

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
October 20, 2003
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

RIMFC Members: R. Boragine, G. Allen, S. Macinko, S. Medeiros, D. Preble, J. King

Chairperson: J. Reitsma

RIDEM F&W Staff: N. Lazar, M. Gibson, J. McNamee

DEM: B. Ballou

Legal Counsel: G. Powers

Public: approximately 30 people attended

J. Reitsma called the meeting to order. He asked for any agenda changes. R. Boragine suggested adding two items to either this agenda or the following month's agenda. The items were a discussion about the Commercial Fishermen's Committee which was passed through legislation and an informal meeting of the Rhode Island Marine Fisheries Council (RIMFC or Council) to discuss how the Council is supposed to work. J. Reitsma agreed that the informal workshop should take place and that the other item should be included on the agenda for the following month but only if something can be drafted for the Council to look at ahead of time regarding this issue. J. Reitsma then solicited comments on the last months Council minutes. He started by asking about a few follow up items which he wanted noted on the record. The Division of Fish and Wildlife (DFW) staff was asked whether the proposed tautog closure line actually encompassed the major spawning areas for tautog. This was tasked to the DFW to clear up confusion on this issue. R. Boragine stated that there was no confusion at the advisory panel as to what they wanted, the confusion came from the DFW staff. The advisory panel set forth several clear options. J. Reitsma stated that in any case the Council had voted to table the issue until the question of spawning areas was resolved. There was further discussion on the tautog issue. The question became whether the information (on spawning) should be brought back to the advisory panel level or brought directly to the Council. It was decided to bring it back to the Council by the following Council meeting. There was discussion about Council materials, missing minutes and things of this nature. It was explained that there were extenuating circumstances (the staff person who puts the packet together was out to sea for the majority of October) and whenever possible a packet would be prepared prior to the meeting. It was decided to not take any action on the minutes until the next meeting.

J. Reitsma asked S. Medeiros about the current status of the enforcement advisory panel.

S. Medeiros stated that the list of representatives to the enforcement advisory panel had been handed out to the Council. The current nominees are S. Medeiros as the chair, J. Rainone as a charter operator, T. Hoxsie as a floating trap representative, B. Getchel as a recreational boat representative with S. Segerson as his alternate, B. Wagner as a recreational shore fisherman, R. Mattiucci as a commercial rod and reel representative. There are still several user group vacancies to fill which include the Department of Environmental Management (DEM) enforcement, diver, dragger, gillnet, lobster, seafood dealer, and shellfishing representatives.

J. Reitsma stated that the last follow up item that he had noted from the previous meeting was shellfish management area opening concerns. He stated that R. Boragine would bring these concerns up at the next shellfish advisory panel meeting.

Advisory Panel Reports

Shellfish Advisory Panel Report: R. Boragine stated that he was not at the shellfish advisory panel meeting. He went on to state that the scheduling conflicts which continually occur will be worked out at the following shellfish advisory panel meeting. R. Boragine then went into the minutes. He mentioned that the North Cape shellfish restoration project had come forward with a proposal to shut down the Smelt Brook Cove portion of Point Judith Pond for oyster seeding. No recommendation came from the shellfish advisory panel on this subject and the minutes stated that this issue would come before the RIMFC. M. Gibson stated that this issue was on the agenda for that evening.

New Business

Proposal to modify aquaculture operation: D. Alves of the Coastal Resource Management Council introduced the application. Mr. Roebuck, the person applying for the modification, was in attendance to answer any questions. D. Alves stated that this was simply a modification to an existing aquaculture operation. The modification was to use a dredge to harvest the oysters which were seeded within the aquaculture area. No other interested parties had raised any concerns with the modification. **D. Preble commented that he felt this was an improvement to the original assent and made a motion to accept the request for modification. S. Medeiros seconded the motion. The motion was unanimously approved.**

Proposed members for the floating fish trap advisory panel: G. Allen, in the absence of K. Ketcham, introduced the commercial nominees for the floating fish trap advisory panel. The small trap nominees were T. Hoxsie and A. Glidden, and for large traps the nominees were J. O'Donnell and A. Parascondola. **G. Allen then made a motion for the Council to approve those four members for the floating fish trap advisory panel. R. Boragine seconded the motion. G. Allen then added one further item, he had passed out an alternate resume before the meeting for R. Geldard as an alternate for D. MacPherson. G. Allen made a motion to accept this nominee as an alternate on the floating fish trap advisory panel. The motion was seconded by R. Boragine. The motion was unanimously approved by the Council.**

