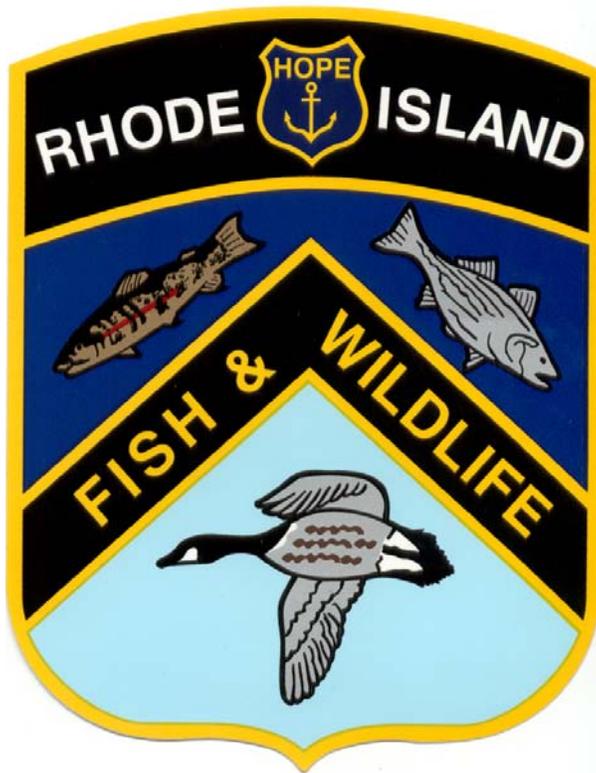


Final Report on the 2009 Sector Allocation Pilot Program



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Fisheries Council

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Introduction

A new approach to fishery management in Rhode Island (RI) was given a trial run in 2009. The initiative, called the RI Summer Flounder Sector Allocation Pilot Program, involved the allocation of a portion of the State's commercial summer flounder quota to a sector, comprised of eight vessels, based on the average annual landings of those vessels over the 2004-2008 period. The sector was allowed to fish outside of the normal regime of traditional quota management, and as such was not bound by daily possession limits or seasons; but the sector had to abide by certain additional requirements, such as the need to retain all legal-sized summer flounder and to count all discards of undersized s/f against their overall allocation. In addition, the sector was bound by a summer sub-period catch limit, in addition to the overall limit associated with their allocation.

While discussions involving the potentiality of the new approach date back several years, the formal development of the program, from a regulatory perspective, began in September 2008 with the presentation of a draft proposal to the RI Marine Fisheries Council's (Council) Summer Flounder Advisory Panel. The proposal was offered by Chris Brown, a commercial fisherman out of Point Judith, RI and President of the RI Commercial Fishermen's Association. The advisory panel recommended (8-4 vote) to the full Council that the proposal be subject to formal consideration via the public hearing process. In turn, the RI Department of Environmental Management (DEM) put the proposal out to notice and scheduled a public hearing (see Appendix 1) for November 13, 2008. The hearing was well attended, and the comments offered were numerous and generally negative (see Appendix 2). On December 1, 2008, the Council met to review the public hearing record and deliberate on the issue. On a 4-3 vote, the Council recommended that the matter be tabled for a year to allow for continuing review (see Appendix 3). On January 25, 2009, the DEM Director decided to move forward with a modified version of the program, with changes that addressed some of the core concerns raised during the public hearing and Council review processes (see decision memo at <http://www.dem.ri.gov/programs/bnatres/fishwild/pdf/dirsectr.pdf>).

The program, as modified and adopted by the Director, afforded any group of qualified fishermen to apply for participation, as part of a nine-month pilot project, subject to various terms and conditions (see Part 7.7.11 of DEM's Marine Fisheries Regulations).

Following enactment of the program, DEM received one complete application, from the RI Fluke Conservation Cooperative, the group that spearheaded the original proposal. DEM approved the application on March 26, 2009, pending a few technical changes (see <http://www.dem.ri.gov/programs/bnatres/fishwild/pdf/fccloa.pdf>), and the sector officially began operations on April 12, 2009. The approved sector was comprised of eight vessels, seven of which were otter trawl vessels of varying sizes, and one gillnet operator. All documentation associated with the approved sector is available at: <http://www.dem.ri.gov/programs/bnatres/fishwild/sctrindx.htm>.

Program Evaluation

In his decision memo, the DEM Director identified three main areas to be addressed as part of the overall evaluation of the pilot: the economic performance of the sector, safety at sea, and benefits to the resource.

Economic performance: A detailed study on the economic performance of the sector was undertaken by Dr Christopher M. Anderson, Andrew M. Scheld, and Dr Hirotsugu Uchida of the University of Rhode Island, Department of Environmental & Natural Resource Economics. As of the date of this report, the URI team has issued a preliminary four-page summary of their study, titled “Revenue Effects of the Fluke Sector Pilot Program” (February 17, 2010). DEM defers to this continuing study for the purpose of evaluating the issue of economic performance.

Safety at Sea

While there is anecdotal evidence, offered by the sector participants, that the program enabled them to reduce safety risks by better targeting periods of good weather and calm seas, DEM was unable to quantify or evaluate this factor.

Resource Issues

The balance of this report is devoted to an evaluation of the resource issues associated with the pilot program.

Resource Issues

Reporting Performance

The measures analyzed in this section are:

1. The differences between what the sector manager reported to DEM’s Division of Fish & Wildlife (DFW) for landings relative to what was reported through the electronic dealer reporting system, i.e., the Standard Atlantic Fisheries Information System (SAFIS);
2. A within-sector analysis of landings between observed trips and non-observed trips; and
3. A within-sector analysis of reported discards between observed trips and non-observed trips.

Methods and Results

1. To analyze the accuracy of reporting, the sector landings reports were analyzed relative to the landings reports made at the point of sale through SAFIS. The two data frames were matched up in two ways. The first was to analyze the reports on a daily vessel-to-vessel level, and the second analysis was to analyze the reports on a weekly level for all vessels combined. The data were arranged in matching columns and in each case the data were subtracted from each other (SAFIS report – Sector report), the null hypothesis being that the difference between the two datasets should be zero. Both levels of data were tested using the Shapiro-Wilk W test for normality to see if the data were normally distributed. In each case, the null hypothesis was rejected indicating that the data were not normally distributed

- ($p < 0.001$). Because the data did not meet the normality assumption, the comparative analyses were done using the non-parametric Wilcoxon Signed Rank Test. When comparing the two data sources on a daily vessel-to-vessel level, the null hypothesis was rejected (the difference between the SAFIS reports and the Sector reports $\neq 0$; $p < 0.001$) indicating that there were anomalies between what was reported by the Sector and what was reported by SAFIS. For the entire daily vessel dataset, the mean difference was +10 lbs, meaning that on average the SAFIS reports were 10 lbs higher than the reports given by the Sector. Conversely, when comparing the two data sources on a weekly combined-vessel level, the null hypothesis was not rejected (the difference between the SAFIS weekly reports and the Sector weekly reports = 0; $p = 0.353$) indicating that the difference between the two reporting datasets at the weekly level was the same (Table 1).
2. A second method to analyze the accuracy of reporting was done. In this case unobserved sector kept catch reports (i.e. landings from SAFIS) were analyzed relative to the catch reports made on trips with an observer present. The data were arranged as landings-by-vessel, with an adjacent column indicating whether the trip was observed or not. Only trips with summer flounder landings were used for this analysis. The data were then tested using the Shapiro-Wilk W test for normality to see if the data were normally distributed. In each case, the null hypothesis was rejected indicating that the data were not normally distributed ($p < 0.001$). Because the data did not meet the normality assumption, the comparative analyses were done using the non-parametric Wilcoxon/Kruskal-Wallis Rank Sums Test. When comparing the landings on trips that were observed versus trips that were not observed for the entire dataset, the null hypothesis of no difference between the groups was accepted (amount of landings on observed trips = amount of landings on unobserved trips; $p < 0.058$) (Table 2a). While the null hypothesis was accepted, it is very close to having statistical significance and, due to the nonparametric test used, the possibility of a type 2 error is high. Because of this, possible effects were analyzed. Month was found to have a strong effect. The main reason for this was a change in the fishery after the beginning of August (closure for the general fishery) and an unequal distribution of observer trips, the majority of which happened in the latter half of the year. The dataset was stratified into two temporal strata to account for this effect -- April through July, and August through December. There were no significant differences found in landings between observed and unobserved trips in either group (April – July; $p > 0.47$ and August – December; $p > 0.18$) (Table 2b).
 3. A third method to analyze the accuracy of reporting was done. In this case unobserved sector discard reports were analyzed relative to the discard reports made on trips with an observer present. The data were arranged as discards-by-vessel, with an adjacent column indicating whether the trip was observed or not. Only trips with summer flounder landings were used for this analysis. The data were then tested using the Shapiro-Wilk W test for normality to see if the data were normally distributed. In each case the null hypothesis was rejected indicating

that the data were not normally distributed ($p < 0.001$). Because the data did not meet the normality assumption, the comparative analyses were done using the non-parametric Wilcoxon/Kruskal-Wallis Rank Sums Test. When comparing the discards on trips that were observed versus trips that were not observed for the entire dataset, the null hypothesis of no difference between the groups was accepted (the amount of discards on observed trips = the amount of discards on unobserved trips; $p > 0.069$) (Table 3a). Due to the month effect in the landings analysis above, this was examined for discards as well. Month was found to have a strong effect. As stated in the analysis above, April through July and August through December create meaningful groupings due to a change in the fishery at this time, therefore the dataset was stratified accordingly. There were no significant differences found in discards between observed and unobserved trips in either group (April – July; $p > 0.16$ and August – December; $p > 0.30$) (Table 3b).

Conclusion

The reporting on a daily and per-vessel level was found to be slightly inaccurate. The inaccuracies were on both sides of the equation and mainly resulted from missed vessel reports from both SAFIS and the Sector. The overall difference was small (+10 lbs) but indicated that SAFIS had slightly higher landings than those reported by the Sector. This anomaly illustrates some of the difficulties with administering a program like this for the sector manager when trying to obtain accurate information from multiple sources. Conversely, the reports on a weekly combined-vessel basis were accurate. The reason for the difference may have been bookkeeping issues in that it was probably easier for the Sector manager to go back and edit his weekly information rather than tracking edits all the way back to the daily vessel level. As a whole, the reporting accuracy is considered to be good, as the anomaly at the daily vessel level was small and, at the macro scale of tracking, the entire sector's landings relative to their total allowable catch (TAC) was accurate and would not have led to any TAC overages.

The comparison of landings reported from observed trips versus unobserved trips were not significantly different; indicating that the Sector was reporting accurately and that there was not a strong observer effect. The data did indicate that the observer coverage was not distributed evenly throughout the season, with most of the observed trips (72%) occurring from the month of August through December. The Sector had much higher landings in the latter half of the year; therefore, the statistical tests on the data can be considered to be conservative in that one could possibly expect to see some difference because of a temporal effect. When this temporal effect was accounted for, the statistical tests became more definitive, thus alleviating the concerns over a type 2 error (type 2 error = no difference indicated even though differences exist).

