Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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SUMMARY OF PUBLIC HEARING COMMENTS

Hearing Officer: B. Ballou
DEM Staff: N. Scarduzio, G. Powers, L. Mouradjian, S. Hall, N. Lazar, D. Costa
RIMFC Members present as observers: S. Parente, R. Hittinger, and R. Bellavance,

The public hearing was held on November 10, 2010 in Narragansett, RI at the URI Narragansett Bay Campus. Approximately 55 people attended the hearing. The following items were presented for public comment:

1) **Summer flounder quota management proposals:** There were several proposals for the 2011 summer flounder quota management plan that were brought forward for public comment. The first was a proposal for the starting possession limits to remain at status quo in 2011; the second proposal was to change the starting possession limits for the winter 1 sub period, remove the dealer section of the aggregate program, modification of the Aggregate Landings Program trigger, and logbook requirement. These combined proposals came from the Division and suggested raising the sub period starting possession limits in the winter 1 sub period to 300 pounds/day (from 200 pounds/day) or 3,000 pounds/week (from 2,000 pounds/week) for the aggregate program, remove irrelevant dealer language from the aggregate program, modify the Aggregate Landings Program trigger to 90% (from 80%), and establish volunteer enrollment in the e-Trip electronic logbook program. The third proposal was to remove the Friday & Saturday closures in the summer sub period. The fourth proposal was to split the summer period into two sub periods with equal allocations, which would be May 1 through August 31 with a 17.5% allocation and September 1 through October 31 with a 17.5% allocation. The fifth proposal was to reallocate additional pounds for 2011 with bias toward the summer period in the following manner: winter 1 = 25%; summer = 50%; winter 2 = 25%. There was no sixth proposal. The seventh proposal was to repeal or modify the 3-year penalty provision from the aggregate landing program.

   Public Comment: J. Carvalho stated that with regard to the removal of the 3-year penalty provision from the aggregate landing program (proposal #7) there was no statement made by the Division that justified why this proposal was on the board. He stated he was opposed to removing this provision. He also noted that proposals #1 through #5 were an elaboration of what we have been doing and he was in support of a plan where there was no closed season, no closed days, and minimum poundage of

100 pounds per day throughout the year as per the written proposal he submitted. Any remaining quota shall be allocated based on the historical landing percentage bases. He stated he was also opposed to proposal #4 (split summer period into two sub periods with equal allocations).

Public Comment: J. Baker stated he was in support of proposal #3, (removal of Friday and Saturday closures in summer sub period). He stated they should not be told what days they can and cannot fish.

Public Comment: G. Tremblay stated he was in support of proposal #3, (removal of Friday and Saturday closures in summer sub period) and he was opposed to proposal #4 (split summer period into two sub periods with equal allocations). He indicated that they did not want to go backwards, they tried splitting the summer period before and it did not work well.

Public Comment: G. Allen stated he was opposed to proposal #3 (removal of Friday and Saturday closures in the summer sub period). He noted that recreational fishermen were only able to fish on weekends and by keeping it closed on Friday and Saturdays it gave the recreational fishermen an opportunity to have more access to the fish when there was no commercial pressure on the fish for those two days. He addressed the comments that it does not make a difference. He stated that it does make a difference because when he fishes during the week the commercial boats are out there and his chances of catching fish are lessened than during the Friday and Saturday closures because of the reduced pressure on the fish.

Public Comment: R. Fuka, President of the RI Fishermen's Alliance, stated that the RI Fishermen's Alliance was in favor of proposal #3 (removal of Friday and Saturday closures in the summer sub period).

