on the proposed action for a specified period of time, that being at least 30 days. All written comments received during the comment period will be included in the administrative record.
 - B. The notice also states that the Division will conduct a public workshop at a specified date and time prior to the hearing, at which interested parties will be afforded the opportunity to interact with Division staff and engage in discussion concerning the proposed regulatory action. Council members are encouraged to attend and participate in the workshop.
 - C. The notice also states that following the workshop, at a specified date and time, a public hearing will be held at which interested parties will be afforded the opportunity to offer oral and additional written comments concerning the proposal; said comments to be included in the administrative record. Council members are encouraged to attend the

public hearing; however, members are dissuaded from commenting at the hearing due to their subsequent role in deliberating on and providing advice to the Director on the same matter(s) being considered. Members who feel compelled to provide comment on a matter at a public hearing may do so, provided they recuse themselves from the subsequent Council deliberation and vote on the matter.

- D. The notice also states that, for a period extending at least 5 days following the public hearing, interested parties will be afforded the opportunity to submit written comments concerning the proposed regulatory action; said comments to be included in the administrative record.
- E. At the end of the written comment period following the public hearing, the administrative record is closed.
- F. After the close of the administrative record, the Division assembles the administrative record, i.e., a summary of the oral comments provided at the public hearing and copies of the written comments submitted during the written comment period. The Division then distributes the administrative record to the Council members with an agenda providing notice that the Council will be meeting, at a specified date and time, to deliberate and vote upon a recommendation to the Director regarding the proposed regulatory action.
- G. Council members shall refrain from communicating with, or considering oral or written comments offered by, members of the public after the close of the administrative record.
- H. The Council then meets to deliberate upon the administrative record and vote on a recommendation to the Director regarding the proposed regulatory action. In rendering its advice, the Council is bound by the notice, but not by the public comment portion of the record – i.e., the Council may render any recommendation that falls within the ambit of the notice, drawing upon public comment but not necessarily consistent with public comment. During its meeting, the Council may consider additional input from the Division and/or the public, but is not obligated to do so.
- I. After the Council meeting, the Division forwards the administrative record, the recommendation of the Council, and its own recommendation to the Director for final consideration. The Director then renders a final decision. The Director's decision shall be provided in writing and made available to the Council and the public via the Division's website.
- J. The final regulations are then filed with the RI Secretary of State, taking effect twenty (20) days from the date of filing. Concurrently, a link to the final regulations is posted on the Division's website, coupled with an announcement provided via the Division's listserv.

2. Recusals:

- A. Council members are subject to the provisions of the *Rhode Island Code of Ethics*, R.I. Gen. Laws Chapter 36-14 and the regulations promulgated by the Rhode Island Ethics

Commission pursuant thereto. As such, a member may occasionally determine that he or she should recuse him or herself from voting on and otherwise participating in the Council's consideration or disposition of a matter pending before the Council if the matter under consideration may potentially financially impact the member, or any person within member's family, or any business associate of the member, or any business entity in which the member or any person within the member's family or any business associate of the member has an equity interest. However, given the statutory obligation that the Council be composed of members who are actively engaged in certain commercial activities or operations pertaining to marine fishing, a financial interest, per se, should not be deemed to require a council member to recuse him/herself. Rather, the Rhode Island Ethics Commission applies what is referred to as a "class exception" pursuant to which a member is not required to recuse him/herself if the subject matter/regulation applies equally to the member and to all other participants in a large class that is subject to or impacted by the regulatory matter under consideration. For example, a member who is a commercial fisher and harvests summer flounder may vote on and otherwise participate in the Council's consideration and disposition of a matter pending before the Council involving the regulation of summer flounder if the matter's provisions apply equally to all commercial harvesters of summer flounder. However, if a member is a participant in a small group that would or might be impacted financially by a pending matter/regulation, the member should recuse him/herself. If a member is uncertain as to whether a given matter/regulation poses a potential conflict of interest, he/she should seek advice from the Council's legal counsel and exercise their best judgment in accordance with that advice. Ultimately, it is the individual responsibility of each Council member to assess their status relative to any conflict of interest and conduct themselves in a manner consistent with the *Rhode Island Code of Ethics*.

- B. If a Council member deems it appropriate to recuse him/herself, the member must notify the Chair prior to Council consideration of the matter. Ideally, such notification should occur in advance of the start of the meeting, and involve consultation with the Council's legal counsel. During the meeting, when the agenda item is reached, the member should note, for the record, that he/she is recusing him/herself and then leave the council table. The member is then barred from voting on and otherwise participating in the Council's consideration or disposition of the matter pending before the Council in his/her role as a Council member. If the member is so inclined, he/she may join the public in the gallery and, at the behest of the Chair, may be recognized and offer public comment on the same manner, with his/her status being the same as any other member of the public for that matter. In the event of recusal, the member is required to complete the recusal form of the Rhode Island Ethics Commission and, within twenty-four (24) hours of the recusal, hand deliver or mail the completed form to the Rhode Island Ethics Commission, with a copy to the Chair. The recusal form may be obtained from the Council's legal counsel or downloaded from the Rhode Island Ethics Commission's website.
- C. One or more recusals does not affect the Council's quorum, and thus does not affect the Council's ability to vote on any given matter, provided that a quorum exists at the time the matter in question is being considered. A member who recuses him/herself on a given matter continues to count toward the quorum, notwithstanding the member's

inability to vote or otherwise participate in the Council's consideration and disposition of the matter.

Part C – Recommendations Regarding Aquaculture Lease Proposals

1. In accordance with RIGL 20-10-5(d), the Council is responsible for the review of aquaculture lease applications submitted to the RI Coastal Resources Management Council (CRMC) for the purpose of formulating recommendations to the CRMC as to whether the aquaculture activities proposed in each application are consistent with competing uses engaged in the exploitation of the marine fisheries.
2. The Council shall undertake this responsibility pursuant to the policies and procedures set forth in the document titled *Shellfish Aquaculture Lease Proposals -- Policies and Procedures Governing RIMFC and DEM Reviews -- Adopted by the RI Marine Fisheries Council – August 3, 2009 -- As Amended September 2009*.