As a final test of accuracy in Sector reporting, the analysis of discards reported from observed trips versus unobserved trips were not significantly different, indicating that the Sector was reporting their discards accurately and that there was not a strong observer effect. As stated above, the data did indicate that the observer coverage was not evenly distributed temporally. When this temporal effect was accounted for, the statistical tests became more definitive, thus alleviating the concerns over a type 2 error.

General Information

The Sector was originally allocated 11.53% of the State's summer flounder allocation, or 194,168 pounds. However, that amount was reduced by the landings of the Sector vessels from January 1 through April 11 (17,798 lbs), constituting the period prior to the start of the program. Thus, the actual allocation for the pilot program totaled 176,370 pounds. During the program period – from April 12 to December 31 -- the Sector landed a total of 165,941 lbs of summer flounder. The Sector therefore ended with an underage (unharvested portion of their total allocation) of 10,429 lbs (Figure 1). Part of the underage most likely resulted from a long period of unfavorable weather at the end of the year when the Sector participants were trying to catch the last of their allocation. Another contribution to the underage may have been the calculation of the total allowable catch (TAC). In accordance with the terms and conditions of the program, the sector's TAC included all pounds of under-sized fish that were discarded. Total discards for the year were 993 lbs. Due to the discard provision, the actual landed allocation would always fall short of the total awarded allocation, unless the discard amount was 0 lbs. As it turned out, total discards for the year were 993 pounds; so this issue only proved to be a relatively minor component. But it was no doubt difficult for the Sector manager to anticipate and plan for total discards, prior to the tail end of the year. Lastly, 1,552 pounds of the underage was actually mandated by a settlement agreement that involved a TAC decrease (further discussed below).

In addition to, and as a subset of, the overall TAC for the Sector, a summer period TAC of 60,000 lbs was established by the regulations governing the pilot program. The summer TAC applied to the period from May 1 to September 15. The Sector participants landed 54,284 lbs during the summer period, coming in under the summer period TAC by 10% (Figure 2).

The F/V Virginia Marise landed the most summer flounder in 2009 followed, in descending order, by the F/V Elizabeth Helen, F/V Kelsi Morgan, F/V Linda Marie, F/V Ocean State, F/V Grandville Davis, F/V Thistle, and the F/V Restless. Each vessel landed amounts that were close to their averaged 2004-2008 landings; as allowed by the program, there appeared to be some shifting of allocation amongst the Sector participants (Table 4, Figure 3). The vessel with the highest discards was the F/V Linda Marie, followed in descending order by the F/V Virginia Marise, F/V Elizabeth Helen, F/V Grandville Davis, F/V Ocean State, F/V Kelsi Morgan, F/V Restless, and the F/V Thistle (Figure 3).

In Figures 4a and b, the top 100 vessels that landed summer flounder in Rhode Island in 2009, including the 8 sector vessels and 92 others that were not part of the program, are plotted in groups of five vessels. The figures show that 5 of the 8 Sector vessels were amongst the top performers with regard to pounds landed, while the remaining 3 vessels were ranked in the middle of the fleet. When research set aside (RSA) pounds are factored in, the positions of the sector vessels shift significantly, indicating that the pounds landed from the RSA program have a significant impact on the distribution of landings across the RI fleet.

As noted above, there was a settlement agreement reached in 2009 that involved a sector TAC decrease. The settlement pertained to one vessel in the Sector, the F/V Restless, that was initially approved by DEM to participate in the program, and then later found to be unqualified for participation because the vessel did not hold a federal, as required by the rules. Once DEM was notified about this issue, DEM rescinded the vessel's authorization to participate in the pilot program. That action was appealed by the vessel owner. While the appeal was pending, the vessel was allowed to continue participating in the program, in accordance with the due process rights afforded any vessel owner appealing any action taken by the Department. In November 2009, the appeal was settled and, in accordance with the terms of the settlement, the Restless was removed from the Sector. In addition the sector was penalized 1,552 lbs., resulting in an adjusted TAC of 174,818 lbs.

Discard Analysis

The most significant potential benefits associated with the pilot program is the decrease in discards. The benefits pertain both to the resource (less dead fish thrown back) and fishery (higher quotas). The assumption is that if fishermen are afforded flexibility and, in return, required to land what they catch, they will fish in a way that minimizes discards, given the strong incentive to do so.

To assess the effect of the pilot program on the discard issue, data were collected and analyzed in two ways:

1. The first method was to use a set of 2008 NMFS observer data for the RI fishery and compare that to the 2009 observer data produced from the Sector vessels, irrespective of gear type or time of year. Using this approach, the discard differences between the Sector vessels and the 2008 RI fishery as a whole were evaluated.
2. The second method was to compare the data using the above-mentioned 2008 data, accounting for gear type and time of year, relative to the 2009 observer data produced from the sector vessels. Using this approach, the discard differences between the sector vessels and the 2008 RI fishery for similar vessel operations (namely gillnets and otter trawls) during similar times of year (April through December) were evaluated.
3. Because the focus of the pilot program was on summer flounder, an additional discard analysis, looking at the ratio of kept-to-discarded summer flounder, was examined to account for possible differences between the 2008 and 2009 fisheries.

Methods and Results

There were three data sources used for these analyses. For the sector, 2009 data was used from the observer information that came from both NMFS and the contracted observer group (East-West Observers) (Figure 5). In order to make comparisons to the RI commercial fishery in general, NMFS fishery observer data from 2008 was used. The reason for using 2008 data instead of 2009 was due to the inability to get 2009 data for the entire RI fishery in a timely manner (i.e., by early 2010). DEM has requested the

2009 data and, once received, it will be analyzed. But in order to complete this report in a useful time frame, 2008 data was used for comparison. DEM believes that the 2008 data is an appropriate analog for the general performance of the RI fishery and in fact is probably more indicative of a normal fishing year relative to 2009, when a large overage occurred during the winter sub period. The data were tested using the Shapiro-Wilk W test for normality to see if the data were normally distributed. In each case, the null hypothesis was rejected, indicating that the data were not normally distributed ($p < 0.001$). Because the data did not meet the normality assumption, the comparative analyses were done using the non-parametric Wilcoxon/Kruskal-Wallis Rank Sums Test. Comparative discard analysis was done on 5 commercially and recreationally important species of finfish (summer flounder, winter flounder, scup, black sea bass, and Atlantic cod). To ensure the validity of comparisons between years, the RI DFW Trawl survey data was analyzed for size distribution differences of summer flounder between 2008 and 2009 (Figure 6). While the distributional data appears to be relatively consistent between years, statistical tests indicate that the two distributions are different (Kolmogorov-Smirnov Two-Sample Test; D statistic = 0.13 was greater than D critical = 0.08). However, comparisons can still be made with the understanding that the population has increased and the proportion of sub-legal fish that came into RI waters in 2009 was higher. Therefore, if analysis shows that discards were less in 2009 than in 2008, this is a conservative estimate as discards should have increased in 2009, and vice versa.

1. When analyzing discards using the two full observer datasets, significant differences were found for all species. The difference in summer flounder discards between the 2008 fishery and the 2009 sector program was a mean of 52.5 lbs (± 6.7 SE) per tow in 2008 versus 1.9 lbs (± 0.4 SE) per tow for the Sector. The difference between the two groups is significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.001$). The difference in winter flounder discards between the 2008 fishery and the 2009 sector program was a mean of 27.3 lbs (± 4.2 SE) per tow in 2008 versus 35.6 lbs (± 2.6 SE) per tow for the Sector. The difference between the two groups is significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.001$). The difference in scup discards between the 2008 fishery and the 2009 sector program was a mean of 133.6 lbs (± 37.3 SE) per tow in 2008 versus 119.1 lbs (± 19.4 SE) per tow for the Sector. The difference between the two groups is significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p = 0.032$). The difference in black sea bass discards between the 2008 fishery and the 2009 sector program was a mean of 14.2 lbs (± 2.4 SE) per tow in 2008 versus 7.5 lbs (± 1.1 SE) per tow for the Sector. The difference between the two groups is significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.001$). The difference in cod discards between the 2008 fishery and the 2009 sector program was a mean of 32.7 lbs (± 6.5 SE) per tow in 2008 versus 20.8 lbs (± 14.2 SE) per tow for the Sector. The difference between the two groups is significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.002$) (Table 5).
2. When analyzing discards using the 2008 dataset after being filtered for similar season and similar gear types, significant differences were found for several species, but not all of them. The difference in summer flounder discards between the 2008 fishery and the 2009 sector program was a mean of 60.6 lbs (± 8.1 SE)

per tow in 2008 versus 1.9 lbs (± 0.4 SE) per tow for the Sector. The difference between the two groups is significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.001$). The difference in winter flounder discards between the 2008 fishery and the 2009 sector program was a mean of 33.8 lbs (± 5.9 SE) per tow in 2008 versus 35.6 lbs (± 2.6 SE) per tow for the Sector. The difference between the two groups is not significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p = 0.073$). The difference in scup discards between the 2008 fishery and the 2009 sector program was a mean of 146.2 lbs (± 42.1 SE) per tow in 2008 versus 119.1 lbs (± 19.4 SE) per tow for the Sector. The difference between the two groups is not significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p = 0.506$). The difference in black sea bass discards between the 2008 fishery and the 2009 sector program was a mean of 10.7 lbs (± 2.3 SE) per tow in 2008 versus 7.5 lbs (± 1.1 SE) per tow for the Sector. The difference between the two groups is not significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.055$). The difference in cod discards between the 2008 fishery and the 2009 sector program was a mean of 34.6 lbs (± 7.5 SE) per tow in 2008 versus 20.8 lbs (± 14.2 SE) per tow for the Sector. The difference between the two groups is significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.002$) (Table 6).

3. The final analysis was done on the ratio of discarded summer flounder to kept summer flounder. The data sources used are the same as in the above analyses with one difference. Because of the occasional landing of 0 lbs of summer flounder during a trip where summer flounder were discarded, the 0 lbs events were transformed to 0.4 lbs, one significant digit below the lowest reported pounds amount. When analyzing the ratio between discarded summer flounder to kept summer flounder using the 2008 dataset after being filtered for similar season and similar gear types, a significant difference was found between the ratio of the Sector in 2009 and the ratio of the summer flounder fishery in 2008. The difference in ratio between the 2008 fishery and the 2009 sector program was a mean ratio of 64.4 (± 9.3 SE) per tow in 2008 versus 2.1 (± 1.0 SE) per tow for the Sector. The difference between the two groups is significant (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.001$) (Table 7).

Conclusion

There are significant differences in the amount of discards created by the Sector vessels (in 2009) relative to those created by the RI fishery as a whole during 2008. The most notable case involves summer flounder, where the discard amount for the Sector vessels was much less than the amount of discards found in the general fishery, whether looking at the entire year or only during the time frame that the Sector operated and within the gear types similar to those of the Sector participants. In the case of summer flounder, the Sector program created a large benefit to the resource by significantly decreasing discarded summer flounder during fishing operations. On a magnitude basis, the Sector discarded far fewer summer flounder per tow than the 2008 fishery. As well, when the ratio of discarded to kept summer flounder was analyzed, the Sector was found to have kept many more summer flounder and discarded far fewer summer flounder per tow than in the 2008 general summer flounder fishery, leading to a significantly lower ratio for the

Sector. And because the RI DFW Trawl Survey data shows that the proportion of sub legal summer flounder increased in 2009, the confidence in the benefit of lower discards in the Sector program is increased. For the other species analyzed, there were either mixed results from the two analyses or the differences between the discard amounts for the two groups were small. Since the sector program specifically focused on summer flounder, there was no expectation that the program would benefit other species; yet the analysis shows that there were such benefits, albeit of a mixed nature. That the sector participants remained subject to the restrictive management measures for all other species likely explained the mixed nature of the results for the other species besides summer flounder.