Public Comment: S. Parente, on be half of the RI Commercial Rod and Reel Association, noted that relative to proposal #1 (status quo on starting possession limits) the increase in quota justifies an increase in possession limits in the winter periods only. They were in support of Proposal #2 with the increase in possession limits in the winter sub period but were opposed to the Friday and Saturday closures. His group was in support of removing the Friday and Saturday closures in the summer sub period. He stated his group was opposed to proposal #4 (split summer period into two sub periods with equal allocations) noting this was a recipe for disaster. This would revert back to the days where we have frequent and fragmented closures during the most robust time of the year. He pointed out this was not an effort shift it was an allocation shift and would just hammer the recreational guys, and the state water fishers, it was unrealistic and unfair. He stated his organization supported status quo for the summer period regarding the current possession limits and was opposed to the Friday and Saturday closures. He stated his organization was opposed to proposal #5 (reallocate additional pounds for 2011 with bias toward summer period) this would transfer effort between periods and locations. With regard to proposal #7 (repeal or modify the 3-year penalty provision from the aggregate program) he stated his

organization was of the opinion that there needed to be a penalty provision of some type in place. However, they were also of the opinion that the entire violation process needed to be looked at and refined. He commented that a major and minor violation should be distinguishable and treated as such.

Public Comment: T. Baker stated he supported proposal #2 (Division recommendation on starting possession limits, etc.). He also supported proposal #3 (removal of Friday and Saturday closures in the summer sub period). He noted that the only reason we had the Friday and Saturday closures was because of the low quota and we have had at lease two increases since then. He stated he was opposed to proposal #4 (split summer period into two sub periods with equal allocations) explained that we had this once before and we got rid of it because there were too many closures in the summer and going up and down between 50 and 100 pounds per day. He also wanted to support the proposal made by B. Smith, if the Friday and Saturday closures go through, then 450 pounds for the aggregate program would be fair. He felt that should go up also.

Public Comment: J. Macari stated he supported proposal #2 (Division recommendation on starting possession limits, etc.) noting it was important not to drop down to 50 pounds per day in the summer because that just kills everyone. He stated that the most important thing was to keep it at 100 pounds per day. He also supported proposal #3 (removal of Friday and Saturday closures in the summer sub period). He stated he was opposed to proposal #4 (split summer period into two sub periods with equal allocations).

Public Comment: K. Booth, on behalf of the RI Commercial Rod and Reel Association (RICRRA) stated they supported proposal #2 (Division recommendation on starting possession limits, etc.) with the caveat that proposal #3 (removal of Friday and Saturday closures in the summer sub period) goes through. Due to the increase in quota, 100 pounds per day could support the entire season. He explained that the Friday and Saturday closures came about 4 or 5 years ago due to the decrease in quota, this was put in place to alleviate the decrease in quota. Since then we have had increases in quota well above where we were at that time. He noted this had become more of a political issue than a management issue. He understood the recreational fishermen's concerns but felt there were plenty of fish for everyone. Closing on Fridays and Saturdays excluded the small boat fishery from participating in any increase in quota.

Public Comment: H. Loftes, American Alliance of Fishermen and their Communities, regarding the winter 1 period, was in favor of raising it from 2, 000 pounds but wondered if the proposal for 3,000 pounds per week was the right number. He asked if 2,500 pounds per week might be the better number. As far as the summer period, he stated he was in support of the Friday and Saturday closures. He felt if there were no closures we would be down to 50 pounds per day again. He felt this held it in check.

Public Comment: T. Jackson, President of American Alliance of Fishermen and their Communities stated she agreed with H. Loftes on the 2,500 pounds per week. However, she was in support of Proposal #3 (removal of Friday and Saturday closures in the summer sub period).

Public Comment: S. Parente had a question on the language used in the public hearing summary document on page 7 "Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3" he asked if this was the language that was also on hold as discussed at the November RIMFC meeting.

B. Ballou responded that this was not the same language and this was referring to Part III where the Division had the authority to make in season possession limit adjustments. This was nothing new just a cross reference to Part III.

Public Comment: M. Colby stated he supported proposal #3 (removal of Friday and Saturday closures in the summer sub period). He stated he was opposed to proposal #4 (split summer period into two sub periods with equal allocations).

Public Comment: J. Carvalho stated he supported proposal #3 (removal of Friday and Saturday closures in the summer sub period). He stated that it did not make any sense in a multi species fishery to go out on Friday and Saturday just to throw fluke back since this is what happens. It made no sense to discard this resource.

Public Comment: B. Westal stated he supported proposal #3 (removal of Friday and Saturday closures in the summer sub period).

