

RHODE ISLAND MARINE FISHERIES COUNCIL
Summary of Meeting Minutes
December 5, 2011 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI

RIMFC Members Present: C. Anderson, R. Bellavance, K. Booth, R. Hittinger J. Grant,
D. Monti, C. Powell, and W. Mackintosh, III

RIMFC Members Absent: None

Chairperson: B. Ballou

RIDEM DFW Staff: N. Scarduzio, J. McNamee, D. Costa, P. Duhamel, and M. Gibson

RIDEM Staff: L. Mouradjian and G. Powers,

DEM Law Enforcement: J. Poccia

Public: Approximately 38 people attended the meeting.

B. Ballou called the meeting to order. He asked if there were any modifications to the agenda. Hearing none, he asked if there were any objects to approving the agenda as written. **Hearing no objections, the December 5, 2011 Council agenda was approved as written.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the November 1, 2011, Council meeting; however, the minutes had not been included in the Council packets and therefore were not approved. B. Ballou stated the minutes from the November 1, 2011, Council meeting would be presented at the next Council meeting for approval.

Public Comments

There were no comments from the public.

At this point B. Ballou announced this would be the last meeting for Council member C. Anderson since he would be moving out of state to pursue other endeavors. Ballou thanked Anderson for his service on the Council.

Advisory Panel Reports:

Whelk Adhoc Committee meeting (11/29/2011) – J. Grant:

J. Grant reviewed the minutes from the meeting noting that M. Gibson gave an update on the stock status indicating the whelk fishery was currently on a downward trend. He explained that Gibson had stated we had reached a fishing mortality rate that will drive the population down to low abundance levels if it persisted. Grant also indicated the group continued their discussions on development of regulations for the whelk fishery.

M. Gibson stated the next step would be to consolidate the information from the recent AP meeting and the draft 2007 whelk regulations and advance a set of regulations through the public hearing process.

New Business

Fluke sector pilot program report and January symposium – B. Ballou:

B. Ballou indicated this item was placed on the agenda to provide context to the Council since one of the items the Council would be giving a recommendation on this evening was the termination of the fluke sector allocation pilot program. Ballou noted that the report staff had

been working on was completed and posted on the marine fisheries webpage.

M. Gibson noted there was a symposium planned for the middle of January where the Division was working with the URI Fisheries group to conduct a meeting about sector management in general. He also stated whatever outcome from this workshop there would also have to be an advisory panel and public hearing process.

Council recommendations on November 9, 2011 Public hearing items:

1) Commercial Summer flounder quota management proposals for 2012:

Proposal #1 – End the sector pilot program:

B. Ballou asked for the Division recommendation. M. Gibson stated that the Division supported terminating the trial sector pilot program.

C. Powell made a motion to recommend that the Director terminate the summer flounder sector allocation pilot program based on the Division recommendation. K. Booth seconded the motion.

There was no discussion by the Council or from the audience.

For the record, prior to a vote on the motion, Council member W. Mackintosh, III, recused himself from voting on this issue. B. Ballou stated that for the record W. Mackintosh, III, had filed a recusal form with DEM Legal Services and removed himself from the Council table and seated himself in the audience while the item was discussed and voted on.

C. Anderson expressed concerns as to why the program was being terminated. He felt this was eliminating opportunities for the generation of income without having another plan in place.

B. Ballou asked for the vote. The Council voted in favor to recommend that the Director terminate the summer flounder sector allocation pilot program; five in favor: (C. Powell, K. Booth, J. Grant, D. Monti, R. Hittinger); opposed: (none); two abstained:(C. Anderson, R. Bellavance); and one recusal: (W. Mackintosh, III). The motion passed 5/0/2.

Proposal #2 – Increase Winter 1 possession limits:

M Gibson stated the Division recommended staying with the status quo given that at this time we do not know what the final quota will be. We do not have any basis to make any changes at this point. He noted the Division had sufficient authority to increase or decrease allowances from the starting limits in accordance with the quota and catch rates.