Observed Information Versus Fishery Independent Data
[Section pending analysis]

Market Analysis As It Relates To Summer Flounder Size

Because the sector program involved a requirement to retain all summer flounder larger than the minimum size, a market analysis was conducted to evaluate the effects of this provision. The market categories of the summer flounder landed by the Sector participants were analyzed to determine:

1. Whether there was a difference in the size structure of fish landed by the Sector participants between 2008 and 2009, and
2. Whether there was a difference between the Sector participants and the general summer flounder fishery.

Methods

1. Data was queried from SAFIS and filtered for the vessels that participated in the 2009 sector program and for the period of time during which the sector was operating (April 12 – December 31) to account for different size structures that may be present at different times of year. When comparing the mean pounds landed per market category of Large and Medium/Select (Wilcoxon/Kruskal-Wallis Rank Sums; $p > 0.1$ for each category), no differences were found between what the sector vessels landed in 2008 and what the same vessels landed in 2009 during the time period of April 12-December 31. However, there was a difference found in the mean number of pounds landed in the Jumbo market category between the two years, with the Sector landing more pounds of Jumbo summer flounder per trip in 2009 (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.001$) (Table 8). The proportion landed in each market category was also examined in an effort to account for differences in landing amounts between years (Figure 7). The proportions between years for each group look relatively close. These data were not statistically examined. The market categories of Small and Unclassified are shown in the figure but were not statistically examined due to small sample size.
2. Data was queried from SAFIS and filtered for the period of time during which the sector was operating in each year (April 12 – December 31) and for gear types similar to that used in the sector program (namely gillnets and otter trawlers). This data set included the vessels that participated in the sector program in all years

except for 2009, as there was no sector program during any other year and therefore the sector participants would have been operating under the same conditions as the rest of the fishery in all years except 2009. When comparing the landings per market categories of Jumbo and Large (Wilcoxon/Kruskal-Wallis Rank Sums; $p > 0.4$ for each category), no differences were found between what the sector vessels landed in 2009 and what the rest of the fishery landed in 2009 during the time period of April 12-December 31. However, when looking at the Medium/Select market category, there is a difference (Wilcoxon/Kruskal-Wallis Rank Sums; $p < 0.04$). The data indicates that while the Sector had more landing events in this market category ($n=555$ landings for the Sector vessels vs. $n=189$ landings for the non sector vessels), on average they landed fewer pounds per trip (Table 9). The proportion landed in each market category was also examined in an effort to account for differences in landing amounts between groups (Figure 8). The proportions between years for each group look relatively close with the exception of the Medium/Select market class, where the Sector landed proportionally more summer flounder relative to the non-sector vessels. These data were not statistically examined. The market categories of Small and Unclassified are shown in the figure but were not statistically examined due to small sample size.

Conclusion

This analysis indicates that when examining the Sector participants in 2009, when they were under the Sector program, relative to 2008, when they were still bound by restrictive management, a difference is seen in that they retained more Jumbo-sized summer flounder during the Sector program. This difference is most likely due to the Sector vessels not being bound by possession limits in 2009; thus, they did not have to discard fish once a possession limit was reached, as they would have had to do in 2008. Conversely, the Sector vessels were obligated to keep all summer flounder captured over the minimum size in 2009. In this way, discards are minimized. When comparing the Sector vessels to the rest of the fishery in 2009, the data indicate that the Sector landed Medium/Select summer flounder much more frequently and in smaller amounts on average than did the rest of the fishery, indicating that the Sector did indeed keep and land the legal-sized summer flounder that they caught. They also landed proportionally more Medium/Select summer flounder than did the non-sector vessels. This is probably directly related to the relative decrease in discards seen from the Sector vessels and may indicate high-grading in the general fishery.

Other Resource Factors

[Section pending analysis]

Overall Conclusions

In this small-scale experiment, the reporting was found to be good. There were anomalies found at the daily and per-vessel level, but these were small, and at the macro scale of tracking, the entire sector's landings relative to their TAC were accurate and would not have lead to any TAC overages. The anomalies, while not impacting the monitoring of the TAC, illustrate the difficulties of tracking data from multiple sources. This is an

important consideration to take into account if the State moves forward with this style of management. The reporting and monitoring needs to be more standardized and would benefit from a standardized and online reporting form that could be accessed and used by sector managers.

The comparison of landings and discards reported from observed trips versus unobserved trips found no significant differences, indicating that the Sector was reporting accurately and that there was not a strong observer effect. The reporting of discards is critical in this experimental phase of sector management; therefore statistical confidence in reporting is extremely important, particularly in the case of discards. If the state were to continue moving forward with this style of management, the need for high levels of observer coverage will still be necessary. The need for confidence in reporting will remain, as well as a need to monitor potential benefits with regard to the resource over time.

There appear to be significant differences in the amount of discards created by the Sector vessels (in 2009) relative to the RI fishery during 2008. The most notable case of the Sector's impact on discards is found in summer flounder, where the discard amount for the Sector vessels was as much as 98% lower than the discard amount in the general fishery. Moreover, the confidence in the benefit of lower discards in the Sector program is increased due to the increase in the proportion of sub-legal summer flounder in 2009, according to the RI DFW Trawl Survey data. The decrease in the level of by-catch exhibited by the Sector during this very limited experiment bodes well for the types of resource benefits that can be achieved under this style of management. This Sector performed well with respect to not using up their allocation prior to the end of the year (although a potential downside of the program is that fish were left "on the table"), but this may not always be the case if future endeavors of this type are undertaken. Careful management and monitoring of catch both within and external to the Sector will be necessary to keep Sectors from completely harvesting their allocations, which could lead to a cessation in fishing operations or a dramatic increase in discards depending on the regulatory structure that is in place.

The market category data indicate that, when looking at the Sector participants from 2009 while they were under the Sector program relative to 2008 when they were still bound by restrictive management, there is a difference in their ability to keep more Jumbo sized summer flounder during the Sector program. This is most likely due to the Sector's ability to keep all of their catch as they were not bound by daily or weekly possession limits. Conversely, when comparing the Sector vessels to the rest of the fishery in 2009, the data indicate that the Sector landed Medium/Select summer flounder much more frequently than did the rest of the fishery, indicating that the Sector did indeed keep and land the legal sized summer flounder that they caught. They also landed proportionally more Medium/Select summer flounder than did the non-sector vessels. This is perhaps related to the relative decrease in discards seen from the Sector vessels and may indicate high-grading going on in the general fishery. It is important to consider that, when comparing 2008 to 2009, the Sector vessels did not appear to high-grade in 2008, so it is difficult to assess whether the Sector program provided the incentive for these vessels not to high-grade or whether these particular fishermen do not tend to practice high-grading

in general. It will be a point of interest if this program continues in to the future to continue to monitor the effects that sector programs can have on fishing behavior with regard to high grading as well as the incentives it may create for fishermen to use progressive gear technologies, etc.

Based on the analyses conducted for this report, the Division of Fish & Wildlife concludes that the 2009 Summer Flounder Sector Allocation Pilot Program had a positive effect on the summer flounder resource by dramatically reducing discards. By that metric, the Sector succeeded in one of the three main areas (resource, economics, and safety) outlined by the DEM Director. Evaluations of the other two areas are important and necessary, though outside the scope of this review. The Program also proved successful with regard to the quality of reporting. Other apparent benefits of the Program include the potential to incentivize use of progressive gears and fishing techniques (e.g., drop chain trawl net), lack of high grading, and a willingness of the sector to readily reveal information from the experiment by remaining open and transparent throughout the 9-month period. If the program is to be continued or repeated, several issues warrant consideration. The first is to reconsider the formula used to establish the TAC. If discards are to continue to be counted against the TAC, there should be a mechanism that would allow the discard amounts to either be converted into higher landing limits for the sector or transferred to the general fishery. On a related note, a mechanism should be developed to address underages. The bottom line is that the program should contribute to, and not detract from, full utilization of the State's commercial quota. Additionally, a standardized report form and/or online process should be developed to help ensure accuracy and efficiency with regard to the collection of information from multiple sources. Finally, it is essential to maintain the high level of transparency that was associated with the program in 2009. Openness provides for accountability; accountability provides for confidence; and confidence is the necessary cornerstone for a program still needing to gain acceptance by the State's commercial fishing community.

Tables

Table 1 – Comparison of Sector reports versus SAFIS reports

Weekly Report

Analysis

Hypothesized Value 0

Actual Estimate

-15.395

df 37

Std Dev 454.557

Weekly Report Signed-Rank

Analysis

Test Statistic -62.500

Prob > |t|

0.353

Prob > t

0.824

Prob < t

0.176

Daily Report

Analysis

Hypothesized Value 0

Actual Estimate

10.4844

df 672

Std Dev 101.962

Daily Report Signed-Rank

Analysis

Test Statistic 2981.5

Prob > |t|

0.000

Prob > t

0.000

Prob < t

1.000

Table 2a – Comparison of landings from trips that were observed and trips that were unobserved

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
observed	141	290.823	377.785	31.815	227.92	353.72
unobserved	522	239.339	363.672	15.917	208.07	270.61

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std 0
observed	141	50630	359.078	1.892
unobserved	522	169486	324.686	-1.892

2-Sample Test, Normal Approximation

S	Z	Prob> Z
50630	1.89170	0.0585

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
3.5795	1	0.0585

Table 2b – Comparison of landings from trips that were observed (o) and trips that were unobserved (u):

April – July

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
o	39	115.462	142.271	22.782	69.34	161.58
u	255	157.294	303.776	19.023	119.83	194.76

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
o	39	5394	138.308	-0.724
u	255	37971	148.906	0.724

2-Sample Test, Normal Approximation

S	Z	Prob> Z
5394	-0.72410	0.4690

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
0.5258	1	0.4684

August – December

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
o	102	357.873	416.896	41.279	275.99	439.76
u	267	317.697	397.885	24.350	269.75	365.64

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
o	102	20088.5	196.946	1.329
u	267	48176.5	180.436	-1.329

2-Sample Test, Normal Approximation

S	Z	Prob> Z
20088.5	1.32920	0.1838

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
1.7682	1	0.1836

Table 3a – Comparison of discards from trips that were observed (o) and trips that were unobserved (u)

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
o	139	2.77698	11.6868	0.99126	0.81696	4.7370
u	468	1.17308	2.5827	0.11938	0.93848	1.4077

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
o	139	45137.5	324.730	1.815
u	468	139390.5	297.843	-1.815

2-Sample Test, Normal Approximation

S	Z	Prob> Z
45137.5	1.81469	0.0696

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
3.2942	1	0.0695

Table 3b – Comparison of landings from trips that were observed (o) and trips that were unobserved (u):

