



Rhode Island  
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

3 Fort Wetherill Road  
Jamestown, RI 02835

401 423-1920  
FAX 401 423-1925

**SUMMARY OF PUBLIC HEARING COMMENTS**

Hearing Officer: B. Ballou

DEM Staff: N. Scarduzio, N. Lazar, D. Erkan, R. Satchwill, M. Gibson, G. Powers, S. Hall,  
L. Mouradjian, and M. Sullivan

RIMFC Members present as observers: R. Bellavance, R. Hittinger, and S. Macinko,  
C. Anderson, S. Parente, S. Medeiros, and J. King

The public hearing was held on June 2, 2010 in Narragansett, RI at the URI Bay Campus. Approximately 50 people attended the hearing. The following items were presented for public comment:

- 1) Proposal to amend the soft-shell clam regulations to increase the minimum legal size statewide:** Three options were brought forward to public hearing. The first option was to remain at status quo, keeping the minimum legal size of soft-shell clams at 1 ½ inches. The second option was to change the minimum legal size to 2 inches. This proposal came from the Division and suggested increasing the size limit in an effort to insure the sustainability of the soft-shell clam resources. The third option was to increase the minimum legal size to 1 ¾ inches, which was the RIMFC Shellfish AP consensus option.

**Public Comment:** D. Zubik stated he had been in the shellfish industry since 1970 and felt that RI should adopt a hinge law so people could use racks to shake the product out for faster sizing. He proposed using a width size as opposed to a length size.

**Public Comment:** J. Papa wanted consistency in the size between states and stated he was in favor of status quo, 1 ½ inches.

**Public Comment:** J. Novo stated that the 1 ½ inch size had been in effect for about 50 years so why would we want to change something that had been in effect for so long. He was in favor of status quo, 1 ½ inches.

**Public Comment:** J. Carvalho stated that there was no supporting documentation as to why the changes are being proposed. This raises questions which makes it difficult to either support or oppose the presented items. The Department is making recommendations but we do not know why or what the justifications are for these proposals. He felt the Department should have created some type of document that justified why the changes were being made. He stated he could not give any

recommendation with out first reviewing supporting documentation for the proposed changes.

**Public Comment:** M. Gibson stated, for the record, that he would like to point out that the printed out documents that supported the power point presentation, which was presented in the workshop held before the opening of the public hearing, be reflected in the public hearing as an official recommendation from the Division of Fish and Wildlife. B. Ballou, Hearing Officer, entered and marked the printed version of the power point presentation as Exhibit #4.

**Public Comment:** J. Soares was in support of status quo, 1 ½ inches because this size was preferred in RI while larger sizes like 2 inches were being sold to other neighboring states. He felt it was good for the RI economy to keep the 1 ½ inch size.

**Public Comment:** D. Egan was in support of status quo, 1 ½ inches, and supported the comments made by J. Soares.

**Public Comment:** C. Jackson, stated he understood the reason behind the Division wanting to go to 2 inches due to increased reproduction, but he felt this was about mother nature and things would balance out. He was in support of status quo, 1 ½ inches.

**Public Comment:** M. Papa was in support of status quo, 1 ½ inches, because it was a good in-state market size which would keep money in the state of RI instead of going to other states.

**Public Comment:** N. Papa felt the steamer set was in such a high density that they needed to be thinned out at 1 ½ inches because they would just die due to over crowding. He was in support of status quo.

**Public Comment:** A member identified as a member of the RI Fishermen's Alliance, stated that the peak in July, as demonstrated in the graph presented by the Division, was indicative of the way the clams where actually harvested.

**Public Comment:** An unidentified fisherman stated he was in support of option 1, status quo, the 1 ½ inch size.

**Public Comment:** P. Bettencourt stated he was in support of 1 ¾ inches and would be in support of the Division's recommendation of 2 inches, if the possession limits were lowered.

**Public Comment:** L. Morin was in support of 1 ¾ inches and a lower possession limit of 3 or 4 bushels.

**Public Comment:** M. McGiveney, representing the RI Shellfishermen's Association, stated his group had a meeting and was in support of the RIMFC Shellfish AP option #3 for 1 ¾ inches. He indicated that the clams have a difficult time getting back in to the substrate and there was a high mortality when you throw them back. There are oxygen issues during the hot summer which affect the clams that are on top which will die. He indicated that other state's that have a 2 inch size limit also have a more liberal enforcement of a 10% tolerance. RI has a more restrictive undersize rule which his group would like to change. His group would like the state to go back to the quart system. They felt the 15 individual clams were inappropriate for soft-shell clams.

