

DMR ADVISORY COUNCIL MEETING
Natural Resource Service Center
November 19, 2008 1:00 p.m.
DRAFT Minutes

A meeting of the Department of Marine Resources' (DMR) Advisory Council (AC) was held on this date at the Natural Resource Service Center, 6 Beech Street, Hallowell, Maine. AC members attending this meeting included **Al West - Secretary, Fiona DeKoning, Dana Temple, George Harris, Jr., Bob Baines, Jim Wadsworth, Tim Harper, and Vincent Balzano**. Council members **Dana Rice, David Pecci, Glenn Libby**, Rod Mitchell, Timothy Kief, and Scott Tilton were unable to attend. Department staff included Commissioner George Lapointe, Colonel Joe Fessenden, Steve Ingram, Sarah Cotnoir, Linda Mercer, Amy Fitzpatrick, Denis Nault, Togue Brawn, Deirdre Gilbert, Dep. Comm. David Etnier, and L. Churchill. Other attendees included Ivory Preston, Jeff Conley, Rocky Alley, David Look, Ames Ackley, Harris Norton, Farrell Beal, Thurman Alley, Brian Soper, Caroline Cornish, Robbie Gray, and Wallace Gray.

1. Welcome

The Chair called the meeting to order just past 1:00pm.

The Chair noted the directive by the Attorney General's Office that no comments are allowed from the public when members are voting on rulemaking as the comment period has closed.

2. Approval of minutes (see handout)

Motion: (B. Baines, D. Temple) Motion to approve the minutes of the meeting held September 17, 2008.

Discussion: None

Motion continued: Unanimous to approve (Al West, Fiona DeKoning, Dana Temple, George Harris, Jr., Bob Baines, Jim Wadsworth, Tim Harper, and Vincent Balzano)

3. Regulations - Action (voting) (see handouts)

Chapter 7.70 Intertidal mussel harvesting by drag or dredge

Denis Nault briefed the members on the proposed regulation background.

Motion: (B. Baines, George Harris, Jr.) Motion to approve the rulemaking in Chapter 7.70.

Discussion: Fiona DeKoning explained she would abstain due to her position as chair of the Shellfish Advisory Council, whose members had not discussed this rulemaking.

Comm. Lapointe: The rule was discussed with the Shellfish Advisory Council at their meeting held this morning. There is tension between the clam harvesters and the mussel dragging industry that resulted in statutes being passed regarding this issue.

F. DeKoning: The rules could be used as an exclusionary tool.

Denis Nault: The potential is there but it is not a prohibition to drag in the intertidal; only in specific areas. The rules are intended to minimize these conflicts.

Motion continued:

Affirmative: Al West, Dana Temple, George Harris, Jr., Bob Baines, Jim Wadsworth, Tim Harper, and Vincent Balzano

Abstain: Fiona DeKoning

The motion passed by a majority of affirmative votes.

Chapter 16.26 Receiving Shellfish

Amy Fitzpatrick briefed the members on the proposed regulation; this was an oversight with the Model Ordinance.

Motion: (F. DeKoning, D. Temple) Motion to approve the rulemaking in Chapter 16.26.

Discussion: none

Motion continued: Unanimous to approve (Al West, Fiona DeKoning, Dana Temple, George Harris, Jr., Bob Baines, Jim Wadsworth, Tim Harper, and Vincent Balzano)

Chapter 11.07(3) Configuration of Scallop Drag, Minimum Ring Size

Commissioner Lapointe reviewed the rulemaking, its history with the last legislative session and mandate.

Motion: (George Harris, Jr., Bob Baines) Motion to approve the rulemaking in Chapter 11.07(3).

Discussion:

J. Wadsworth read from the opposing comments. B. Baines explained that the ring size makes sense as it will retain, just not as many small ones and this type of management makes sense to him. Tim Harper agreed. D. Temple pointed out that you cannot buy 3.5 inch rings now. T. Harper said this would reduce the number that doesn't come to the surface to freeze and die. Studies were discussed. V. Balzano asked if this matches the federal rules and was answered yes.

Motion continued:

Affirmative: Al West, Fiona DeKoning, Dana Temple, George Harris, Jr., Bob Baines, Tim Harper, and Vincent Balzano

Opposed: Jim Wadsworth

The motion passed by a majority of affirmative votes.

Chapter 11.09 & 10 Scallop season and limitations

Commissioner Lapointe reviewed the rulemaking, the resource decline and that many have acknowledged that there are not as many around as there used to be. On the proposed season length what was proposed was changed to a split season of 70 days for only this year. Sections 10(F) pertains to the 200 lb limit; section 10(H) is closed areas (see handout), and section 10(G) makes it so the federal permit holders may land scallops in Maine.