Public Comment: B. Smith proposed that the aggregate landing amount in the summer sub period be increased from 350 pounds per week to 450 pounds per week. He also stated he was opposed to proposal #4 (split summer period into two sub periods with equal allocations).

Public Comment: R. Hittinger stated that the summer flounder advisory panel (AP) brought the Friday and Saturday closures up and had a lengthy discussion about it with the AP voting 2 to support and 5 opposed on the proposal. He noted those that were opposed felt that opening Friday and Saturday would use up the quota earlier in the season forcing it to back to 50 pound per day. He explained that was the rational in the room that evening.

Public Comment: H. Loftes proposed allowing participants to fish in both the winter and summer aggregate landing programs. Currently you can only participate in one program per year either the winter or the summer program.

Public Comment: P. Muli stated he supported proposal #3 (removal of Friday and Saturday closures in the summer sub period).

Public Comment: K. Booth stated he was opposed to proposal #4 (split summer period into two sub periods with equal allocations) because this disenfranchises the small boat fishery again because as you get into September and October the fish have moved off shore to where people cannot get them so you are down to a minimal quota.

Public Comment: T. Jackson stated she was opposed to proposal #4 (split summer period into two sub periods with equal allocations).

Public Comment: B. Westal stated he was opposed to proposal #4 (split summer period into two sub periods with equal allocations) because it was not fairly spread out.

Public Comment: B. Allen stated he was opposed to proposal #4 (split summer period into two sub periods with equal allocations) he commented that he did not know why this option was even on the board for consideration.

Public Comment: K. Booth, RICRRA, stated his group was opposed to proposal #5 (reallocate additional pounds for 2011 with bias toward the summer period) they wanted a fair and equitable distribution of fish among all gear types.

B. Ballou asked the audience if anyone was in favor of proposal #5 (reallocate additional pounds for 2011 with bias toward the summer period). Hearing no response of support from the audience he stated that the Division would take that as no support for proposal #5.

Public Comment: G. Carvalho stated that the proposed division of percentages in proposal #5 was problematic because the summer fishery would always come up short. He explained that was why he supported his written comment to have a minimum daily possession limit of at least 100 pounds per day throughout the year. This would guarantee no closed season and guarantee a minimum daily possession limit.

Public Comment: G. Carvalho stated he was opposed to proposal #7 (repeal or modify the 3-year penalty provision from the aggregate program) he was opposed to making any changes to this provision.

Public Comment: K. Booth, RICRRA, stated his group was opposed to proposal #7 (repeal or modify the 3-year penalty provision from the aggregate program) unless the Department proposes other language as S. Parente earlier mentioned about changing the violation and the policy, they also oppose it because the language states that a vessel shall be operated by a licensed person which becomes important because we have to start talking about owner-operator in a later section. This would allow someone to own a vessel and hire licensed people who continually violate and nothing happens to the owner, so he could have a culture set up to try and be a bandit and just go through captains without having any personal responsibility of his own.

Public Comment: S. Parent, RICRRA, stated he concurred with K. Booth.

Public Comment: G. Tremblay, RICRRA, stated that the language should be modified as major infractions or minor infractions and not combined to put someone out of business for 3-years.

Public Comment: P. Muli stated he was in support of the 100 pounds per day and 350 pounds per week aggregate but would like to see the 350 increased to 450 pounds per week for the summer aggregate program.

Public Comment: K. Booth, RICRRA, stated with regard to the Friday/Saturday closures, proposal #3, just to play the science into this, when the AP meeting was held all these decisions were made emotionally on whether we think we can make the season last. Nobody had the data or the numbers no one modeled it out. We did that last year and the model showed we could run the whole season at a 100 pounds per day, seven days a week, but the Department decided not to go with that. The Director decided to not go with it. What we ended up doing was going to 800 pounds per day and 1,000 pounds per day at the end of the season, and that was without the extra quota we will get this year. He indicated that we needed to get the emotion and the politics out of it and just manage the species.