Changes to advisory panel membership lists: R. Boragine brought forward the first change. The change was to the tautog advisory panel. M. Bucko had introduced A. Latinville as an alternate for the bait and tackle shop user group on the tautog advisory panel. **R. Boragine made a motion to accept this nominee as an alternate on the tautog advisory panel. G. Allen seconded the motion. The motion was unanimously approved.** There was discussion on how to fill the vacancies which exist on the enforcement advisory panel. R. Boragine requested that S. Medeiros email him the list which S. Medeiros presented to the Council that evening so that he could look for individuals to fill those vacancies. J. Reitsma asked J. McNamee whether there was anything further for this agenda item. J. McNamee stated that much of what he was going to cover was covered by the Council members but added one item. He had included updated advisory panel lists for both tautog and summer flounder reflecting the changes which the Council had approved at the previous months meeting. J. McNamee requested that the Council members help him fill in any of the blanks which exist as far as addresses and phone numbers on the lists. J. Reitsma added one final item, the chairman of the lobster advisory panel (to replace S. Cobb) had not been resolved at this point in time. S. Macinko declined the position. R. Boragine commented that the lobster advisory panel and the shellfish advisory panel both meet more frequently than they need to. He felt that this is one of the items that should be discussed at their informal workshop. J. Reitsma agreed that this would be the appropriate place to discuss this issue.

Proposal to close a section of Pt. Judith Pond: N. Lazar stated that the request had been included in the Council information documents. He explained that the request was to close down a portion of Point Judith Pond for the seeding of oysters. He went on to state that the Division didn't support this request, they did not feel that allowing shellfishing in this area would detrimentally affect the oyster seed which would be brought in to the area due to existing regulations in the pond. M. Gibson stated that this closure would occur in a management area therefore changes could be enacted without a public hearing therefore he stated that the Council should weigh in if they had comments on this topic. The shellfish advisory panel had not made any comments on this issue. J. Reitsma suggested taking this topic back to the shellfish advisory panel one more time because it was suggested that the item may not have been on the original agenda therefore interested parties may not have had an opportunity to comment.

A second scheduling problem was brought up. A meeting regarding groundfish was scheduled for the same day as the next Council meeting therefore R. Boragine suggested moving the meeting to the following week, November 10th. This was agreed to by the Council.

804 spending proposals: M. Gibson stated that an outline of the 804 spending had been provided and was open for discussion. He went on to state that he would recommend looking it over and getting back with comments at the next Council meeting because they had just received the info that evening. R. Boragine made some comments about the comparative gear studies and suggested that the DFW get assistance from commercial fishermen when outfitting the new research vessel, stating that the DFW should not try to

recreate what the TJ Wright does. M. Gibson stated that the DFW has no intentions of recreating the work that the TJ Wright does but the DFW has to be able to compare data between the two vessels, therefore they must conduct gear comparison studies. The DFW would look in to getting help from commercial fishermen to do these studies.

Old Business

Council action on October 14, 2003 public hearing proposals: J. Reitsma stated that this presentation was not an extension of the public comment period. Therefore the presentation was strictly for the Council and he hoped that the discussions could stay focused on the Council deliberations.

M. Gibson gave the slideshow presentation. The first slide was regarding an amendment to the current lobster commercial regulations to specify lobster trap vent locations. This amendment was brought forward from the lobster advisory panel to alter the current regulations in order to legalize the common practice of including escape vents in only the terminal chamber of an in-line lobster pot. There were no public comments made at the public hearing. **S. Medeiros made a motion to recommend to the Director that he adopt the changes to the regulations regarding the lobster trap escape vent locations. R. Boragine seconded the motion. The motion was unanimously approved.**

The second slide dealt with the adoption of regulations establishing an exemption certificate for lobster dealers allowing them to sell lobsters taken from area 3 that are smaller than the area 2 minimum gauge size. This was brought to public hearing to adopt these regulations, which were originally filed as emergency regulations. One comment was received from Chief Hall where he suggested changing the language of section 15.11.1-1 (b) to “all shipments containing lobsters not conforming to the minimum size”, which would replace “all lobsters not conforming to the minimum size”. This change would ease the burden on the dealers by not having to sort through thousands of pounds (in some cases) of lobsters to comply with the regulation. Written comments were received from the Rhode Island Lobstermen’s Association in which they stated that they supported both of the lobster public hearing issues. **S. Macinko made a motion to recommend to the Director to adopt these regulations. R. Boragine seconded the motion. S. Medeiros asked for clarification of the motion stating that the motion should be to recommend that the regulations be approved with the changes as suggested by Chief Hall. The motion was so amended. The motion was unanimously approved.**