Motion: (George Harris, Jr., D. Temple) Motion to approve the rulemaking in Chapter 11.09 & 11.10.

Discussion:

The discussion points included whether the Scallop Advisory Council is representing the majority of harvesters; similarities to the urchin fishery; the closed areas forcing boats to move long distances from their home ports; equitability; Northern Gulf of Maine permit status; hold long to see improvement; closed areas.

Comm. Lapointe: Based on the comments the 52 day season was changed to 70 days; these are tough decisions and yes they will impact folks; January and February have the worst weather; on the number of days compared to other fisheries the urchin and shrimp harvesters will get 2/3 of their days which is built into the intended effort reduction; on equitability would you want Maine's lobster industry treated the same and the lobster industry in Long Island? These are big impacts but wouldn't be locked in forever (see sunsets).

Motion continued: (T. Harper, George Harris, Jr.) Motion to amend the motion to vote on each of the 4 proposed sections of rule separately, i.e., Chapter 11.09 - season, 11.10(F) - 200lb limit, 11.10(G) - possession, and 11.10(H) - closed areas.

Discussion: none

Affirmative: Fiona DeKoning, Dana Temple, George Harris, Jr., Bob Baines, Jim Wadsworth, Tim Harper, and Vincent Balzano

Abstain: Al West as Chair abstained.

The amended motion passed by a majority of affirmative votes.

Motion: (T. Harper, Jr., D. Temple) Motion to accept as written the rulemaking in **Chapter 11.10(H) - closed areas.**

Discussion: none

Affirmative: Dana Temple, Al West, Tim Harper, Fiona DeKoning (4)

Opposed: Jim Wadsworth, George Harris, Jr., Vincent Balzano, Bob Baines (4)

The motion failed by a tie, i.e., the lack of a majority of affirmative votes.

Motion: (B. Baines, T. Harper) Motion to accept as written the rulemakings in **Chapter 11.10(F) - 200lb limit, and 11.10(G) – possession.**

Discussion: J. Wadsworth asked if the 200 lb is a change and the answer was yes, and would match the federal limit of 200lb.

Motion continued: Unanimous to approve (Al West, Fiona DeKoning, Dana Temple, George Harris, Jr., Bob Baines, Jim Wadsworth, Tim Harper, and Vincent Balzano)

Motion: (V. Balzano, D. Temple) Motion to accept as written the rulemaking in **Chapter 11.09 – season.**

Discussion: J. Wadsworth asked how many days were in the season and was answered 70 days.

Affirmative: Vincent Balzano, Fiona DeKoning, Dana Temple, Bob Baines, Al West (5)

Opposed: George Harris, Jr., Jim Wadsworth, Tim Harper (3)

The motion passed by a majority of affirmative votes.

Chapter 25.93(F)(1)(b)(i) Exit Ratios for Limited Entry Zones – Zone D (5:1, based on trap tags)

Chapter 25.93(F)(1)(b)(ii) Exit Ratios for Limited Entry Zones – Zone E (5:1, based on trap tags)

Chapter 25.93(F)(1)(b)(vi) Exit Ratios for Limited Entry Zones – Zone A (3:1, based on trap tags)

Chapter 25.93(F)(1)(b)(v) Exit Ratios for Limited Entry Zones – Zone B (5:1, based on trap tags)

Deputy Commissioner Etnier briefed the members on the respective proposed rules for converting from license to tag based exit to entry ratios in the lobster industry.

Motion: (D. Temple, B. Baines) Motion to accept as written the respective rulemakings for Zones A, B, D and E in Chapter 25.93(F)(1)(b).

Discussion: B. Baines explained that the Lobster Advisory Council has not commented specifically on the rules as they are developed by each individual zone.

Affirmative: Fiona DeKoning, Dana Temple, Jim Wadsworth, Bob Baines, Al West, Vincent Balzano (6)

Opposed: George Harris, Jr., Tim Harper (2)

The motion passed by a majority of affirmative votes.

4. Other Business

Taunton Bay Management Plan – update

John Sowles briefed the members on this management plan and activities to date and responded to a few questions. Comm. Lapointe pointed out that this model started with the Aquaculture Tack Force recommendation and has developed from there.

ASMFC & NEFMC Updates

Comm. Lapointe briefed the members the status of herring, Amendment 4, haddock in herring; groundfish GARM3; winter flounder in tough shape in southern New England.

Other Updates

Members discussed scallop statistics, stock assessment, closures, and Dep. Comm. Etnier noted that the DMR and the Scallop Advisory Council must report back to the Legislature January 1st.

Comm. Lapointe explained that Maine would receive 2 million for red tide disaster relief.

Motion: (B. Baines, George Harris, Jr.) Motion to close the meeting.

Discussion: None

Motion continued: Unanimous to approve