

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
December 1, 2008 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI

RIMFC Members Present: S. Macinko J. King, S. Parente, R. Hittinger, C. Anderson,
K Ketcham, D. Preble, S. Medeiros

Chairperson: M. Gibson

RIDEM F&W Staff: N. Scarduzio, D. Erkan

DEM Staff: R. Ballou, G. Powers, Larry Mouradjian

DEM Enforcement: S. Hall

Public: 35 people attended

M. Gibson called the meeting to order. He asked if there were any changes or adjustments to make to the agenda. S. Parente asked if he could make a statement relative to a recent newspaper article that appeared in the Narragansett Times on November 28, 2008. M. Gibson suggested this could be taken up under the public comment section. Gibson asked if there were any other issues from Council members relative to the agenda. Hearing none, he asked for a motion to approve the agenda. **J. King made a motion to approve the agenda. Gibson asked if there were any objections to approving the agenda. Hearing none, the December 1, 2008, agenda was approved.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the November 3, 2008, meeting. Gibson asked if there were any objections to approving the minutes. Gibson asked if there was a motion to approve the minutes. **J. King made a motion to approve the minutes as written. R. Hittinger seconded the motion. Gibson asked if there were any objections to approving the minutes. Hearing no objections, the minutes from the November 3, 2008 Council meeting were approved as written.**

Public Comments

S. Parente explained there was an article in the Narragansett Time written by M. Souza regarding the public hearing held on November 13, 2008. He commented that in the article he was misunderstood, misidentified, and/or misquoted relative to the role of a Council member at a public hearing. He went on to outline some misquotes in the article. He clarified his conversation with M. Souza indicating there was no requirement for a Council member to sit with the Hearing Officer at a public meeting. Parente explained he was sitting in the audience the night of the public hearing because he was representing the RICRRA and would not have been able to make comments on their behalf if he was sitting at the front table. There were a few other comments that S. Parente made to clarify what was misstated in the article. M. Gibson responded that he was disappointed in the article as well.

G. Duckworth brought up his concerns regarding the RI monkfish and codfish fisheries. He pointed out that RI was not in line with our neighboring states. He explained this was an extreme economic disadvantage to RI fishermen, and requested this be addressed. His second concern was for all SKYMATE users. He outlined potential problems with the system and handed information to the Council Chair on this subject. He felt this was important to let users know about some potential problems with the system that could end up in fines.

I. Parente also wanted to express his concerns for the cod and monkfish fisheries. He wanted to see the Federal limits for cod follow what had been done with monkfish, where they could also fish in state waters as long as they were on DAS regardless of what the state limit was. He indicated it was a glitch and never intended to happen and he would like to see it straighten out.

New Business

Council recommendations on November 13, 2008 Public hearing

Summer flounder quota management proposals:

S. Parent made a motion to recommend to the Director to remain at status quo for 2009.

S. Medeiros seconded the motion. The Council voted unanimously to approve the motion.

There was no Council discussion. There were audience comments in favor of remaining at status quo however; a few individuals would prefer not to have Friday and Saturday closures during the summer sub period.

Proposal to eliminate the summer flounder call-in requirement for state water fishers who are not fishing pursuant to the RI summer flounder exemption certificate program or for all fishers:

D. Preble made a motion to recommend to the Director to adopt option 2, which was to eliminate the summer flounder call-in requirement for all fishers. R. Hittinger seconded the motion. The Council voted unanimously to approve the motion.

There was no Council discussion. S. Hall, representing the DEM, Division of Law Enforcement, indicated they were in favor of the motion for option 2. There was no opposition from the audience on the motion.

Proposal to establish consistency between State and Federal regulations regarding the transfer of summer flounder exemption certificates between vessels:

K. Ketcham made a motion to recommend to the Director to adopt language to mirror the Federal regulations as intended by the Division. J. King seconded the motion.

K. Ketcham was not sure if net tonnage was included in the Federal regulations he thought it was just gross tonnage. He wanted the language to mirror the Federal regulations

I. Parente stated that both net and gross tonnage were included in the Federal regulations.

The Council voted unanimously to approve the motion to adopt language to mirror the Federal regulations.