C. Anderson made a motion to recommend that the Director adopt an increase in the Winter 1 sub period starting possession limits to 500 pounds per day or for the aggregate period 3,500 pounds per week. J. Grant seconded the motion.

There was further discussion by the Council on the motion to make sure there was no downside to making an increase. There were no comments made from the audience.

B. Ballou asked for the vote. The Council voted in favor to recommend that the Director adopt an increase in the Winter 1 sub period starting possession limits to 500 pounds per day or for the aggregate period 3,500 pounds per week. The vote was six in favor: (K. Booth, J. Grant, D. Monti, C. Anderson, R. Bellavance, W. Mackintosh, III); one opposed: (C. Powell); and one abstained: (R. Hittinger). The motion passed 6/1/1.

Proposal #3 – e-Logbook allowance:

M. Gibson stated the Division supported this proposal.

R. Hittinger made a motion to recommend that the Director adopt the proposal for the voluntary allowance of electronic logbook reporting. C. Powell seconded the motion.

K. Booth stated he was in support of this proposal but also suggested that the concerns the Division of Law Enforcement might have be addressed so that a format could allow them to do their job at the same time. He pointed out that many times the issue for enforcement is that they do not have access to the information to make the decisions they need to make. He emphasized the importance for enforce staff to have instantaneous information and the need to have devices such as smart phones to access internet data.

B. Ballou asked for the vote. The Council voted unanimously to recommend that the Director adopt the voluntary allowance of electronic logbook reporting. The vote was eight in favor: (K. Booth, J. Grant, D. Monti, C. Anderson, R. Bellavance, W. Mackintosh, III, C. Powell, R. Hittinger). The motion passed 8/0.

Proposal #4 – Remove Friday/Saturday closure:

K. Booth made a motion to recommend that the Director eliminate the Friday and Saturday closures. W. Mackintosh, III seconded the motion.

R. Hittinger voiced concerns about recent developments pertaining to the fluke stock status and that it looked like we were going to take a reduction in the quota for next year. He felt we would end up having to close the season at some point during the summer. He stated he would be against opening both Friday and Saturday. He asked the Council to consider opening Friday and keeping Saturday closed since the stock status was uncertain.

M. Gibson stated the Division supported eliminating the Friday and Saturday closures. He noted the Division had sufficient authority in the setting of starting possession limits and management of those possession limits that there was no need for an additional landings brake, our authority to change possession limits will suffice. Further, a 7-day fishing week provides for greater business flexibility. Finally, although a concern of anglers, there was no evidence that 7-day commercial fishing impacts catch rates in the recreational fishery.

D. Monti, speaking on behalf of the recreational sector, supported having at least a one-day closure and stated he supported having a Saturday closure.

K. Booth reviewed the history of where the closures came from pointing out that the quota had been restored from where we were in the past so there was no need for the closures.

There was further debate by the Council about the recreational and commercial concerns for the closures. Members from the audience from the commercial sector spoke in favor of removing the Friday and Saturday closures. Members from the audience from the recreational sector spoke in favor of maintaining at least a Saturday closure.

B. Ballou asked for the vote. The Council voted in favor to recommend that the Director eliminate the Friday and Saturday closures; five in favor: (C. Anderson, R. Bellavance, K. Booth, J. Grant, W. Mackintosh, III); opposed: two (D. Monti, R. Hittinger); and one abstained:(C. Powell). The motion passed 5/2/1.

Proposal #5 – Increase summer aggregate amount:

M. Gibson stated the Division supported this proposal and it made sense based on the Council's action to remove the Friday and Saturday closures.

J. Grant made a motion if the Director adopted the removal of the Friday and Saturday closures, then he would recommend that the Director adopt the proposed increase for the summer aggregate possession limit of 700 pounds per week. W. Mackintosh, III seconded the motion.

There was Council discussion for clarification that if the daily possession limit were adjusted downward the aggregate possession limit would also be adjusted downward. M. Gibson confirmed that rational.

