



# Rhode Island Marine Fisheries Council

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## MEETING MINUTES

October 6, 2014

URI Narragansett Bay Campus, Corless Auditorium  
South Ferry Road, Narragansett, RI

Chairperson: *B. Ballou*

RIMFC Members Present: *K. Booth, R. Hittinger, D. Monti, J. Grant, C. Rein, W. Mackintosh, M. Rice, R. Bellavance*

DEM: *M. Gibson, J. McNamee, J. Mercer, P. Duhamel, Lt. Joe Poccia (Law Enforcement)*

Public: *G. Allen, Jules Opton-Himmel*

1. **Approval of the Agenda:** *B. Ballou* inquired as to recommended modifications to the agenda; hearing none, the agenda was approved.
2. **Approval of RIMFC meeting minutes from September 3, 2014:** *B. Ballou* inquired as to any proposed changes to the minutes or any objections to approving the minutes. *J. McNamee* offered that a modification request was submitted by *J. Carvalho* regarding comments he had made regarding the discussion on Winter flounder. *B. Ballou* then offered to hold off on the approval of the minutes until the next meeting and the proposed modifications could be reviewed.
3. **Public comments regarding other matters not on agenda:** No comments were made.
4. **New business:**
  - b. **Public hearing (9/30) items** (note: agenda items a. and b. were switched in order):
    - **2015 Sector Mgmt. Plans (Finfish, Shellfish, and Crustacean):**

*B. Ballou* offered that the crux of the proposed plans were the licensing and endorsement recommendations that were made, and that no changes were proposed in terms of endorsement categories and exit/entry ratios from the 2014 plans. He therefore offered that only the specific licensing recommendations be heard in order to expedite the process.

*K. Booth* offered that he would like to look at Licensing in its entirety in terms of what has occurred and direction moving forward, and that he is uncomfortable making recommendations on these plans every year without such a complete review. He offered

that he was concerned about possible imbalance amongst different sectors and that a statistical analysis over the past 5 – 10 years is needed. *R. Bellavance* offered that a review of a restructuring of the entire licensing system and process is needed. *B. Ballou* offered that this would be appropriate particularly due to the significant decrease in number of active licenses. Discussion revolved upon the need for data and the review of this data in order to be able to fully understand the system. *J. McNamee* offered that the Division could provide data. *B. Ballou* offered that an IAC should be tasked with addressing this matter, as a range of issues with potential regulatory and statutory changes. *M. Gibson* offered that original intent with number and types of licenses was for effort control, but that in reality is irrelevant in terms of effort control. He offered that the Sector plans do not address fishery performance per se and how different fishery sectors may be performing relative to each other. He offered that the plans as currently structured would not be suited to provide the information being discussed presently as a means to evaluate the Licensing program. He offered support of a discussion to evaluate the content of the Sector Plans. *J. McNamee* offered that the Council should determine exactly the types of information needed from the Division. He offered that *J. Lake* would be the lead person to prepare an agenda and convene the IAC. *B. Ballou* offered that an item would be added to the agenda under new business to authorize an IAC meeting and agenda to address this topic.

*B. Ballou* then proceeded to address the **Finfish Sector Management Plan**. *J. McNamee* went through each of the species and offered rationale for Division recommendations. *R. Bellavance* offered that the IAC recommended status quo on the proposed exit/entry ratios. ***R. Bellavance* offered a motion to recommend adoption of the 2015 Finfish Sector Management Plan as proposed; 2<sup>nd</sup> by *J. Grant*. The motion passed 8 – 0.**

*J. McNamee* then addressed the **Shellfish Sector Management Plan** and the Division recommendation of status quo regarding the exit/entry ratios of each of the shellfish endorsement categories. *R. Bellavance* offered that the IAC recommended status quo for each of the endorsements. ***J. Grant* offered a motion to recommend adoption of the 2015 Shellfish Sector Management Plan as proposed; 2<sup>nd</sup> by *M. Rice*. The motion passed 8 – 0.**

*J. McNamee* then addressed the **Crustacean Sector Management Plan** and each of the species in the plan. He offered that the Division was recommending status quo regarding the exit/entry ratios of each of the crustacean endorsement categories. He offered that the main species of this plan is Lobster and that the ASMFC requires that no new licenses be offered in this fishery. *M. Gibson* offered that the status of Jonah/Rock crabs is not known, rather than not overfished as shown. He offered that an FMP is being considered for this fishery which could affect the Division recommendation in the future. *R. Bellavance* offered that the IAC had minimal discussion on this plan. ***D. Monti* offered a motion to recommend adoption of the 2015 Crustacean Sector Management Plan as proposed; 2<sup>nd</sup> by *C. Rein*. The motion passed 8 – 0.**