Scup quota management proposals:

K. Ketcham made a motion to recommend to the Director to remain at status quo for 2009. D. Preble seconded the motion.

S. Parente stated he supported status quo for 2009 however, going forward he thought they should consider moving more quota from the May/June period into the July/September and September/October periods, also look at the allocation percentages for the floating fish trap and general categories.

K. Ketcham commented that as far as the state goes, it does not matter what RI does but as far as the Federal government goes, they know that P. Kurkel will shut down the scup fishery sometime during the end of May until November 1st because the Federal quo would be caught. If they do not catch their share of the Federal quota and they do not show their catch over a number of years RI would lose the quota. Then it would be lost forever.

It was determined by the Council that reallocation of quota should be reviewed at the advisory panel level for 2010.

J. Carvalho stated that the aggregate program did not help the fishery and he was opposed to the program for the summer scup fishery.

I. Parente agreed with K. Ketcham, and supported staying at status quo.

The Council voted unanimously to approve the motion to recommend to the Director to remain at status quo for 2009.

Black sea bass quota management proposals:

S. Parente stated he opposed options 2 and 3 and only supported option 1, which was to remain at status quo. He was not in favor of the Friday, Saturday, and Sunday closure days, he felt this discriminated against the rod and reel fishers.

K. Ketcham commented that since having the closed days was not a popular option he suggested altering option 2 by having an aggregate program with no closed days.

R. Hittinger suggested that status quo would be the more acceptable option since they did not have any further feedback for the scup/black sea bass AP. He recommended going forward with status quo.

J. King recommended going forward with status quo but wanted the AP to discuss the increase in minimum fish size in the future..

J. King made a motion to recommend option 1 to the Director to remain at status quo for 2009. R. Hittinger seconded the motion.

I. Parente agreed with K. Ketcham, which was option 2, the aggregate program with no closed days. He stated this would give them the most flexibility.

G. Mataronas commented that he supported status quo however, he could see where an aggregate program would work for some fishermen. He was also in support of increasing the minimum size to twelve inches.

J. Grant supported option 2 the aggregate program with the closure days, but if the Council went with status quo he wanted the May sub period to remain at 100 pounds per day,

J. Carvalho stated he was opposed to the aggregate program. C. Brown was in agreement with J. Carvalho.

K. Ketcham indicated that RI quota for black sea bass would be about half of what it was last year so even if we cut the daily possession limits in half we would still have to close the fishery down.

J. King may an amendment to his motion to recommend option 1 to the Director but adopt the following changes: adjust the possession limits for the January/April period to 750 lbs/day, and the November/December period to 250 lbs/day, and not go below 100 lbs/day in any of the sub periods. The Council voted (6) six in favor (J. King, S. Medeiros, S. Parente, S. Macinko, D. Preble, R. Hittinger) (2) two opposed (K. Ketcham, C. Anderson), the motion passed.

Proposal for a summer flounder sector allocation pilot program to be implemented for January 2009 and run for at least a period of one year:

D. Preble made a motion to recommend to the Director to adopt a summer flounder sector allocation pilot program to be implemented for January 2009 and run for at least a period of one year. J. King seconded the motion.

K. Ketcham recused himself from voting on this issue.

There was Council discussion about the proposal.

J. King suggested that the following items be incorporated into the sector proposal; there should be a dockside official present when landing, VMS on every sector vessel, observer coverage on all sector vessels, cameras should be on all sector vessels, there should be a 5 to 10 percent set aside, keep all fish 14 inches in length or greater, and control dates need to be adjusted in time, no selling of earned quota by anyone to anyone, should be consistent with other management plans in other states and matched with Federal plans, and no violations for the past three years to be in a sector.

S. Parente made an alternate motion to recommend to the Director that any consideration of a sector allocation for summer flounder be postponed for one year, but with continued discussions about the issue. S. Medeiros seconded the motion.

R. Hittinger stated what he felt was positive about the sector allocation proposal was that it aimed at reducing discards and that the Council needed to work toward reducing discards. He was in favor of a postponement so further discussions could continue.

