

**RHODE ISLAND MARINE FISHERIES COUNCIL**  
**Minutes of Monthly Meeting**  
**July 6, 2004**  
**URI Narragansett Bay Campus**  
**Corless Auditorium**  
**South Ferry Road**  
**Narragansett, RI**

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

Chairperson: D. Borden

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

Public: 2 people attended

Chairman D. Borden called the meeting to order. He asked if there were any additions to the agenda. M. Gibson stated that there was a report from N. Lazar on the commercial fishermen's committee meeting which took place on June 17<sup>th</sup>, 2004. There was also an item accompanying the shellfish advisory panel (AP) minutes which was a proposal on a potential shellfish spawning closure in Point Judith Pond. He asked the chairman whether they wanted to deal with this during the shellfish AP report. D. Borden stated that they would. G. Allen had asked to have the floating fish trap AP draft regulations put on the agenda for the August meeting. J. McNamee stated that there was a final item to look at, which was to pick some dates for upcoming meetings. **D. Borden asked if there were any objections to adding these agenda items. There were none. D. Borden asked if there were any objections to approving the minutes as submitted.** S. Medeiros stated that on page 5, in the first full paragraph, it was written that a Jamestown Conservation Committee member had called him. It should read that a Jamestown resident had made the call, not a Jamestown Conservation Committee member. He would like this amended in the minutes. **D. Borden asked if there were any objections to approving the minutes with the correction suggested by S. Medeiros. There were no objections, therefore the minutes of the June 7<sup>th</sup>, 2004 Rhode Island Marine Fisheries Council (RIMFC or Council) meeting stood approved with the correction.**

**Advisory Panel Reports**

*Shellfish:* J. King stated that he had not attended the meeting but would read the minutes as prepared by D. Erkan. He stated that R. Vaughn had come forward with a proposal to designate a triangular shaped portion of Point Judith Pond as a spawner sanctuary, thus closing it to shellfishing. When the area was ready, it would be reopened following a schedule such as in the other shellfish management areas in Rhode Island. The AP supported this proposal.

B. Rheault outlined an aquaculture lease proposal which he had pending with the Coastal Resource Management Council (CRMC), also occurring in Point Judith Pond. The Division of Fish and Wildlife (DFW) had done a site visit and found no shellfish in this area. The AP supported his proposal.

The shellfish AP requested that the Department of Environmental Management (DEM) legal council attend there next AP meeting to discuss some legal issues with them.

The final discussion was about the industry/DFW compromise regarding the Greenwich Bay management area. Several of the industry members were unhappy with this compromise. The DFW stated that no proposals on this area would be considered until after the 2004 shellfish dredge surveys had been concluded.

The proposal from R. Vaughn which had been passed out to the Council that evening, had not been specifically noticed on the agenda therefore D. Borden suggested tabling this issue until the next RIMFC meeting (August 2nd). Further, he suggested having the shellfish AP meet and discuss this proposal to come up with a more specific plan and to also have DEM Law Enforcement attend the meeting to comment on the proposed lines.

### **Other Business**

*Council action on June 15, 2004 public hearing proposals:* J. McNamee stated that they would go back through the slide show and take the items one by one.

*Change closed season for recreation black sea bass to September 8 – September 21 in order to allow fishing over Labor Day weekend:* J. McNamee gave a brief introduction and stated that there had been no public comments. **S. Medeiros made a motion to recommend to the Director of DEM (Director) to adopt this change. G. Allen seconded the motion. The motion carried unanimously.**

*Modify season and possession limit for the commercial floating fish trap management plan for striped bass:* J. McNamee gave a brief introduction and stated that there had been a written comment and a public comment from M. Marchetti both opposed to the change. **D. Borden asked if there was anyone on the Council who wished to make a motion. No one made a motion, therefore there was no action taken by the Council due to the lack of a motion.**

*Changes to commercial lobster regulations stemming from Addendum 4 and Addendum 5 to the Atlantic States Marine Fisheries Commission (ASMFC) Lobster Management Plan which include changes to minimum gauge sizes, transferable trap allocations, most restrictive rule, escape vent sizes, and effort reduction measures:* J. McNamee stated that this was a multifaceted change which proposed changes to several different items. The slide presentation broke these up into separate items, therefore the Council could take each item individually.

