Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

401 423-1920
FAX 401 423-1925

3 Fort Wetherill Rd
Jamestown, RI 02835

SUMMARY OF PUBLIC HEARING COMMENTS

Hearing Officer: B. Ballou
DEM Staff: N. Scarduzio, G. Powers, L. Mouradjian, D. Costa, J. Poccia
RIMFC Members present as observers: S. Parente, J. King, K. Ketcham, S. Macinko, and R. Hittinger

The public hearing was held on November 12, 2009 in Narragansett, RI at the URI Bay Campus. Approximately 32 people attended the hearing. The following items were presented for public comment:

1) **Summer flounder quota management proposals:** There were three proposals for the 2010 summer flounder quota management plan that were brought forward for public comment. The first was a proposal to remain at status quo in 2010; the second was to change the starting possession limits for the winter 1 and winter 2 sub periods. This proposal came from the Division and suggested raising the sub period starting possession limits in the winter 1 sub period to 300 pounds/day (from 100 pounds/day) or 2,000 pounds/week (from 1,000 pounds/week) for the aggregate program, and for the winter 2 sub period increasing the possession limit to 450 pound/day (from 225 pounds /day) in an effort to fully utilize the allocations for those sub periods. The third proposal was to remove the Friday & Saturday closures in the summer sub period.

   Public Comment: R. Mattiucci stated that he was in favor of continuing the Friday and Saturday closures (opposed to option #3). He would prefer that we air on the side of caution as the Department has recommended. He indicated he was nervous about fishing seven days per week.

   Public Comment: B. Loftes stated he was in favor of option #2, (the Division recommended option to increase the starting possession limits for the winter 1 and winter 2 sub periods).

   Public Comment: K. Booth, on behalf of the RI Commercial Rod and Reel Anglers Association (RICRRA) stated they were in favor of opening Fridays and Saturdays (in favor of option #3).

Public Comment: B. Smith stated he was in favor of option #2, although he thought the 2,000 pounds/week starting limit might be a little high in January and would have to be adjusted down toward the end of the sub period.

Public Comment: C. Brown, RI Commercial Fishermen's Association, stated they were in support of option #2.

Public Comment: D. Cool, RICRRA, stated he was in favor of option #3. He would like to see Friday and Saturday open.

Public Comment: G. Carvalho stated he was in favor of removing the Friday and Saturday closures (option #3). He was in support of any fishery management program that does not allow the fishery to close.

Public Comment: M. Colby, RICRRA, stated he was in favor of option #3. He would like to see Fridays and Saturdays opened.

Public Comment: B. Beatty, RICRRA, stated he was also in favor of option #3.

B. Ballou closed this portion of the public hearing for this item.

2) **Proposal to continue/expand/modify the summer flounder sector allocation program in 2010:** DEM proposed to continue to assess the effectiveness and viability of a catch-share approach as an alternative to traditional quota management in the summer flounder fishery in 2010.

Public Comment: R. Mattiucci stated he had requested at the RIMFC meeting to not approve any extension or expansion or attempt to make permanent the summer flounder sector allocation program. He felt the program was discriminatory, unfair, and violated the State Constitution that all citizens have the right to enjoy an open and free fishery. He asked that the program be reviewed to determine if it violated the State Constitution. He was opposed to the continuation of the program. R. Mattiucci commented later in the hearing about adjusting quotas by putting a larger percentage in the winter period and switching quota around so there would be less discards. He felt the sector program was not the only answer to solving the discard problem. R. Mattiucci made a final comment that the sector program should not be expanded when we have not seen any of the final results. He felt the Director should wait until the results were in before he considered expanding the program.

Public Comment: G. Carvalho stated that we should end the summer flounder sector allocation program immediately. He indicated that a number of provisions were not being enforced and therefore they must be unenforceable. The program was discriminatory because it does not allow for equal access and it should be terminated immediately. He was opposed and felt it was not in the best interest of the people of the state of RI or the fishermen. G. Carvalho's second comment later in the hearing pertained to the Director not being able to provide the same benefits to all other

fishermen as those in the sector. He gave an example using the inshore fleet where most could not go out for 50 pounds of fish, so they could not accumulate a history at a 50 pound level to build up history. He pointed out that this was a glaring inequity. All the common people were not allowed to go out and fish but a few special people could. Carvalho pointed out that if the program was so good then the Director should find a way to provide the same benefits to all others.

Public Comment: R. Fuka, President of the RI Fishermen's Alliance, requested that the sector allocation program be terminated. He could not believe we were asking for a continuation of something we knew nothing about. He had concerns about observer coverage and if the program would be peer reviewed. He was opposed to continuing the program, and requested denial on behalf of the RI Fishermen's Alliance members.