I. Parente stated that he was opposed to the sector allocation proposal.

P. Duckworth was in favor of postponing the issue for a year and suggested the sector group approach the Federal government for a research set aside to conduct the pilot program.

H. Loftes stated that he was opposed to the sector allocation proposal and it should be postponed for at least a year.

K. Ketcham, speaking from the audience, clarified that the quota amount the sector had requested was the amount of fish the sector vessels had documented as being harvested over the previous five years. He indicated that the only reason the state wanted to use the new increased part of the RI quota so it would not set forth a closure date for others to enter into the same program. He indicated this was explained in a letter received from Roger Williams College. This was a way to allow the state to give a quota to the sector program with out penalizing any other vessels.

There were other comments made from the audience, which echoed what was stated at the public hearing.

S. Medeiros stated that another consideration to be concerned about was who would be paying for 100 percent observer coverage. He indicated he knew that DEM would not be in a position to accomplish this.

K. Ketcham indicated that the sector vessels had electronic logbooks on board their vessels, which recorded everything including locations fished. He also indicated that people from the NMFS would be on their vessels to monitor entries into logbooks. They still needed to look in to observer coverage.

S. Macinko was not comfortable not know what elements would be implemented from the DEM information introduced at the public hearing.

M Gibson called a vote on the motion to recommend to the Director that any consideration of a sector allocation for summer flounder be postponed for one year, but with continued discussions about the issue. The Council voted (4) four in favor to postpone (S. Medeiros, S. Parente, S. Macinko, R. Hittinger) (3) three opposed (J. King, D. Preble, C. Anderson), the motion to postpone for one year passed.

2009 Council Calendar- N. Scarduzio:

N. Scarduzio stated she had prepared a 2009 calendar for Council members to review. She reminded Council members that for 2009 we were trying to consolidate and reduce the number of Council meeting when possible. The Division had proposed five meetings for the year with the understanding to allow flexibility for additional meeting. She requested Council members to run through the calendar to see if there were any conflicts. Scarduzio suggested the members my not need a meeting in January and June, and for the months of February and May the meeting date may need to be moved to the second Monday of the month instead of the first Monday because of ASMFC meetings. It was suggested to move the February meeting to the second Monday of the month. There were no other comments from the Council.

Rewriting of Part 7 – Minimum Sizes of Fish/Shellfish – Marine Fisheries Regulation – B. Ballou:

M. Gibson explained that B. Ballou had done a lot of work on trying to clean up Part 7 of the regulations. B. Ballou indicated there were two documents that had been passed out to Council members; Part 7 of the regulations and an outline of what he would like to rewrite. He indicated that it was a 40-page document filled with redundancies, which made it very difficult to read.

Ballou explained he would like to streamline and consolidate the document. He referred to the outline to review some of the proposed changes. The document once rewritten would go to public hearing.

M. Gibson solicited Council members as to how they would like to proceed with the review of Part 7 relative to the advisory panel process. He wanted to know if the Council would like to have the IAC give input or some ad hoc group that combined other AP's.

B. Ballou indicated that eventually they would like to consolidate all the finfish in one part, crustacean in a separate part and shellfish. He thought the Department might be able to take 15 parts and boil them down to four parts.

M. Gibson asked for Council comments.

C. Karp requested that the draft of Part 7 be posted on line so that the public could give comment.

G. Carvalho also requested that it be posted online and stated he was encourage that the Department has taken the initiative to try to consolidate and simplify the regulations. He would like to see the same thing happen in statute with Title 20.

B. Ballou stated that is was not currently on line but it could be posted.

S. Medeiros indicated that he would like to review the document and give feedback at the next Council meeting.

C. Karp suggested that the public be allowed to be involved in the development of the document.

S. Medeiros explained that all AP meetings were open to the public and this was the avenue the Council used to solicit input from the public, as well as industry.

There was further discussion about making material available for public review and the opportunities afforded to the public to participate in RIMFC AP meetings.

B. Ballou concluded the discussion by stating that the draft of Part 7 would be posted on line and the issue would be revisited at the next Council meeting.