Item 1. MINIMUM GAUGE SIZE: J. McNamee gave a brief introduction. M. Gibson stated that this particular item dealt with inshore Rhode Island waters. M. Gibson went on to state that these items are all compliance issues but wanted to mention that a stock assessment was currently being conducted and pending the outcome of this assessment, many of these changes may not be needed. Conversely, the assessment may show that they do need these changes. If the outcome is that the changes are not needed, a second public hearing would be conducted to remove the changes stemming from the current public hearing. J. McNamee stated that there were several public comments, all but one opposed to changing the minimum gauge sizes.

G. Allen asked, based on one of the public comments, how adopting the regulations with the other states in essence changes the gauge sizes in federal waters. M. Gibson stated that in the absence of any timely changes by the federal government to minimum gauge sizes, the collective states could adopt regulations governing federal waters thereby implementing a consistent set of regulations for federal waters which does not disadvantage any states fishermen relative to the other states. G. Allen and K. Ketcham went on to ask whether the other states definitely are adopting these regulations or not. M. Gibson stated that they are with the exception of Maine, but Maine is in the process of adopting these regulations via a statute change. The other exception is that Long Island Sound was at a different gauge size because it falls in to a separate management area, the changes mentioned here only pertain to area 2, area 3, and the outer cape.

**J. King made a motion to recommend that the Director adopt the changes to minimum gauge sizes in Rhode Island inshore waters as described in the public hearing summary document under item 1. G. Allen seconded the motion. The motion carried unanimously.**

D. Borden asked M. Gibson to update the Lobster Industry on the status of the assessment via a Lobster AP meeting and a report to the Council when he gets some information. M. Gibson agreed.

Item 4. MOST RESTRICTIVE RULE: J. McNamee gave a brief introduction and stated that there had been a public comment supporting the change with the inclusion of the examples given in the public hearing summary document. J. McNamee went on to state that they had conferred with DEM Legal Counsel on this and he stated that including examples in regulation is inappropriate and could not be done. D. Borden suggested the course of action to take would be to adopt the regulatory language only but include the examples in the official minutes of the meeting (\*see below).

**J. King made a motion to recommend that the Director adopt the regulatory language for the most restrictive rule as described under item 4 in the public hearing summary document with the inclusion of the explanatory examples in the minutes of the meeting. K. Ketcham seconded the motion. The motion carried unanimously.**

**\*Example 1:**

A lobster fisherman is permitted in both Area 2 and 3. This individual's Area 2 allocation is 800 traps and based on historical participation their Area 3 allocation is 300 traps. The overall trap cap in Area 2 is 800 traps and the overall trap cap in Area 3 is 2600 traps.

*Status Quo:* The most restrictive rule would compare the individual's allocation (800 for Area 2 vs. 300 for Area 3) and the fisherman is limited to the most restrictive individual trap allocation. Therefore, this fisherman is limited to the lower individual trap allocation of 300 traps wherever he may fish throughout Areas 2 and 3.

*Addendum IV Proposal:* The most restrictive rule would compare the trap cap in each area (800 in Area 2 vs. 2600 in Area 3) and the fisherman is limited to the most restrictive trap cap. Therefore, this fisherman is limited to his Area 2 allocation of 800 traps; 300 of these could be fished in Area 3.

#### **Example 2:**

A lobster fisherman is permitted in both Area 2 and 3. Their Area 2 allocation is 800 traps and based on historical participation his Area 3 allocation is 1200 traps. The overall trap cap in Area 2 is 800 traps and the overall trap cap in Area 3 is 2600 traps.

*Status Quo:* The most restrictive rule would compare the individual's allocation (800 for Area 2 vs. 1200 for Area 3) and the fisherman is limited to the most restrictive individual trap allocation. Therefore, this fisherman is limited to the lower individual trap allocation of 800 traps wherever he may fish throughout Areas 2 and 3.

*Addendum IV Proposal:* The most restrictive rule would compare the trap cap in each area (800 in Area 2 vs. 2600 in Area 3) and the fisherman is limited to the most restrictive trap cap, which is 800 traps in Area 2. Therefore, this fisherman is limited to his Area 2 allocation of 800 traps to be fished in either area.

