



# Rhode Island Marine Fisheries Council

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## MEETING MINUTES

October 5, 2015

Chairperson: *B. Ballou*

RIMFC Members Present: *R. Hittinger, D. Monti, J. Grant, A. Dangelo, C. Rein*

DEM: *G. Powers, J. McNamee, S. Olszewski, E. Schneider, P. Duhamel, D. White (DLE)*

DEM Marine Fisheries Interns:

Public: 1 person in attendance.

- 1) **Approval of the Agenda:** *B. Ballou* inquired as to any modifications to the agenda. *J. McNamee* offered that the recommended action item for agenda item 4a. be modified such that Council recommendations were not being sought for each endorsement category, but only for those that were included as proposed amendments to the Licensing regulations, and which were specifically addressed as part of the September public hearing; but also that comments were also sought on each of the plans. Hearing no objections to the proposed modification, the revised agenda was approved.
- 2) **Approval of RIMFC meeting minutes from August 25, 2015:** *B. Ballou* inquired as to any proposed modifications or objections to approving the minutes. Hearing none, the minutes were approved.
- 3) **Public comments regarding other matters not on agenda (added agenda item as inadvertently omitted in preparation of agenda):** No comments were offered by the public.
- 4a) **2016 Finfish, Shellfish, and Crustacean Sector Management Plans:**  
*B. Ballou* provided an overview of the recently passed LEAN legislation and its effect of having eliminated the requirement to file these plans as regulation with the RI Secretary of State. He offered that the process of the Division preparing the plans, soliciting comment from the Council and public, and timeframes for adoption will remain unchanged, resulting in no changes to the Council's role.  
  
*J. McNamee* provided the presentation on each of the plans and endorsement categories, and the Division and IAC recommendations for each species and/or endorsement, which was also presented at the September public hearing as part of the proposed amendments to the Licensing regulations. Upon conclusion of the presentation, no further discussion ensued with these plans.
- 4b) **Public Hearing Items - September 21<sup>st</sup> public hearing:**

1. **Hearing item #1: Proposed amendments to “RIMFR - Commercial and Recreational Saltwater Fishing Licensing Regulations”:**

a. **Exit/entry ratios for quahaug and soft-shell clam endorsement:**

*J. Lake* provided an overview of the 2 endorsement categories that were subject of the proposed amendment – Quahaug and Soft-shell clam, and the Division’s and IAC’s recommended options for the exit/entry ratios for each endorsement (Option 1/Division = 2:1 for Quahaug (from 1:1), 5:1 for SS Clam (status quo); Option 2/IAC = 2:1 for Quahaug; 1:1 for SS Clam. He offered that the IAC motion to change the SS Clam ratio to 1:1 was made from a recommendation that people should have the opportunity to buy a SS clam license, and that the fishing effort would be governed by the availability of the resource, and that the current low stock status of SS clams would result in low effort. ***C. Rein* offered a motion to recommend the Division’s proposal for both the Quahaug and SS Clam endorsements; 2<sup>nd</sup> by *J. Grant*. The motion passed 5 – 0.**

b. **Procedures for adopting Sector Management Plan:**

*J. Lake* provided an overview of proposal and the LEAN legislation that resulted in the plans no longer filed as regulation. ***D. Monti* offered a motion to recommend the Division’s proposal for both the Quahaug and SS Clam endorsements; 2<sup>nd</sup> by *R. Hittinger*. The motion passed 5 – 0.**