April – July

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
o	38	1.52632	2.52273	0.40924	0.69712	2.3555
u	221	0.94570	1.99471	0.13418	0.68126	1.2101

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
o	38	5447	143.342	1.378
u	221	28223	127.706	-1.378

2-Sample Test, Normal Approximation

S	Z	Prob> Z
5447	1.37826	0.1681

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
1.9033	1	0.1677

August – December

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
o	101	3.24752	13.6128	1.3545	0.5602	5.9349
u	247	1.37652	3.0027	0.1911	1.0002	1.7528

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
o	101	18403.5	182.213	1.035
u	247	42322.5	171.346	-1.035

2-Sample Test, Normal Approximation

S	Z	Prob> Z
18403.5	1.03471	0.3008

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
1.0720	1	0.3005

Table 4 – Sector landings by vessel including original and final allocation percentages

Vessel	Total lbs	Final % of total	Original % of total	difference
ELIZABETH HELEN	28456	17.15%	16.98%	-0.17%
GRANDVILLE DAVIS	18383	11.08%	13.94%	2.86%
KELSI & MORGAN	26141	15.75%	14.41%	-1.34%
LINDA MARIE	23506	14.17%	15.64%	1.47%
OCEAN STATE	20648	12.44%	13.80%	1.36%
RESTLESS	6104	3.68%	3.26%	-0.42%
THISTLE	6326	3.81%	2.98%	-0.83%
VIRGINIA MARISE	36377	21.92%	18.99%	-2.93%
Grand Total	165941			

Table 5 – Comparisons of discards between the 2008 RI fishery and the 2009 Sector vessels (08 ALL = 2008 NMFS observer dataset; 09 SECT = 2009 Sector observer dataset)

Summer Flounder

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	287	52.5157	112.762	6.6561	39.414	65.617
09 SECT	436	1.8853	9.068	0.4343	1.032	2.739

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	287	161180	561.603	21.804
09 SECT	436	100546	230.610	-21.804

2-Sample Test, Normal Approximation

S	Z	Prob> Z
161180	21.80398	0.0000

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
475.4218	1	<.0001

Table 5 – cont.

Winter Flounder

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	232	27.3405	63.5410	4.1717	19.121	35.560
09	397	35.6161	50.9133	2.5553	30.593	40.640
SECT						

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	232	65476	282.224	-3.459
09	397	132659	334.154	3.459
SECT				

SECT

2-Sample Test, Normal Approximation

S	Z	Prob> Z
65476	-3.45942	0.0005

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
11.9692	1	0.0005

Scup

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	161	133.596	473.709	37.334	59.866	207.33
09	384	119.139	379.433	19.363	81.068	157.21
SECT						

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	161	47532	295.230	2.141
09	384	101253	263.680	-2.141
SECT				

SECT

2-Sample Test, Normal Approximation

S	Z	Prob> Z
47532	2.14052	0.0323

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
4.5831	1	0.0323

Table 5 – cont.

Black Sea Bass

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	96	14.1667	23.0960	2.3572	9.4870	18.846
09	187	7.4594	15.1074	1.1048	5.2799	9.639
SECT						

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	96	16205	168.802	3.971
09	187	23981	128.241	-3.971
SECT				

2-Sample Test, Normal Approximation

S	Z	Prob> Z
16205	3.97050	<.0001

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
15.7710	1	<.0001

Atlantic Cod

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	137	32.7299	76.1656	6.507	19.86	45.598
09	21	20.8333	65.0210	14.189	-8.76	50.431
SECT						

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	137	11495.5	83.9088	3.095
09	21	1065.5	50.7381	-3.095
SECT				

2-Sample Test, Normal Approximation

S	Z	Prob> Z
1065.5	-3.09548	0.0020

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
9.5979	1	0.0019

Table 6 – Comparisons of discards between the 2008 RI fishery filtered for season (April – December) and similar gear types (gillnets and otter trawls) versus the 2009 Sector vessels (08 ALL = 2008 NMFS observer dataset; 09 SECT = 2009 Sector observer dataset)

Summer Flounder

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	232	60.6250	123.341	8.0977	44.670	76.580
09 SECT	436	1.8853	9.068	0.4343	1.032	2.739

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	232	124433.5	536.351	20.885
09 SECT	436	99012.5	227.093	-20.885

2-Sample Test, Normal Approximation

S	Z	Prob> Z
124433.5	20.88470	0.0000

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
436.1801	1	<.0001

Winter Flounder

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	160	33.7563	74.0101	5.8510	22.201	45.312
09 SECT	397	35.6161	50.9133	2.5553	30.593	40.640

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	160	41557	259.731	-1.794
09 SECT	397	113846	286.766	1.794

2-Sample Test, Normal Approximation

S	Z	Prob> Z
41557	-1.79433	0.0728

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
3.2207	1	0.0727

Table 6 – cont.

Scup

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	142	146.246	501.650	42.098	63.023	229.47
09	71	66.521	115.602	13.719	39.158	93.88
SECT						

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	142	15475.5	108.982	0.663
09	71	7315.5	103.035	-0.663
SECT				

2-Sample Test, Normal Approximation

S	Z	Prob> Z
7315.5	-0.66339	0.5071

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
0.4416	1	0.5063

Black Sea Bass

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	63	10.7302	18.5413	2.3360	6.0606	15.400
09	187	7.4594	15.1074	1.1048	5.2799	9.639
SECT						

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	63	8853.5	140.532	1.922
09	187	22521.5	120.436	-1.922
SECT				

2-Sample Test, Normal Approximation

S	Z	Prob> Z
8853.5	1.92169	0.0546

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
3.6968	1	0.0545

Table 6 – cont.

Atlantic Cod

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08 ALL	115	34.6174	80.6891	7.524	19.71	49.523
09	21	20.8333	65.0210	14.189	-8.76	50.431
SECT						

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08 ALL	115	8409.5	73.1261	3.206
09	21	906.5	43.1667	-3.206
SECT				

2-Sample Test, Normal Approximation

S	Z	Prob> Z
906.5	-3.20628	0.0013

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
10.2996	1	0.0013

Table 7 – Comparisons of discards to kept catch ratio between the 2008 RI fishery filtered for season (April – December) and similar gear types (gillnets and otter trawls) versus the 2009 Sector vessels (08 = 2008 NMFS observer dataset; SECT = 2009 Sector observer dataset)

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
08	371	64.3906	173.681	9.0171	46.659	82.122
SECT	435	2.0544	20.337	0.9751	0.138	3.971

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
08	371	187776.5	506.136	12.791
SECT	435	137444.5	315.964	-12.791

2-Sample Test, Normal Approximation

S	Z	Prob> Z
187776.5	12.79111	0.0000

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
163.6167	1	<.0001

Table 8 – Comparisons of pounds landed per market category between the Sector vessels in 2008 and 2009 (8 = 2008; 9 = 2009)

Jumbo

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
8	506	44.644	77.220	3.4328	37.900	51.39
9	548	100.049	137.374	5.8683	88.522	111.58

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
8	506	232522.5	459.531	-6.968
9	548	323462.5	590.260	6.968

2-Sample Test, Normal Approximation

S	Z	Prob> Z
232522.5	-6.96760	<.0001

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
48.5488	1	<.0001

Large

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
8	543	70.470	73.322	3.1466	64.29	76.65
9	621	127.668	193.796	7.7768	112.40	142.94

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
8	543	315024	580.155	-0.223
9	621	363006	584.551	0.223

2-Sample Test, Normal Approximation

S	Z	Prob> Z
315024	-0.22253	0.8239

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
0.0496	1	0.8238

Table 8 – cont.

Medium/Select

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
8	330	46.0121	51.2635	2.8220	40.461	51.563
9	555	56.8667	93.5812	3.9723	49.064	64.669

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
8	330	149525.5	453.108	0.907
9	555	242529.5	436.990	-0.907

2-Sample Test, Normal Approximation

S	Z	Prob> Z
149525.5	0.90732	0.3642

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
0.8235	1	0.3642

Table 9 – Comparisons of pounds landed per market category between the Sector vessels and the general summer flounder fishery filtered for season (April through December) and similar gear types (gillnets and otter trawls) in 2009 (S = Sector; NS = Non sector)

Jumbo

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
NS	513	118.476	224.661	9.9190	98.989	137.96
S	548	100.049	137.374	5.8683	88.522	111.58

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
NS	513	276562.5	539.108	0.834
S	548	286828.5	523.410	-0.834

2-Sample Test, Normal Approximation

S	Z	Prob> Z
276562.5	0.83394	0.4043

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
0.6956	1	0.4043

Table 9 – cont.

Large

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
NS	506	179.986	353.799	15.728	149.09	210.89
S	621	127.668	193.796	7.777	112.40	142.94

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
NS	506	282045.5	557.402	-0.614
S	621	353582.5	569.376	0.614

2-Sample Test, Normal Approximation

S	Z	Prob> Z
282045.5	-0.61427	0.5390

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
0.3774	1	0.5390

Medium/Select

Means and Std Deviations

Level	Number	Mean	Std Dev	Std Err Mean	Lower 95%	Upper 95%
NS	189	61.5201	151.085	10.990	39.841	83.199
S	555	56.8667	93.581	3.972	49.064	64.669

Wilcoxon / Kruskal-Wallis Tests (Rank Sums)

Level	Count	Score Sum	Score Mean	(Mean-Mean0)/Std0
NS	189	65067	344.270	-2.092
S	555	212073	382.114	2.092

2-Sample Test, Normal Approximation

S	Z	Prob> Z
65067	-2.09163	0.0365

1-way Test, ChiSquare Approximation

ChiSquare	DF	Prob>ChiSq
4.3757	1	0.0365

Figures

Figure 1 – Sector landings relative to the TAC

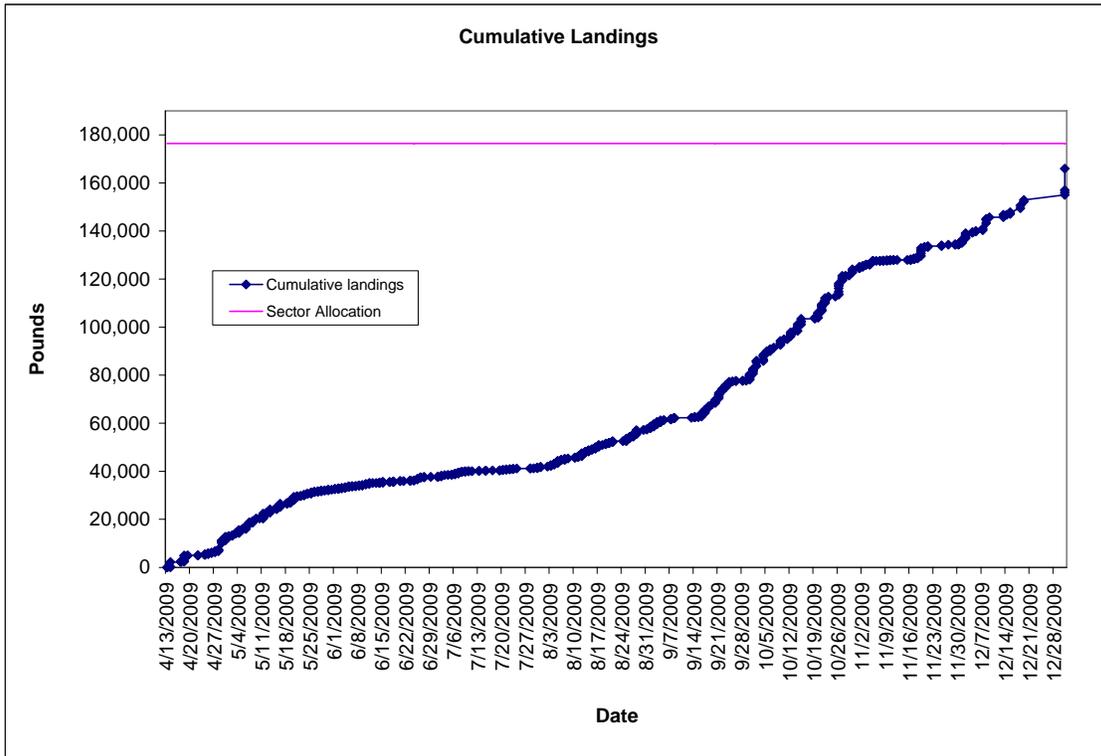


Figure 2 – Sector landings relative to the summer period TAC (May 1 – Sept 15)