Public Comment: H. Loftes explained that he had been opposed to the sector program right along because he would not be able to get into a sector even if he wanted to, due to the 2004-2008 history being used. He only had two years of history on the boat he purchased which would allow him only 40% of what he caught for the last two years. Therefore, it would never work for him. He also pointed out that if this continued then we would be creating sectors for scup and sea bass, and all other fisheries. He indicated that it was not fair or equitable and would end up putting people out of business. H. Lofts later commented that the proposed base line period 2004-2009 violated the National Standard 4 in his particular case. He bought his boat in 2006 and guidelines had changed, if he new all these things were going to change he would have never bought the boat, and this was another reason why he was against it.

Public Comment: T. Jackson, President of American Alliance of Fishermen and their Communities stated she was opposed to the continuation of the sector allocation program. She felt her testimony to the Senate during the over site committee hearings of DEM summed it up. She indicated that there were a lot of questions regarding this particular program and she felt that some of the violations like observer coverage, and the safety sticker issue, that the program should not continue.

Public Comment: C. Brown, RICFA, stated he was in support of the continuation of the sector allocation program and in favor of the expansion to allow the rest of the fishermen in the state an opportunity to prosper. This program would allow others to fish cleaner with proper incentives. He read through a lengthy written statement which outlined the benefits of the program focusing on the reduction of discards and being able to fish smarter. C. Brown later pointed out that this was a pilot program and they never got hung up on any particular years for allocated purposes. He felt historical allocation does not encompass the needs of everyone. There were other considerations like capacity, time in the fishery, and dependency. He indicated if the sector program continued they have invited other larger vessels to participate in hopes that they could transfer quota to them to make them whole again. Also to allocate more quotas to smaller boats in the sector, he pointed out that social correction could be made internally, with in the sector, which the state could not do.

Public Comment: B. Loftes stated that the biggest problems we have are discards and the largest biomass of fluke ever recorded in the ocean and they have a ridiculously low quota that comes from the NMFS. He blamed government and mismanagement of the fishery. He was against the government getting into his business and wanted no part of it. B. Loftes commented later in the hearing about control dates and how they could be used with concerns about the state law and how it pertained to the sector program.

Public Comment: K. Booth, RICRRA, acknowledged recent discussions about catch-shares taken place in New Bedford and pointed out that as much as the federal government wanted sector programs, the warts were starting to show through. He referenced a white paper that outlined some of the issues of sector programs. Although there were some benefits like reducing discards, there were other problems like the loss of the small boat fishery with drastic reductions within the first two years. He felt we were a long way off from having those answers and the fear was that we were moving too fast to try to keep everyone happy and would end up stepping into a mess which we would not be able to get back out of. He requested on behalf of the RICRRA that the Department not move forward on this proposal. However, knowing the pilot program was already in place and the Director could do as he chooses, if the Director decides to go forward with the sector program, they would recommend that a couple of issues be considered; (1) move to a three (3) mile limit off the beaches until October, (2) look at a sector that was formed containing like gear types. He explained that when there were mixed gear types and you try to design that sector contract to make everyone happy you end up stepping on other people in doing so, (i.e. a gillnet sector, a big boat sector, etc.). He suggested that contracts and allocation could be designed by gear type. K. Booth commented later in the hearing about the new proposed base period of 2004-2009 and felt that when we looked at 2009, the winter 1 sub period was over fished so going forward if boats from the winter 1 were going to form a sector their taking that away from the lack of history development from the summer fishery explaining that 2009 was skewed. Therefore, he suggested not using 2009 as a valid date.

Public Comment: W. Macintosh, sector member, stated that he was in support of the sector and that it was a fun experience with more efficient fishing. He felt they had learned a lot. He explained how the sector had changed his fishing to make it more efficient. He stated he would like to continue the program and hoped others would join a sector. He also mentioned the value to the fishery to be able to reduce discards. W. Macintosh commented later in the hearing that the sectors that have been formed have been doing a good job of managing the fisheries and he wanted the program to continue so they could have complete data to look at to see the final results. He felt everyone in the state should have the opportunity to form their own sector.

Public Comment: R. Sykes, sector member, explained that at the beginning it was a little scary but after about seven months he has seen how well it works and has discarded less than five pounds during that time frame. He was able to manage his business better being in the sector and was in favor of having it continue. He also

would like to see more people get involved in this type of management program and felt it was beneficial to the fishery.