The next slide proposed amending regulations 3.9, 7.11.2-1(9), 9.2(e), 15.5.1(e), 15.8(e), and 15.14.1-10(d) in order to include citation to R.I. Gen. Laws § 42-17.7-9: These amendments were brought forward to update the regulation book with the current AAD rules for appeal. There were no public comments made at the public hearing. **R. Boragine made a motion to recommend to the Director that he adopt the changes. G. Allen seconded the motion. The motion was unanimously approved.**

The next slide was a proposal to modify the weekly landing permit program for the commercial scup fishery. These changes were brought to public hearing to modify certain rules concerning the scup weekly landing permit program in order to improve the way the program will run. There were no public comments made at the public hearing. **S. Medeiros made a motion to recommend that the Director adopt the changes. R. Boragine seconded the motion. The motion was unanimously approved.**

The next slide was a proposal to modify possession limits and triggers for the commercial black sea bass fishery: These were proposals to modify possession limits and allocation triggers for the commercial black sea bass fishery for the year 2004. There were no public comments given at the public hearing. **G. Allen made a motion to recommend that the Director adopt these changes. S. Medeiros seconded the motion. The motion was unanimously approved.** R. Boragine made a statement regarding the need for more communication on possession limit changes and closing of fisheries between the industry and DFW.

The next slide was a proposal to modify possession limits, seasons, and quota allocations for the commercial summer flounder fishery. They included proposals from the DEM and various industry groups. Several comments were given at the public hearing including several written comments which were received by DEM. All of these comments were included in the Public Hearing Comments document which had been handed out to the Council before the meeting. J. Reitsma began by asking M. Gibson what the DFW's position was on the 80,000 pound research set aside. M. Gibson stated that he approved of the idea but wanted to restate that if this was to take place in 2004, it would have to come out of the State's allocation. It may be possible to get fish from the federal research set aside but this would not be possible until 2005 at the earliest. J. Reitsma asked if there was a motion about the research set aside. D. Preble suggested that the Council should decide on an allocation scheme before deciding on the research set aside because he felt the allocation may affect people's decisions on the research set aside. J. Reitsma asked about discussion on the aggregate landing proposal which had been brought up at the public hearing. M. Gibson stated that this could not be formally brought up at the public hearing because the Council had not recommended bringing this item to public hearing and as a result of this, the aggregate landing proposal was not put in to the Public Hearing Summary Document. As far as the DFW's position on an aggregate landing proposal for summer flounder, the DFW felt that this would not be advisable until the scup weekly landing permit program was working better than it did in its first year and he went on to state that the DFW was currently putting a weekly landing program together for spiny dogfish. Both of these smaller scale programs will be a good platform to work off of for a summer flounder program, but the DFW needs more experience with these smaller programs before getting into a larger program like summer flounder. J. Reitsma stated that the letter from C. Brown, which was in support of an aggregate landing program for summer flounder, was one of the more eloquent letters he had read recently and stated that he feels DEM should seriously consider moving in this direction but at the same time he understands the constraints M. Gibson had mentioned. R. Boragine stated that the majority of the problems with the scup program were due to miscommunication. He also stated that industry and the DFW should get together to discuss setting up this program,

which he felt the industry had almost completely planned out at this point, because not invoking some sort of program at this point was putting an unnecessary economic burden on commercial fishermen. D. Preble stated that he supported option 3 because it does not negatively impact the winter fishery and will get the summer fishery through July which is the problem period. S. Medeiros asked M. Gibson if he thought the option 3 summer allocation would make it through until close to the end of the sub period or if it would close very early. M. Gibson stated that he did not think the allocation would last for the entire sub period but that he was not prepared to give a specific date as to when he thought the fishery would shut down. R. Boragine stated that he thought it would eliminate the September/October fishery and may even close earlier. B. Mattiucci stated that he felt the Council wasted too much time talking about aggregate landings when it wasn't even a proposal and ended by stating to the Council that they should be careful not to split their votes between option 2 and option 3 because that would cause option 1 to become approved by default. K. Kyle on behalf of the Commercial Rod and Reel Fishermen's Association stated that the Council had voted previously to combine the two summer periods into one, but the Director, for pertinent reasons at the time, decided not to go with this option. The reason this decision was made at the time, such as lack of discussion on why combining the sub periods would be advantageous to State fishermen, have now been corrected and brought forward. K. Kyle just wanted to make sure that the Council understood the position of those who supported option 3, it was the most equitable way to divide up the quota and at the same time attempt to solve the summer closure problem. B. Knight stated that almost all of the species which are managed have been divided up into historical landing allocations. He went on to state that option 1 was based on the historical landings and he did not feel that the Council should vote to go away from these historical landing allocations. A. Conti of the Marine Trades Association stated again that they supported option 3 as the most equitable way of allocating the summer flounder quota for next year. J. Reitsma asked G. Powers if the aggregate landings discussion was legally prohibited from being discussed at this time. G. Powers stated that the public hearing notice was written broadly enough to allow for this discussion to take place, even though it was not presented formally at the public hearing. **D. Preble made a motion to adopt option 3 and alternative 1 which was the 80,000 pound research set aside during the winter 1 period. S. Medeiros seconded the motion.** R. Boragine stated that industry did not support the research set aside because they were given no data as to how this would benefit the industry. He then restated that he did not support option 3. G. Allen stated that he did not support the research set aside because it had to come out of the state quota. S. Macinko asked M. Gibson if the 29% that the DFW proposed in their option (option 2) was not fully consumed, would this excess quota roll into the next sub period? M. Gibson stated that it would be equally divided into the remaining sub periods of the same year. S. Macinko stated that he understood the math provided for option 2 but did not feel there was any mathematical basis presented for option 3. S. Medeiros and R. Boragine discussed the pros and cons of the research set aside once again and, convinced by R. Boragine's argument, stated that he and D. Preble could amend their motion. **Due to the compelling arguments, D. Preble amended his motion. The motion on the table was now to adopt option 3 without alternative 1. S. Medeiros seconded the amended motion. The Council voted 3 for the motion and 3 against the motion. The Chairman declined to break the tie**