#### **Example 3:**

A lobster fisherman is permitted in both Area 3 and 4. Based on historical participation, their Area 3 allocation is 1000 traps and based on historical participation their Area 4 allocation is 1200 traps. The overall trap cap in Area 3 is 2600 traps and the overall trap cap in Area 4 is 1440 traps.

*Status Quo:* The most restrictive rule would compare the individual's allocation (1000 for Area 3 vs. 1200 for Area 4) and the fisherman is limited to the most restrictive individual trap allocation. Therefore, this fisherman is limited to the lower individual trap allocation of 1000 traps wherever he may fish in Areas 3 and 4.

*Addendum IV Proposal:* The most restrictive rule would compare the trap cap in each area (2600 in Area 3 vs. 1440 in Area 4) and the fisherman is limited to the most restrictive trap cap, which is 1440 in Area 4. Therefore, this fisherman is limited to his allocation in Area 4 of 1200 traps; 1000 of these can be fished in Area 3.

**Example 4:**

**A lobster fisherman is permitted in both Area 3 and 4. Based on historical participation, their Area 3 allocation is 1600 traps and based on historical participation their Area 4 allocation is 1000 traps. The overall trap cap in Area 3 is 2600 traps and the overall trap cap in Area 4 is 1440 traps.**

***Status Quo:* The most restrictive rule would compare the individual's allocation (1600 for Area 3 vs. 1000 for Area 4) and the fisherman is limited to the most restrictive individual trap allocation. Therefore, this fisherman is limited to the lower individual trap allocation of 1000 traps.**

***Addendum IV Proposal:* The most restrictive rule would compare the trap cap in each area (2600 in Area 3 vs. 1440 in Area 4) and the fisherman is limited to the most restrictive trap cap, which is 1440 in Area 4. Therefore, this fisherman is limited to his allocation in Area 4 of 1000 traps to be fished in either area.**

Item 5. ASMFC LOBSTER FISHERY MANAGEMENT AREA MANAGEMENT MEASURES: J. McNamee gave a brief introduction and stated that there had been several comments which were similar to the comments given for item 1.

**S. Medeiros made a motion to recommend to the Director to adopt the changes proposed under item 5 in the public hearing summary document. G. Allen seconded the motion. The motion carried unanimously.**

Item 6. LOBSTER FISHERY MANAGEMENT AREA 2 (INSHORE SOUTHERN NEW ENGLAND); MINIMUM ESCAPE VENT SIZE: J. McNamee gave a brief introduction and stated that there had been one public comment supporting the change and two opposed to the change. D. Borden stated that this was an issue that was being looked in to in greater depth by M. Gibson and if there was some research that came forward which disputed the current science which recommends these increases, M. Gibson would come forward with a new recommendation.

G. Allen wished to have the Lobster AP comments characterized for the record. D. Borden stated that the comments reflected the industries feeling that the science used to develop the escape vent sizes was not adequate and they wished that no action take place until better scientific experiments had been brought forward.

**G. Allen made a motion to recommend to the Director to adopt the changes proposed under item 6 in the public hearing summary document. K. Ketcham seconded the motion. The motion carried unanimously.**

Item 7. AREA 2 MANAGEMENT MEASURES: J. McNamee gave a brief introduction. M. Gibson stated that this particular item contained several elements, one of which governed trap transferability. Trap transferability was currently an unresolved issue and recommended that this should be tabled until after the ASMFC meeting week in

August where they will be revisiting this issue to come up with a consensus program across all of the states. The rest of the elements pertaining to this item however should be acted upon this evening.

D. Borden suggested going to item 11 (dealing exclusively with trap transferability) first to deal with this issue and then come back to this item. The Council agreed to this course of action (see item 11 below).

After discussing item 11, which they tabled until the September Council meeting, the Council came back to this item. J. McNamee gave the public comments stating that the comments were mostly regarding the qualification poundage, the commercial lobstermen and their representatives who were present stated that the cut off poundage should go back to 1,000 pounds. A second comment was about closing area 2 certificates. A final comment was given by a person who had recently entered the fishery at the 100 pot limit. Under these changes, if he sold his license, the transfer would only allow for 50 pots to the new individual, he felt this was unfair.