- **Amendments to the Licensing regulations:**
  - **Offer opportunity to Over 65 license holders to upgrade their license to a CFL w/Quahaug endorsement:** *J. McNamee* explained the basis of the amendment;

that as written that language was confusing and that the proposed language was meant to offer clarification. He offered that the language would not result in expansion of participation in the fishery, but that the fisherman's priority status would be improved for potential license upgrades, but that this would be negligible. *B. Ballou* offered the current language resulted in a loophole in terms of what an Over 65 licensee could or could not do in terms of upgrading their license for this license. He offered that as currently written, the Over 65 license is a dead-end license, in that it does not provide for the ability to upgrade the license base or to increase priority status based on fishing history. The proposed language is to provide for equitable status based on an actively fished license. ***M. Rice* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *W. Macintosh*. The motion passed 8 – 0.**

○ **Clarify provisions of PEL license with all shellfish endorsements for license holders over the age of 65:** *J. McNamee* offered that the proposed language is to clarify that only the Over-65 w/quahaug endorsement is free, and that other endorsements associated with Over-65 have fees and are not free. *M. Gibson* offered that any increase in activity should have an additional fee based on activity in the fishery. *B. Ballou* offered that the overall review of fees and Licensing will be tasked to the IAC in the near future. ***R. Hittinger* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *D. Monti*. The motion passed 8 – 0.**

○ **Remove Gear Declaration from License Application:** *J. McNamee* offered that this information is no longer needed on the application form and was often completed inaccurately. He offered that the information is obtained by electronic reporting. ***R. Hittinger* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *W. Macintosh*. The motion passed 8 – 0.**

○ **Allow Trips reported to SAFIS on a landing permit to be considered for activity standard:** *J. McNamee* offered that this proposal is specific for active RI state waters fishermen with an actively fished commercial fishing license, and is to allow these fishermen to utilize landing permit landings (as opposed to landing using their commercial fishing license) to count toward their activity standard. He offered that this is not applicable to federal fishermen or crew fishing in federal waters and landing in RI. ***C. Rein* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *M. Rice*. The motion passed 8 – 0.**

○ **Proposed changes to provisions of the Paper Logbook Endorsement - Declaration of Reporting Method & Renewal Deadline:** *J. McNamee* offered that the current language that allows for the paper logbook to be applied for at any time during the year has presented logistical administrative problems, and that the proposal is to correct this problem by requiring this endorsement to be selected at the time of annual license renewal. He offered that this would provide benefit for both the Division and the fishermen. *R. Bellavance* offered that the IAC had no objection to the amendment as proposed. ***D. Monti* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *C. Rein*. The motion passed 8 – 0.**

o **Proposed changes to provisions of the Dockside Sales Endorsement:** *J. McNamee* offered that that proposal would require the submittal of paper reporting in addition to eTrips, as a means for tracking this activity, and that this would eliminate double reporting. *W. Macintosh* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *D. Monti*. The motion passed 7 – 0 (Note: *R. Bellavance* was not present for this vote).

o **Crew Member:** *J. McNamee* explained the significance of this proposal; that it is to create more stringent criteria in the documentation of an active crew member, which is significant in that this is used to determine priority status for eligibility for upgrades to a commercial fishing license. He explained that DFW is proposing to require a W-2 form to replace a signed affidavit due to possible falsifications of affidavits. *R. Bellavance* offered that the IAC was split on the issue in terms of documentation requirements, mainly due to poor records of payments and/or cash payments in which no documentation was kept by the crew member. *K. Booth* offered that the language should be specific as to the documentation required; *W. Macintosh* concurred, offering that a paystub or deposit slip could be used. *C. Rein* offered that as this is about priority status, that more rigorous documentation requirements are needed. *J. Grant* offered that crew members/deckhands in the shellfish industry are often unpaid; that they work as apprentices in order to learn the business. *B. Ballou* offered that this will be in effect for 2015, in that crew members seeking priority status will be required to provide the documentation specified in the regulation. *R. Bellavance* offered that 1099 forms may not be available at the time of application. *M. Gibson* offered that the definition of crew member requires that the person be “employed”. *R. Hittinger* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *K. Booth*. *K. Booth* then offered a friendly amendment to amend the language as follows: “To be considered a paid crew member the crew member must have record of being paid by the vessel owner or person licensed to fish commercially such as by either a W-2 form, ~~or~~ paycheck stub, or 1099 form”; *R. Hittinger* concurring with the friendly amendment. *J. McNamee* offered that he was uncomfortable with requiring specific documentation rather than allowing for discretion, as there could be other acceptable documentation not considered at this time. *C. Rein* offered that the documentation should be official from a financial or government institution. *R. Hittinger* offered that he maintained his motion as stated. The motion passed 8 – 0.