c. **Issuance of new licenses upon sale of vessel and gear (section 6.7-8):**

*J. Lake* provided an overview of proposal, the language originating with the office of Boating and Registration and supported by the Division. He offered that the language is meant to clarify the requirement for sale of a business, and that the sale must involve only the vessel that was involved in fishing activity, and that if the vessel changes, at least half of the fishing activity must be attributable to vessel involved in the sale. He indicated that the office of Boating and registration’s current standard operating procedure is to deny any application for a sale of a business that does not involve the vessel which was involved in establishing the activity standard. Those applicants are referred to the Department’s appellate process. He offered that the language is meant to clarify the division’s intentions and thus avoid future appeals. He offered that the IAC was opposed and to any provision which attaches fishing activity to a vessel rather than a person. *P. Duhamel* that 2 public hearing comments were offered that were both in opposition to the proposal. Providing an answer to *J. Grant*, *J. Lake* offered that the language is only meant to offer clarification that the sale of the business must involve an actively fishing vessel. *C. Rein* asked why the vessel need be part of the sale. *B. Ballou* offered that the statute is unclear as to the specific vessel that must be involved in the sale of the business. *J. McNamee* offered that industry feels the language is overly restrictive in terms of what items constitute the business, and is therefore overly and unnecessarily restrictive how the business sale may occur. Discussion ensued regarding sale of licenses involving a structure (building or vessel). *C. Rein* offered that it would seem logical that the business sale should include a vessel that is capable of being used for the type of license and

fishery; that a small boat shouldn't be involved in a fishery that is a much larger operation. *J. Grant* offered that licensing of individuals is problematic when attempting to manage by vessel, and that licensing of vessels could potentially solve the problem. ***R. Hittinger* offered a motion to recommend adoption of the language as proposed; 2<sup>nd</sup> by *D. Monti*.** Discussion continued regarding clarification of the vessel that must be included in the sale. *J. McNamee* offered that the clarification is meant to prevent an increase in activity that had not been previously permitted; to which *J. Grant* also iterated. **The motion passed 5 – 0.**

- d. Date for submittal of Student Shellfish licenses (sections 5, 6.7-3, and 6.8-5):  
*J. Lake* provided an overview of proposal that the regulation is meant to sync with recently passed legislation. ***R. Hittinger* offered a motion to recommend adoption of the language as proposed; 2<sup>nd</sup> by *D. Monti*.** The motion passed 5 – 0.

2. **Hearing Item #2: Proposed amendments to “RIMFR - Aquaculture Marine Species in Rhode Island Waters”:**

*J. McNamee* offered a brief summary of the rationale for the proposed amendments; that of identification in the state Shellfish Management Plan to clarify and update roles of DEM and CRMC regarding aquaculture application review and permitting.

- a. Proposed definitions (new section 7):

*B. Ballou* offered that comments were received; to which *J. McNamee* offered Division support and amended language from *J. Mercer* as follows:

“Harvest” means the act of removing shellstock ~~for the purpose of human consumption from the waters of growing areas~~ **with the intention of not returning to the water after husbandry practices.** ~~Harvest includes placement of shellfish that has been removed for the purpose of human consumption on or in a manmade conveyance, or other means of transport.~~ Harvest commences when the first shellfish ~~intended for human consumption~~ **not returned to the water** is removed from the water on any given day, or is exposed by the receding tide.

"Operational plan" means a written plan filed with CRMC and, approved by DEM ~~and DOH~~ prior to its implementation....

Regarding the definition of “operational plan”, *P. Duhamel* offered that through his conversations with *J. Mercer* that “DEM” should remain in the definition as plan is approved by DEM by default via the issuance of the DEM aquaculture license.

***J. Grant* offered a motion to recommend adoption of the language as proposed and revised by the Division in response to public comment (as specified above); 2<sup>nd</sup> by *D. Monti*.** The motion passed 5 – 0.

- b. Clarifying and updating permitting and submission requirements (new section 8.0):

*J. McNamee* offered a summary of the proposal. *B. Ballou* offered that the regulations were thoroughly vetted by industry and that lack of public comment indicates support as proposed. ***R. Hittinger* offered a motion to recommend adoption of the amendments as proposed; 2nd by *A. Dangelo*. The motion passed 5 – 0.**

- c. Clarifying submission requirements for the shipment and importation of shellfish seed (new section 9.2):

*B. Ballou* offered that a comment was received regarding proposed section 9.2.1, to which *P. Duhamel* offered the Division’s support per conversation with *J. Mercer* and offered the following revised language:

All persons wishing to import shellfish seed must submit a written request **or email** to the Aquaculture Coordinator of CRMC at least five working days prior to entry into the state. Such request to be mailed to Coastal Resources Management Council, Stedman Government Center, Suite 3, 4808 Tower Hill Road, Wakefield, RI 02879.