Public Comment: B. Westcott, sector member, stated that everything they have achieved as a group had been positive. They have saved on fuel, time, fished less, less discards, and have been able to spend more time with family. He was in favor of continuing the program.

Public Comment: J. Mathew wanted to know how many blackback flounder were discarded from the sector pilot program, and were observers reporting on that.

Public Comment: S. Arnold responded to the question stating that they had switched to a 7 inch mesh bag indicating that they could control what they caught. He also stated that he was in support of continuing and expanding the sector allocation program.

Public Comment: R. Fuka made a final comment that there should be a peer review panel of the sector program to review the data. He called for an independent peer review panel to digest and process the data to make it believable for the entire state. He asked for transparency and did not believe sector members.

Public Comment: B. Smith explained that he had concerns about the program early on, before he understood it, but the more he has seen and how well it went this year he has begun to realize the sooner we get everyone in to sectors, not just these boats, the better off we all will be and the fisheries will be.

B. Ballou closed this portion of the public hearing for the sector allocation item.

3) **Proposal to amend the control date for the summer flounder commercial fishery:** Three proposals were brought forward for public comment. The first proposal was to remain at status quo, a control date of December 31, 2009. A second proposal was to establish a new control date of December 31, 2010, and a third proposal was to elimination the control date for the commercial summer flounder fishery.

Public Comment: G. Carvalho stated he was in favor of option #3, to eliminate the control date.

Public Comment: J. Grant stated he was in favor of option #3, to eliminate the control date. He offered a suggestion if sector management programs do go forward, he felt the state should set a time frame of years before a decision is made to establish a sector so as not to exclude people.

Public Comment: R. Fuka on behalf of the Fishermen's Alliance membership was in favor of option #3, to eliminate the control date. He stated that a control date was a consolidated form of putting fishermen out of business.

Public Comment: B. Loftes stated if there had to be a control date it should be put forward so that people who are buying a license or a boat are notified so they know there may be a change so they are not shut out of the fishery.

Public Comment: R. Mattiucci stated he was in favor of eliminating the control date (option #3), however for some reason if the Director decided to continue with the control date then he thought option #2, establishing a December 31, 2010 control date would be the better option to consider. He also agreed with B. Lofts that when people are going to join in or buy a license they should be told of any changing parameters that would take place at a future time.

Public Comment: W. Macintosh stated he thought it was important to establish a control date but it does not mean that you have to act on it. He also indicated that people do have to know that it is on the books.

Public Comment: R. Hopkins stated he was in favor of option #3, eliminate the control date.

Public Comment: C. Brown stated he was in favor of option #1, status quo. He indicated that this had been filed last year along with all the other sector allocation program regulations so it had already been done in advance.

Public Comment: H. Loftes was in favor of option #1, status quo.

Public Comment: K. Booth, RICRRA, was in favor of option #3, eliminate the control date.

Public Comment: T. Jackson, President of American Alliance of Fishermen and their Communities stated she was in favor of option #3, to eliminate the control date.

Public Comment: B. Smith stated he was in favor of option #1, status quo.

Public Comment: J. Jordon was in favor of option #3, eliminate the control date. He felt we were already limited by the number of commercial fishing licenses so if you restrict it even more then down the road you will never have any new licenses.

B. Ballou closed this portion of the public hearing for this item.

4) Proposal to terminate the RI summer flounder exemption certificate program: DEM proposed the termination of this program. B. Ballou announced that item #4 (Proposal to terminate the RI State summer flounder exemption certificate program) would not be acted on by the Department at this time, but comments would be taken if people still felt compelled to offer any. He indicated that the Department is not interested in moving forward with this item at this time. However, since this was a public hearing people could still have the opportunity to make public comments. He reiterated that the Department would not be acting on this item at this time.

Public Comment: R. Fuka suggested that we move on to the next item

No other comments were offered.
B. Ballou closed this portion of the public hearing for this item.

5) **Scup quota management proposals:** Two proposals for 2010 scup quota management were brought forward for public comment. The first proposal was to remain at status quo in the general category in 2010, and the second proposal was to change the possession limits in the spring, summer, and fall sub periods to 0 to 500 pounds /week.

Public Comment: W. Macintosh stated that for the last several years we have run out of quota in the fall period. He indicated that in the gillnet fishery in late September through October and in to early November the fish are there and they catch them regardless if they are allowed to or not and it was a shame to have no quota going in to those months. He stated that it did not make sense to not have a fishery when they were migrating through. There were a lot of discards in the fall compared to the summer season. He stated that it needed to be addressed. He did not give any specific opinion on an option.

