RHODE ISLAND MARINE FISHERIES STREAMLINING INITIATIVE
Summary of Workshop on Proposed Rewrite of Finfish Regulations
March 9th, 2011 4:00pm
Coastal Institute - Narragansett Bay Campus
South Ferry Road, Narragansett, RI

Meeting Attendance -
John Moore – URI Marine Affairs
Jerry Trembley – RICRRA
Ken Booth – RICRRA
Jerry Carvalho - RIFA
Bob Ballou – DEM Marine Fisheries
Jason McNamee – DEM Marine Fisheries
Jonathon Peros – DEM Marine Fisheries – Seasonal Intern

B. Ballou began the meeting with introductions.

K. Booth asked who had participated in the streamlining initiative. B. Ballou indicated that J. Peros began work on the streamlining initiative in June of 2010 as a seasonal intern and is serving as the point person for this initiative. B. Ballou also noted that DEM formed internal working groups to discuss the proposed re-organization and streamlining of the regulations.

B. Ballou discussed items A and B on the meeting agenda. He reiterated that the intent of the process is not to make any substantive changes to the regulation, but to improve the organization, clarity, and readability of current regulations. He indicated that DEM is currently in "Phase I" of the process, and that substantive changes to regulation will be addressed in "Phase II" once the initial phase was complete. He stated that the decision to begin this process with finfish was arbitrary, and that DEM will be continuing the streamlining initiative for all of the marine fisheries regulations.

J. Peros spoke to items C and D on the meeting agenda. He explained how he had organized and structured three documents for public review. J. Peros explained DEM's rationale for adopting General Provisions that broadly capture fundamental management concepts, and said that he hoped industry would provide feedback on these issues.

B. Ballou gave an example of what DEM though might represent a substantive change in bringing forward and broadly applying a standardized notice of possession limit changes 48 hours prior to modification. He acknowledged that this current regulation does not apply to all species, but that as managers DEM felt it would be appropriate to increase the notification window.

K. Booth said he felt that this change was a positive one from the industry perspective.

B. Ballou indicated that DEM planned on compiling a comprehensive list of any changes that might be substantive in nature, and would share it with the public prior to beginning Phase II of the streamlining process.
J. McNamee explained that many of the General Provisions tease out regulation that existed for only one species, such as the notification of a possession limit change, and that other species-specific regulations are silent on the matter. He indicated that in instances where regulation is silent, DEM can and does use discretion. He gave another example of re-allocating under-harvest across sub-periods, and explained that the intent of general provisions was to provide predictability in management.

K. Booth stated that industry and managers would be better off if there was predictability in changes like this.

B. Ballou concluded discussion on General Provisions by saying the DEM acknowledges that some of the General Provisions could be perceived as substantive changes, but that DEM had brought them forward in Phase I because it felt that such provisions would benefit industry and managers. He said that DEM hoped to keep the Phase I process on schedule, and it was his intent to revisit substantive changes at a later date.

J. Peros added that coastal shark and summer flounder research set aside (fluke sector) regulations had not been dealt with in this streamlining process \

K. Booth said that he agreed with the Phase I and Phase II approach to this initiative.

J. Peros walked the group through the structure of species-specific regulations, and explained how they had been arranged (minimum size, season, possession limits, quota management).

B. Ballou indicated that all species-specific regulations have been arranged in the same way, when applicable or possible.

K. Booth said that standardizing the breakdown of each species would help individuals figure out how quota is distributed across sub-periods.

J. Peros went on to discuss how Striped Bass (currently Part XII) and Menhaden (currently Part XVI) had been folded into the proposed finfish reorganization.

J. Peros stated that he could be contacted by e-mail at Jonathon.peros@dem.ri.gov. He said that he would be putting together minutes from the meeting, and posting them to the DEM website. He told the group that future meetings would be announced on the listserve.

B. Ballou said that DEM would be working to reorganize Shellfish as the next piece of the initiative, and that he intended to brief the RIMFC on the progress of the project at future meetings. He asked if those at the meeting had any comments or questions for DEM.

K. Booth asked if there was a reason that the species were listed in the way presented

J. Peros responded that there was no particular reason for listing the species in the order in which they are currently presented.

K. Booth proposed that species be listed alphabetically.

J. McNamee said that he thought species had originally been listed in alphabetical order, but as more species became subject to management, that ordering scheme had been lost. He stated that many if not most of the finfish that are harvested in Rhode Island are now managed, and there would be opportunity to reorganize alphabetically.

K. Booth said that he was encouraged by the project, and hoped that a final product would be easy to interpret by industry, enforcement, and managers.

B. Ballou said that the reorganization process was geared to "one-stop-shopping" for users so that all relevant regulations can be found in a single place. He added that handling the current equipment section (Part X) posed some question as how to structure gear specific regulations, and said he thought when gear regulations pertain to specific species, then those gear regulations should be included in the species specific regulations.

J. Trembley stated that he agreed with this approach, and thought it should pertain to all species.

J. McNamee told the group that he thought this approach would work, but that some equipment regulations are general in nature. He cited trawl provisions as an example. He wondered if language should be duplicated across sections (finfish and equipment) or if it should live in one place or the other? He said he thought duplicating some general equipment provisions would lend itself to the "one-stop-shop" approach. He played devil's advocate and stated that adopting duplicate language would run counter to the intent of the project to streamline the regulations.

B. Ballou said that these types of issues will be handled later in the Phase I process after other sections have been completed.

K. Booth asked about enforcement regulations and where they fit into this process. He asked if there was a matrix that is used by DEM to determine penalties.

B. Ballou responded that enforcement has regulations pertaining to license suspension and revocation. He said that this was a good question, and warranted further consideration about placement in marine fisheries regulations.

J. Peros stated that all penalty provisions that currently exist in Parts VII, striped bass, or menhaden had been consolidated into a section at the end of the finfish draft proposal.

J. McNamee reiterated B. Ballou's comment, and went on to say that he liked the idea of having a penalty/enforcement section because it would aid Fish and Wildlife in determining who is eligible for aggregate programs.
K. Booth stated that having a clear penalty section in regulation would help to eliminate ambiguity for everyone.

B. Ballou said that prescriptive statutory provisions would be included in the regulations. He gave the example of gillnetting for striped bass (unlawful) and said that it would be disingenuous for DEM to not include prescriptive laws in regulation. He stated that this may seem repetitive, but that it is the kind of repetition that will aid industry, enforcement, and managers.

K. Booth said that he hoped that the process will not get bogged down by other regulatory issues. He asked how DEM plans to promulgate the regulations.

B. Ballou stated that all Phase I changes will be made at the same time, and that DEM will continue to update regulations that change during the project. He said that March public hearing items that are adopted will be added to the reorganized and streamlined regulations, and that everything will remain status quo until all regulations have been reorganized.

J. Carvalho submitted an alternate reorganization proposal to DEM Fish and Wildlife for discussion at a future meeting (see attached).

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Jonathon M. Peros