o **Tiered Lottery contingencies:** *B. Ballou* offered that this is a proposal to allow for improved equity amongst the tiers. *W. Macintosh* offered a motion to recommend adoption of the amendment as proposed; 2<sup>nd</sup> by *M. Rice*. The motion passed 8 – 0.

a. **Proposed aquaculture lease applications:**

- **Walrus and Carpenter (Jules Opton-Himmel):** *Mr. Himmel* offered a brief description of his application. *B. Ballou* offered that the SAP vote was 2-1 in favor of recommending denial of the application. Discussion focused mainly on the type of gear used; in that it was floating gear and therefore more visually apparent, as opposed to gear on the bottom. *J. Grant* offered that the SAP was concerned about the floating gear and

the potential for birds sitting on the gear and impacting water quality. *B. Ballou* offered that the Council review was specific per statute; to which *J. Grant* offered that he also reminded the SAP membership that their purview was limited to impacts to wild harvest, not to visual aesthetics or water quality impacts. *R. Hittinger* offered that he wasn't aware of impacts to wild fisheries from the proposal and was therefore thinking that no objection should be offered. *J. Mercer* offered that the amount of floating gear is substantial; approximately 2,600 sq. ft. He offered that DFW has not completed a review at this time. *D. Monti* offered that he saw no impacts to wild harvest and other potential adverse impacts are beyond the scope of Council review. ***D. Monti* offered a motion to recommend to the CRMC that the Council finds no objection based on competing uses engaged in the exploitation of marine fisheries; 2nd by *C. Rein*. The motion passed 8 – 0.**

- **Whilden Unlimited:** *B. Ballou* offered that this application was brought to Council review from *R. Hittinger*. *J. Mercer* offered that the SAP voted 5 – 1 to recommend no objection to the application. He offered that *Chief Steve Hall* expressed concerns about competing uses with recreational fishing. *R. Hittinger* offered that his membership was concerned about competition with recreational fishing; that fluke and striped bass frequented the area; that the area was a productive recreational fishing area and the lease would remove a significant area from recreational fishing. *D. Monti* offered concurrence with comments by *R. Hittinger*, and also offered that the impact is greater than the actual lease footprint; that it was much larger due to the need to stay far from the gear. ***R. Hittinger* offered a motion to recommend to the CRMC objection to the proposed lease based on a significant impact to recreational fishing; 2<sup>nd</sup> by *D. Monti*. The motion passed 5 – 0 (3 abstentions).**

c. **Winter Harvest schedules in Shellfish Management Areas:**

- **SMA's other than Greenwich Bay:** *J. Mercer* offered that the SAP recommended the changes as proposed, which is slightly altered from the previous year. He offered that Greenwich Bay (GB) is still being surveyed by DFW, and that as this area is closed by the Division of Water Resources for the month of December. *M. Gibson* offered that a Division recommendation on this area would be provided upon conclusion of the survey, and suggested that the Council wait to act on a recommendation until the December meeting. *J. Grant* offered SAP recommendations as proposed for all areas other than GB. ***J. Grant* offered a motion to recommend adoption of the harvest schedules as proposed, with a recommendation to address GB at the December Council meeting upon conclusion of the survey work; 2<sup>nd</sup> by *W. Macintosh*. *J. McNamee* offered that the Division would provide a recommendation on GB at the December Council meeting. The motion passed 8 – 0.**

d. **Winter Flounder – possession limit discrepancy between state and federal waters:**

*K. Booth* offered that a decision on a recommendation on possible actions should wait until more information is reviewed. *M. Gibson* offered that thought needs to be put into the process and jurisdiction. He offered that the New England Council would not be making any changes until the next stock assessment was completed in 2015, which would then result in possible changes in the fishery beginning at the subsequent start of the fishing year beginning May 1, 2016. He offered that he didn't believe there was an opportunity for either the