Part D – Industry Advisory Committee

1. In accordance with RIGL 20-2.1-11, the Council is responsible for establishing an Industry Advisory Committee (IAC) to provide coordination among commercial fisheries sectors and to review plans and recommendations that affect more than one commercial fishery sector and to advise the Council and the Director on matters which affect commercial fishing as a whole – e.g., commercial licensing. The IAC is to be comprised of representatives of each commercial fisheries sector and of manners of commercial fishing.
2. The IAC shall consist of a minimum of six (6) and maximum of fifteen (15) members. Alternate members may be selected by the Council to serve in the event that a primary member cannot attend a meeting. In addition to broad commercial representation, the Council will appoint to the IAC at least one representative from the recreational fisheries sector and one from the for-hire fisheries sector, for the purpose of incorporating the perspectives of those sectors when considering commercial fisheries issues. Members are not subject to term limits; however, the Council shall review the IAC membership at least once every two (2) years. Members may be removed from service on the IAC, by vote of the Council, for failure to appear, without cause, at two (2) or more consecutive meetings or for disruptive behavior at two (2) or more meetings. New members may be solicited via any process that the Council wishes to employ, with assistance from the Division.
3. No person may serve on the IAC if assessed a criminal or administrative penalty in the past three (3) years for a violation of a marine fisheries law or regulation, including any suspension or revocation of a commercial or recreational fishing license or permit or dealer's license, or any fine, donation, probation, imprisonment, or other filing, imposed administratively or by a court of law.
4. The IAC shall deliberate and, by vote, provide recommendations to the Council on all matters that are brought before the committee for consideration.

5. At a minimum, the IAC shall meet annually prior to the Division's public notice on proposed amendments to DEM's *Commercial and Recreational Saltwater Fishing Licensing Regulations* to offer recommendations to the Council, and on behalf of the Council to the Division, relative to proposed amendments. At the same meeting, the IAC shall review and offer recommendations to the Council, and on behalf of the Council to the Division, on the exit/entry ratios for each license endorsement category, in context with the Division's annually updated Sector Management Plans.
6. IAC members shall seek to be knowledgeable on the issues brought before the committee, drawing upon input sought from a broad cross-section of individuals from the fisheries sector or user group they represent.
7. The Council shall appoint one of its members to serve as IAC Chair. If the Chair is unable to attend a given meeting, the Chair shall call upon another Council member to serve as a substitute. The Chair's principal roles are to call the meeting to order, manage the agenda for the meeting, provide for an orderly flow of the meeting, and facilitate a broad and inclusive discussion of the issue(s) at hand, prioritizing dialogue by the Committee and allowing for comments from the public. The Chair shall follow Robert's Rules of Order codes of parliamentary procedure (such as *Robert's Rules of Order* or the *American Institute of Parliamentarians Standard Code of Parliamentary Procedure*) to the extent necessary and appropriate. For issues that lend themselves to recommendation or advice, the Chair shall advance any proposals offered by the Council or the Division, solicit additional proposals from those attending the meeting, subject each proposal to review and discussion, identify pros and cons, and seek consensus as to which proposal(s) should be forwarded to the Council, and through the Council to the Division, for further consideration. The Chair may inform the discussion, but should not advocate a position, nor vote, unless a vote is deemed necessary and appropriate for the purpose of breaking an otherwise tie vote. The Chair may excuse any person(s) deemed disruptive and, in the case of serious disorder or some other emergency, adjourn a meeting prior to completion.
8. Meetings of the IAC shall be held on an on-needed basis. All IAC meetings are open to the public. Meeting agendas shall be prepared and approved by the IAC Chair, in consultation with the Division and Council. Announcement of meetings and agendas will be noticed with the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings"), with hard copies posted at ~~the Department's main office in Providence and the Division's office in Jamestown~~ selected locations, and also noticed via the Division's listserv and website. In advance of IAC meetings, meeting materials will be provided to the IAC electronically, and made available to the public via the Division's website.
9. The IAC Chair shall ensure that a quorum is present for each meeting of the IAC. In the event that a quorum is not present, the Chair shall decide whether to hold or cancel the meeting. No votes may be taken if a quorum is not present.
10. The Division shall provide a staff person to provide administrative support to the IAC. Such support shall include, but not be limited to, the scheduling of meetings, the preparation,

distribution, and posting of meeting agendas and meeting materials, and the preparation of meeting minutes.

11. Draft minutes of each IAC meeting shall be reviewed by the Council at a subsequent Council meeting. Minutes shall be subject to modification to ensure accuracy and shall be subject to approval by the Council. Division staff shall post approved minutes to the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 (“Open Meetings”).

Part E – Shellfish Advisory Panel

1. The SAP shall deliberate and, by vote, provide recommendations to the Council on all shellfish-related matters brought before the committee for consideration. At a minimum, such matters shall include the annual review of, and recommendations for, commercial winter shellfish harvest schedules in Shellfish Management Areas.
2. The SAP shall also be responsible for acting on behalf of the Council for the review of aquaculture lease applications submitted to the CRMC for the purpose of formulating recommendations to the CRMC as to whether the aquaculture activities proposed in each application are consistent with competing uses engaged in the exploitation of the marine fisheries, consistent with the document titled *Shellfish Aquaculture Lease Proposals -- Policies and Procedures Governing RIMFC and DEM Reviews -- Adopted by the RI Marine Fisheries Council – August 3, 2009 -- As Amended September 2009*. In the exercise of this responsibility, the SAP shall render its advice by vote.
3. The SAP shall consist of a minimum of six (6) and maximum of fifteen (15) members, appointed by the Council. Alternate members may be selected by the Council to serve in the event that a primary member cannot attend a meeting. Membership on the SAP shall include representation from a broad array of commercial and recreational shellfish interests in RI, including the various species harvested, gear types utilized, and areas fished. Membership may also include other relevant interests or user groups, as the Council sees fit. Recognizing that commercial aquaculture operations may compete with a range of marine fishery activities in addition to shellfishing, the Council may appoint SAP members who represent fishery interests other than shellfishing. Members are not subject to term limits; however, the Council shall review the SAP membership at least once every two (2) years. Members may be removed from service on the SAP, by vote of the Council, for failure to appear, without cause, at two (2) or more consecutive meetings or for disruptive behavior at two (2) or more meetings. New members may be solicited via any process that the Council wishes to employ, with assistance from the Division.
4. SAP members shall seek to be knowledgeable on the issues brought before the committee, drawing upon input sought from a broad cross-section of interests from the fisheries sector or user group they represent.
5. No person may serve on the SAP if assessed a criminal or administrative penalty in the past three (3) years or has more than one marine fisheries violation (including any suspension or revocation of a commercial or recreational fishing license or permit or dealer’s license, or

any fine, donation, probation, imprisonment, or other filing, imposed administratively or by a court of law);