Old Business

Shellfish Advisory Panel (SAP) action items from 10/16/08 meeting – J. King:

J. King suggested moving the Quonochontaug Pond oyster restoration back to the SAP for further discussion.

D. Erkan indicated he could simplify the concerns of the SAP members and felt the item may not need to return to the SAP. He explained there were concerns about the proposed number of acres utilized for the restoration. He had recalculated the area using a more precise method and found the acreage to be 14 instead of 23 acres, which he had initially proposed. The SAP members had voted to reduce the size of the restoration area and to reduce the number of years from the proposed 5-year pond-wide closure on oyster harvest to a 3-year pond-wide closure on oyster harvest. Erkan explained that the SAP members were not in favor of closing off the area to oyster

shellfishing for a 5 year period, however, the Division felt there was a need to close the pond to oyster harvesting for 5 years in order to establishment a mature population of oysters and allow recruitment of juvenile oysters throughout the pond. The oysters that remain after the 5-year period would be more likely to survive diseases and contribute to the establishment of more disease-resistant oysters. Erkan also explained that SAFIS data indicated there had only been 150 individual oysters landed in the last three years in Quonochontaug Pond.

M. Gibson asked if this was a time sensitive issue. D. Erkan commented that the project called to have the pond closed by January 1, 2009 in order for the oyster restoration efforts that were waiting in the wings be able to place oysters in the area. Roger Williams University also proposed placing small numbers of oyster in the pond and were planning for a January 1, pond closure for a 5-year duration.

M. Gibson indicated there would not be enough time if this were referred back to the SAP to make a January 1 effective date.

J. King indicated he did not have any recommendations from industry even though the acreage had been reduced.

S. Medeiros asked if the pond was an actively fished area. D. Erkan commented there were no oysters that could be found in Quonochontaug Pond. He explained as the oysters recruit in the pond the Division does not want the oysters they plant to be harvested immediately after they reach legal size which is in about three years, the Division would like them to remain to spawn with in the 5-year period. Erkan stated if everything were successful, the intent would be to reopen the fishery in 5-years.

There was further discussion about the length of time. The shellfishermen wanted access in 3-years and the Division wanted to wait 5-years until the oysters had an opportunity to mature and spawn.

S. Medeiros suggested allowing the proposal to go forward with a 3-year period, and as the project progressed, in one to two years when a stock status had been completed then they could revisit the issue and possibly recommend extending the period for another two years.

D. Erkan commented it was the Division's goal to recognize there was a disease problem statewide, not just in the pond. All oysters that demonstrate some disease resistance are the ones they would like to remain and spawn. Not every oyster demonstrates resistance and it would be beneficial to have it remain instead of having it harvested after 3-years. It would be better to have the oysters spawn a couple of times before it was harvested. Additionally, the expense of the project and number of other organizations involved would make it more cost effective if it were closed for the 5-years. He also indicated the Division did not feel they would be displacing shellfishermen from harvesting oysters because there were none to harvest.

J. King made a motion to recommend to the Director to go forward with the Quonochontaug Pond oyster restoration project for a 3-year period. Oyster harvest in Quonochontaug Pond in its entirety would be prohibited from January 1, 2009 to December 31, 2011 (3 years). K. Ketcham seconded the motion with an amendment to the motion. At the end of the 3-year period, the Council would receive a status report from Division staff and reevaluate whether to extend the closure period for another two years or

not. The Council voted (7) in favor (S. Medeiros, S. Parente, R. Hittinger, J. King, D. Preble, C. Anderson, K. Ketcham) and (1) abstained (S. Macinko), the motion passed.

J. King stated the next action item pertained to the February 2009 openings for the High Banks Shellfish Management Area. Currently it is open Monday, Wednesday, and Friday for four hours per opening. There were two proposals for 2009 that came from the SAP, the first was for seven days per week (Sunday through Saturday) from sunrise to sunset at a 3 bushel possession limit) until April 30, 2009. The second proposal was for five days per week (Monday through Friday) from sunrise to sunset at 3 bushel possession limit) until April 30, 2009.