Public Comment: B. Smith was in favor of option #1, status quo but he was in agreement with W. Macintosh that some how we needed to be open in September and October. He indicated that this year we were closed in September and October, and that was the time we should be catching them. He also stated that it needed to be addressed.

Public Comment: K. Booth, RICRRA, explained that early on there was an expectation that the increase in quota would allow us an increase in catch and an extended season; if that were still the case they would be in favor of option #2, change in possession limits. However, until we have the data of how we are over fishing this year and how it would impact next year, they would have to stay with status quo until that data becomes available.

Public Comment: C. Brown, RICFA, stated that whatever we can to support a larger mesh fishery in the September 16 – October 31 sub period should be considered. He explained that the problem was that we were trying to manage two different gear types under the same plan. He suggested that the RIMFC investigate managing the trawl scup fishery differently than the scup pot fishery. He did not think it was appropriate to manage these fisheries in the same manner and felt we could do a better job than what was currently occurring.

Public Comment: R. Mattiucci explained that there was a summer fishery because 700 rod and reel fishermen fish for scup during some part of the summer and they should have some access to the fishery. He was concerned about the comments only pertaining to a pot fishery and a trawl fishery. He felt there were other gear types that had just as much of a right to fish for scup. He stated that in his opinion that was why we allow a summer scup fishery.

B. Ballou closed this portion of the public hearing for this item.

6) **Black sea bass quota management proposals:** Four proposals for 2010 black sea bass quota management were brought forward for public comment. The first was a proposal to remain at status quo for 2010, and the second was to close for the month of August with an adjusted possession limit in the spring sub period. The third proposal was to extend the first sub period to May 14, and the fourth proposal was to adjust the spring and summer sub periods and possession limits with the month of August to be closed.

Public Comment: J. Grant stated he was in support of option #3, to extend the first sub period to May 14. He explained that the problem was not a quota management problem it is an overall quota problem or lack of quota. Option 3 would give spring fishermen access to the quota that they traditionally harvest. He felt the possession limits should stay at 100 pounds because it allowed more fishermen to stay profitable.

Public Comment: G. Carvalho stated these species can not be marketed properly because of the opening and closings and possession limit fluctuations. He stated that we need to set a minimum daily possession limit and extend it through the year as long as possible. He preferred a minimum daily possession limit of 100 pounds per day and extend it for as long as possible.

Public Comment: R. Mattiucci stated there seems like there is an effort to limit landings in the summer. He questions why we would want to close the sea bass fishery for the month of August. He was in favor of any option that kept the fishery open as long as possible, hopefully open all year.

Public Comment: K. Booth, RICRRA, explained they had initially submitted option #2 at the AP meeting, however, they liked option #4 better because it would shift the allocation period a little bit and would allow the spring fishery to last more than two weeks. He felt option #4 would provide a longer period of time to fish.

Public Comment: B. Loftes recommended that RI break away from the Atlantic States and RI take care of it's self. He stated that all this fishery management just creates discards and dead fish.

Public Comment: C. Brown, RICFA, stated he was in support of option #4, adjust spring and summer sub periods and possession limits with an August closure. He mentioned at the AP meeting he suggested that the State organize some of their pot fishermen and make a request for a portion of the research set aside so we could conduct a stock assessment based out of RI to demonstrate that the stock is no longer traveling south and west but south and east. He indicated that the fish pot fishermen were the perfect candidates to catch these fish in really good shape and then release them. He indicated that the biggest part of the solution is to fix the stock assessment and the only way to do that is to substitute better information.

Public Comment: W. Macintosh stated he was in favor of option # 4.

Public Comment: B. Smith stated he fished for sea bass with pots and he had 16 days and lost 77 days so if there was anything that could be done to change that, it would be good. He felt option #4 would help the most.

Public Comment: T. Jackson, President of American Alliance of Fishermen and their Communities stated she was in agreement with C. Brown to set aside some research days for the fish pot guys because they end up loosing out a lot of times. She was in support of option #3; extend the first sub period to May 14. She also would like to see the fishery open as much as possible.

B. Ballou closed this portion of the public hearing for this item.

7) **Proposed amendments to the spiny dogfish management plan:** DEM proposed adoption of regulatory provisions required by the ASMFC Spiny Dogfish Fishery Management Plan in order to come in to compliance.

Public Comment: W. Macintosh stated this could be a very significant fishery for the state of RI. He was in favor of having a year round fishery. He was in support of the proposed amendments.

Public Comment: C. Brown stated that he was support of W. Macintosh observations and reiterated that they needed a 12 month fishery for spiny dogfish. He was in support of the proposed amendments.