6. The Council shall appoint one of its members to serve as SAP Chair. If the Chair is unable to attend a given meeting, the Chair shall call upon another Council member to serve as a substitute. The Chair's principal roles are to call the meeting to order, manage the agenda for the meeting, provide for an orderly flow of the meeting, and facilitate a broad and inclusive discussion of the issue(s) at hand, prioritizing dialogue by the Panel and allowing for comments from the public. The Chair shall follow Robert's Rules of Order codes of parliamentary procedure (such as Robert's Rules of Order or the American Institute of Parliamentarians Standard Code of Parliamentary Procedure) to the extent necessary and appropriate. For issues that lend themselves to recommendation or advice, the Chair shall advance any proposals offered by the Council or the Division, solicit additional proposals from those attending the meeting, subject each proposal to review and discussion, identify pros and cons, and seek consensus as to which proposal(s) should be forwarded to the Council, and through the Council to the Division, for further consideration. The Chair may inform the discussion, but should not advocate a position, nor vote, unless a vote is deemed necessary and appropriate for the purpose of breaking an otherwise tie vote. The Chair may excuse any person(s) deemed disruptive and, in the case of serious disorder or some other emergency, adjourn a meeting prior to completion.
7. Meetings of the SAP shall be held on an on-needed basis. All SAP meetings are open to the public. Meeting agendas shall be prepared and approved by the SAP Chair, in consultation with the Division and Council. Announcement of meetings and agendas will be noticed with the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings"), with hard copies posted at ~~the Department's main office in Providence and the Division's office in Jamestown~~ selected locations ~~posted at the Department's main office in Providence and the Division's office in Jamestown~~, and also noticed via the Division's listserve and website. In advance of SAP meetings, meeting materials will be provided to the SAP electronically, and made available to the public via the Division's website.
8. The SAP Chair shall ensure that a quorum is present for each meeting of the SAP. In the event that a quorum is not present, the Chair shall decide whether to hold or cancel the meeting. No votes may be taken if a quorum is not present.
9. The Division shall provide a staff person to provide administrative support to the SAP. Such support shall include, but not be limited to, the scheduling of meetings, the preparation, distribution, and posting of meeting agendas and meeting materials, and the preparation of meeting minutes.
10. Draft minutes of each SAP meeting shall be reviewed by the Council at a subsequent Council meeting. Minutes shall be subject to modification to ensure accuracy and shall be subject to approval by the Council. Division staff shall post approved minutes to the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings").

Part F – Ad Hoc Committees

1. The Council may establish ad hoc committees, on an as-needed basis, to review and provide recommendations and/or advice to the Council, relative to any marine fishery issue which, in the opinion of the Council, warrants committee-based consideration.
2. The Council shall appoint one of its members to serve as Chair of each committee. If the Committee Chair is unable to attend a given meeting, the Chair shall call upon another Council member to serve as a substitute. The Chair's principal role is to manage the agenda for the meeting and provide for an orderly flow of the meeting. The Chair may inform the discussion, but should not advocate a position. The Chair may excuse any person(s) deemed disruptive and, in the case of serious disorder or some other emergency, adjourn a meeting prior to completion.
3. The Council will not appoint members to ad-hoc committees; rather, in collaboration with the Division, the Council shall seek participation by a representative cross-section of individuals and user groups whose interests relate closely to the issue(s) being addressed by the committee.
4. All committee meetings will be open to the public. Meeting agendas shall be prepared by the Committee Chair, in consultation with the Division and Council. Announcement of meetings and agendas will be noticed with the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings"), posted at the Department's main office in Providence and the Division's office in Jamestown, and also noticed via the Division's listserv and website. In advance of committee meetings, meeting materials will be provided to the committee electronically, and made available to the public via the Division's website.
5. For each committee meeting, the Committee Chair shall manage the agenda, provide for an orderly flow, and facilitate a broad and inclusive discussion of the issue(s) at hand, prioritizing dialogue by the Committee and allowing for comments from the public. For issues that lend themselves to recommendation or advice, the Chair shall advance any proposals offered by the Council or the Division, solicit additional proposals from those attending the meeting, subject each proposal to review and discussion, identify pros and cons, and seek consensus as to which proposal(s) should be forwarded to the Council, and through the Council to the Division, for further consideration. The process may involve a single meeting, or span a series of meetings, as determined by the Chair.
6. The Division shall provide a staff person to provide administrative support to each committee. Such support shall include, but not be limited to, the scheduling of meetings, the preparation, distribution, and posting of meeting agendas and meeting materials, and the preparation of meeting minutes.
7. Draft minutes of each committee meeting shall be reviewed by the Council at a subsequent Council meeting. Minutes shall be subject to modification to ensure accuracy and shall be

subject to approval by the Council. Division staff shall post approved minutes to the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 (“Open Meetings”).

Shellfish Aquaculture Lease Proposals

Policies and Procedures Governing RIMFC and DEM Reviews

Adopted by the RI Marine Fisheries Council – August 3, 2009
As Amended September 2009

Policy #1:

The RI Marine Fisheries Council (RIMFC) authorizes the Council's Shellfish Advisory Panel (SAP) Chair to schedule SAP meetings, on an as-needed basis, for the purpose of reviewing applications for issuance of aquaculture leases that have been submitted to CRMC and that CRMC has referred to the RIMFC for review for the consideration of recommendations pursuant to R.I. Gen. Laws §20-10-5(b). The RIMFC hereby determines that it is procedurally unnecessary for the full RIMFC to conduct preliminary reviews of each of the individual aquaculture lease applications prior to designating them for consideration as SAP agenda items. The SAP Chair will provide updates to the full Council at every regularly scheduled Council meeting regarding any/all meetings or activities involving the SAP or the SAP Chair.

Policy #2:

In accordance with the procedures set forth below, the RIMFC will be provided with full and timely notification regarding all SAP recommendations pertaining to aquaculture lease applications. The RIMFC hereby delegates the SAP with the authority to prepare recommendations concerning individual aquaculture lease applications and to forward said SAP recommendations to the CRMC, with said SAP recommendations being deemed approved by the RIMFC, and reflective of the RIMFC's final recommendation pertaining to the application, unless, within ten (10) days of the receipt of said SAP recommendation, any member of the RIMFC notifies DEM of his/her desire to bring the SAP recommendation before the full RIMFC for further review and consideration, in which case the matter will be placed on the agenda for the next RIMFC meeting.

Policy #3:

Upon receipt of SAP recommendations pertaining to aquaculture lease applications, the CRMC will immediately forward said recommendations to the applicants. If any applicant wishes to bring the SAP recommendation(s) before the full RIMFC for further review and consideration, the applicant will so notify the CRMC who in turn will notify DEM, and the matter will be placed on the agenda for the next RIMFC meeting.