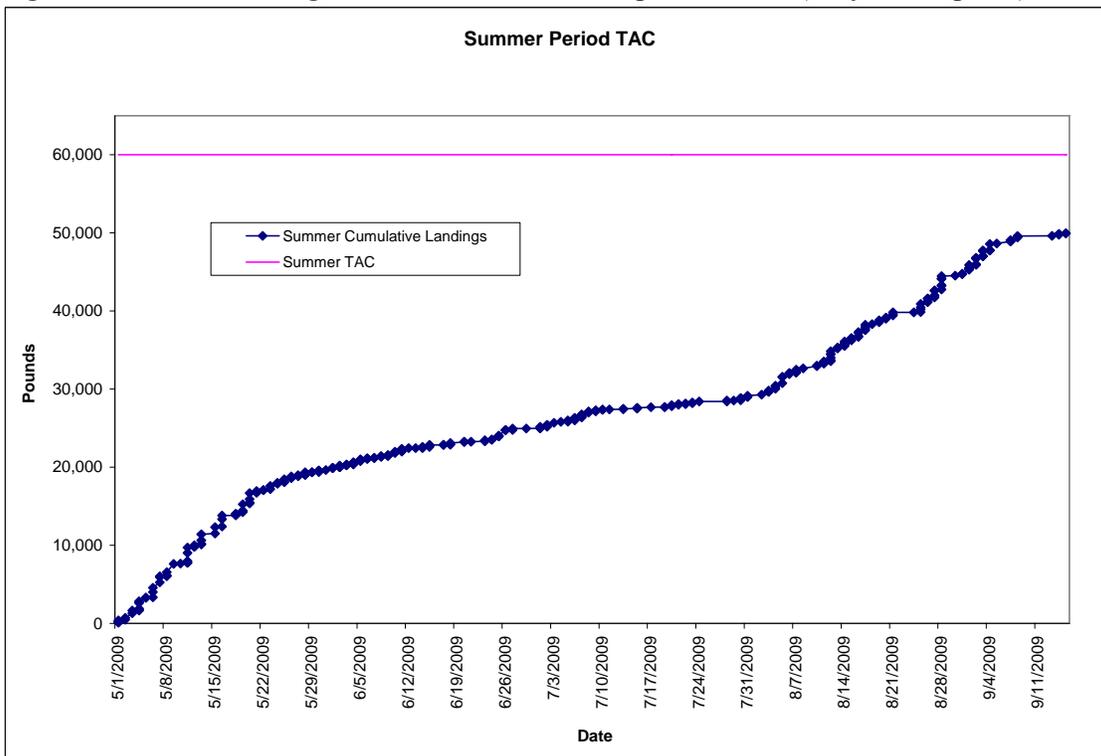


Figure 3 – Sector landings and discards by vessel

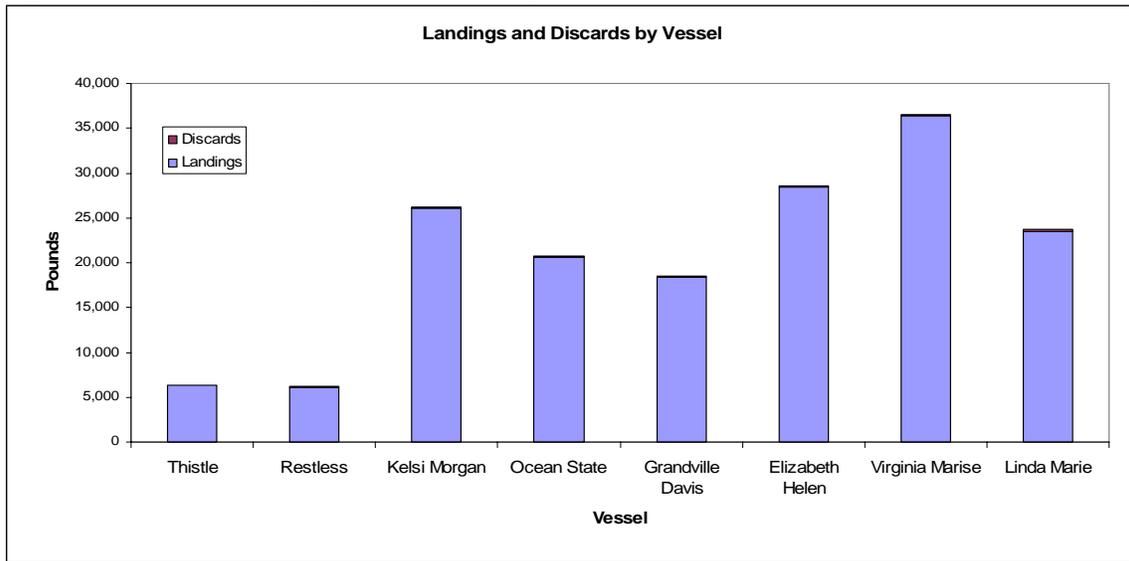


Figure 4a – Rank relative to pounds landed for the top 100 vessels in RI during 2009. The groups are 5 vessel bins. This graph does not include research set aside (RSA) pounds. Sector vessel positions: 2 Sector vessels are in Group 1, 1 Sector vessel is in Group 2, 3, 4, and 7 respectively, and 2 Sector vessels are in Group 12.

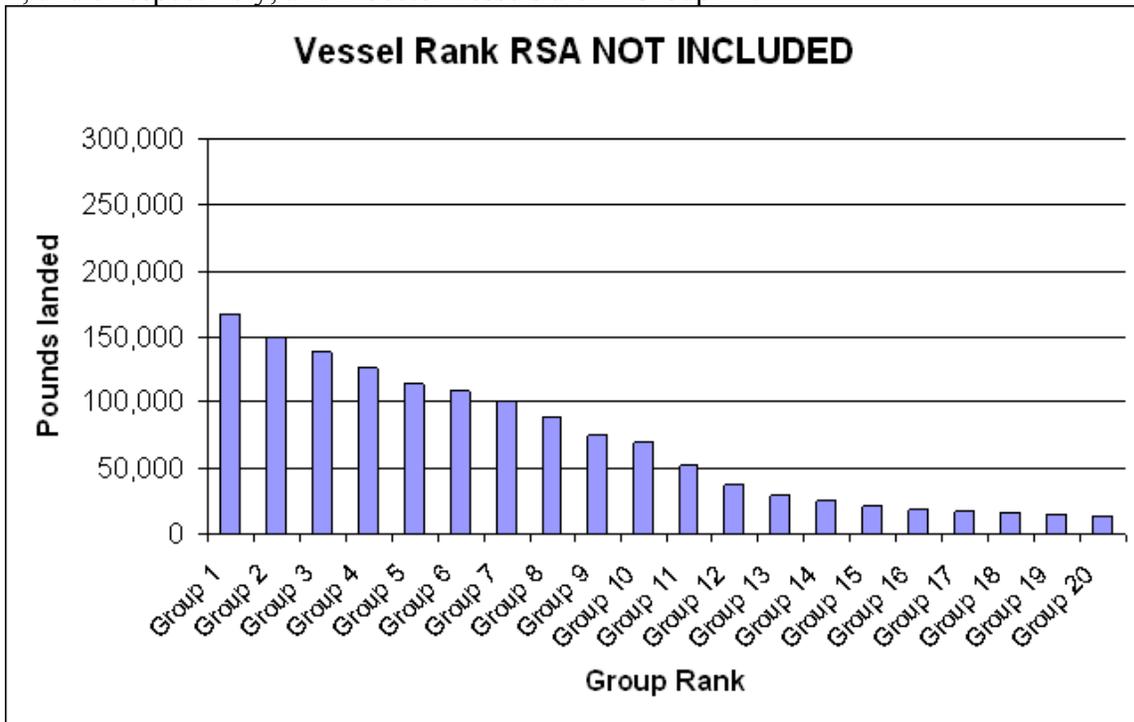


Figure 4b – Rank relative to pounds landed for the top 100 vessels in RI during 2009. The groups are 5 vessel bins. This graph includes research set aside (RSA) pounds. Sector vessel positions: 1 Sector vessel is in Group 1, 2 Sector vessels are in Group 2, 1 Sector vessel is in Group 3, 4, and 7 respectively, and 2 Sector vessels are in Group 12.

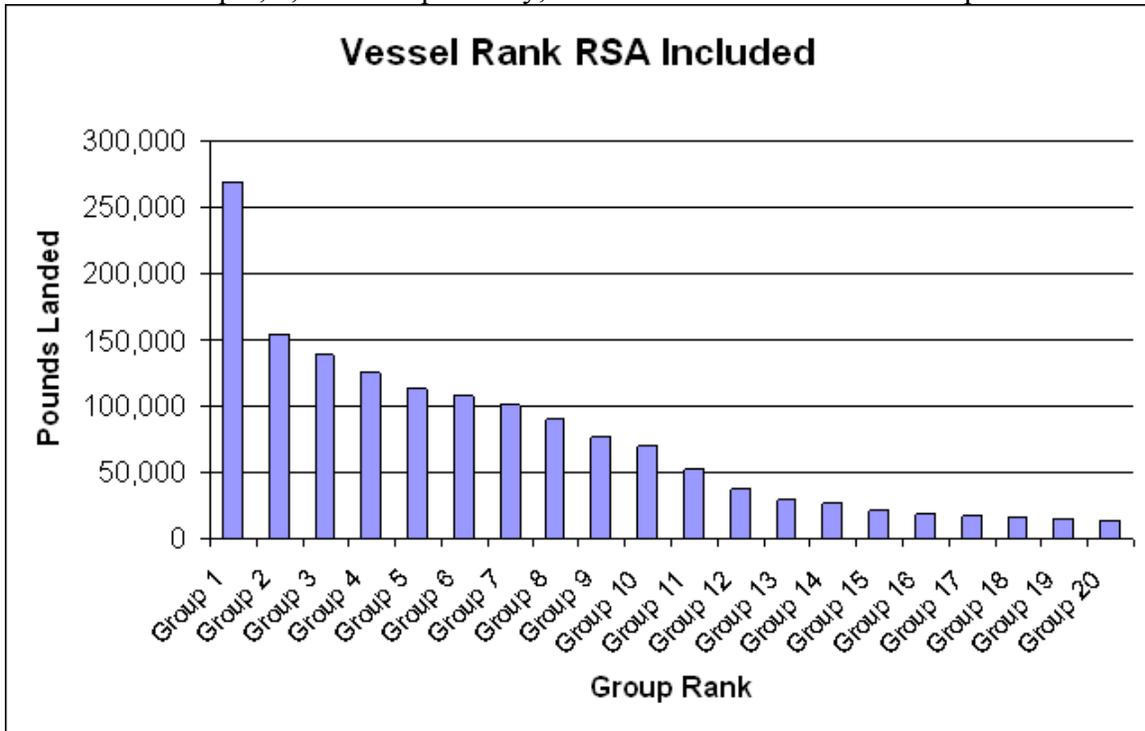


Figure 5 – Map indicating position of observed trips from the Sector participants in 2009.

