



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 COMMENTS FROM APRIL 3, 2012 PUBLIC HEARING

Hearing Officer: R. Ballou
DEM Staff: N. Scarduzio, D. Erkan, J. McNamee, G. Powers, and L. Mouradjian
RIMFC Member present as an observer: J. Grant

A public hearing was held on April 3, 2012 at 6:00 PM in Narragansett, RI at the URI/GSO Narragansett Bay Campus, Corless Auditorium. Seven (7) people from the general public attended the hearing. The following items were presented for public comment:

- 1) **Proposed amendments to “Part I – RI Marine Fisheries Regulations – Legislative Findings” to address harvest methods and habitat impacts by incorporating new definitions, and to update regulatory citations for consistency with certain statutory changes.** New proposed definitions: Air-assisted harvest, Bay scallop dredging, Bycatch, Permitted shellfish dredging, and Water-assisted harvest.

There were no comments made.
R. Ballou closed the public hearing on this item.

- 2) **Proposed amendments to “Part VI – RI Marine Fisheries Regulations – Dredging for Shellfish” to address harvest methods by clarifying dredging regulations and identifying applicable marine species, and to update regulatory citations for consistency with certain statutory changes.** Amendments were proposed for Sections 6.1 through 6.6 to clarify the dredging regulations and identify applicable marine species that can be harvested with a dredging license.

There were no comments made.
R. Ballou closed the public hearing on this item.

- 3) **Proposed amendments to “Part XVIII – RI Marine Fisheries Regulations – Shellfish Grounds” to prevent the operation of devices capable of harvesting shellfish in polluted areas (sections 18.6 and 18.10) and to update regulatory citations for consistency with certain statutory changes.**

Public Comment: M. McGiveney, representing the RI Shellfishermen’s Association, stated he had concerns whether these proposed amendments would impact their shellfish transplant program where they transplant shellfish from closed waters into clean waters using bullrakes and tongs.

R. Ballou closed the public hearing on this item.

- 4) **Proposed amendments to “Part III – RI Marine Fisheries Regulations – Marine Fisheries Council” to establish Marine Life Management Areas (section 3.16.18) and to update regulatory citations for consistency with certain statutory changes.** These proposed changes would establish Marine Life Management Areas in Narragansett Bay, Little Narragansett Bay, and all the coastal ponds to facilitate spatial management of fisheries and fish habitats.

Public Comment: M. McGiveney, representing the RI Shellfishermen’s Association, stated the RI Shellfishermen’s Association was not in support of this language as proposed. He indicated they had a brief conversation with M. Gibson at one of the Shellfish advisory panels where this was discussed. McGiveney commented that Gibson said he was going to take it slow and only work on certain areas, but this proposal seemed much broader than what they had anticipated.

Public Comment: S. Parente, RI Commercial Rod and Reel Association, stated he had issues with the proposed language changes. He commented and asked about the deleted wording in section 3.4 regarding Shellfish and Marine Life Management Areas (The Council may “on the advice of and in cooperation with” recommend to the Director of Environmental Management.....) he expressed concern this would mean the Council would then be totally out of the decision process on marine fishery management areas. He was concerned about removing the Council from the process and he was opposed to this.

R. Ballou closed the public hearing on this item.

- 5) **Amendments to “Part IV – RI Marine Fisheries Regulations – Shellfish” to clarify what species may be harvested under a shellfish dredging license (sections 4.1.3 and 4.5), and to update regulatory citations for consistency with certain statutory changes.**

Public Comment: M. McGiveney, representing the RI Shellfishermen’s Association, stated he did not believe section 4.5 - Methods of Harvest - was the language the Shellfish Advisory Panel (SAP) had come up with when they reviewed this item. He did not know whether that language needed to be considered by the Council in their deliberations but if it was he requested the language the Shellfish AP had voted on be presented to the Council as well. He noted the difference being in the SAP language they named each shellfish species involved and the language was simpler than what was being presented.

B. Ballou closed the public hearing on this item.

- 6) **Proposed Amendment to the Narragansett Bay Menhaden Management Plan:** The Menhaden Advisory Panel brought forward language that would apply to permanent closed areas which would limit the possession of menhaden to not more than 200 menhaden per vessel per calendar day for both commercial and recreational fishers using a method other than purse seine.

There were no comments made.