B. Ballou asked for the vote. The Council voted in favor to recommend that the Director adopt the increased summer aggregate possession limit of 700 pounds per week contingent upon the Director also adopting the removal of the Friday and Saturday closures. The vote was seven in favor: (K. Booth, J. Grant, D. Monti, C. Anderson, R. Bellavance, W. Mackintosh, III, C. Powell); and one opposed: (R. Hittinger). The motion passed 7/1.

Proposal #6 – Increase Fall sub period possession limit:

M. Gibson stated the Division has taken a status quo position on all of these possession limits given the uncertainty of what the final quota would be. He noted the Division was not totally opposed to the increase to 700 pounds but preferred to wait and see what the final numbers would be.

J. Grant made a motion to recommend that the Director adopt an increase for the Winter 2 sub period starting possession limits of 700 pounds per day. C. Anderson seconded the motion.

There was Council discussion to confirm that the Division had the authority to make changes to the possession limit if the limit needed to be adjusted downward. There were no comments from the audience on the motion.

B. Ballou asked for the vote. The Council voted in favor to recommend that the Director adopt an increase for the Winter 2 sub period starting possession limits to 700 pounds per day. The vote was seven in favor: (K. Booth, J. Grant, D. Monti, C. Anderson, R. Bellavance, W. Mackintosh, III, C. Powell); none opposed; and one abstained: (R. Hittinger). The motion passed 7/0/1.

Proposal #7 – Increase non-exemption certificate holder possession limit:

M. Gibson stated the Division supported an increase to 500 pounds and explained that the exemption certificate program had outlived its usefulness and had become obsolete. He stated the threshold should go up so that the opportunity for larger catches could be more equitably shared by the current industry and not be based on the industry that existed 20 years ago.

K. Booth made a motion to have the possession limit for non-holders of summer flounder exemption certificates remain at status quo (200 pounds per day) until such time when the RIMFC Summer Flounder Advisory Panel could meet to discuss and review the entire fluke exemption certificate program. R. Bellavance seconded the motion.

Council members were in agreement not to take any action until the fluke AP could review the entire program. Audience members were in support of the Council motion.

B. Ballou asked for the vote. The Council voted unanimously to recommend that the Director remain at status quo (200 pounds per day) for non-holders of summer flounder exemption certificates until such time when the RIMFC Summer Flounder Advisory Panel could meet to discuss and review the entire fluke exemption certificate program. The vote was eight in favor: (K. Booth, J. Grant, D. Monti, C. Anderson, R. Bellavance, W. Mackintosh, III, C. Powell, R. Hittinger). The motion passed 8/0.

B. Ballou stated this issue would then move to the fluke AP for review and discussion.

2) Commercial Scup quota management proposals for 2012:

Division recommendations: to increase starting possession limits of 20,000 lbs/week for May/July/Sept sub periods, remove the winter 1 scup aggregate program to allow the full harvest limit of 50,000lbs/day, allow for electronic logbook reporting, and establish Division of Fish & Wildlife authority to move quota from the general category fishery to the floating fish trap sector:

M. Gibson stated the Division recommended increasing to 50,000 lbs/day in the winter period, and they were recommending 5,000 lbs/week in the summer periods. He commented that the slide showing 20,000 lbs/week was an old number and reflected an initial model calculation that the Division has since made a correction.

N. Scarduzio noted there was also a technical change for the November federal sub period, the word “day”, had been inadvertently left out of regulation and would be inserted.

The Council had no objection to the Division making this technical change.

R. Hittinger commented on the disproportions between the recreational sector and the commercial sector. Where the recreational sector had been limited or cut back to 10-fish/person/day with a size increase to 10-1/2 inches. He stated it pointed to extreme regulations and restrictions on recreational fishing. He noted the irony in 50,000 lbs for one commercial vessel and wanted to point out the imbalance in this fishery.

C. Anderson made a motion to recommend that the Director adopt an increase in the scup starting possession limits of 5,000 lbs/week for the May/July/Sept sub periods, remove the winter 1 scup aggregate program to allow the full harvest limit of 50,000lbs/day, and make the technical change in the federal period. R. Bellavance seconded the motion.

J. Carvalho voiced concerns at setting the limit at 5,000 pounds during the summer period he felt this may not be high enough.