Procedures:

1. The CRMC receives an initial, draft proposal for a new or expanded aquaculture facility. In response, the CRMC Aquaculture Coordinator (AC) distributes the proposal to all interested parties and conducts a Preliminary Determination (PD) meeting, inviting: ACOE, NMFS, USCG, DEM, DOH, adjacent municipality(s), the RIMFC Shellfish Advisory Panel (SAP) Chair, commercial and recreational fishing industry representatives, and other interested parties.
 - DEM and the SAP Chair make every effort to respond to the draft proposal, via the PD process.
 - As part of the PD process, DEM and the SAP Chair identify information needs and key issues to be addressed by the applicant, in coordination with the AC.
2. The AC provides recommendations back to the applicant, drawing upon the comments provided through the PD process.
3. DEM and the SAP Chair remain available for consultation with the AC, as the applicant addresses preliminary suggested modifications to his/her lease application.
4. The applicant submits a lease application to the AC, which the AC, as an action in the 30 day public notice process, distributes to all interested parties, including DEM, the RIMFC, and all members of the SAP. (*In advance, DEM shall provide the AC with names and addresses of all SAP and Council members.) During the 30-day period:
 - The SAP Chair, in coordination with DEM, schedules a SAP meeting, with a target date within 15-20 days following the close of the 30-day period.
 - DEM conducts an internal preliminary review of the application, with a target date for completion of no more than 15-20 days following the close of the 30-day period (i.e., corresponding to the date of the SAP meeting).
 - The AC remains available for consultation with DEM and SAP Chair during the review process.
 - The AC helps ensure that key interests, including the applicant, as well as all other interested parties, are invited to attend and participate in the SAP meeting.
5. Upon completion of the 30-day notice period, the AC coordinates with the applicant regarding public comments and any potential modifications to lease application based thereupon.
6. The SAP meeting takes place. At the meeting, the AC, in coordination with the applicant, addresses any preliminary modifications to the application; DEM presents its preliminary comments on the application; and industry interests (among others) are given the opportunity to comment. Those unable to attend the meeting are encouraged to submit written comments. The SAP seeks consensus on a recommendation regarding the application, including any potential additional modifications thereto.

7. Within ten (10) days following the SAP meeting, the SAP Chair develops minutes of the meeting, with particular reference to the panel's recommendation(s). Upon completion of the minutes, they are submitted to the RIMFC, with a copy to DEM and the AC; the AC then forwards the recommendation(s) to the applicant. Simultaneously, DEM's preliminary comments on the application are submitted to the RIMFC, with a copy to the AC, who then forwards said comments to the applicant. Relevant application materials, provided by the AC, are included in the RIMFC submittal.
8. Within ten (10) days following receipt of the SAP meeting minutes, and all associated documents, and DEM's preliminary comments on the application, any RIMFC member may request that the matter be brought before the full RIMFC at the next regularly scheduled RIMFC meeting.
9. If no RIMFC member makes such a request, DEM notifies the AC, on behalf of the RIMFC, that the SAP recommendation(s) constitute(s) the RIMFC recommendation. That recommendation stands unless and until an applicant seeks further review and consideration by the full RIMFC, pursuant to #11 below.
10. If any RIMFC member does request that the matter be brought before the full RIMFC, the matter is scheduled for consideration at the next regularly scheduled RIMFC meeting. At that meeting, the RIMFC develops a recommendation to the AC, drawing upon the recommendations of the SAP, and in consideration of any other relevant issues, including DEM comments and any additional public comment offered at the RIMFC meeting. The RIMFC may continue any matter that requires additional review. The RIMFC recommendation is forwarded to the AC immediately following final adoption.
11. Notwithstanding the process outlined above, any applicant wishing to bring the SAP recommendation(s) pertaining to his/her lease application before the full RIMFC for further review and consideration may do so, at any time, by making that request to the AC, who in turn forwards the request to DEM. Upon receipt of such request, the matter is scheduled for consideration at the next regularly scheduled RIMFC meeting. At that meeting, the RIMFC develops a recommendation to the AC, drawing upon the recommendations of the SAP, and in consideration of any other relevant issues, including DEM comments and any additional public comment offered at the RIMFC meeting. The RIMFC may continue any matter that requires additional review. The RIMFC recommendation is forwarded to the AC immediately following final adoption.
12. Immediately following the SAP meeting, or, if the matter is brought before the RIMFC, immediately following adoption of their final recommendation, DEM submits its final written comments on the application to the AC.
13. The AC completes the regulatory review process pursuant to CRMC's programmatic requirements.



Rhode Island Marine Fisheries Council

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Administrative Policies and Procedures of the Rhode Island Marine Fisheries Council

Adopted September 28, 2016

This document sets forth the administrative policies and procedures of the Rhode Island Marine Fisheries Council, with particular reference to the operations of the Council and its committees. This document updates and replaces the *Species Advisory Panel Policy*, adopted by the Council on June 4, 2007 and revised on January 5, 2009. It incorporates by reference the document titled *Shellfish Aquaculture Lease Proposals -- Policies and Procedures Governing RIMFC and DEM Reviews -- Adopted by the RI Marine Fisheries Council – August 3, 2009 -- As Amended September 2009*.

Part A – General

1. The RI Marine Fisheries Council (Council) is established in accordance with RIGL Section 20-3-1 to serve in an advisory capacity to the Director of the Rhode Island Department of Environmental Management (Director) and/or other state agencies on marine fisheries issues pertaining to the State of Rhode Island, particularly those involving the planning, management, and regulation of the State's marine fisheries.
2. Council members are appointed by the RI Governor, and subject to advice and consent by the RI Senate. Members serve four-year terms, and are eligible for reappointment once. Members appointed to fill a seat vacated during a term serve the remainder of the term and are then eligible for reappointment to a full term. Members whose terms have expired may continue to serve until replaced or reappointed.
3. No person may serve on the Council if assessed a criminal or administrative penalty in the past 3 years for a violation of a marine fisheries law or regulation, including any suspension or revocation of a commercial or recreational fishing license or permit or dealer's license, or any fine, donation, probation, imprisonment, or other filing, imposed administratively or by a court of law.
4. The Director or his or her designee shall serve as the Council Chairperson (Chair).

5. The Chair's principal role is to manage the agenda for the meeting and provide for an orderly flow of the meeting. The Chair shall follow ~~Robert's Rules of Order~~ codes of parliamentary procedure (such as Robert's Rules of Order or the American Institute of Parliamentarians Standard Code of Parliamentary Procedure) to the extent necessary and appropriate. The Chair shall call meetings to order, call for final approval by the Council of the meeting agenda, ensure that meetings are conducted in a civil manner, and manage the dialogue by the Council and comments from the public. The Chair may inform the discussion, but should not advocate a position, nor vote, unless a vote is deemed necessary and appropriate for the purpose of breaking an otherwise tie vote. The Chair may excuse any person(s) deemed disruptive and, in the case of serious disorder or some other emergency, adjourn a meeting prior to completion.
6. The Council shall elect a Vice-Chair, who shall serve as Acting Chair if the Chair is unable to attend all or part of a Council meeting, or opts not to participate in a given agenda item that is before the Council for consideration.
7. Meetings of the Council shall be held on an on-needed basis. All Council meetings are open to the public. Meeting agendas shall be prepared by the Chair in consultation with the Rhode Island Department of Environmental Management, Division of Fish & Wildlife, Marine Fisheries Program (Division) and Council members. Announcement of meetings and agendas will be noticed with the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings"), with hard copies posted at ~~the Department's main office in Providence and the Division's office in Jamestown~~ selected locations, and also noticed via the Division's listserv and website. In advance of Council meetings, meeting materials will be provided to the Council electronically, and made available to the public via the Division's website.
8. The Chair shall assure that a quorum is present at each meeting. In the event that a quorum is not present, the Chair shall decide whether to hold or cancel the meeting. No votes may be taken if a quorum is not present.
9. The Council shall deliberate and, by vote, provide recommendations to the Director on all proposed regulatory matters. The Council shall also deliberate and vote on any other matters brought before the Council for the purpose of rendering a recommendation to the Director, or another state agency. Such matters shall include, but are not limited to: commercial licensing; aquaculture lease proposals; annual plans for the allocation and use of funds from commercial license fees, tags, permits, and vessel fees; and the recreational saltwater fishing license program.
10. Agendas for all Council meetings shall include an opportunity for any member of the public to address the Council on any matter that is not on the agenda for that meeting. The Council may respond to any such comments, but shall not vote on the matter raised. The matter may be added to the agenda for a subsequent meeting of the Council, at the behest of the Council.