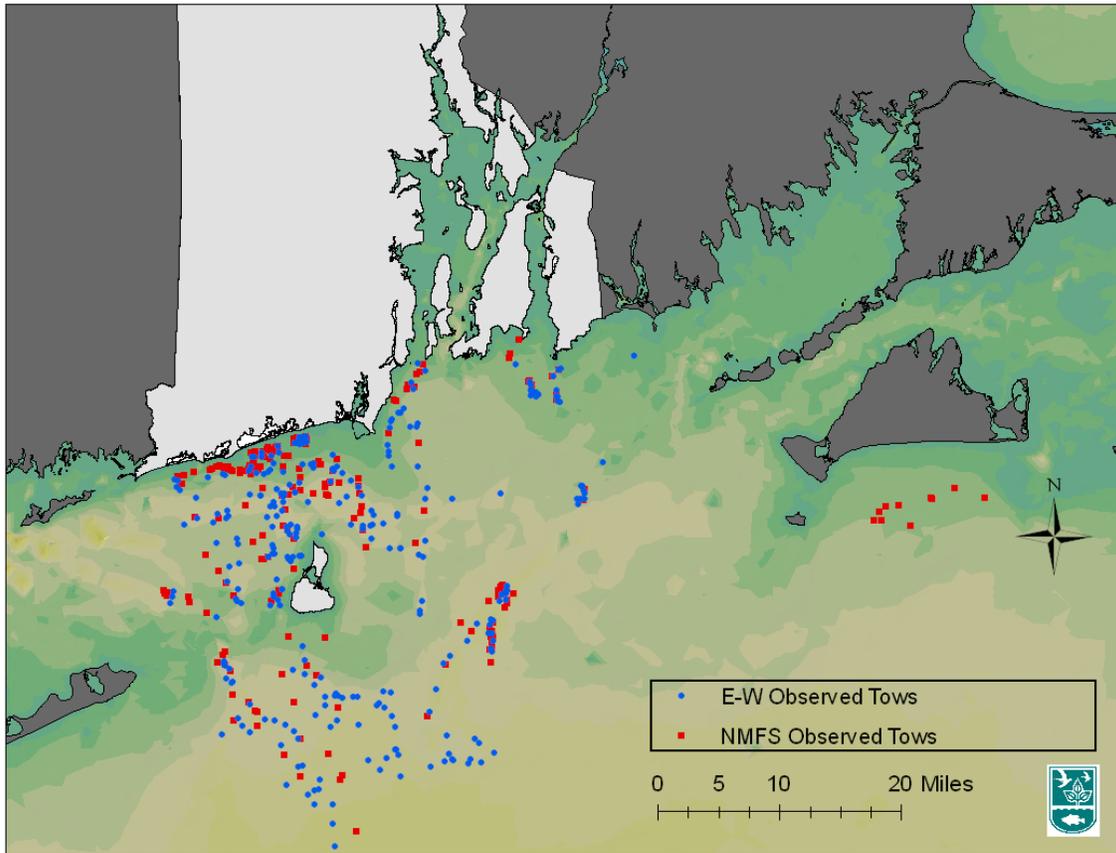


Figure 6 – Proportion of summer flounder from the 2008 and 2009 RI DFW Trawl Survey by 1 centimeter size bins

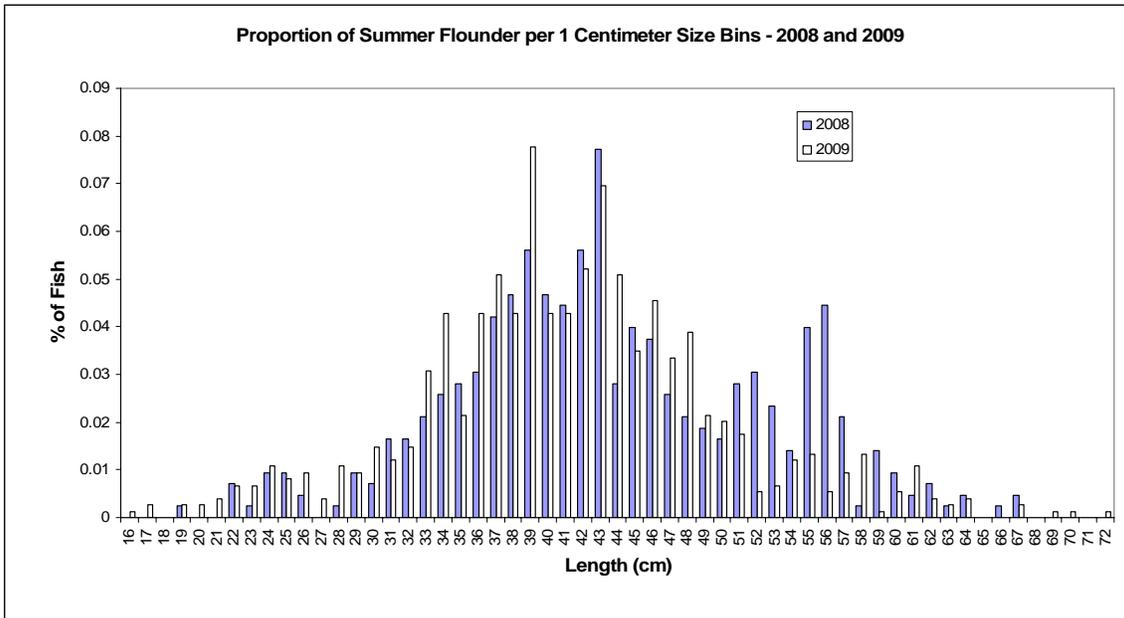


Figure 7 – Proportion of summer flounder landed per market category by the Sector vessels in 2008 (not operating in sector mode) and 2009 (operating in sector mode)

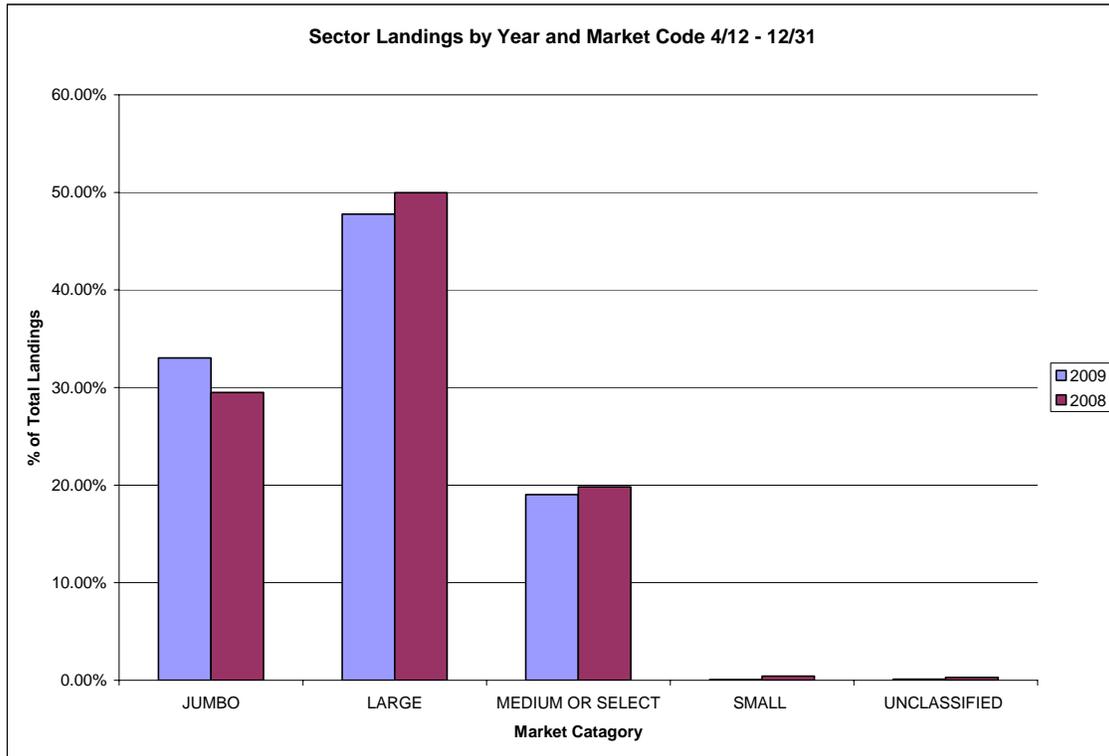
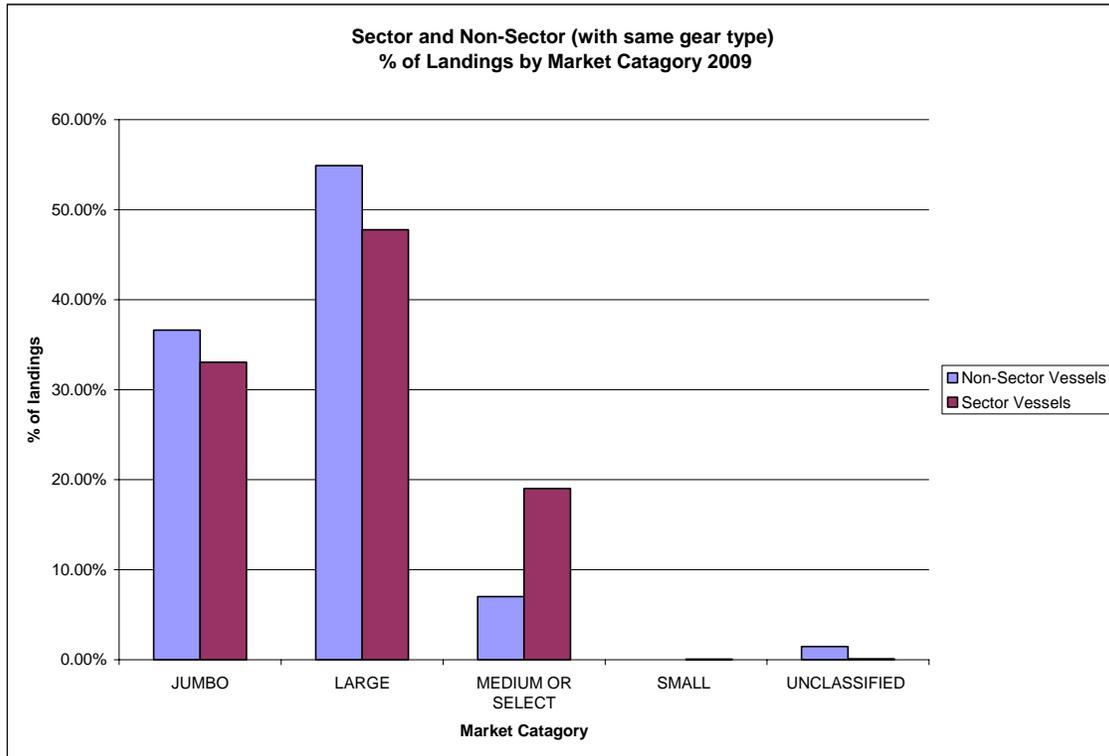


Figure 8 – Proportion of summer flounder landed per market category by the Sector vessels in 2009 relative to Non-sector vessels in 2009.