B. Ballou asked for the vote. The Council voted unanimously to recommend that the Director adopt an increase in the scup commercial starting possession limits of 5,000 lbs/week for the May/July/Sept sub periods, remove the winter 1 scup aggregate program to allow the full harvest limit of 50,000lbs/day, and make the necessary technical change in the federal period. The vote was eight in favor: (K. Booth, J. Grant, D. Monti, C. Anderson, R. Bellavance, W. Mackintosh, III, C. Powell, R. Hittinger). The motion passed 8/0.

Allow for electronic logbook reporting:

M. Gibson explained this was the same provision as summer flounder and the Division was in support of this proposal.

D. Monti made a motion to recommend that the Director adopt the proposal for the voluntary allowance of electronic logbook reporting for scup. R. Bellavance seconded the motion.

There was Council discussion as to whether this provision could be applied to all fish species. It was determined that because of the format of the current regulations the provision would have to be applied for individual species. There were no comments made from the audience.

B. Ballou asked for the vote. The Council voted unanimously to recommend that the Director adopt the voluntary allowance of electronic logbook reporting for scup. The vote was eight in favor: (K. Booth, J. Grant, D. Monti, C. Anderson, R. Bellavance, W. Mackintosh, III, C. Powell, R. Hittinger). The motion passed 8/0.

Establish Division of Fish & Wildlife authority to move quota from the general category fishery to the floating fish trap sector:

M. Gibson stated the Division was in support of this proposal explaining the timing and spatial distribution of scup migrations varies considerably from year to year. Given the unpredictability, it was critical that the Division have the authority to transfer quota between the trap sector and general category.

D. Monti made a motion to recommend that the Director adopt language that would establish the authority for the Division of Fish & Wildlife to move quota from the scup general category fishery to the scup floating fish trap sector in order to effectively manage the scup quota. C. Powell seconded the motion.

There was no discussion on the motion by the Council.

J. Carvalho stated he was opposed to this proposal and felt it was unnecessary.

Based on J. Carvalho's concerns, J. Grant offered a friendly amendment to the motion. He suggested that any quota that was rolled over from the general category to the floating fish traps sector could not exceed the amount that had already been transferred from the floating fish traps sector into the general category. He explained they could then get back some of what they had transferred if they needed it in the fall. Both D. Monti and C. Powell accepted the friendly amendment.

M. Gibson indicated he agreed with J. Grant this was what the Division would like to have the authority to accomplish.

The Council was in agreement with the motion and need for the Division to be able to move quota back and forth. J. Carvalho stated based on the friendly amendment, the discussion, and the Division's sincere response, he withdrew his objection to the proposal.

B. Ballou asked for the vote. The Council voted unanimously to recommend that the Director adopt language that would establish the authority for the Division of Fish & Wildlife to move quota from the scup general category fishery to the scup floating fish trap

sector in order to effectively manage the scup quota. Also, to include a friendly amendment that any quota that was rolled over from the general category to the floating fish trap sector could not exceed the amount that had already been transferred from the floating fish trap sector into the general category. The vote was eight in favor: (K. Booth, J. Grant, D. Monti, C. Anderson, R. Bellavance, W. Mackintosh, III, C. Powell, R. Hittinger). The motion passed 8/0.

3) Commercial Black sea bass quota management proposals for 2012:

M. Gibson state the Division supported status quo explaining it was not clear yet if the sea bass quota would be increased for 2012. Should that occur, the Division had the authority to increase possession limits after sub periods commenced.

C. Powell made a motion to recommend that the Director remain at status quo (50 pounds during the summer months) based on current stock status of the fishery. J. Grant seconded the motion.

K. Booth stated he was in support of option #2 with 25 pounds per day during the summer months. J. Grant stated he supported status quo at this point even though he would like an aggregate program. R. Hittinger expressed concerns that the fishery was closed because of discards. The Council and the audience discussed whether the fishery was a bycatch or directed fishery.

