RI Marine Fisheries Council
Summary of Meeting Minutes of the
Industry Advisory Committee
August 5, 2009 - 6:00 PM
Jamestown, RI

There were approximately 34 people present (* IAC member)

Kenneth Ketcham, Chair	Joseph Crescnole	Robert Mattucci*
Rick Bellavance*	Ken Court	James Chapman
Stephen Parente	Charlie Germe	Don Polich
Dave Petit	William Beattle	Paul Kellerberg
Dwight Kuhg	John Rainone	Andy Dangelo
Charlie Akmanjian	Craig Stevens	Ken Booth
Mike Colby	Pam Tameo	Bob Ballou, RIDEM
Jerry Tremblay*	Frank Tameo	Nancy Scarduzio, RIDEM
Lanny Dellinger*	Charles Bradbury	Eric Schneider, RIDEM
Gordon Cooper	George Latos	Chief Hall, RIDLE
Larry Buarbarg	Armand Teixeira	Fran Ethier, RIDLE
Dave Tyrell	Jack Demers	
Mark Ambrosia	Ron Enright	

1. Continued discussion on rod and reel issues:

Ken Ketcham, chairman, pointed out that we did not have a quorum therefore he would not be entertaining any motions or votes. He would ask for consensus agreement or disagreement but all information would be presented to the Council for their consideration.

Ken Ketcham asked if Chief Hall, RIDEM, Division of Law Enforcement, would like to make some initial comments. Chief Hall explained the Division's methodology when they enforce regulations. He indicated that the policies and regulations were developed by various parties from industry, law makers, to biologists. He indicated the Division got their legal interpretations from the DEM Legal Department and he was not willing to debate the interpretation of the law at this point, but he could inform people of what would occur if they engaged in certain behavior under the current law. He had no intensions of changing the way they enforced current regulations but he was open to having the laws changed or refined if that was what people were leaning towards. He stated he was not married to the regulations, but it was his responsibly to enforce them in the spirit in which they were enacted.

B. Ballou then went through each bullet item from the updated handout created from comments made at the pervious IAC meeting. He explained this was an attempt to organize and put forward information discussed at the last meeting. He stated that the Department was open to clarify or make changes to the regulations if it made sense to do so.

(a) **Charter/party boat operators fishing commercially when not engaged in charter/party boat operations**. Ballou gave a summary of where the group and Department were currently at with this topic – if a charter/party vessel operator held a commercial license, vessel can fish commercially, in accordance with all applicable commercial regulations, when a vessel is not fishing as a charter/party boat operation. There was some brief discussion and questions. However, both S. Hall and members from industry were in agreement with this concept.

(b) **Charter/party boat operators fishing commercially while engaged in charter/party boat operations**. Ballou indicated he was able to break this issue in to two scenarios based on pervious IAC meeting discussions. What was presented at the last meeting met resistance and people wanted this aspect of the regulation changed. Ballou outlined a scenario that attempted to address the concerns of people who felt there should be an opportunity for a charter/party boat operator to fish commercial while they engaged in charter/party boat operations. Ballou stated there were several major issues that would first need to be overcome or be changed in current regulation:
    (1) under current policy – unlicensed fishermen cannot directly harvest, using rod & reel, for commercial purposes;
    (2) captain/vessel owner or someone else on board must hold a commercial license;
    (3) fish must be either landed at a properly licensed dealer, or retained for personal use.

There was discussion about personal use of fish and the parameters of how these fish were treated. One concern was that fish landed for personal use were not required to be reported to SAFIS and did not come off the quota. K. Ketcham explained that on his federal log book there was a column for this entry. G. Tremblay also indicated that he fished his possession limit and subtracted what he used for personal use from that limit. There was encouragement from the group for Ballou to further investigate this issue.

B. Mattucci was opposed to allowing charter/party boats to fish commercially and recreationally at the same time on the same trip. He felt at the previous meeting there was clear consensus that commercial and recreational fishing should be conducted on separate trips

K. Booth stated that he had read through the handout and it made sense that if you allowed commercial and recreational on the same day you would have to close the other loop holes. He felt the packet lead in that direction.

D. Tyrell stated there was not consistency between commercial fishermen and commercial fishermen on party/charter boats. He felt things were becoming more complicated; he was in favor of having one quota.

B. Mattucci indicated that they wanted to support the charter/party boats as much as possible but there were some things that charter/party boats could do recreationally that a commercial fisherman could not do and he was in favor of keeping recreational and commercial trips separate.

There was continued discussion.

R. Bellavance tried to explain what F. Blount, who was not at the meeting, was trying to convey at the last meeting. He indicated a lot had to do with past practice, Blount would purchase fish caught for the day recreationally under his dealer license then sell under his commercial license. Bellavance indicated that this was allowed at one point but the law had changed and they were wondering at what point was this law changed. Bellavance gave an example that under their federal groundfish incidental catch permit they could harvest their commercial limit and then sell the fish. This was an example where they felt they should still be allowed to continue this practice because it was an important part of the business.