Appendix 1

**RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
PUBLIC NOTICE**

Pursuant to the provisions of Chapters 42-17.1 and 20-3 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Director of the Department of Environmental Management (DEM) proposes amendments to the Rhode Island Marine Fisheries Regulations and gives notice of intent to hold a public hearing to afford interested parties the opportunity for public comment.

Public comment will be solicited on the following proposals:

- 1) Summer flounder quota management proposals;
- 2) Proposal for a summer flounder sector allocation pilot program to be implemented for January 2009 and run for at least a period of one year;
- 3) Proposal to eliminate the summer flounder call-in requirement for state water fishers who are not fishing pursuant to the RI summer flounder exemption certificate program or for all fishers;
- 4) Proposal to eliminate the RI State summer flounder exemption certificate program;
- 5) Proposal to establish consistency between State and Federal regulations regarding the transfer of summer flounder exemption certificates between vessels;
- 6) Scup quota management proposals;
- 7) Black sea bass quota management proposals;

The public hearing will commence at 6:00 PM on Thursday, November 13, 2008 in the University of Rhode Island Graduate School of Oceanography, Corless Auditorium, South Ferry Road, Narragansett, RI 02882. The hearing room is handicap accessible. A taped record of the hearing will be made and the DEM will provide interpreter services for the hearing impaired, provided such services are requested at least 48 hours prior to the hearing date. A request for this service can be made in writing or by calling (401) 222-6800 or TDD (401) 831-5508. Written comments concerning the regulations proposed for promulgation by the DEM may also be submitted to the Division of Fish and Wildlife, 3 Fort Wetherill Road, Jamestown, RI 02835 no later than 12:00 p.m. on November 13, 2008.

The Department has determined that small businesses may be adversely impacted by the proposed regulations. The public hearing is being conducted to solicit comment on the proposals and to allow public input from small businesses or any cities or towns, which may be adversely affected. Small businesses which are either currently licensed or in the future may seek permission to harvest, buy, sell, or produce seafood products as well as the small businesses that provide services related to those engaged in such industries and small businesses which buy, sell, or produce products or provide services related to fishing are requested to comment on the proposed regulations on how such proposed action can be changed to minimize the impact on those small businesses affected.

A copy of the proposed regulations will be available for examination from October 14 through November 13, 2008 by mail or at the offices of the Division of Fish and Wildlife located at 4808 Tower Hill Road, Wakefield, RI 02879 and at 3 Fort Wetherill Road, Jamestown, RI 02835. Electronic copies of the proposed regulations will also be available on the DEM website at the following address: <http://www.dem.ri.gov/programs/bnatres/fishwild/pn111308.htm>

W. Michael Sullivan, PhD
Director
Department of Environmental Management

Appendix 2

SUMMARY OF PUBLIC HEARING COMMENTS

Hearing Officer: M. Gibson

DEM Staff: N. Scarduzio, G. Powers, B. Ballou, Larry Mouradjian, N. Lazar

RIMFC Members Present: J. King, S. Medeiros, C. Anderson, D. Preble, K. Ketcham

The public hearing was held on November 13, 2008 in Narragansett, RI at the URI Bay Campus. Approximately 70 people attended the hearing. M. Gibson announced that item #4 (Proposal to eliminate the RI State summer flounder exemption certificate program) would be removed from the agenda and no comments would be taken. He indicated this item was removed because it had been concluded that there had been insufficient discussion of the issue at the RIMFC and RIMFC Advisory Panels. The following items were presented for public comment:

- 1) **Summer flounder quota management proposals:** Only one proposal for 2009 summer flounder quota management was brought forward for public comment. The proposal was to remain at status quo in 2009.

Public Comment: S. Parente, on behalf of the RI Commercial Rod and Reel Anglers Association (RICRRA) stated that he supported status quo for 2009. He went on to state that since the implementation of the one summer period in 2007 the summer flounder fishery was and remains an extremely viable entity of the vast majority of the RI fisheries. He extended his appreciation to the Marine Fisheries staff for doing an outstanding job in monitoring the quota and intervening early in 2008 by way of possession limit reductions. These actions facilitated a viable fishery for four consecutive months with out interruption of product to market.

Public Comment: I. Parente, Sakonnet Point Fishermen's Association, stated that they were not in favor of the Friday and Saturday closures. He did not feel it was right to dictate which days commercial fishermen could fish. Additionally, he was in favor of increasing the poundage amount during the aggregate program in the summer period. Later in the discussion he made a comment pertaining to the later part of the Summer period the gap between September and October when there was usually no fish left he recommended starting the Winter 2 period earlier in October (October 1st) rather than waiting until November.

Public Comment: G. Mataronas stated that he was against the Friday and Saturday closures during the summer period.

Public Comment: C. Brown, RI Commercial Fishermen's Association, stated he was concerned that the mobile gear fishermen and other users in the back end of the summer period were bearing a disproportion share of the burden of the closure. He felt there should be two summer periods.

Public Comment: G. Tremblay stated that he supported status quo.

Public Comment: P. Duckworth made a recommendation that the possession limit in the summer period not go below the 100 lbs/day limit. The fishery should be closed at this cut-off point.

Public Comment: J. Gadzik, RICRRA, recommended not going below 50 lbs/day rather than shutting it down at 100 lbs/day.

Public Comment: G. Carvalho recommended no less than 100 lbs/day, no closures on Fridays and Saturdays, and do not shut the fishery down in the summer period at all.

Public Comment: A. Conti on behalf of the RI Marine Trades Association stated that they supported status quo.

Public Comment: Unidentified individual with RICRRA stated that he supported status quo.

M. Gibson closed this portion of the public hearing for this item.

- 2) **Proposal for summer flounder sector allocation pilot program to be implemented for January 2009 and run for at least a period of one year:** DEM developed proposed regulatory language to provide for a summer flounder sector allocation pilot program to afford interested parties the opportunity for public comment.

Public Comment: B. Ballou stated that the Department of Environmental Management (DEM or Department) had extensive comments on this proposal and he had them available in written form that he would make available for the public hearing record. He read those comments in to the record.

[These written comments were labeled as Exhibit F (The Legal implications of Establishing a Pilot Cooperative Sector in the Fluke Fishery of RI by: Kathleen Haber, Roger Williams University School of Law), and Exhibit G (Comments Regarding Sector Allocation Pilot Program Proposal for the Summer Flounder Fishery)].

In general, the Department feels that the proposed pilot program has considerable merit, and is generally consistent with the goals and principles of state law and regulation, which promote adaptive marine fisheries management as a means for improving management policies by learning from their outcomes. However, the Department has identified a number of concerns with the proposal, and in regard thereto, the Department has come up with several suggestions for refining the proposal. B. Ballou read through the Department concerns and suggested refinements for the record.

B. Ballou also requested that the period for public comment be extended beyond tonight. He suggested any where from one week to 10 days.

Public Comment: J. Carvalho stated in light of this new information, the legal study that just came out and the Department changes and suggestions, in his mind made this public hearing untimely. The public hearing should not be occurring, after what we just heard. This is a whole bunch of new information and no one has had the opportunity to review this information. How can we make comments on a proposal that the Department did not have all together or the research to support the proposal. He felt at least it was untimely and at best it was out of order to have a public hearing under these circumstances. He indicated that he was opposed to the sector allocation proposal. He felt this was one group of people getting one slice of the pie for themselves. The pilot program was a special program for only a few special individuals. He indicated there should be a program for everyone not just a select few. He was opposed and felt it was not in the best interest of the people of the state of RI or the fishermen.

Public Comment: S. Parente, RICRRA, stated he had a problem with how this was going down. He indicated that a public hearing summary document was presented that his organization spent a lot of financial resources and time reviewing and now that document was null and void because of all this additional new information. He stated he had prepared comments but there was no reason to give them now because the game plan had changed. He felt the entire issue of sector allocation should be tabled for at least one year. He wanted to know how he was expected to comment on this issue now or how anyone else could comment now, or even five days from now, he claimed it was impossible. Later in the comment period, S. Parente stated that he had submitted two documents one on the sector allocation proposal (which was marked as Exhibit D) and another on black sea bass (which was marked as Exhibit E). He stated those documents were based on the public hearing summary document which he felt was now null and void. Therefore, he stated he would like to officially withdraw the document that the RICRRA had submitted pertaining to the sector allocation proposal (marked as Exhibit D). He also reiterated that the portion of the hearing relative to the sector allocation proposal should be tabled for at least one year to allow people their due diligence. He wanted a complete public hearing document that could be thoroughly reviewed in its entirety and appropriate comments made.

Public Comment: S. Parente, Sakonnet Point Fishermen's Association, stated that what they had just heard presented by B. Ballou of DEM was wrong on so many levels. He stated that all the work that they had all done for many years to get an extra 250,000 pounds of fluke and now the Department wanted to give it to a select group of fishermen that the Department hand picked. He felt the program was not in place yet. He also felt the state had no right to give a portion of a resource that they did not own to others. Later in the comment period, S. Parente asked to make a couple of points; he felt the topic needed a lot more discussion and more public input, and what he was hearing was that the fishery was in

trouble so lets save eight fishermen. He felt this was similar to the lobster fishery where a select few were allowed to stay in business. He suggested waiting a year to iron out more details.

Public Comment: I. Parente, Sakonnet Point Fishermen's Association, felt to have a history based program was ridiculous because it was a stacked deck. He stated he did not have the opportunity to build this huge quota of fish, because he did not go after fluke in the winter months. The percentage the bigger vessels were allowed was enormous compared to what they had to fish on for the summer. Therefore, he would never be able to build these giant landings they had. What he felt was worst was to take all these fish that they had all worked so hard to rebuild and just give them away to a select few. Later in the comment period, I. Parente stated that the discard problem was coming from a certain user group and that was the problem. He was a ground fisherman and when there were more fluke in the water that would put him over his limit he indicated his nets were removed from the water. He claimed to fish responsibly and did not kick fish over the side. He was upset to hear this user group state that they waste so many fish and now they wanted to be able to do whatever they wanted. He felt the quota for 2009 was headed the right way; it was coming up for next year regardless of what this user group was doing to the fishery. He also asked people to consider the impact on price in the summer months. He suggested looking at other alternatives besides sectors, he was against people owning resources. He was also concerned about vessels in the sector selling off their share of quota.