Public Comment: B. Beatty recommended doubling the possession limit to 6,000 pounds per day to get rid of them.

B. Ballou closed this portion of the public hearing for this item.

8) **Proposed adoption of coastal sharks management plan:** DEM proposed adoption of regulatory provisions required by the ASMFC Atlantic Coastal Sharks Fishery Management Plan in order to come in to compliance.

Public Comment: W. Macintosh stated that the only way to market smooth dogfish was to fin them, heading and tailing them, there was no other way to get rid of them. Therefore, he recommended adding that provision to the proposed regulations. It is the only dogfish that you have to process the dealer will not take them whole. This was a limited market. He also mentioned there was a market for smooth dogfish fins and they were worth more than the fish was.

Public Comment: G. Carvalho stated W. Macintosh was correct. The ASMFC brought this up during their discussion on coastal sharks and they did not act on it that information was provided to them by other commercial fishermen up and down the east coast. He speculated that at some point in the future they would act on changing this. G. Carvalho

stated that the proposed language was extensive and the state could make some changes and clarifications so it would pertain more to these state waters. He suggested eliminating the language that was unnecessary to make it pertain to only RI state waters.

Public Comment: R. Sykes stated that he would like to see harpoon added to the list of authorized commercial gear.

Public Comment: C. Brown stated that he would also like to add harpoon to the list of authorized commercial gear. He was reluctant to endorse any management proposal that did not allow you to dress smooth dogfish.

Public Comment: R. Mattiucci stated that we should draw a line in the sand with ASMFC. The thought of catching sharks with a circle hook was absurd he stated that the purpose of the circle hook was to release the fish alive so why would you go out and catch sharks and release them alive. He felt this was illogical and another example of ASMFC telling us what to do. He wanted to know why we were so quick to except whatever came down from ASMFC regardless of how absurd it was. He stated that the circle hook for sharks was a good example of this.

Public Comment: W. Macintosh responded to R. Mattiucci comment stating he thought the circle hook provision was in there to protect sea turtles as part of the Marine Mammal Protection Act.

B. Ballou closed this portion of the public hearing for this item.

9) Proposed amendments to the bay scallop management plan: DEM had two proposals; the first, item 1, was to modify the bay scallop season and use of scallop dredges. This would change the opening season for bay scallops to the first Saturday of November (from October), move the harvesting season by dip net to December 1st (from November 15th), and prohibiting the use of scallop dredges in shellfish management closure zones. Item 2, was a proposal to amend the commercial bay scallop daily possession limit to 3 bushels per day (from 5 bushels per day).

Public Comment: G. Carvalho stated after reviewing the proposed changes with the exception of identifying scallops as bay scallops updated throughout the document, he felt there were a number of inconsistencies in the language that needed to be addressed. He strongly suggested not adopting the language as written and go back and read it over. Go over some of the language that was contradictory and not appropriate, he did not think this was what was intended.

B. Ballou closed this portion of the public hearing for comments on item 1 of the bay scallops.

Public Comment: B. Beatty asked if he could make a comment on item 1 he had forgotten to comment. He wanted to know why the dip net season was being moved. He indicated that dip netting was one of the cleanest fisheries in this state.

B. Ballou asked if there were any comments on item 2 of the bay scallop proposal.
Hearing none, he closed this portion of the hearing on this item and reopened the hearing on item 1 of the bay scallops for Mr. Beatty to make his comment.

> ***Public Comment:*** B. Beatty suggested moving the season up two weeks from October. He indicated that the season used to open on September 15 and there were a ton of scallops at that time. He wanted to know why the dip net season was being moved, stating that dip netting was one of the cleanest fisheries that we had in this state.

B. Ballou closed the public hearing.

There were four written comments received for the public hearing by B. Ballou pertaining to the public hearing items: Exhibits 4, 5, 6 and 7.

List of Exhibits received for the Pubic Hearing:
Exhibit 1 – Affidavit of Publication/Posting and Public Notice
Exhibit 2 – Copy of Public Hearing Summary Document
Exhibit 3 – Introductory remarks prepared by R. Ballou
Exhibit 4 - Letter submitted by the RICRRAA pertaining to the RI State summer flounder exemption certificate program.
Exhibit 5 – Letter submitted by the RI Fish Trap Association pertaining to the scup and striped bass fisheries.
Exhibit 6 – Letter submitted by J. Grant and a number of fishermen in support for the option (3) black sea bass proposal.
Exhibit 7 – Letter submitted by J. Carvalho pertaining to all nine public hearing items.