11. The Division shall provide a staff person to provide administrative support to the Chair and Council. Such support shall include, but not be limited to, the scheduling of meetings, the preparation, distribution, and posting of meeting agendas and meeting materials, and the preparation of meeting minutes.
12. Draft minutes of each Council meeting shall be reviewed by the Council at a subsequent Council meeting. Minutes shall be subject to modification to ensure accuracy and shall be subject to approval by the Council. Division staff shall post approved minutes to the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 (“Open Meetings”).
13. The Council shall establish and maintain two standing committees of the Council: an Industry Advisory Committee (IAC) and Shellfish Advisory Panel (SAP), in accordance with Parts D and E herein. The Council may also establish ad-hoc committees as necessary and in accordance with applicable procedures (see Part F herein).
14. For each calendar year, the Council shall report annually, by March 1, to the Governor and the RI General Assembly with regard to: the advice it has given to state agencies, particularly DEM, on marine fisheries issues; the response it has received to such advice; any findings or position it may have with regard to the status and/or condition of marine fisheries; and any recommendations it may have for maintaining, improving, or changing laws, regulations, or management programs for marine fisheries.

Part B – Roles and Responsibilities of the Council Relative to the Administrative Procedures Act and Code of Ethics

1. In accordance with the Council’s statutory responsibility to provide recommendations to the Director on proposed regulatory matters, the Council’s role is intertwined with, and thus influenced by, the State’s *Administrative Procedures Act*, RIGL Chapter 42-35 (APA). The Division, on behalf of and in coordination with the Director, is responsible for conducting the regulatory process, pursuant to the APA. The regulatory process, and the Council’s role and responsibilities relative to it, are as follows:
 - A. A notice is posted by the Division advising the public of proposed regulatory action and soliciting written comments on the proposed action for a specified period of time, that being at least 30 days. All written comments received during the comment period will be included in the administrative record.
 - B. The notice also states that the Division will conduct a public workshop at a specified date and time prior to the hearing, at which interested parties will be afforded the opportunity to interact with Division staff and engage in discussion concerning the proposed regulatory action. Council members are encouraged to attend and participate in the workshop.
 - C. The notice also states that following the workshop, at a specified date and time, a public hearing will be held at which interested parties will be afforded the opportunity to offer oral and additional written comments concerning the proposal; said comments to be included in the administrative record. Council members are encouraged to attend the

public hearing; however, members are dissuaded from commenting at the hearing due to their subsequent role in deliberating on and providing advice to the Director on the same matter(s) being considered. Members who feel compelled to provide comment on a matter at a public hearing may do so, provided they recuse themselves from the subsequent Council deliberation and vote on the matter.

- D. The notice also states that, for a period extending at least 5 days following the public hearing, interested parties will be afforded the opportunity to submit written comments concerning the proposed regulatory action; said comments to be included in the administrative record.
- E. At the end of the written comment period following the public hearing, the administrative record is closed.
- F. After the close of the administrative record, the Division assembles the administrative record, i.e., a summary of the oral comments provided at the public hearing and copies of the written comments submitted during the written comment period. The Division then distributes the administrative record to the Council members with an agenda providing notice that the Council will be meeting, at a specified date and time, to deliberate and vote upon a recommendation to the Director regarding the proposed regulatory action.
- G. Council members shall refrain from communicating with, or considering oral or written comments offered by, members of the public after the close of the administrative record.
- H. The Council then meets to deliberate upon the administrative record and vote on a recommendation to the Director regarding the proposed regulatory action. In rendering its advice, the Council is bound by the notice, but not by the public comment portion of the record – i.e., the Council may render any recommendation that falls within the ambit of the notice, drawing upon public comment but not necessarily consistent with public comment. During its meeting, the Council may consider additional input from the Division and/or the public, but is not obligated to do so.
- I. After the Council meeting, the Division forwards the administrative record, the recommendation of the Council, and its own recommendation to the Director for final consideration. The Director then renders a final decision. The Director's decision shall be provided in writing and made available to the Council and the public via the Division's website.
- J. The final regulations are then filed with the RI Secretary of State, taking effect twenty (20) days from the date of filing. Concurrently, a link to the final regulations is posted on the Division's website, coupled with an announcement provided via the Division's listserv.

2. Recusals:

- A. Council members are subject to the provisions of the *Rhode Island Code of Ethics*, R.I. Gen. Laws Chapter 36-14 and the regulations promulgated by the Rhode Island Ethics

Commission pursuant thereto. As such, a member may occasionally determine that he or she should recuse him or herself from voting on and otherwise participating in the Council's consideration or disposition of a matter pending before the Council if the matter under consideration may potentially financially impact the member, or any person within member's family, or any business associate of the member, or any business entity in which the member or any person within the member's family or any business associate of the member has an equity interest. However, given the statutory obligation that the Council be composed of members who are actively engaged in certain commercial activities or operations pertaining to marine fishing, a financial interest, per se, should not be deemed to require a council member to recuse him/herself. Rather, the Rhode Island Ethics Commission applies what is referred to as a "class exception" pursuant to which a member is not required to recuse him/herself if the subject matter/regulation applies equally to the member and to all other participants in a large class that is subject to or impacted by the regulatory matter under consideration. For example, a member who is a commercial fisher and harvests summer flounder may vote on and otherwise participate in the Council's consideration and disposition of a matter pending before the Council involving the regulation of summer flounder if the matter's provisions apply equally to all commercial harvesters of summer flounder. However, if a member is a participant in a small group that would or might be impacted financially by a pending matter/regulation, the member should recuse him/herself. If a member is uncertain as to whether a given matter/regulation poses a potential conflict of interest, he/she should seek advice from the Council's legal counsel and exercise their best judgment in accordance with that advice. Ultimately, it is the individual responsibility of each Council member to assess their status relative to any conflict of interest and conduct themselves in a manner consistent with the *Rhode Island Code of Ethics*.