ASMFC or NEFMC to address the matter until the next stock assessment update is complete, and an action by the NEFMC is ongoing in order to make changes effective for the fishing season beginning on May 1, 2016. He advised the Council to follow-up on the NEFMC actions, in that there was a negative vote to increase the commercial possession limit in state waters; but there was consensus that RI should engage NEFMC in a broader discussion regarding resource sharing between state and federal waters, and that he advised that the Council to write a letter to both ASMFC and NEFMC to engage in such a discussion prior to the time of the new stock assessment. He offered that this was the advice of the NEFMC. He thought that any discussion regarding data on fishing activity in federal and state water was premature until the stock assessment was available. *K. Booth* offered that it was illogical and inconsistent to have such disparity in possession limits between federal and state water when conservation was needed to rebuild the fishery. *M. Gibson* offered that while the federal possession limit may appear high, it was a fraction of previous years. *M. Gibson* asked for specific guidance as to the objectives and content of a letter written to the NEFMC, and cautioned about language regarding reduction of federal possession limit or transfer of fish between federal and state waters. *R. Hittinger* offered that he thought that the state acted responsibly to end the directed fishery with such a collapsed fishery, and that a 5,000 lb federal fishery possession limit not only encourages a directed fishery but also is a slap in the face of the state's conservation and recovery efforts. *M. Gibson* offered that the 5,000 possession limit only applied to common pool fishermen, which was a small percentage of the total. The Sector fishermen made up the larger percentage and were more restricted. He offered that the 5,000 lb possession limit is only for this small percentage of fishermen. *G. Allen* offered the possibility of spawner sanctuaries to help rebuilding efforts. He offered that he would not support any effort to move federal quota to the states. *J. Grant* offered that he could not support a Council recommendation for a Director letter without specifics as to how the disparity could be changed, and that such specifics are not known at this time; to which *B. Ballou* concurred. *B. Ballou* offered that there were 3 options being considered: A letter from the Director requesting a reduction in federal possession limits; no action; or further deliberation by the Winter flounder AP. *K. Booth* did not offer support for the AP option. ***R. Hittinger* offered a motion to draft a letter regarding state efforts to rebuild the fishery and apparent lack of such effort by the federal regulations; and that the draft letter be brought back before the Council at the next meeting for review and further actions; 2nd by *D. Monti*. The motion passed 6 – 2.**

e. **Aquaculture review policy: Possible need for changes to policy regarding RIMFC review:** *B. Ballou* offered that this issue was brought due to recent applications that were brought before the Council due to potential conflicts with recreational fishing, rather than only potential impacts to wild shellfish harvest, and that it was therefore questioned as to the appropriateness of the SAP to review aquaculture applications when such broader issues are within the purview of Council review. He offered if it would be better suited to the IAC or the full Council to review applications. *J. McNamee* offered that perhaps the SAP membership was not broad enough to review for all potential conflicts as directed by statute. *J. Grant* recommended against the IAC due to timing and need for a quorum, and that if only aquaculture was on the agenda a quorum would be difficult. He offered that the IAC membership was also not broad enough in scope to provide a full review. *B. Ballou* offered that a separate panel could be developed solely for aquaculture, or that the current SAP review is adequate and full Council review occurs when a Council member determines that broader issues are involved and can then bring before full Council for review. *D. Monti*

offered that most aquaculture does mainly impact wild shellfish harvest, and he would not want to see the wild harvest industry to be under-represented and favored maintaining status quo with the SAP as Council's advisory panel to review applications, and also a request for additional recreational interest membership to the SAP. **No motion was taken on the matter at this time.**

f. **Shellfish and Groundfish Advisory Panel reports:** *B. Ballou* inquired as to any objections to accepting the reports and placing them on file. Hearing none, the reports were approved.

5. **Other business:**

- **Authorize an IAC meeting:** *B. Ballou* inquired as to the authorization of an IAC meeting to evaluate Licensing data and address a host of Licensing issues, as recommended by the Council and the Division. **A motion was made by R. Hittinger to authorize the meeting; 2<sup>nd</sup> by M. Rice. The motion passed 8 – 0.** *B. Ballou* tasked the Council with getting issues to *J. Lake* to begin in the development of the issues and agenda.
- **Fees for aquaculture leases:** *W. Macintosh* offered that the lease fees are extremely low; that the state is getting enough for the use of these sites. *J. Grant* offered that RI has some of the highest lease rates.

6. **Adjournment:** The meeting adjourned at approximately 8:00.

Prepared by *P. Duhamel*