There was Council discussion about the area being open from sunrise to sunset.

S. Hall expressed the difficulty Law Enforcement would have with trying to monitor possession limits during this timeframe. He also stated, if approved it would become part of the free and common fisheries.

D. Erkan stated this area was one of the areas that received transplanted quahaugs that was funded out of the 804 account and the Allen Harbor damage fund. He indicated the Division's position was that fishermen had access during the winter months and those quahaugs that were not harvested remained as broodstock. Those quahaugs were intended to contribute to recruitment to the adjacent areas as well as the beds themselves. He was concerned that long-term openings of that area would result in lower density and not as much recruitment potential.

There were audience comments explaining their need to have access to this area.

J. King made a motion to recommend to the Director to go forward with the High Banks management proposal for five days per week (Monday, through Friday) from sunrise to sunset at 3 bushel possession limit) until April 30, 2009. D. Preble Seconded the motion.

There was no Council discussion.

C. Karp asked how would the Council know if this would work or not. M. Gibson explained the Division conducted shellfish surveys in the area, and the number of pounds place in the area from the transplant is a known factor.

The Council voted unanimously to approve the motion to recommend to the Director to go forward with the High Banks management proposal for five days per week (Monday, through Friday) from sunrise to sunset at 3 bushel possession limit) until April 30, 2009.

J. King went on to the next action item, which was the March 2009 openings for the Greenwich Bay Shellfish Management Area. The proposal was for a start date of March 1, 2009 for three days per week (Monday, Wednesday, and Friday) for three hours each opening, and from April 1 through April 30, 2009, it would be three days per week (Monday, Wednesday, and Friday) for four hours per week.

J. King made a motion to recommend to the Director to go forward with the March 2009 openings for the Greenwich Bay Shellfish Management Area; March 1, 2009 for three days per week (Monday, Wednesday, and Friday) for three hours each opening with a 3 bushel possession limit, and from April 1 through April 30, 2009, it would be three days per week

(Monday, Wednesday, and Friday) for four hours per week with a 3 bushel possession limit. S. Medeiros seconded the motion.

M. Gibson asked D. Erkan how these changes stand in terms of conservation equivalency from what was in place now. D. Erkan indicated he would have to calculate it out, however the days in March have been reduced so it would be less hours. He indicated that as long as the effort was not increased it did not matter what days they fished. This proposal was more conservative.

There was no Council discussion on the motion.

M. McGivney explained how they came up the modified schedule.

The Council voted unanimously to approve the motion to recommend to the Director to go forward with March 1, 2009, three days per week (Monday, Wednesday, and Friday) for three hours each opening with a 3 bushel possession limit, and from April 1 through April 30, 2009, it would be three days per week (Monday, Wednesday, and Friday) for four hours per week with a 3 bushel possession limit.

J. King went on to the next action item, which pertaining to the 2009 shellfish transplant schedule. They had planned for a five-week transplant schedule. They proposed to do the transplants in the coves and needed to close the High Banks, Bissel Cove, Fox Island, and Bristol Harbor Shellfish Management Areas on April 24, 2009, in order to accept transplanted shellfish on either April 28 or April 30.

J. King made a motion to recommend to the Director to approve the April 24, 2009, closure of the High Banks, Bissel Cove, Fox Island, and Bristol Harbor Shellfish Management Areas. C. Anderson seconded the motion.

There was no Council discussion on the motion. There was no audience discussion on the motion.

The Council voted unanimously to approve the motion to recommend to the Director to approve the April 24, 2009, closure of the High Banks, Bissel Cove, Fox Island, and Bristol Harbor Shellfish Management Areas.

J. King went on to the last action item, pertaining to the pre-Memorial Day and pre-Fourth of July openings as make up days from the winter. He proposed opening days on April 27, 29, and May 1, 2009 but if rain or pollution closures occur it would then revert to the pre-Fourth of July openings (June 29 through July 3, 2009), for four hours from 8:00 AM to 12 Noon.