- B. If a Council member deems it appropriate to recuse him/herself, the member must notify the Chair prior to Council consideration of the matter. Ideally, such notification should occur in advance of the start of the meeting, and involve consultation with the Council's legal counsel. During the meeting, when the agenda item is reached, the member should note, for the record, that he/she is recusing him/herself and then leave the council table. The member is then barred from voting on and otherwise participating in the Council's consideration or disposition of the matter pending before the Council in his/her role as a Council member. If the member is so inclined, he/she may join the public in the gallery and, at the behest of the Chair, may be recognized and offer public comment on the same manner, with his/her status being the same as any other member of the public for that matter. In the event of recusal, the member is required to complete the recusal form of the Rhode Island Ethics Commission and, within twenty-four (24) hours of the recusal, hand deliver or mail the completed form to the Rhode Island Ethics Commission, with a copy to the Chair. The recusal form may be obtained from the Council's legal counsel or downloaded from the Rhode Island Ethics Commission's website.
- C. One or more recusals does not affect the Council's quorum, and thus does not affect the Council's ability to vote on any given matter, provided that a quorum exists at the time the matter in question is being considered. A member who recuses him/herself on a given matter continues to count toward the quorum, notwithstanding the member's

inability to vote or otherwise participate in the Council's consideration and disposition of the matter.

Part C – Recommendations Regarding Aquaculture Lease Proposals

1. In accordance with RIGL 20-10-5(d), the Council is responsible for the review of aquaculture lease applications submitted to the RI Coastal Resources Management Council (CRMC) for the purpose of formulating recommendations to the CRMC as to whether the aquaculture activities proposed in each application are consistent with competing uses engaged in the exploitation of the marine fisheries.
2. The Council shall undertake this responsibility pursuant to the policies and procedures set forth in the document titled *Shellfish Aquaculture Lease Proposals -- Policies and Procedures Governing RIMFC and DEM Reviews -- Adopted by the RI Marine Fisheries Council – August 3, 2009 -- As Amended September 2009*.

Part D – Industry Advisory Committee

1. In accordance with RIGL 20-2.1-11, the Council is responsible for establishing an Industry Advisory Committee (IAC) to provide coordination among commercial fisheries sectors and to review plans and recommendations that affect more than one commercial fishery sector and to advise the Council and the Director on matters which affect commercial fishing as a whole – e.g., commercial licensing. The IAC is to be comprised of representatives of each commercial fisheries sector and of manners of commercial fishing.
2. The IAC shall consist of a minimum of six (6) and maximum of fifteen (15) members. Alternate members may be selected by the Council to serve in the event that a primary member cannot attend a meeting. In addition to broad commercial representation, the Council will appoint to the IAC at least one representative from the recreational fisheries sector and one from the for-hire fisheries sector, for the purpose of incorporating the perspectives of those sectors when considering commercial fisheries issues. Members are not subject to term limits; however, the Council shall review the IAC membership at least once every two (2) years. Members may be removed from service on the IAC, by vote of the Council, for failure to appear, without cause, at two (2) or more consecutive meetings or for disruptive behavior at two (2) or more meetings. New members may be solicited via any process that the Council wishes to employ, with assistance from the Division.
3. No person may serve on the IAC if assessed a criminal or administrative penalty in the past three (3) years for a violation of a marine fisheries law or regulation, including any suspension or revocation of a commercial or recreational fishing license or permit or dealer's license, or any fine, donation, probation, imprisonment, or other filing, imposed administratively or by a court of law.
4. The IAC shall deliberate and, by vote, provide recommendations to the Council on all matters that are brought before the committee for consideration.

5. At a minimum, the IAC shall meet annually prior to the Division's public notice on proposed amendments to DEM's *Commercial and Recreational Saltwater Fishing Licensing Regulations* to offer recommendations to the Council, and on behalf of the Council to the Division, relative to proposed amendments. At the same meeting, the IAC shall review and offer recommendations to the Council, and on behalf of the Council to the Division, on the exit/entry ratios for each license endorsement category, in context with the Division's annually updated Sector Management Plans.
6. IAC members shall seek to be knowledgeable on the issues brought before the committee, drawing upon input sought from a broad cross-section of individuals from the fisheries sector or user group they represent.
7. The Council shall appoint one of its members to serve as IAC Chair. If the Chair is unable to attend a given meeting, the Chair shall call upon another Council member to serve as a substitute. The Chair's principal roles are to call the meeting to order, manage the agenda for the meeting, provide for an orderly flow of the meeting, and facilitate a broad and inclusive discussion of the issue(s) at hand, prioritizing dialogue by the Committee and allowing for comments from the public. The Chair shall follow Robert's Rules of Order codes of parliamentary procedure (such as *Robert's Rules of Order* or the *American Institute of Parliamentarians Standard Code of Parliamentary Procedure*) to the extent necessary and appropriate. For issues that lend themselves to recommendation or advice, the Chair shall advance any proposals offered by the Council or the Division, solicit additional proposals from those attending the meeting, subject each proposal to review and discussion, identify pros and cons, and seek consensus as to which proposal(s) should be forwarded to the Council, and through the Council to the Division, for further consideration. The Chair may inform the discussion, but should not advocate a position, nor vote, unless a vote is deemed necessary and appropriate for the purpose of breaking an otherwise tie vote. The Chair may excuse any person(s) deemed disruptive and, in the case of serious disorder or some other emergency, adjourn a meeting prior to completion.
8. Meetings of the IAC shall be held on an on-needed basis. All IAC meetings are open to the public. Meeting agendas shall be prepared and approved by the IAC Chair, in consultation with the Division and Council. Announcement of meetings and agendas will be noticed with the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings"), with hard copies posted at ~~the Department's main office in Providence and the Division's office in Jamestown~~ selected locations, and also noticed via the Division's listserv and website. In advance of IAC meetings, meeting materials will be provided to the IAC electronically, and made available to the public via the Division's website.
9. The IAC Chair shall ensure that a quorum is present for each meeting of the IAC. In the event that a quorum is not present, the Chair shall decide whether to hold or cancel the meeting. No votes may be taken if a quorum is not present.
10. The Division shall provide a staff person to provide administrative support to the IAC. Such support shall include, but not be limited to, the scheduling of meetings, the preparation,

distribution, and posting of meeting agendas and meeting materials, and the preparation of meeting minutes.

11. Draft minutes of each IAC meeting shall be reviewed by the Council at a subsequent Council meeting. Minutes shall be subject to modification to ensure accuracy and shall be subject to approval by the Council. Division staff shall post approved minutes to the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 (“Open Meetings”).