Regarding section 9.7 for which comment was received, *P. Duhamel* offered the Division’s support for removal of the word “any” in 2 locations in the rule, and offered the following revised language per conversation with *J. Mercer*:

**9.7 6.6.8**Transfer of seed from other than approved waters: Shellfish seed cultured in other than approved waters **may in accordance with a CRMC permit must** be transferred by the aquaculturist to an approved aquaculture lease in approved waters in accordance with ~~the terms of the an~~ approved **assent, license, and** operational plan; ~~with DEM Division of Fish and Wildlife and Division of Law Enforcement notification~~ **prior to the shellfish exceeding the seed size limit**. If more than 10 percent of the cultured shellfish within a lot or batch exceed the ~~definition of~~ seed **size limit** (in the case of quahaugs, if **any** exceed 20 mm; and in the case of oysters, if **any** exceed 32 mm), they shall not be moved from other than approved waters to an approved growing area without prior permission of the DEM Director and the DOH. (Note: entire sentence removed as definition of seed is provided in the regulation)

***J. Grant* offered a motion to recommend adoption of the language as proposed and revised by the Division in response to public comment (as specified above); 2<sup>nd</sup> by *C. Rein*. The motion passed 5 – 0.**

- d. Reduce the time period requirement for the harvest of shellfish transferred from other than approved waters as seed (new section 9.8):

*J. McNamee* offered a summary of the proposal, and that the matter was thoroughly vetted by FDA, DOH, and DEM Water Resources.

Regarding the public comment received to allow for changes at the ISSC level to be automatically incorporated into DEM regulations without hearing or notice, *G. Powers* offered that such is statutorily prohibited and cannot therefore be accommodated.

**C. Rein offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by D. Monti. The motion passed 5 – 0.**

e. Updating tagging requirements (new section 11.1):

*J. McNamee* offered a summary of the proposal. **D. Monti offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by J. Grant. The motion passed 5 – 0.**

f. General editing to improved readability (entire regulation):

*J. McNamee* offered a summary of the proposal. Regarding comment received for proposed section 12.0, Temperature Control of Shellfish, where the comment recommended replacing “oyster” with “shellfish, *J. McNamee* offered that “shellfish” is overly broad in terms of aquaculture and that it was however appropriate to change to “oysters and quahaugs”:

## **12. Temperature Control of Shellfish:**

**12.2 Harvest of oysters and quahaugs** annually from September 15 through June 30 inclusive: The maximum allowable time between the harvest of shell stock and delivery to a dealer shall be twelve hours. Possession of shell stock by anyone other than a licensed dealer in excess of twelve (12) hours is prohibited. This maximum allowable time may be reduced by DEM, via emergency regulation, in certain harvest areas if environmental changes necessitate such adjustment.

**12.3 Harvest of Oysters and quahaugs outside of designated Temperature Control or Thermally Impacted areas** annually from July 1 through September 14 inclusive:

**12.3.1** All oysters **and quahaugs** harvested shall be transferred to a licensed dealer within five (5) hours of the commencement of harvest

**12.3.2** All harvested oysters **and quahaugs** shall be subject to shading immediately upon harvest.

**2.3.3** All oysters **and quahaugs** that are removed from the water for less than twelve (12) hours for husbandry purposes must be re-submerged for no less than forty-eight (48) hours before harvest.

**12.3.4** All oysters **and quahaugs** that are removed from the water for twelve (12) hours or greater for husbandry purposes must be re-submerged for no less than seven days (168 hours) before harvest.

**12.3.5** All oysters **and quahaugs** that are exposed to air drying must be re-submerged for no less than seven days (168 hours) before harvest.