Public Comment: T. Baker stated that fluke went from 100 pounds per day down to 50 pounds and then at the end of the season it went back up to 100 pounds, then 300 pound, 600 pounds, then 800 pounds. He made a proposal that the possession limit should not change downward to 50 pounds until 85% of the quota is caught. He proposed this trigger similar to what was used in other sub periods.

Public Comment: K. Booth, RICRRA, stated he supported T. Baker's proposal.

B. Ballou closed this portion of the public hearing for these proposals.

2) **Proposal to continue/expand/modify the summer flounder sector allocation program in 2011:** There were three proposals that were brought forward for public comment. The first was a proposal for continuation of the fluke sector pilot program into 2011 with the program running from January 1 through December 31. The second proposal was to repeal or modify the 3-year penalty provision. The third proposal was adoption of a percentage cap on the size of individual sectors.

Public Comment: G. Carvalho stated he was opposed to the sector allocation pilot program and would like to see it terminated.

Public Comment: T. Jackson stated she was opposed to the sector allocation pilot program because it gave a huge portion of the state's quota to just 11 boats and it was inequitable to everyone else.

Public Comment: H. Loftes stated he was opposed to the sector allocation pilot program.

Public Comment: S. Parente read a summary he had put together of how the fluke sector allocation pilot program had played out since the sector had started. He indicated that DEM had removed provisions such as the owner operator provision, the requirement for a fluke exemption certificate, the requirement for a federal permit, and a supposed 1-mile buffer from the shore. He commented that the program was being rammed down our throats and requested that the deleted restriction be reinstated. He felt the removal of the restrictions was made to accommodate certain individuals at the disenfranchisement of the majority.

Public Comment: R. Fuka stated that the RI Fishermen's Alliance was opposed to the continuation of the fluke sector allocation pilot program.

Public Comment: K. Booth, RICRRA, commented that one of the problems was that the sector program enrollees would be guaranteed an increase in quota, and at the same time we are talking about limiting other parts of the fishery from even sharing in the increase by keeping certain closures. He pointed out there was a disparity that had to be limited. He stated that his group was opposed to continuing the sector allocation program until they were able to go through the series of round table meetings next spring and clear out a lot of the issues and figure out where it would benefit us.

Public Comment: G. Carvalho stated he was opposed to proposal #2 (repeal or modify the 3-year penalty provision pertaining to the sector allocation program).

B. Ballou asked the audience if there was anyone who supported proposal # 2 (repeal or modify the 3-year penalty provision pertaining to the sector allocation program). There was no one that was in support of this proposal. He then asked by a show of hands how many were opposed to this proposal. He counted eleven (11) hands in opposition. He noted for the record there was no support for this proposal, and asked if anyone would like to speak in opposition.

Public Comment: G. Tremblay commented that this program was based on honesty and not all trips were monitored. He felt the penalty provisions should not be removed.

Public Comment: S. Parente stated as things stand now he would have to personally oppose the program. However, as he spoke earlier he felt the entire penalty system needed to be readdressed concerning major violations and minor violations.

Public Comment: G. Carvalho stated proposal #3 (adoption of a percentage cap on the size of individual sectors) talks about individual sectors as if we have moved from a sector allocation pilot program to a program of acceptance of sectors. He stated if this is a pilot program then there should be no provision that references sectors as different groups. That would be an expansion of a pilot program into a sector

allocation program, which is a huge step. He commented if someone is opposed to the sector allocation pilot program then you would certainly be opposed to the idea of increasing numbers of sectors or creating more than one sector. He explained the pilot program is a pilot program this muddies up the whole system by attempting to recognize other sectors. He felt we were in trouble with the pilot program never mind including sectors as an accepted management tool.

Public Comment: T. Jackson stated she was concerned about the size of individual sectors and the percentages they would get if they were to spilt into two sectors. She was concerned that the proposed cap of 10% for each sector could become 20% if there were two sectors. She noted it does not tell us what the size is of each individual sector. She suggested modifying that proposed language. She stated she would be opposed to a percentage cap based on the size of the sector.

Public Comment: M. Colby, commercial rod and reel fisherman, questioned the way proposal #3 was stated, he felt there should be a cap on the program in total because you could have 10 sectors at 10% and that would be 100% of the fish and no fish left for anyone else.