Part E – Shellfish Advisory Panel

1. The SAP shall deliberate and, by vote, provide recommendations to the Council on all shellfish-related matters brought before the committee for consideration. At a minimum, such matters shall include the annual review of, and recommendations for, commercial winter shellfish harvest schedules in Shellfish Management Areas.
2. The SAP shall also be responsible for acting on behalf of the Council for the review of aquaculture lease applications submitted to the CRMC for the purpose of formulating recommendations to the CRMC as to whether the aquaculture activities proposed in each application are consistent with competing uses engaged in the exploitation of the marine fisheries, consistent with the document titled *Shellfish Aquaculture Lease Proposals -- Policies and Procedures Governing RIMFC and DEM Reviews -- Adopted by the RI Marine Fisheries Council – August 3, 2009 -- As Amended September 2009*. In the exercise of this responsibility, the SAP shall render its advice by vote.
3. The SAP shall consist of a minimum of six (6) and maximum of fifteen (15) members, appointed by the Council. Alternate members may be selected by the Council to serve in the event that a primary member cannot attend a meeting. Membership on the SAP shall include representation from a broad array of commercial and recreational shellfish interests in RI, including the various species harvested, gear types utilized, and areas fished. Membership may also include other relevant interests or user groups, as the Council sees fit. Recognizing that commercial aquaculture operations may compete with a range of marine fishery activities in addition to shellfishing, the Council may appoint SAP members who represent fishery interests other than shellfishing. Members are not subject to term limits; however, the Council shall review the SAP membership at least once every two (2) years. Members may be removed from service on the SAP, by vote of the Council, for failure to appear, without cause, at two (2) or more consecutive meetings or for disruptive behavior at two (2) or more meetings. New members may be solicited via any process that the Council wishes to employ, with assistance from the Division.
4. SAP members shall seek to be knowledgeable on the issues brought before the committee, drawing upon input sought from a broad cross-section of interests from the fisheries sector or user group they represent.
5. No person may serve on the SAP if assessed a criminal or administrative penalty in the past three (3) years or has more than one marine fisheries violation (including any suspension or revocation of a commercial or recreational fishing license or permit or dealer’s license, or

any fine, donation, probation, imprisonment, or other filing, imposed administratively or by a court of law);

6. The Council shall appoint one of its members to serve as SAP Chair. If the Chair is unable to attend a given meeting, the Chair shall call upon another Council member to serve as a substitute. The Chair's principal roles are to call the meeting to order, manage the agenda for the meeting, provide for an orderly flow of the meeting, and facilitate a broad and inclusive discussion of the issue(s) at hand, prioritizing dialogue by the Panel and allowing for comments from the public. The Chair shall follow ~~Robert's Rules of Order~~ codes of parliamentary procedure (such as Robert's Rules of Order or the American Institute of Parliamentarians Standard Code of Parliamentary Procedure) to the extent necessary and appropriate. For issues that lend themselves to recommendation or advice, the Chair shall advance any proposals offered by the Council or the Division, solicit additional proposals from those attending the meeting, subject each proposal to review and discussion, identify pros and cons, and seek consensus as to which proposal(s) should be forwarded to the Council, and through the Council to the Division, for further consideration. The Chair may inform the discussion, but should not advocate a position, nor vote, unless a vote is deemed necessary and appropriate for the purpose of breaking an otherwise tie vote. The Chair may excuse any person(s) deemed disruptive and, in the case of serious disorder or some other emergency, adjourn a meeting prior to completion.
7. Meetings of the SAP shall be held on an on-needed basis. All SAP meetings are open to the public. Meeting agendas shall be prepared and approved by the SAP Chair, in consultation with the Division and Council. Announcement of meetings and agendas will be noticed with the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings"), with hard copies posted at ~~the Department's main office in Providence and the Division's office in Jamestown~~ selected locations ~~posted at the Department's main office in Providence and the Division's office in Jamestown~~, and also noticed via the Division's listserve and website. In advance of SAP meetings, meeting materials will be provided to the SAP electronically, and made available to the public via the Division's website.
8. The SAP Chair shall ensure that a quorum is present for each meeting of the SAP. In the event that a quorum is not present, the Chair shall decide whether to hold or cancel the meeting. No votes may be taken if a quorum is not present.
9. The Division shall provide a staff person to provide administrative support to the SAP. Such support shall include, but not be limited to, the scheduling of meetings, the preparation, distribution, and posting of meeting agendas and meeting materials, and the preparation of meeting minutes.
10. Draft minutes of each SAP meeting shall be reviewed by the Council at a subsequent Council meeting. Minutes shall be subject to modification to ensure accuracy and shall be subject to approval by the Council. Division staff shall post approved minutes to the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings").

Part F – Ad Hoc Committees

1. The Council may establish ad hoc committees, on an as-needed basis, to review and provide recommendations and/or advice to the Council, relative to any marine fishery issue which, in the opinion of the Council, warrants committee-based consideration.
2. The Council shall appoint one of its members to serve as Chair of each committee. If the Committee Chair is unable to attend a given meeting, the Chair shall call upon another Council member to serve as a substitute. The Chair's principal role is to manage the agenda for the meeting and provide for an orderly flow of the meeting. The Chair may inform the discussion, but should not advocate a position. The Chair may excuse any person(s) deemed disruptive and, in the case of serious disorder or some other emergency, adjourn a meeting prior to completion.
3. The Council will not appoint members to ad-hoc committees; rather, in collaboration with the Division, the Council shall seek participation by a representative cross-section of individuals and user groups whose interests relate closely to the issue(s) being addressed by the committee.
4. All committee meetings will be open to the public. Meeting agendas shall be prepared by the Committee Chair, in consultation with the Division and Council. Announcement of meetings and agendas will be noticed with the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 ("Open Meetings"), posted at the Department's main office in Providence and the Division's office in Jamestown, and also noticed via the Division's listserv and website. In advance of committee meetings, meeting materials will be provided to the committee electronically, and made available to the public via the Division's website.
5. For each committee meeting, the Committee Chair shall manage the agenda, provide for an orderly flow, and facilitate a broad and inclusive discussion of the issue(s) at hand, prioritizing dialogue by the Committee and allowing for comments from the public. For issues that lend themselves to recommendation or advice, the Chair shall advance any proposals offered by the Council or the Division, solicit additional proposals from those attending the meeting, subject each proposal to review and discussion, identify pros and cons, and seek consensus as to which proposal(s) should be forwarded to the Council, and through the Council to the Division, for further consideration. The process may involve a single meeting, or span a series of meetings, as determined by the Chair.
6. The Division shall provide a staff person to provide administrative support to each committee. Such support shall include, but not be limited to, the scheduling of meetings, the preparation, distribution, and posting of meeting agendas and meeting materials, and the preparation of meeting minutes.
7. Draft minutes of each committee meeting shall be reviewed by the Council at a subsequent Council meeting. Minutes shall be subject to modification to ensure accuracy and shall be

subject to approval by the Council. Division staff shall post approved minutes to the Office of the RI Secretary of State in accordance with RIGL Section 42-46-6 (“Open Meetings”).