**12.3.6 In addition to the requirements of Rule 6.9.4 above,** All oysters **and quahaugs** harvested from a Designated Temperature Control or Thermally

Impacted area shall **also** be harvested in compliance with one of the following requirements:

**(A)** Harvesters shall terminate all harvest activities and all harvested oysters **and quahaugs** must be transferred to a dealer or placed in mechanical refrigeration or adequately iced by 11:00 a.m. between the dates of July 1<sup>st</sup> and August 31<sup>st</sup>, inclusive; and by noon between September 1 and September 14<sup>th</sup>, inclusive. **Upon being placed in mechanical refrigeration or adequately iced**, oysters **and quahaugs** must remain under temperature control ~~or adequately iced~~ until transferred to a licensed dealer.

**(B)** Oysters **and quahaugs** that are harvested after the times specified in ~~Rule 6.9.5.1.1~~ **this section** must be delivered to a licensed dealer within two (2) hours of the commencement of harvest; or placed in mechanical refrigeration or adequately iced within two (2) hours of the commencement of harvest until the oysters **and quahaugs** are transferred to a licensed dealer.

***J. Grant* offered a motion to recommend adoption of the amendment as proposed and revised as shown above in response to comments received at the public hearing and discussion at the Council meeting; 2<sup>nd</sup> by *C. Rein*. The motion passed 5 – 0.**

3. **Hearing item #3: Proposed repeal of “RIMFR – Marine Fisheries Council”:**

*J. McNamee* offered a summary of the proposal and the LEAN legislation that resulted in the proposal. ***A. Dangelo* offered a motion to recommend repeal of the regulation as proposed; 2<sup>nd</sup> by *D. Monti*. The motion passed 5 – 0.**

4. **Hearing item #4: Proposed repeal of 2015 Finfish, Shellfish, and Crustacean Sector Management Plans:**

*J. McNamee* offered a summary of the proposal and the LEAN legislation that resulted in the proposal. ***D. Monti* offered a motion to recommend repeal of the regulation as proposed; 2<sup>nd</sup> by *R. Hittinger*. The motion passed 5 – 0.**

5. **Hearing item #5: Proposed amendments to RIMFR – Lobster, Crabs, and Other Crustaceans” to correct the minimum escape vent size and season closure dates for LCMA 4 for compliance with ASMFC:**

*J. McNamee* offered a summary of the proposal. ***R. Hittinger* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *D. Monti*. *P. Duhamel* offered that a public comment was received in opposition to any closed season, to which *B. Ballou* replied that such would not be ASMFC compliant. The motion passed 5 – 0.**

4c) **SAP and IAC Advisory Panel reports:** For the IAC meeting, discussion ensued regarding Licensing regulations re-structuring. For the SAP meeting, *J. Grant* offered that the aquaculture reviews were forwarded to the CRMC.

*B. Ballou* inquired as to any objections with accepting the reports; hearing none the reports were accepted for placement on file.

4e) **SAP applications:** *D. Monti* offered a motion to recommend appointment of both applicants, Mr. Roger Tellier and Mr. Richard Pastore; 2<sup>nd</sup> by *R. Hittinger*. The motion passed 5 – 0.

4e) **Winter Harvest Schedules in Shellfish Management Areas:**  
*E. Schneider* offered a summary of the proposed schedule, and that the SAP voted to recommend the schedule as proposed. *J. Grant* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *C. Rein*. The motion passed 5 – 0.

5a) **Extension of the Bissel Cove/Fox Island Shellfish Mgmt. Area oyster moratorium:**  
*E. Schneider* offered a summary of the proposal and recent findings by the Division regarding status of the resource in this mgmt., and that the SAP voted to recommend a 5 year extension as proposed by the Division. *C. Rein* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *D. Monti*. The motion passed 5 – 0.

*J. McNamee* then inquired as to the Council's support of restoration efforts by TNC and supported by the Division. He offered that it might be helpful to receive such support in the form of a letter to the CRMC as the matter will be heard (hearing?) by the CRMC later in October. Upon conclusion of the discussion, the Council determined that more specific information and timeframes would be needed before providing such a letter.

5b) **Draft Council documents:**  
*B. Ballou* provided a date of November 13 to provide comments in order for revised drafts to be developed for review and possible adoption at the December 7 Council meeting.

Meeting adjourned at approximately 8:25  
Prepared by *P. Duhamel*