**Public Comment:** A shellfisherman stated he was in support of status quo, 1 ½ inches.

**Public Comment:** B. Blank stated he had attended the SAP AP meeting and the RI Shellfishermen's Assoc. meeting and it was a consensus that both groups were in

support of the 1 ¾ inch size. He indicated that the majority of the people at both meetings wanted the 1 ¾ inch size.

**Public Comment:** S. Finn agreed with B. Blank and stated he supported option #3, 1 ¾ inches.

**Public Comment:** J. Murphy, C. Waterman, M. Travarri, M. Sousa, J. Johnson, and R. Forsberg, stated they were in support of option #3, 1 ¾ inches.

**Public Comment:** J. Manchester was in support of option #1, status quo, 1 ½ inches. She was dissatisfied that these items were being discussed now instead of earlier. She indicated that things should have been settled by now well in advance of the start of the season.

B. Ballou closed this portion of the public hearing.

**2a) Proposal to establish Conimicut Point Shellfish Management Area:** DEM brought forward proposed regulatory language to establish Conimicut Point as a Shellfish Management Area. This proposal is in response to anticipated changes of pollution closure boundary in the northern section of shellfishing grounds in Conditional Area A, Narragansett Bay. The pollution closure boundary change would make an additional 40 acres of highly productive soft-shell clam beds accessible to harvest. The Division anticipates heavy fishing pressure on this additional area based upon the number of licensed shellfishermen and the common knowledge of the stock status behind the current closure line. Establishing the area as a Shellfish Management Area would allow for better management and protection of shellfish resources.

**Public Comment:** S. Hall, Chief of the Division of Law Enforcement, requested that the northern most line establishing the proposed management area be dropped down to the actual closure line so there was no confusion. He indicated fishermen may think the whole area is open the way it was currently depicted. If Water Resources sees fit to extend the line at a later date then we can always move the line up.

**Public Comment:** J. Papa and N. Papa stated they were opposed to turning this in to a management area. They wanted it to be opened to be free and common fisheries to allow guys to come and go as they please, they did not need to be micromanaged. The weather is the biggest management tool for this area.

**Public Comment:** J. Novo agreed with J. Papa to keep the area open, he was opposed to turning this in to a management area.

**Public Comment:** C. Jackson stated he was opposed to turning this in to a management area.

**Public Comment:** P. Bettencourt was in support of creating the management area.

**Public Comment:** J. Soares felt they did not have all the data to be able to make a decision like this. He thought changes this year could hurt the shellfishermen. He was opposed to creating a management area.

**Public Comment:** An individual made a comment about having the pollution signs marked better. He suggested having two signs so they could be lined up with each other as you walked up to the area. He requested that the first signs, double signs, be placed at Conimicut Point because this would help the shore diggers.

**Public Comment:** Another individual also requested better marking of pollution lines.

**Public Comment:** K. Wolinski stated that without complete data there should not be any changes.

**Public Comment:** R. Fuka, President of the RI Fishermen's Alliance, stated that the RI Fishermen's Alliance was opposed to creating a management area.

**Public Comment:** M. McGiveney, representing the RI Shellfishermen's Association, clarified that if there was a change in the size, would it be only in this management area or statewide? He also indicated if it was a management area there could be a different possession limit as well. He expressed concern about having different size limits for different areas and enforceability.

**Public Comment:** M. Sousa explained at the SAP meeting they discussed the triangle as being the management area, however, now the map showed a larger area up to Barrington. He was now opposed to the management area.

**Public Comment:** D. Egan stated that without proper biomass and stock assessment DEM should not make this a management area. He was opposed to the proposal.

**Public Comment:** J. Boush stated he was against the management area indicating there was not sufficient data for this area.

**Public Comment:** A Shellfisherman stated he was in agreement with M. Sousa and opposed to the management area.

**Public Comment:** L. Morin was in support of the proposed management area.

**Public Comment:** P. O'Neil and J. Demato were opposed to the management area.

**Public Comment:** B. Blank commented whether there was a management area or not there needed to be an established pollution line not only for the shore diggers but also for the boats that you could line up with. He also commented that the proposed management area was larger than what they initially discussed. He was opposed to the management area.

**Public Comment:** J. Manchester stated she agreed with B. Blank's comments.

B. Ballou closed this portion of the public hearing.

**2b) Proposal to establish a daily soft-shell clam possession limit for Conimicut Point Shellfish Management Area:** Four options were brought forward to public hearing. The first option was to remain at status quo, keeping the commercial possession limit of soft-shell clams at 12 bushels per day per license holder. The second option was 6 bushels per day per license holder, which was the Division recommended option. The third options was 3 bushels per day per license holder, and the forth option was 9 bushels per day per license holder. There was no consensus option from the Shellfish AP since several bushel limits were suggested at the meeting.