K. Court read a prepared statement about charter boats and the striped bass fishery. He indicated that RI Charter boats contributed to the historical averages of striped bass sold from 1972-1979 and they therefore had a stake in the RI commercial striped bass allocation. He stated that charter boats and mates have traditionally supplemented their income by selling the fish left on their boats as a gift from their patrons.

B. Ballou moved on to item (b) (v) – <u>If landed at a properly licensed dealer</u>. He read through the requirements listed on the handout, which were required under current regulation. He referenced that according to the Department of Health (DOH) a vessel would not qualify as a "food business" and would not be able to obtain a DOH license for that purpose. Without a DOH license, a charter/party boat operator would not be able to sell the catch back to the customers. Therefore, the only apparent way for this scenario to work is for the entire commercially caught catch to be landed at or sold to a properly licensed dealer, meaning that the customer would not be able to bring the fish home with them.

Chief S. Hall verified this was consistence with his discussions with DOH.

J. Rainone stated that some of the requirements for obtaining a DOH license were that you had to have stainless steel tables, and had to have ice to keep fish at a specific temperature. He indicated that the bigger vessels like F. Blount's could meet those conditions, but charter boats could not meet those requirements. In F. Blount's defense, he felt that Blount could meet the DOH requirements and could probably obtain a DOH license, if he did not already have one.

B. Ballou asked if people wanted to move on to the next topic or if the group wanted to find out if there was a consensus as to what to do with the issue. He summarized indicating that he had explained the Departments status quo position and why, and had offered a couple of scenarios that we could try to make work for party/charters if there was interest in doing so.

K. Ketcham asked for comments from IAC members. B. Mattucci explained he had concerns about allowing commercial sizes, in the case of fluke, made available on party/charter boats for recreational harvest. He was concerned about the quota being used faster and the fishery closing sooner. Individuals felt the party/charter people would have to make a decision to either fish commercially or get paid for a party/charter. Others felt that if the party/charter people were concerned about the current size limits for recreational fish, such as fluke, they needed to explore other avenues to try to get the size changed. One individual who fished commercial stated that because of the 21 inch recreational size limit for fluke, fishermen were killing a lot of fish and he did not think that was right and felt this was something we needed to discuss at the federal level to try to get a preferred size limit.

It seemed the consensus for now was to stay at status quo however, there were no definitive decisions made.

(c) Charter/party boat operators fishing recreationally on one trip, and then commercially on a second trip, on the same day. B. Ballou pointed out that all the recreational limits are per person per day and most of the commercial limits were per vessel per day. He indicated there appeared to be no limit on separate commercial and recreational trips, as long as the respective recreational and commercial limits were adhered to.

Chief S. Hall clarified, if a charter boat goes out with four people on board and catches eight striped bass in the morning, as soon as they caught a striped bass on a commercial trip in the

afternoon then they would be over their limit. The eight fish caught recreationally would count against their commercial limit because it is **per vessel per day** for commercial limits.

There was lengthy discussion and debate about this topic. Individuals had other interruptions, and felt they should be able to go out in the afternoon to catch their commercial limit after fishing recreationally in the morning. Enforcement staff indicated that people had to observe the per vessel per day commercial limits and could not go back out on the same day.

B. Ballou interjected stating that there was a difference of opinion. He indicated that he had miss characterized the current enforcement policy; it was his attempt to try to put it forward in a way that the group wanted it put forward from the last meeting. He indicated that apparently this was not accurate in terms of current enforcement policy. He stated that if there was a feeling that things needed to change and this does not make sense then we could take that as the recommendation.

There was an overwhelming response from fishermen that they wanted the regulation changed to allow fishermen to be able to fish recreationally and commercially in the same day.

B. Mattucci stated that in the case of striped bass the five fish per day was not a DEM policy that the **per vessel per day** limit actually came from the striped bass AP meetings. This was to eliminate fishermen from having a bunch of people fishing on one vessel catching a large number of bass in one day. He indicated the only way to limit this was to limit the number of fish caught per day regardless of the number of people on the boat. Chief Hall confirmed that this did come from industry, and prior to that, you were able to go out and catch a recreational limit in the morning then a commercial limit in the afternoon.

Chief Hall pointed out that if people wanted to make changes to the regulation they should be careful what they changed because the law of unintended consequences may have a negative impact than what was indented. There was discussion about various situations.

(d) Daily and trip limits for charter/party boat operations
Currently enforced applied possession limits as per person per day. Regarding double trips on the same day, a captain and/or mate's allowable take can only apply to one trip. There was agreement and consensus between Enforcement and industry on this topic, therefore there was little discussion.