B. Ballou asked for the vote. The Council voted in favor to recommend that the Director remain at status quo (50 pounds per day during the summer months) based on current stock status of the fishery. The vote was five in favor: (J. Grant, D. Monti, C. Anderson, W. Mackintosh, III, C. Powell); one opposed: (R. Bellavance); and two abstained: (R. Hittinger, K. Booth). The motion passed 5/1/2.

4) Amendments to the Cod Management Plan to allow for a fillet law:

Staff from the Division of Law Enforcement indicated they were in support of any type of regulation that would set a minimum size fillet, something that could be measured and enforced.

M. Gibson stated the Division was recommending that the minimum fillet size for cod be set at 14 inches with a patch of skin for identification purposes. Noting available data indicated that most cod yielding a 14 inch fillet would be 22 inches or larger.

The Council discussed the issues revolving around try to keep carcasses or having a minimum fillet size. R. Bellavance was opposed to implementing a fillet law.

R. Bellavance made a motion to recommend that the Director remain at status quo. There was no seconded to the motion therefore the motion died for lack of a seconded.

R. Hittinger made a motion to recommend that the Director adopt a fillet for cod with retention of the carcass. D. Monti seconded the motion.

F. Blount stated that leaving a patch of skin was already a federal law so any boat fishing federally already had to do that. He supported the Division recommendation for a 14-inch fillet. He stated he supported option #5, a 14-inch fillet. He suggested putting this in place on a trial bases from January 1 through April 30th.

C. Powell suggested putting in a sunset clause.

C. Anderson requested to amend the motion currently on the table (it was not a friendly amendment so it could be discussed separately). That in addition to option #3 (adopt a fillet for cod with retention of the carcass) boats be offered on a trip basis (the whole trip had to be one or the other) option #5, which was a 14-inch fillet. He noted you could land with some 14 inch fillets or you could land with some short fillets and some racks, but you needed to have all the racks.

B. Ballou clarified this would be a motion to add to the current motion and also, adopt option #5 (which was a 14-inch fillet) on a per trip basis. C. Powell seconded the motion. C. Powell requested a friendly amendment to add the sunset clause from January 1, 2012 through April 30, 2012.

D. Monti stated the motion was becoming very complex. There was further discussion about the motion. The concern was what to do with the cod carcasses.

B. Ballou further clarified the motion by stating - the motion was to recommend that the Director adopt option # 3 (adopt a fillet for cod with retention of the carcass) or option #5 (a 14-inch fillet) on a per trip basis which would be in effect from January 1, 2012 through April 30, 2012.

B. Ballou first asked for a vote on the amendment made by C. Anderson, which was to add option #5 (a 14-inch fillet) on a per trip basis which would be in effect from January 1, 2012 through April 30, 2012. The Council voted: six in favor, and two opposed. The motion passed 6/2.

K. Booth raised concerns as to whether enforcement would be able to enforce this motion, indicating there was no possession limit on cod and there could be an enormous amount of fillets and carcasses to match up.

B. Ballou asked for the vote on the motion to recommend adoption of option # 3 (allow filleting of cod with retention of the carcass) and option #5 (a 14-inch minimum fillet size) on a per trip basis, which would be in effect from January 1, 2012 through April 30, 2012. The Council voted six in favor: (J. Grant, D. Monti, C. Anderson, W. Mackintosh, III, C. Powell, R. Hittinger); one opposed: (R. Bellavance); and one abstained: (K. Booth). The motion passed 6/1/1.

Approval of two Summer Flounder Advisory Panel agendas – R. Hittinger:
The Council approved the agenda.

Approval of Scup/Black Sea Bass Advisory Panel agenda – W. Mackintosh, III:
The Council approved the agenda.

Approval of Tautog Advisory Panel agenda – R. Hittinger:
The Council approved the agenda.

Approval of Striped Bass Advisory Panel agenda – K. Booth:
The Council approved the agenda.

Approval of Menhaden Advisory Panel agenda – D. Monti:

The Council approved the agenda.