J. King made a motion to recommend to the Director to approve the pre-Memorial Day and pre-Fourth of July openings as make up days from the winter. He proposed opening days on April 27, 29, and May 1, 2009 but if rain or pollution closures occur it would then revert to the pre-Fourth of July openings (June 29 through July 3, 2009), for four hours from 8:00 AM to 12 Noon. D. Preble seconded the motion.

There was no Council discussion on the motion.

The Council voted unanimously to approve the motion to recommend to the Director to approve the pre-Memorial Day and pre-Fourth of July openings as make up days from the

winter. He proposed opening days on April 27, 29, and May 1, 2009 but if rain of pollution closures occur it would then revert to the pre-Fourth of July openings (June 29 through July 3, 2009), for four hours from 8:00 AM to 12 Noon.

Discussion on revised Species Advisory Panel Policy – M. Gibson:

M Gibson indicated the Council had some updated language suggestions on how to deal with AP members who acquired violations while on a panel and for meeting a quorum.

B. Ballou outlined there were two issues to be reviewed. One was the quorum issue and the Department felt that was ready to be adopted however, the second issue regarding the AP members who incur violations while on a panel remained a work in progress. Based on discussion with G. Powers there was a need to further revise that section.

B. Ballou asked for clarification from the Council as to their intent, if they wanted any individual who incurs any penalty of any nature to be removed from an AP. He needed direction from the Council as to what level or degree of infraction should an AP member be removed.

S. Medeiros stated he liked what was presented regarding how to handle violations.

B. Ballou suggested waiting for further legal review.

G. Powers indicated there might be a problem procedurally, and explained concerns about out-of-state penalties unknown to the State of RI. He suggested removing the AP member by action from the Council.

D. Preble voiced concerns about the Council having that responsibility since they were of an advisory capacity to the Director.

S. Hall suggested that if Law Enforcement detected an individual with a violation, it might be more appropriate to have the Director notify the individual that they were being removed from an AP due to a fisheries related violation. S. Hall felt it would be very awkward for the Council to be reviewing the status of an individual for removal, as well as for the individual if they were present at the meeting.

Council members were in agreement with S. Hall, they felt the Director should send a letter notifying the individual. M. Gibson suggested this section needed more work. He indicated this would come back at another meeting.

S. Macinko questioned the quorum section and suggested that instead of having different guidelines for the IAC than the other AP's he indicated they should have the same guidelines for establishing a quorum.

J. King defended the language by pointing out the frequency of a lack of a quorum at AP meetings. In particular, when there was material that needs to be reviewed for quota management proposals that were time sensitive for public hearings and meeting regulation start dates.

C. Anderson stated he understood the problem of having a lack of a quorum at AP meetings and the need to obtain a consensus from the individuals who showed up.

K. Ketcham stated he preferred Chief Hall's suggestion to have the Director send a letter to a panel member with a penalty. He did not want to be in a position of being the judge or jury of an individual. He also wanted the AP policy document to come back as one package for review.

M. Gibson stated that a revised policy would come back for review at the next Council meeting.

Director's Roundtable

B. Ballou announced to individuals that there was an upcoming Director's roundtable meeting on December 18, 2008. He asked for suggestions for the agenda.

S. Medeiros suggested bring the AP quorum issue to the roundtable to solicit advice on how to handle lack of quorums.

K. Ketcham asked to have a discussion on why the state would like to repeal the summer flounder exemption certificate program.

C. Karp wanted to hear about the status of the ocean special area management plan relative to fish and wildlife, status on CRMC's aquaculture plan, and how to go forward with ecosystem based management instead of managing species by species.

J. King wanted a status report on the EEZ, the transiting issue.

G. Duckworth asked about the RI monkfish and codfish possession limits being in line with neighboring states.

M. Gibson stated G. Duckworth's issues would be addressed at the upcoming groundfish AP on December 3, 2008.

ASMFC - NEMFC Updates

NEMFC November meeting –M. Gibson:

M. Gibson stated that because of the late hour, he would not go through the minutes but they were included in each Council member's packet. He stated that Council members could review the information and if they had any questions to contact him.

The Chairman adjourned the meeting.

Nancy E. Scarduzio, Recording Secretary