R. Ballou closed the public hearing on this item.

- 7) **Proposed amendments to the Lobster Management Plan for mandatory v-notching of certain female lobsters in LCMA 2 and establishing a minimum size increase for LCMA 3 as conservation equivalency methods for complying with Addendum XVII to Amendment 3 of the ASMFC Interstate Fishery Management Plan, as well as adopting certain technical**

revisions to update language and remove expired language. The proposed amendments to the lobster management plan would implement ASMFC lobster Addendum 17 exploitation rate reductions for the Southern New England (SNE) stock in lobster management Areas 2 and 3. In LCMA 2 there will be mandatory V-notching of all egg bearing female lobsters, and LCMA 3 the minimum gauge size will be 3-17/32 inches. These are compliance issue with ASMFC Interstate Fishery Management Plan for American Lobster.

There were no comments made.

R. Ballou closed the public hearing on this item.

- 8) Proposed amendments to the Spiny dogfish management plan.** In response to ASMFC Northern Region States the Division proposed regulatory language that would authorize the DFW to enter into interstate agreements with ASMFC Northern Region States for the purpose of establishing seasons and possession limits governing the taking of spiny dogfish for consistent and uniform management and to effectively comply with federal fishery management plans.

Public Comment: A. Gewirtz stated after a conversation with B. McElroy, industry realized it was highly unlikely for anything to happen this year for this fishery. He commented the Groundfish AP members had put these proposals together with hopes they could maximize the use of this resource. He was in support of the Division language and felt the short-term proposals (#4 through #6) would be highly unlikely to get through for this fishing year. He commented that for long-term he and the AP members had supported proposal #2 (establishing two sub-periods; spring and fall fishery in the Northern Region), then supported proceeding down the list with the other two proposals. He again added that industry was aware it was unlikely for any of this to occur this year.

R. Ballou closed the public hearing on this item.

- 9) Proposed amendments to “Part III – RI Marine Fisheries Regulations – Marine Fisheries Council” to allow more flexibility to adjust seasons in order to effectively comply with federal fishery management plans.** These amendments would allow the Division the flexibility to respond to ASMFC orders including season changes and to conduct quota reallocation between gear types as needed. The amendments also update the regulations for consistency with statute in redefining the RIMFC’s advisory role to the Director and removing the Council’s regulatory jurisdiction per legislative action.

Public Comment: S. Parente, RI Commercial Rod and Reel Association, made comments in reference to section 3.2 - Powers and Duties – indicating it appeared the proposed modifications eliminated the requirement to have issues vetted through a public hearing, removed all and any authority from the Council, and he wondered if this was leading to doing away with the Council all together. He also commented on section 3.2.1 Adjustments of allocations, seasons, and possession limits, and sub-sections 3.2.1-1, 3.2.1-2, 3.2.1-3, and 3.2.1-4. He noted that the RI Commercial Rod and Reel Association opposed these changes as written.

Parente explained the changes made were too broad and could lead to unforeseeable consequences going forward. Regarding quota allocations he thought the proposed changes were too broad and not specific enough to address the intent which was to transfer quotas from fish traps to general category and vise-a-versa for the scup and striped bass fisheries. He felt the wording for gear type was wide open for interpretation. He noted if we meant fish

traps then it should be stated as such. S. Parente explained he thought the intent of this was for those specific instances to reallocate quota from fish traps to general category but the proposed language was too broad.

S. Parente also commented he had questions pertaining to section 3.2.1 and those subsections. He asked if there was anything contained in the legal intent that would authorize the Department and/or the Division to modify sub period time frames, and or percentages associated with those time frames without an advisory panel meeting, public hearing and Council process? Additionally, could this language be legally construed to authorize the Department and/or Division the authority to allocate quota of any species to any specific gear type within a defined sub period? He noted this would basically create a sector type situation for all stake holders.

B. Ballou closed the public hearing on this item, and concluded the public hearing.

List of Exhibits:

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

Exhibit 2 – Copy of Public Hearing Proposal Documents (Annotated Regulatory Parts)

Exhibit 3 – Introductory remarks prepared by R. Ballou

Exhibit 4 – Written comments/proposals submitted by G. Carvalho, Vice President, RI Fishermen's Alliance (RIFA) dated 4/3/2012, commenting on the various proposals

Exhibit 5 – Written comments submitted by D. Pesante received on 4/2/2012, for the spiny dogfish fishery