(e) Daily and trip limits for recreational fishermen
Currently enforced is to apply the limits as per person per day. Ballou indicated that when the new recreational license law goes into effect in 2010 the legal limit would be calculated as per licensed fisherman per day. Ballou clarified that individuals recreationally fishing on a charter/party boat would be covered under the captain's charter/party boat license. B. Ballou put this forward for informational purposes and there were no specific comments made.

(f) Mixing of commercial and recreational catches on same trip
B. Ballou explained where the group left off on this issue and under current law, while fishing commercially you may not also fish recreationally for the same species. However, while fishing commercially, the jury remains out on the question as to whether it is permissible to also fish recreationally for any species that are not on board as commercially caught fish.

Enforcement staff indicated that under the current regulation this was okay. Chief Hall gave an example where this would be allowable.

There was discussion about keeping commercial and recreational trips separate. B. Mattucci stated he was in favor of keeping the trips separate, he indicated it should be either a commercial or recreational trip. He felt this was fair for everyone, and everyone would be treated the same. He felt there was already consensus to this position from the last meeting.

It appeared most people were in consensus with keeping commercial and recreational trips separate.

(g) Limits on number of rods and reels employed during commercial rod & reel operations
B. Ballou stated that although not explicitly addressed via rule or law, the understanding, as currently enforced, is that there is no limit to the number of rods that can be fished at one time. Chief S. Hall explained under freshwater regulation there was a limit of two devices per person but there was no stated limitation under the saltwater regulations. B. Ballou stated this was therefore not an issue.

(h) Limits on number of fishermen engaged during commercial rod & reel operations
B. Ballou explained that pursuant to existing law and long-standing enforcement policy there is no limit on the number of licensed fishermen on a vessel. The vessel is bound by daily vessel limits regardless of the number of licensed fishermen onboard and fishing. However, unlicensed crew members are not legally entitled to directly harvest using a rod & reel for commercial purposes. He explained, as he referred to the handout, that these were the same bullet items discussed at the last meeting with a proposal which came forward from the last meeting.

B. Ballou stated at the last meeting their were strong feelings that this should change. Therefore, **the proposal was to allow any number of unlicensed crew members to assist in the harvest aboard any commercial vessel with a properly licensed fisherman onboard, regardless of type of commercial operation being employed. The vessel limit would still apply.** The only exception would be to commercial shellfishing, which this would not be applicable. Currently, there was a limitation in place, which the shellfish industry was in support of.

B. Ballou indicated this would be the proposal on the table if people were interested in pursuing it. He stated it would not be something the Department would endorse but we would facilitate the issue if people thought it was worth pursuing. If the Council agreed we could set it in motion.

Ballou reviewed the process that the Council would review the issue and either endorse it or not. If they were in favor of the proposal, then the Department would need to review to determine what would need to change and if there was a need to go to the general assembly or not. He would then report back to the Council on what actions would be necessary. Chief S. Hall felt it would take a statutory change because it was the same statute that applied to one bull-rake per person which was the same statute Enforcement used as one device per person on a pin-hook. He was in support of having it changed. However, he cautioned people that they may want to have some limitation because they did not want to have six people on a boat fishing for striped bass, as an example. He suggested coming up with a limit on the number of people on a vessel.

To summarize there were two issues the group was looking at:
(1) limit the number of people that can be commercially fishing on a vessel, and
(2) whether you can fish commercially or recreationally on the same day, but not on the same trip.

M. Colby was in favor of the proposed change however he posed the concern that if the statutory changes could not be made did they want to change the commercial/recreational fishing on the same trip because at least now if you were a commercial fishermen you could still have recreational fishermen on your boat. You could take your grandkids fishing and commercially fish as long as they only kept 21 inch fish, in the case of fluke, he could still get his 50 pounds. He pointed out if you changed this proposal it would be fine to limit it to just recreational or commercial but if we do not change it, then he theoretically could not take his grandkids out fishing when he was commercially fishing.

M. Colby pointed out that before we do that, we should make the statutory change first then make the other change after that. However, if we could not make the statutory change then he suggested leaving it alone. Chief S. Hall was in agreement with his reasoning.

B. Mattucci thought they should aim toward the ASMFC level and work towards bring down the discrepancy with the fluke size limit between recreational and commercial. He did not think the 14 inches vs. the 21 inches helped the commercial rod & reel fishermen. He felt it was not good public relations and not good for the fishery. K. Ketcham indicated that the state of New York was currently suing the federal government over that very issue and that RI should look into joining with New York.

There was discussion about the fluke fishery.

B. Ballou requested that the group articulate the direction they wanted to go in.

To summarize: they first wanted to have the statute changed to limit the number of unlicensed crew members that can be contributing to the commercial catch on a boat, then once that has been changed, go to the Council and the Director to make the change in regulation to either fish commercially or recreationally on the same day, but not on the same trip. If the statute could not be changed then leave it alone, do not go forward with the second part of the proposal.

B. Ballou indicated this information would be presented to the Council at the October Council meeting for Council input.

The meeting was adjourned.