Shellfish Aquaculture Lease Proposals

Policies and Procedures Governing RIMFC and DEM Reviews

Adopted by the RI Marine Fisheries Council – August 3, 2009
As Amended September 2009

Policy #1:

The RI Marine Fisheries Council (RIMFC) authorizes the Council's Shellfish Advisory Panel (SAP) Chair to schedule SAP meetings, on an as-needed basis, for the purpose of reviewing applications for issuance of aquaculture leases that have been submitted to CRMC and that CRMC has referred to the RIMFC for review for the consideration of recommendations pursuant to R.I. Gen. Laws §20-10-5(b). The RIMFC hereby determines that it is procedurally unnecessary for the full RIMFC to conduct preliminary reviews of each of the individual aquaculture lease applications prior to designating them for consideration as SAP agenda items. The SAP Chair will provide updates to the full Council at every regularly scheduled Council meeting regarding any/all meetings or activities involving the SAP or the SAP Chair.

Policy #2:

In accordance with the procedures set forth below, the RIMFC will be provided with full and timely notification regarding all SAP recommendations pertaining to aquaculture lease applications. The RIMFC hereby delegates the SAP with the authority to prepare recommendations concerning individual aquaculture lease applications and to forward said SAP recommendations to the CRMC, with said SAP recommendations being deemed approved by the RIMFC, and reflective of the RIMFC's final recommendation pertaining to the application, unless, within ten (10) days of the receipt of said SAP recommendation, any member of the RIMFC notifies DEM of his/her desire to bring the SAP recommendation before the full RIMFC for further review and consideration, in which case the matter will be placed on the agenda for the next RIMFC meeting.

Policy #3:

Upon receipt of SAP recommendations pertaining to aquaculture lease applications, the CRMC will immediately forward said recommendations to the applicants. If any applicant wishes to bring the SAP recommendation(s) before the full RIMFC for further review and consideration, the applicant will so notify the CRMC who in turn will notify DEM, and the matter will be placed on the agenda for the next RIMFC meeting.

Procedures:

1. The CRMC receives an initial, draft proposal for a new or expanded aquaculture facility. In response, the CRMC Aquaculture Coordinator (AC) distributes the proposal to all interested parties and conducts a Preliminary Determination (PD) meeting, inviting: ACOE, NMFS, USCG, DEM, DOH, adjacent municipality(s), the RIMFC Shellfish Advisory Panel (SAP) Chair, commercial and recreational fishing industry representatives, and other interested parties.
 - DEM and the SAP Chair make every effort to respond to the draft proposal, via the PD process.
 - As part of the PD process, DEM and the SAP Chair identify information needs and key issues to be addressed by the applicant, in coordination with the AC.
2. The AC provides recommendations back to the applicant, drawing upon the comments provided through the PD process.
3. DEM and the SAP Chair remain available for consultation with the AC, as the applicant addresses preliminary suggested modifications to his/her lease application.
4. The applicant submits a lease application to the AC, which the AC, as an action in the 30 day public notice process, distributes to all interested parties, including DEM, the RIMFC, and all members of the SAP. (*In advance, DEM shall provide the AC with names and addresses of all SAP and Council members.) During the 30-day period:
 - The SAP Chair, in coordination with DEM, schedules a SAP meeting, with a target date within 15-20 days following the close of the 30-day period.
 - DEM conducts an internal preliminary review of the application, with a target date for completion of no more than 15-20 days following the close of the 30-day period (i.e., corresponding to the date of the SAP meeting).
 - The AC remains available for consultation with DEM and SAP Chair during the review process.
 - The AC helps ensure that key interests, including the applicant, as well as all other interested parties, are invited to attend and participate in the SAP meeting.
5. Upon completion of the 30-day notice period, the AC coordinates with the applicant regarding public comments and any potential modifications to lease application based thereupon.
6. The SAP meeting takes place. At the meeting, the AC, in coordination with the applicant, addresses any preliminary modifications to the application; DEM presents its preliminary comments on the application; and industry interests (among others) are given the opportunity to comment. Those unable to attend the meeting are encouraged to submit written comments. The SAP seeks consensus on a recommendation regarding the application, including any potential additional modifications thereto.

7. Within ten (10) days following the SAP meeting, the SAP Chair develops minutes of the meeting, with particular reference to the panel's recommendation(s). Upon completion of the minutes, they are submitted to the RIMFC, with a copy to DEM and the AC; the AC then forwards the recommendation(s) to the applicant. Simultaneously, DEM's preliminary comments on the application are submitted to the RIMFC, with a copy to the AC, who then forwards said comments to the applicant. Relevant application materials, provided by the AC, are included in the RIMFC submittal.
8. Within ten (10) days following receipt of the SAP meeting minutes, and all associated documents, and DEM's preliminary comments on the application, any RIMFC member may request that the matter be brought before the full RIMFC at the next regularly scheduled RIMFC meeting.
9. If no RIMFC member makes such a request, DEM notifies the AC, on behalf of the RIMFC, that the SAP recommendation(s) constitute(s) the RIMFC recommendation. That recommendation stands unless and until an applicant seeks further review and consideration by the full RIMFC, pursuant to #11 below.
10. If any RIMFC member does request that the matter be brought before the full RIMFC, the matter is scheduled for consideration at the next regularly scheduled RIMFC meeting. At that meeting, the RIMFC develops a recommendation to the AC, drawing upon the recommendations of the SAP, and in consideration of any other relevant issues, including DEM comments and any additional public comment offered at the RIMFC meeting. The RIMFC may continue any matter that requires additional review. The RIMFC recommendation is forwarded to the AC immediately following final adoption.
11. Notwithstanding the process outlined above, any applicant wishing to bring the SAP recommendation(s) pertaining to his/her lease application before the full RIMFC for further review and consideration may do so, at any time, by making that request to the AC, who in turn forwards the request to DEM. Upon receipt of such request, the matter is scheduled for consideration at the next regularly scheduled RIMFC meeting. At that meeting, the RIMFC develops a recommendation to the AC, drawing upon the recommendations of the SAP, and in consideration of any other relevant issues, including DEM comments and any additional public comment offered at the RIMFC meeting. The RIMFC may continue any matter that requires additional review. The RIMFC recommendation is forwarded to the AC immediately following final adoption.
12. Immediately following the SAP meeting, or, if the matter is brought before the RIMFC, immediately following adoption of their final recommendation, DEM submits its final written comments on the application to the AC.
13. The AC completes the regulatory review process pursuant to CRMC's programmatic requirements.