Public Comment: S. Parente stated he opposed sectors, however, if the Director were to go ahead and approve the sector pilot program for 2011 he felt we needed the percentage cap not only for individual sectors but we also needed a total percentage cap on all sectors should additional sectors be formed.

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

3) **Proposal to modify the control date for the commercial summer flounder fishery:** The Division proposed to modify the control date for the commercial summer flounder fishery to December 31, 2010 (from December 31, 2009).

Public Comment: S. Parente stated in the opinion of his group there is no equitable control date here. In 2009 the summer period got hammered by the winter 1 overage and closed on August 7th. In 2010, fishing on the beach in state waters was far from what it was in previous years. He stated that control dates just control fishermen and diminish the ability to fish under the licenses they currently hold. He was in favor of doing away with a control date on summer flounder all together.

Public Comment: G. Carvalho stated he was opposed to any control date. He commented that we have a limit on licenses so a control date does not make any sense. A control date only discriminates against presently licensed fishermen.

Public Comment: R. Fuka stated that the RI Fishermen's Alliance agreed with G. Carvalho's statement to eliminate the control date entirely.

Public Comment: G. Tremblay stated he would like to see the control date go away.

Public Comment: M. Colby, RICRRA, stated he supported eliminating the control date.

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

4) Scup quota management proposals: There were three proposals that were brought forward for public comment. The first was a proposal for the starting possession limits to remain at status quo in 2011; the second proposal was to increase starting possession limits, remove the permitting requirement for the winter scup aggregate program, change the winter 1 program from a biweekly to a single week program, modify the sub period language from hard dates to more flexible language to accommodate the aggregate program, and repeal or modify the current logbook requirement to allow fishermen to avail themselves to electronic logbook reporting. These combined proposals came from the Division. The third proposal also came forward by the Division and recommended reestablishing the DFW authority to move quota from the floating fish trap allocation into the general category fishery.

Public Comment: G. Carvalho stated that the winter period was controlled by the federal government so it is not an issue that the state needs to tackle because this is already none by the federal government. He stated that for the summer program, he supported a proposal for not less than 100 pounds per day and 700 pounds per week, minimum throughout the season. If we have extra fish it can be allocated accordingly, like fish not caught by the traps and so forth.

Public Comment: S. Parente stated he supported proposal #2 (Division recommendations to increase starting possession limits, etc.)

Public Comment: J. Macari stated he supported proposal #2 (Division recommendations to increase starting possession limits, etc.)

Public Comment: T. Baker stated he supported proposal #2 (Division recommendations to increase starting possession limits, etc.) except that he proposed that for the three summer periods the possession limit should be all the same at between 0 and 700 pounds per week.

Public Comment: G. Carvalho stated, with regard to proposal #3 (reestablish Division authority to move quota from floating fish traps to general category), the Division should set a date certain. If the floating fish traps have not caught the fish by a certain date then it can be moved into the general category. He stated that he did not understand why the Division needed authority to move quota without a date specific. He recommended that the Division talk it over with the fish trap people to come up with a date.

Public Comment: T. Baker stated he agreed with G. Carvalho.
Public Comment: S. Parente, speaking for himself, stated he agreed with G. Carvalho.
Public Comment: R. Fuka stated that the RI Fishermen's Alliance also agreed with G. Carvalho.

Public Comment: T. Jackson stated she also supported G. Carvalho's proposal.
Public Comment: B. Westal stated he agreed with G. Carvalho.
Public Comment: B. Smith stated he agreed with G. Carvalho.
Public Comment: B. Jolly stated he agreed with G. Carvalho.
Public Comment: P Muli stated he agreed with G. Carvalho.

B. Ballou closed this portion of the public hearing for these items.

5) **Black sea bass quota management proposals:** Four proposals for 2011 black sea bass quota management were brought forward for public comment. The first was a proposal to remain at status quo for 2011, and the second proposal was to extend the length of the August closure starting from July 20 through August 31. The third proposal was to develop an aggregate program modeled after the scup summer program. The fourth proposal was to increase the starting possession limit from 50 to 100 pounds per day in the spring through fall sub periods.