B. Ballou noted that those individuals who commented that they were opposed to the establishment a Conimicut Point Shellfish Management Area were in effect in favor of status quo, which was option #1, a 12 bushel possession limit. He offered if anyone wanted to make a comment they were welcome to, but they did not necessarily need to since it was understood they would not want a lower possession limit. The Division had a good feel for their concerns.

**Public Comment:** J. King made a comment about the bushel limit options discussed at the SAP meeting noting there were options proposed varying from 3 bushels to 10 bushels and wanted to know where the other options being proposed came from.

**Public Comment:** B. Ballou clarified that the Division could have listed a number of options however, we broke it out in to four options but anyone can offer any comment they want or what they think the appropriate bushel limit should be if it were established as a management area. He explained that these options are meant as guidelines.

**Public Comment:** J. Novo was in support of option #1, 12 bushels.

**Public Comment:** P. Bettencourt was in support of option #3, 3 bushels. He stated we had to start conserving what we have in the state. He felt the fishery would be wiped out by people taking 12 bushels.

**Public Comment:** J. Sores was in support of option #1, 12 bushels.

**Public Comment:** J. Murphy stated he was in support of option # 2, 6 bushels because there was limited entry in to the soft-shell clam fishery via license endorsements so how can you on one hand tell a guy there is plenty of product but you tell the other guy he has to keep out. He stated that the stories being told tonight were opposing each other and that people can not have their cake an eat it too.

**Public Comment:** R. Fuka, President of the RI Fishermen's Alliance, stated that the RI Fishermen's Alliance supported option #1, status quo, 12 bushels.

**Public Comment:** M. McGiveney, representing the RI Shellfishermen's Association, stated that when they had their association meeting it was a similar outcome as the SAP meeting. Some guys supported 12 bushels and others that supported less than that. He stated that this area is closed a lot of the time. He noted that when you get below a 6 bushels limit it makes it difficult to make a days pay. He expressed concerns about double dipping, when the area is opened all day some people may harvest in the morning then go back later in the day. It would be difficult for enforcement to be there all day to monitor this activity. His group supported option #4, 9 bushels, but would not mind if option #1, status quo at 12 bushels remained in effect.

**Public Comment:** K. Wolinski commented that until the data was complete the limit should remain status quo. He also suggested that the Warwick light area be surveyed.

**Public Comment:** L. Morin was in support of option #3, 3 bushels. He felt if they stayed with a 12 bushel limit then the price would drop drastically with in two or three days from the opening date.

**Public Comment:** J. Ramato stated he asked DEM eight years ago for a number but was told they were studying the situation. He commented that it took DEM 5 or 6 years then they closed it off, and now they want to reduce it. He was in support of option #1, status quo.

**Public Comment:** J. Papa stated he was opposed to the management area, but if there had to be a limit imposed, he was in support of option #1, status quo. He commented that most of the seed that flows by this area drops on the sandbar and this is why it reseeds itself so fast and why it is such a fertile area. He also mentioned that because of the economy guys needed these big days in order to sustain the down days.

**Public Comment:** C. Jackson was in support of option #1, status quo, 12 bushels. He was against option #3, 3 bushels, commenting that he would have to sell his house at that limit.

**Public Comment:** J. Manchester was in support of 12 bushels, option #1, stating that the people who were in favor of 3 bushels seemed to be part-timers and did not have the same expenses. She commented that they could not afford to keep their boat or dock slip at a 3 bushel limit.

**Public Comment:** A shellfisherman stated he agreed with J. Manchester and he was in support of 12 bushels. He was not in favor of creating a management area.

**Public Comment:** J. Johnson stated if the area opened at a 12 bushel limit then next year they would not be digging there, because there is no digging anywhere else like this area and they only have this area left. They are all going to make a killing when it opens then there will be no clams left. He suggested not stopping the limit at 12 bushels but just let them clean it all out. He was in support of option #2, 6 bushels.

**Public Comment:** D. Zubik agreed with N. Papa and was in support of option #1, status quo, claiming that there was so much spat each year that by staying with the 12 bushel limit this keeps the bottom clear for spat to go.

**Public Comment:** K. Thomson was in support of option #1, status quo, with the stipulation that DEM enforce the bushel limit because some people were getting away with a lot of extra clams that they should not be harvesting.

**Public Comment:** M. Souza was in support of option #4, 9 bushels, if the area becomes a management area. He was speaking about just the triangle area, the sandbar, not the whole area as proposed. If it does not become a management area then leave it at 12 bushels, status quo.