Approval of Industry Advisory Committee agenda –R. Bellavance:

R. Bellavance made the point that the “trap definition” item had already been heavily vetted through both an Adhoc committee and a Lobster AP meeting with reports issued by both those groups to the Council and wanted to know if the material was ready to be discussed by the Council instead of having another round of meetings. M. Gibson commented that he thought some of the other groups were reluctant to make any recommendations relative to other fisheries and sectors and the IAC would provide more representation with advice being rendered from each sector. R. Bellavance stated that was what the working group was for.

J. Grant stated the working group did a great job and we could probably work from that report without going to the IAC. J. Grant commented he thought the recommendations were done.

M. Gibson stated he did not think all the trap people had evaluated the report yet. It was decided to have the IAC meet to review the report. The Council approved the agenda for an IAC to convene to review the recommendations from the 4/21/2011 Trap Definition Working Group.

The Council approved the agenda.

Approval of Winter Flounder Advisory Panel agenda – C. Powell:

The Council approved the agenda.

J. Grant asked if the methods of mechanical harvest topic could be added to the already approved Shellfish AP meeting agenda. The Council approved the addition of this topic to the SAP agenda.

Proposed Council meeting schedule for 2012 – N. Scarduzio:

N. Scarduzio stated the Council needed to approve the 2012 Council meeting agenda, and once approved it would be posted to the open meetings webpage on the Secretary of State’s Office website to meet the open meetings requirement for this body. **D. Monti made a motion to approve the 2012 meeting schedule as submitted. J. Grant seconded the motion. The Council voted unanimously to approve the 2012 RIMFC meeting schedule as submitted. The motion passed 8/0.**

Old Business

Review of Advisory Panel Policy – B. Ballou/C. Powell:

Continued discussion, review, and consolidation of Advisory Panels and members – B. Ballou:

B. Ballou suggested combining both these topics for discussion. He reminded Council members of some of the issues that had surfaced from this exercise, which was the fact that it was difficult to get a quorum at AP meetings due to the lack of member attendance. Ballou noted there had been several suggestions to consolidate the AP process and hold AP meetings over a one or two-day period where all the issues would be looked at together, such as finfish, crustacean, shellfish, and licensing. B. Ballou suggested that M. Gibson could work with staff to come up with some sort of agenda that might be implemented for August or September 2012 meetings.

There was brief Council discussion about implementing a one or two-day AP summit. Most Council members seemed to be receptive to trying the suggestion. R. Hittinger pointed out that the Summer Flounder AP was well attended and not all the advisory panels needed to be included in the summit. There were a lot of issue to discuss with the fluke fishery and this panel could easily take up half of day of meetings. Hittinger also noted you would be subjected to comment from people who may not fish the fishery but because they were present for an all day

meeting would be offering comments that may not be relevant to a particular fishery. He commented that he had concerns about grouping this panel in with all the others.

B. Ballou suggested following a two track system. For Council members to continue to follow up on the advisory panel membership lists, and for the Division to look at an AP summit.

C. Powell requested that all Council members bring their AP membership lists to the March Council meeting and be prepared to discuss which AP members were interested in participating and which AP members were not interested in participating. We could then identify the vacancies and focus on getting them filled. C. Powell indicated this should be the deadline so we can complete this task and focus on filling vacancies.

ASMFC – NEFMC Updates

ASMFC and NEFMC meeting summaries – M. Gibson:

M. Gibson noted that both meeting summaries were included in Council packets for Council information.

Council to authorize a permit bank Adhoc committee to discuss options and program qualifications – M. Gibson:

M. Gibson updated the Council noting that federal money was advanced to several states including RI for a permit bank. He explained the background on permit banks. Gibson explained there were a number problems with the program as constructed and a lot of parameters for fishermen to meet. He noted the program was made for a fishing community such as Maine and did not fit well for RI. Therefore, RI had not yet configured a program. He indicated that all the other states were still working on the logistic of the program and no one had been able pull anything off so far. He just wanted to keep Council members informed and give an update.

B. Ballou asked if there was any other business to come before the Council. Hearing none, Ballou asked if there were any objections from Council members to adjourn the meeting. Hearing none, the meeting was adjourned.

Meeting adjourned.

Nancy E. Scarduzio, Recording Secretary