Public Comment: T. Jackson, President of American Alliance of Fishermen and their Communities stated she was in support of proposal #3 (develop an aggregate program). She added we should look at decreasing the possession limit during the Nov-Dec sub period and increasing the possession limit during the July-October sub period because there are not as many fish around in the Nov-Dec sub period.

Public Comment: G. Carvalho stated he wanted to reiterate the proposal that he made for fluke. He suggested we apply that same proposal to the black sea bass fishery; a minimum of 100 pounds per day throughout the season, and anything left over based on that initial allocation granted to the days with the highest landings. He stated that we needed to have a no closed season, and not less than 100 pounds per day possession limit. He indicated we do not need to divide up the allocation percentages as currently divided. He stated that the market can not take the ups and downs the way this fishery is currently being managed. Fishermen needed a steady supply to bring to market.

Public Comment: K. Booth, RICRRA, explained that part of the problem with the quota issue is that there is a heck of a lot more sea bass out there than anyone wants to admit from a management stand point. He went through each proposal on the board and recommended no for proposal #1 (status quo), no on proposal #3 (develop an aggregate program), and no on proposal #4 (increase possession limits in spring through fall period). He stated what worked this year was the 50 pounds per day during the two summer sub periods and the attempt to close for the month of August, but it was not closed long enough. His final recommendation that RICRRA would support would be proposal #2 (extend length of the August closure) but he recommended expanding the closure period even more, from the proposed July 20 date back to July 15. It would then be closed from July 15 through August 31. This way they would get some poundage in September.

Public Comment: S. Parente stated that he concurred with K. Booth.

Public Comment: T. Baker stated he felt the problem with sea bass was that we did not have enough quota. He noted it was the states' charge to keep the fishery open as long as possible, therefore he supported proposal #1 (status quo) because the 50 pounds per day seamed to work better than the previous year at 100 pounds per day. He stated he favored proposal #1 over proposal #2 (extend length of the August closure) but he would take either one. He was opposed to proposal #3 with the aggregate program indicating that it was too easy for people to cheat. He stated he was also opposed to proposal #4 because it would close in 30 days or less.

Public Comment: B. Smith stated he supported proposal #1 (status quo) and he felt that the fishery would not be open very long even with that amount of fish. He noted that this year in November they only had one day at 250 pounds then it went down to 100 pounds for five day then the quota was gone. He was opposed to proposal #3 with the aggregate program stating it would close in two or three days. He proposed a possession limit of 25 pounds per day and leaving it open all summer. He noted you would not be throwing them back and you would have something to add to your scup catch. He explained that November was the best time and there was no quota left this year.

Public Comment: T. Baker stated he would support B. Smith's proposal, which would be proposal #5 (25 pounds per day). He stated that in absence of an increase in quota he would have to support B. Smith's proposal of 25 pounds per day.

Public Comment: S. Parente stated that B. Smith's proposal made a lot of sense, but he wanted to speak on proposal #3 (develop an aggregate program), stating the RICRRA was opposed to an aggregate program because of such a small quota for this fishery.

Public Comment: T. Jackson, stated she was under the impression that the state had received another million pounds of sea bass this year and since that was not the case she wanted to withdraw her support for proposal #3 (develop an aggregate program) and would support a proposal like #1 or #2 that would keep the fishery open for as long as possible.

Public Comment: M. McElroy stated he supported B. Smith's proposal for 25 pounds per day.
Public Comment: B. Allen stated he supported B. Smith's proposal for 25 pounds per day.
Public Comment: B. Jolly stated he supported B. Smith's proposal for 25 pounds per day.
Public Comment: J. Macari stated he supported B. Smith's proposal for 25 pounds per day. He felt at this level it would keep the fishery open longer.

B. Ballou closed this portion of the public hearing for these items, which concluded the public hearing.

There was one written comment received at the public hearing by B. Ballou that was submitted by J. Carvalho.

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 – Written comments submitted by J. Carvalho pertaining to the summer flounder fishery