

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Shellfish Advisory Panel
October 3, 2006 4:30 PM
Ft. Wetherill Marine Laboratory
Jamestown, RI

SAP Members Present: J. King (Chair), R. Bercaw, D. Brayton, W. Cote, J. Grant, O. Kelly, Michael McGiveney (vice-chair), L. Ricciarelli, G. Schey

SAP Members Absent: J. Boland, S. DePetrillo, J. Gardner, P. Kennedy, J. Migliore, J. Mullen (alternate), R. Vaughn

DEM Marine Fisheries: D. Erkan & N. Scarduzio

DEM Director's Office: R. Ballou

Public Present: P. Brodeur, B. Callahan

1) Old Business

- A. Bob Ballou provided potential regulations for both Eastern and Western sections of Greenwich Bay Shellfish Management Area respectively (see attached). The regulations were developed after discussions with Industry.

The year-round opening for Eastern Greenwich currently in place (due to expire) was originally developed by Industry and was implemented on a 1-year trial basis. *The waters east of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods, (previously open daily from May 1 to Labor Day in September) will to be open to harvesting from a boat between sunrise and sunset daily on a year round basis, with a 3 bushel per day limit.* The duration was limited to 1 year allowing DFW Marine Staff to monitor quahaug size and abundance under the year-round opening. No measurable decline in quahaug numbers was observed. As stocks appear to have remained stable, Staff did not object to continuing the year-round opening. The SAP voted unanimously to refer Ballou's Eastern Greenwich Language to the MFC for approval.

- B. The potential regulations giving the DEM Director greater flexibility in management of the Western section of Greenwich Bay Shellfish Management area were discussed as well (see attached). The intent is to provide access to quahaug resources during periods of high demand after prolonged rainfall induced pollution closures. Discussion ensued. Issues raised include: Is the Chair of the SAP the appropriate contact as far as petitioning the DEM Director? Having the request go through the MFC, then referred to the SAP, and then to the Director would be cumbersome and result in potential delays. The need for an organized notice process to inform shellfishermen and dealers of new fishing days is necessary. The logical point of origin would be the Directors Office. The SAP recommended the following format: Michael McGiveney of RISA, submits a request for a change in fishing days to Jody King, SAP Chair. King would then

submit the request to the DEM Director. The SAP voted unanimously to refer Ballou's Western Eastern Greenwich Language to the MFC for discussion and approval.

(Note: An additional question raised relating to the line separating Eastern and Western Sections of Greenwich Bay Management Area. After contacting EPO Cabral from DEM Enforcement, the official line is as described in the regulations, **"a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods"**. There is no "triangle".

- C. Discussion continued on development of whelk harvest regulations. Nancy Scarduzio provided the SAP with a draft proposal (developed by DFW Marine Section Staff) for whelk regulations and SAP member, Gerry Schey's original proposal for whelk regulations. Both documents were set up in proper regulatory format. Discussion ensued. Erkan described a predation experiment underway in the Wetherill wet lab. Whelk and quahaugs of various sizes were placed in a tank together. After three weeks together (as of the date of the SAP meeting) no predation of quahaugs by whelk was observed. A variety of issues were raised by the SAP and the public present. Because of the number of discrepancies between the Schey draft whelk regulations and the DFW Marine Section draft whelk regulations, **the SAP voted to continue the whelk discussion until the next SAP meeting**. This will allow the SAP members to review both proposals and decide whether to vote for the Schey proposal "as is" or to consider a compromise incorporating the DFW Marine Section proposal. The primary issues appear to be the recommended minimum size and possession limits. Schey's recommended minimum size is 2 ½ inches in diameter. DFW Marine Section's recommended minimum size (based primarily upon the sexual maturity of the animals) is 2 ¾ inches diameter.

2) New Business

- A. Jody King brought a request to the SAP from 2 commercial shellfishermen (Don Gobel and Mike Bradshaw) to develop new soft-shell clam regulations. Recommended changes include: 2 inch minimum size, new bushel limits, license caps, harvester must be the seller of harvested shellfish, harvester education, and limiting number of shellfishermen per boat. **The SAP agreed to ask the MFC to place this on the next SAP Agenda.**
- B. New SAP members Jon Boland and Jeff Grant were noted. Jody King will ask the MFC to change SAP Member Ricciarelli's status from bull raker to diver.

Adjourn: 8:00 PM.

Minutes prepared by D. Erkan

Greenwich Bay Management Area
Proposed Modification
(R.Ballou)
October 3, 2006

BOAT HARVEST

4.10.4 The entire area is closed to all shellfishing from a boat except as follows:

Beginning on the second Wednesday of December annually, shellfishing will be permitted only between the hours of 8 A.M. and NOON on Mondays, Wednesdays, and Fridays until April 30th. In those years in which December 25th occurs on a Monday, Wednesday, or Friday, the management area will be closed to shellfishing from a boat on Christmas Day and will be open to shellfishing from a boat the day following Christmas day. Additionally, the week immediately preceding Christmas 2004 and the week immediately preceding New Years Day 2005, shellfishing will be permitted only between the hours of 8:00 AM and NOON on Monday, Wednesday, and Thursday of those two weeks.