**S. Parente made a motion to recommend to the Director that he adopt the changes outlined in item 7 with the exception of the 2,000 pound cut off poundage. The motion was to change the qualifying poundage to 1,000 pounds. J. King seconded the motion. Also note that the trap transferability section had already been tabled. The motion carried unanimously.**

Item 8. LOBSTER FISHERY MANAGEMENT AREA 3 (OFFSHORE WATERS); MINIMUM GAUGE SIZE: J. McNamee gave a brief introduction and stated that there had been two public comments, one opposed to the change because he felt the state did not have authority to adopt regulations in federal waters and one supporting the change because this would keep Rhode Island in compliance with the other states.

**J. King made a motion to recommend to the Director to adopt the changes outlined in item 8. G. Allen seconded the motion. The motion carried unanimously.**

Item 9. LOBSTER FISHERY MANAGEMENT AREA 3 (OFFSHORE WATERS); MINIMUM ESCAPE VENT SIZE: J. McNamee gave a brief introduction and stated that the public comments were the same as above.

**S. Medeiros made a motion to recommend to the Director that he adopt the changes as defined in item 9 of the public hearing summary document. J. King seconded the motion. The motion carried unanimously.**

Item 10. LOBSTER FISHERY MANAGEMENT AREA OUTER CAPE COD; MINIMUM ESCAPE VENT SIZE: J. McNamee gave a brief introduction and stated that the public comments were the same as above.

**S. Medeiros made a motion to recommend to the Director that he adopt the changes as defined in item 9 of the public hearing summary document. J. King seconded the motion. The motion carried unanimously.**

Item 11. RIDFW RULES GOVERNING LOBSTER TRAP/BUSINESS TRANSFERS AND SALES: J. McNamee gave a brief introduction and stated that there had been public comments supporting this item. D. Borden suggested tabling this issue until the September Council meeting at which point M. Gibson will have come forward with any changes from ASMFC, along with a DEM recommendation as to whether this issue has changed enough to warrant taking it back to public hearing.

**S. Medeiros made a motion to table this issue until the September public hearing. J. King seconded the motion. The motion carried unanimously.**

Repeal lobster exemption certificate program for undersized area 3 lobsters: J. McNamee gave an introduction stating that this issue was not a requirement of addendum 4 and 5 but rather was an artifact of area 2 and area 3 becoming the same gauge size because of the changes required in the addenda. The exemption certificates were not necessary anymore because the gauge sizes were going to be the same. The only public comment was from M. McSally and he stated that this program will be needed because he feels that the state of Rhode Island does not have the jurisdiction to raise gauge sizes in area 3 therefore the gauge sizes will remain different.

#### Item 2. LOBSTER EXEMPTION CERTIFICATE FOR FISHERMEN

**D. Borden asked if there was anyone on the Council who wished to make a motion. No one made a motion, therefore there was no action taken by the Council due to the lack of a motion.**

#### Item 3. APPLICATION FOR LOBSTER EXEMPTION CERTIFICATE

**D. Borden asked if there was anyone on the Council who wished to make a motion. No one made a motion, therefore there was no action taken by the Council due to the lack of a motion.**

#### **Added agenda items**

*Commercial fishermen's committee report:* M. Gibson stated that the Council had received detailed minutes. D. Borden, who attended the meeting, stated that only half of the committee showed for the meeting. There was no action or recommendations which came out of the meeting, however a productive discussion was had. The mission of the committee was to develop a set of recommendations to pass along to the Council and the Director regarding licensing issues such as new entrants, appeals, and things of this nature. D. Borden went on to state that they should convene two more meetings before the September deadline.

*Dates for upcoming meetings:* J. McNamee asked the Council if they were aware of any additional meetings or workshops not indicated on the calendar passed out to the Council that would create a conflict if he scheduled a meeting on a particular night. K. Ketcham asked that J. McNamee have the aggregate landings meeting on either August 3<sup>rd</sup> or 4<sup>th</sup>. D. Borden asked that J. McNamee have two meetings for the two different issues, the first of which should be fixing the winter 1 program and then hold a second meeting to continue to grapple with the alternative proposals such as multiple licenses.

G. Allen wanted to conclude by thanking D. Borden for his tenure as the RIMFC chairman stating that he valued his experience and depth of understanding on the various issues which come before the Council.

**The chairman adjourned the meeting.**

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Jason E. McNamee, Recording Secretary