by voting. The motion did not pass. S. Macinko made a motion to adopt option 2 without alternative 1. The motion was seconded by G. Allen. The Council voted 5 for the motion and 1 against the motion. The motion passed.

The next slide was a proposal to receive public comments on the DEM proposed Management Plans for the Shellfish, Finfish, and Crustacean sectors. There were no public comments presented at the public hearing. R. Boragine stated his comments were concerning the licensing entrance/exit ratios. R. Boragine stated that he felt it was not a good idea to begin giving out any new licenses at this time because we do not have a good handle on effort yet. **R. Boragine made a motion to stay at status quo with regard to the license regulations, in other words no entrance/exit ratios should be imposed at this point in time. G. Allen seconded the motion.** There was further discussion on the motion. J. King on behalf of the Rhode Island Shellfisherman's Association stated that they supported entrance/exit ratios but with some modifications. Their recommendations were to allow student licenses, at the end of their eligibility, to upgrade to either a basic harvest shellfish license or a full endorsement license as long as they can demonstrate participation. Due to the entrance of these students, they felt that an entrance/exit ratio of 3 to 1 would be more appropriate. J. Reitsma stated that they would deal with the motion that was on the table but would go back to the student licensing afterwards. D. Preble stated that he was also uncomfortable with any entrance/exit ratios because he too felt we did not have a good handle on effort but posed the question to M. Gibson as to when we would have a better handle on effort. M. Gibson stated that even under the current licensing regime it will be difficult to ascertain effort but it may be possible by the end of next year. **The Council unanimously approved the motion as proposed by R. Boragine.**

The next slide was a proposal to receive public comments on amendments to the commercial fishing licensing regulations regarding the availability of licenses and endorsements in 2004. Several comments were given at the public hearing. All of these comments were included in the Public Hearing Comments document which had been handed out to the Council before the meeting. The slide gave a list of the major changes to the licensing regulations. J. Reitsma stated that they should revisit J. Kings student license proposal before they went into this list. He went on to state that automatically allowing student licenses to become full endorsement licenses would not be possible because there are no constraints on entrance into the fishery. However, J. Reitsma stated that going from a student license to a basic harvest license with some stipulations for proving their participation in the fishery would be more acceptable. **R. Boragine made a motion to allow anyone who has a student license that is about to expire to continue fishing on that student license for one year until this situation is resolved. Due to the uncertainty with statutory rules on student licenses, R. Boragine withdrew his motion.** The discussion now went in to the list of major changes presented on the slide. The change in language regarding the over 64 shellfish license was changed to 65 and over. This was brought up by J. King and he stated he did not support this. B. Ballou pointed out that there was an error in the wording on the slide and in the summary document. The change was in language only and not in substance. **R. Boragine made a motion to change the license commonly referred to as "over 64" to "65 and over"**

and to omit the ratios. The motion was seconded by S. Medeiros. The Council unanimously approved the motion. S. Macinko made a motion to accept all of the changes sited in the list presented to the Council. G. Allen seconded the motion. R. Boragine took issue with the proposed definition change for “actively fished” and “transaction record”. R. Boragine made a motion to tasked DEM to look in to these definitions before the Council adopts these definition changes. S. Medeiros seconded the motion. The Council unanimously voted to approve the motion.

The chairman made a motion to adjourn the meeting. It was seconded and unanimously approved.

Jason E. McNamee, Recording Secretary