December (Generally): The area shall be open to shellfishing every December in accordance with a schedule established annually by the Director, pursuant to recommendations developed by the Marine Fisheries Council. Said recommendations shall be submitted to the Director at least sixty (60) days prior to the first scheduled opening. The December schedule may include up to forty-eight (48) hours of permitted shellfishing, spread over any number of days during the month, excepting December 25.

December (Modifications): If weather or water quality conditions during the month of December prevent the area from opening on two or more scheduled days, the Director may modify the December schedule to allow for additional hours or days of permitted shellfishing, provided: 1) the proposed modification(s) is/are submitted in writing to the Director by the Chair of the Council's Shellfish Advisory Panel, or his/her designee; 2) the total number of hours of permitted shellfishing for the month does not exceed forty-eight (48); and 3) the re-scheduled hours or days are announced publicly by the Director with at least seventy-two (72) hours of advance notice.

December 2006: The schedule for the month of December 2006 shall be as follows: Shellfishing will be permitted only between the hours of 8 A.M. and NOON on:

Monday (12/11)
Wednesday (12/13)
Friday (12/15)
Monday (12/18)
Tuesday (12/19)
Wednesday (12/20)
Friday (12/22)
Tuesday (12/26)
Wednesday (12/27)
Friday (12/29)

January-April (Generally): The area shall be open to shellfishing between the hours of 8 A.M. and NOON on Mondays, Wednesdays, and Fridays.

January-April (Modifications): If the area fails to open for a minimum of four (4) times during the month of December due to pollution closures, the schedule will be as follows: Shellfishing will be permitted only between the hours of 9 A.M. and 11 A.M. on the first three (3) scheduled openings in January. Following the first three (3) scheduled openings, shellfishing will be permitted only between the hours of 8 A.M. and NOON on Mondays, Wednesdays, and Fridays until April 30th.

Eastern Section: On an annual basis, the waters east of a line between Sally Rock Point and the westernmost flagpole on Promenade Street, Old Buttonwoods will be open to ~~harvesting shellfishing~~ from a boat daily between sunrise and sunset. ~~daily on an annual basis until sunset on October 24, 2006.~~

Pollution Closures: Shellfishing in all areas will be subject to water quality status as specified by the D.E.M. Office of Water Resources.

Explanation of Proposed Regulatory Changes

I. Western Greenwich Bay

Background: The western portion of Greenwich Bay has traditionally opened on the second Wednesday in December and remained opened every Monday, Wednesday, and Friday from 8 AM until 12 noon through April.

Issue 1: Year-to-year variations in the December calendar have given rise to prior modifications – via standard and emergency regulatory changes -- to allow for adequate harvesting opportunities during the peak (i.e., holiday) season.

Proposed Change #1: Establishes an annual process for developing the December schedule. Calls upon the Council (presumably through the Shellfish Advisory Panel) to pre-select any combination of days and hours during the month, provided that the total number of hours of permitted shellfishing does not exceed 48. For 2006, a proposed schedule is set forth, establishing 10 open days, 4 hours each day. The 2006 schedule is very similar to past years, but provides one extra day (12/11) at the beginning, and one other extra day in the middle (12/19). This year-specific-section of the regulations – and this section only -- would be subject to annual modification via the Council and Shellfish AP process.

Issue #2: In past years, in response to lost harvesting opportunities due to pollution closures in December, the industry has sought regulatory relief via emergency regulations that add one or more days during the latter part of the month.

Proposed Change #2: Establishes a process for modifying the December schedule in response to closures, without having to resort to emergency regulations. Calls upon the Council's Shellfish Advisory Panel Chair, or his/her designee, to make the request for one or more added days, on behalf of the industry (i.e., harvesters and dealers). Stipulates that any such schedule modification must be enacted with at least 72 hours advance notice.

Issue #3: In 2004, persistent precipitation in December resulted in extended closures of the management area during the month. When the area re-opened in January, dealers were flooded with product at a time of decreased (post-holiday) demand, forcing some of them to close their doors and leaving some harvesters holding product that they could not sell.

Proposed Change #3: Reduces allowable hours for shellfishing from 4 to 2 during the first three openings in January if the management area does not open on at least 4 days during the month of December. This would purportedly help to guard against dealer closures by limiting the amount of product that would be landed. There was some concern expressed at the Shellfish Advisory Panel meeting that this contingency provision might need to be waived if ice (or other weather/pollution?) conditions further affected harvesting opportunities in January, but the panel opted not to pursue an additional provision to address that additional contingency.

II. Eastern Greenwich Bay

Proposed Change: The trial opening of the eastern portion of the Greenwich Bay Management Area, which sunseted on October 24, 2006, is proposed to be re-instated on a permanent, year-round basis. The proposal reflects the health and stability of the resource in that area, as determined by recent assessment work completed by DEM's Division of Fish and Wildlife.