**Public Comment:** An individual stated he had been in the business for thirty-two years and he noted that when the price goes down the clamers are the first ones to complain, therefore if you set the limit at 12 bushels the price will start high then after about four days go down as the market gets flooded with product. He commented that if the limit were set a 3 bushel limit the price would remain at a more consistent level for a longer period of time. He was in support of option #3, 3 bushels.

**Public Comment:** S. Alex was in support of option #1, status quo, because of supply and demand. He stated that his dealer would let him know when he gets too many clams and could not move them. In this scenario the dealer will only buy about 4 bushels from him and all the other guys so the dealer spreads it out among the guys. On the big holidays then the dealer will take more product from each of the guys like 8 bushels.

**Public Comment:** N. Papa was in support of option #1, status quo. He also agreed with S. Alex and stated that if the price drops and people are unhappy with the price then do not go clamming.

**Public Comment:** An individual was in support of option #1, status quo, because they will be missing the entire month of June. He indicated he could not make money if he could not fish.

B. Ballou closed this portion of the public hearing.

- 3) **Proposal to amend the soft-shell clam regulations for non-shellfish management areas by reducing the daily possession limit statewide:** Two options were brought forward to public hearing. The first option was to remain at status quo, keeping the commercial possession limit of soft-shell clams at 12 bushels per day per license holder. The second option was 6 bushels per day per license holder, which was the Division recommended option.

*Public Comment:* M. McGiveney, representing the RI Shellfishermen's Association, wondered why there was not the same number of options presented as in an earlier proposal.

*Public Comment:* B. Ballou stated that anyone could offer any alternative option.

*Public Comment:* M. McGiveney, representing the RI Shellfishermen's Association, stated that his group could support a 9 or 10 bushel limit statewide, but not a 6 bushel limit. If it were between management areas with a reduced limit or not they would support the 12 bushel limit.

*Public Comment:* R. Fuka, President of the RI Fishermen's Alliance, stated that the RI Fishermen's Alliance was in support of option #1, status quo, 12 bushels.

*Public Comment:* J. Murphy was in support of option #2, 6 bushels, because as long as there is a limited entry and the guys do not want to let other people in, conservation begins at home.

*Public Comment:* J. Papa was in support of option #1, 12 bushels, mentioning the guys need the big banner days.

*Public Comment:* J. Johnson was in support of option #2, 6 bushels. He claimed he does not see anyone clamming in the other area and they are going to wipe out the newly opened area when it opens.

*Public Comment:* J. Soares was in support of option #1, 12 bushels. He mentioned he was young and still trying to purchase a home. If they cut the bushel limit he would have to get a job or might not be able to own a home or have a family.

*Public Comment:* J. Novo was in support of option #1, 12 bushels. He felt this was taking jobs away from people. He stated he could not make a living on 6 bushels.

*Public Comment:* G. Schey felt there should not be any bushel reduction, he supported status quo, 12 bushels.

B. Ballou closed this portion of the public hearing.

- 4) **Proposal to extend the duration of the designation of the Shellfish Management Area and clarification of the authority to modify the duration of such designation:** DEM brought forward proposed regulatory language in order to clarify the shellfish regulations for Shellfish Management Areas by eliminating certain language that refers to the designation of Shellfish Management Areas as expiring five years from the filing date of the document with the Secretary of State, and further makes amendments to reiterate the Director's statutory authority to modify those areas that are designated as Shellfish Management Areas.

*Public Comment:* J. Papa asked if this comes up every five years, if it will remain a management area. He commented that some of these areas should return back to the fishermen instead of making more management areas.

**Public Comment:** B. Ballou explained that when the management areas were first established they had a five year sunset clause.

**Public Comment:** N. Scarduzio clarified that the language was worded in the regulation that “Shellfish Management Area status shall expire five years from the filing date of this document”, so every time the document was filed Shellfish Management Areas are extended for five years, explaining this was awkward language and needed to be revised.

**Public Comment:** P. Brodeur asked if this change would nullify the review process.

**Public Comment:** B. Ballou stated this would not affect the review process.

B. Ballou closed this portion of the public hearing.

List of Exhibits:

Exhibit 1 – Affidavit of Publication/Posting and Public Hearing Notice

Exhibit 2 – Copy of Public Hearing Proposal/Summary Documents

Exhibit 3 – Introductory remarks prepared by B. Ballou

Exhibit 4 – Power point presentation on soft-shell clams prepared by the Division of Fish & Wildlife, Marine Fisheries Staff

No written comments were received.