Public Comment: J. Koutesis stated he was opposed to the sector allocation proposal the way it was currently set up. He fully agreed with the three people that spoke before him. He felt this was dividing fishermen. If there was going to be any sector allocation in the future it would have to be divided equally among everyone. Later in the comment period, J. Koutesis stated he strongly disagreed with the way the proposal was now, but he felt after hearing the discussions he liked the concept. He did not like a lot of the terms in the proposal such as the application dates and the changes DEM just added to the proposal, but he was in favor of the idea. He felt it should be reviewed further with additional discussions.

Public Comment: Brian Loftes stated the fluke was a public resource and the initial request was for 12 percent and now DEM wanted to give the sector a higher percentage. He felt this was ridiculous. He wanted to know why he could not share in the increased quota amount. He felt this proposal should be for everyone not just a few select boats. He also indicated there was no way to build up historic landings with a 50 pound possession limit; he stated that all the big historic landings were done years ago in the eighties. He was opposed to allowing just six or eight vessels participate in the program. Later in the comment period, Brian Loftes stated he was upset about the sector proposal requesting a 12 percent allocation and the state offering them a higher allocation percentage than what had been requested.

Public Comment: R. Fuka on behalf of the RI Fishermen's Alliance stated he was opposed to the sector allocation pilot program. Later in the comment period, R. Fuka stated that one of the issues that people have was that they wanted to be included in the proposal and not have this just for a hand full of boats. It was an oversight not to have included all fishermen and all fisheries. He suggested it go back to the drawing board and be revised to include everyone not just a few boats.

Public Comment: C. Grandquist stated he was a member of the sector and he had heard a lot of things this evening that were inaccurate. He indicated they were trying to get more fish by reducing their discards. He felt reducing discards would give them more quota. He explained he only caught his fluke 6 months out of the year. He would be catching as much fluke as someone who just recently started a few years ago with a rod or gillnet. It was a more economical way for them to catch fish. He had hoped that people would endorse the program so they could try it out. He stated that the vessels were not selected by the government they were fishermen who got together that wanted to make a change and do things differently. He indicated they picked guys they could trust to follow the guidelines. Later in the comment period, C. Grandquist clarified that nothing was being given to them but that each vessel had already demonstrated what they could catch and would catch their limit, this was just an opportunity to catch fish in a more economical way with less discards. He later addressed the concerns about the sector boats selling their fish in the middle of the summer by assuring that they did not intend to do that. He indicated they would be foolish to do this; he would sell his fish either early or later in the season before the rod and reeler's started catching the better quality fish. He assured people they would not sell in the summer and drive down prices.

Public Comment: G. Mataronas felt there were many issues that had not been addressed by the sector proposal. He was concerned if a person was given a percentage of the quota would he be able to turn around and sell that portion or would it go back to the state. He felt there were many unanswered questions. He was against giving a portion of the state quota to only a few vessels. Later in the comment period, G. Mataronas stated that the draggers that wanted this program should only be allowed to conduct the pilot program in their own winter period and not take up the summer guys period because their daily possession limit is only 100 pounds per day and having the draggers sell large catches during the summer months would bring down the price. He proposes keeping the pilot program to the winter sub period. He also indicated that he did not have the history to be able to compete with the draggers.

Public Comment: C. Brown urged people to allow this program to go forward so others could learn from it and develop their own sectors. He explained that the current management regime was on a collision course. There was a discard rich fishery in the State of RI. He felt fishermen were being lead down the road to slaughter with having a sense of false security. He encouraged people to support the program so that fishermen could become profitable again. He referenced the

last 15 years as an example of why daily quota management does not work. If discards were not tolerated the biomass would be increased in three or four years. Later in the comment period, C. Brown stated there seemed to be some misconception as to how they were picked. He stated they were not picked they just took an idea that was working in other parts of the country where fishermen were profitable and stocks were recovering. They were not picked he merely went around to some boats that had a similar problem and they got together to try something different. He commented that he had been working for three years on this proposal so to say there had not been enough time was not correct, he felt they had done their due diligence. He explained that there had been workshops, he went to different groups and made himself available for the past few years to educate people. He explained he would like more people to form sectors and get involved. He felt there were a lot of things being said tonight that people were taken liberties with which he felt was not fair. There needs to be a pilot program to try something different. He asked people to think about this long and hard. C. Brown added later that it was important to note that these were use rights that would be issued based on their success in carrying out what had been proposed. He commented that no one owns these fish, when the sector dissolves the fish go back to the state. They were just asking to use an amount of fish that they had demonstrated to catch over the course of time and had been able to produce annually, and just want to stop kicking fish over board.

Public Comment: H. Loftes stated that since 1980 he had caught more fluke than anyone else in RI. He agreed with J. Carvalho's statements. He went through some calculations to demonstrate the amount of pounds per vessel in the fluke aggregate landing program compared to the eight vessels in the sector allocation program. He explained that the sector vessels would make more money than any other vessel and be able to sell the fish when they wanted. He suggested that 100 percent observer coverage was needed. He was opposed of only selecting a few boats to participate and not allowing everyone to participate equally. Later in the comment period, H. Loftes stated that sector allocation was a back door to ITQs. The people who were in favor of ITQs were the people with the biggest catch history. The fishery in RI has changes a lot he has gone from a large boat to a small boat and so have many other people. He was concerned what would happen to boats that did not have a history and had recently gotten in to the business. He predicted they would end up with almost nothing.

Public Comment: P. Duckworth stated he did not agree with the sector allocation proposal. He did not think the sector allocation program quota should come from the RI State quota; he felt it should come from the Federal government and the vessels involved should apply for a research quota from the Federal government.

Public Comment: J. Hovanesian stated that the concept of a sector was appealing, but the problem was that there was not enough quota. There is not enough fish to go around. He indicated that a lot of time and energy had been spent trying to put this together and it was almost a validation of the science that they were being

forced to operate under. He wanted to come together and fight the system to try to get more allocation. He felt the system was broken. He would prefer to fight for more allocation.

Public Comment: T. Baker stated that he disagreed with the sector allocation proposal. He suggested this looked like the good-old-boy network where a few guys were getting a big piece of the pie. Later in the comment period, T. Baker stated that he agreed with G. Mataronas and shared his concerns about the sector vessels selling fluke in the summer months and driving prices down. He felt if the pilot program could be kept to where they were competing in the same fishery where only the mobile gear is getting the fish it might work. Later on, T. Baker stated the more he was hearing he suggested the sector program could work with some provisions; it definitely needs to be regulated as to when they could sell their fish so they do not drive down prices.

Public Comment: J. Grant stated he did not have any association with the sector but he would like to see it go forward. He indicated the vessels in the sector would catch those fish anyway. He had reviewed the numbers provided and if you looked at the numbers they would be catching those fish anyway, they would be catching their percentage. So why not allow them to do that in a more economical way. He felt it made good sense and if the sector program went forward he felt he would not be at a disadvantage in any way, and there would be less discards. It would be a benefit to the fishery and he was in favor of having some type of sector program go forward for the future.

Public Comment: R. Sykes stated he was a member of the sector and wanted to say there were no guarantees of success in this program. He explained some of the parameters they would be working under like not being allowed to discard any legal size fish. He indicated he would be selling the same amount of fish that he had sold in the past few years, but catching far less.

Public Comment: Brent Loftes stated there were approximately 165 fluke exemption certificates and felt that the proposed 12 percent was not an equal portion compared to the number of other vessels holding fluke exemption certificates. He stated he was opposed to the sector proposal.

Public Comment: A. Conti, RI Marine Trade Association, stated he would like to withdraw his written comment regarding the sector allocation proposal. (This had been marked as Exhibit C).

Public Comment: W. Machintosh commented that discards do not come from fishermen they come from management. He explained that sectors were one of the more progressive forms of management tools being excepted by the NEFMC. The few sectors that have been adopted have worked well. He also indicated that by 2011 everything was going to be quota based and there would be no more days-at-sea. He posed the question, how would RI management the rest of the fluke if the

government goes in that direction. He felt that by trying the sector pilot program it would at least give an idea of how it might work. He asked for the chance to see how the pilot program works out.

Public Comment: B. O'Hara stated that he believed in the sector but he did not like the proposal the way it was written. He felt the years that were selected have nothing to do with the historical landings that made up the quota. He suggested tabling the program for a year and figure out what a boat's quota would be before starting a pilot program. He suggested giving everyone a chance to participate.

Public Comment: G. Allen, recreational fisherman, and speaking on behalf of the Newport County Saltwater Fishing Club, stated that if the sector allocation program comes to pass he would like to suggest that there needed to be a change to the program so that during the summer months, May through August, the sector boats would have to fish at the same possession limit as the non-sector boats over the commercial rod & reel and recreational fishermen. It would only take one dragger to take all the fluke out of an area for three or four days at a time. He suggested that the sector process had to respect other fishermen. The sector fishermen should have to respect other fishermen's rights and desires to have access to the fish. Therefore, he recommended the wording in the sector regulation, if passed, be such that sector vessels would not be able to take more pounds than non-sector vessels and or recreational fishermen, or commercial rod and reel fishermen during the summer period.

Public Comment: J. Mattera, commercial fisherman, stated he agreed with J. Carvalho that this was putting fishermen against fishermen. He was not sure if he was for sector allocation or not, but he was against the DEM giving the sector boats the increase of the 2009 quota. He did not feel it was fair to give the increased quota to only a few guys.

Public Comment: R. Livernios, dragger owner, stated that the quota came from the off shore boats years ago and he had been taken hits for the past several years and now that the quota had been increase he indicated he was going to take another hit by letting it go to the sector program. He stated this was not acceptable to him.

Public Comment: Unidentified fisherman suggested that the sector program be postponed for a year to review all the unintended consequences that could occur. Such as the economic impacts on recreational and commercial fishermen.

Public Comment: Unidentified fisherman stated he was not sure if he was for or against the sector program, but that it needed to have 100 percent observer coverage for it to work and the vessels would have to be responsible for paying for the observer coverage. He indicated if there was not 100 percent observer coverage then he would be opposed to the program going forward.

Public Comment: G. Duckworth stated that he agreed with requiring 100 percent observer coverage. He felt we all needed to know how this program would work so 100 percent observer coverage was necessary. He also stated he was confused on the last minute jockeying by DEM and if it took a little more time to get it right we should wait. He felt if it took an extra year to study the proposal that would be fine.

Public Comment: R. Westcott, sector member, explained that the sector would be a way for fishermen to work together. He felt fishermen were doomed the way things were going, that every fishery was doomed. This was a way to try a different strategy and he asked for the chance to be able to try the sector. He also stated that he welcomed observer coverage.

Public Comment: Unidentified fisherman stated he was opposed to the sector program; he felt as it was it needed more work.

Public Comment: Unidentified fisherman stated there was a quota problem and the road to access increased quotas was to eliminate discards and the sector allocation program was a tool to accomplish this. He did not see any other way but to fish responsibly and reduce discards to access more TAC so he was in favor of the sector pilot program.

Public Comment: P. Harvey stated he was against the sector proposal.

Public Comment: B. Morris stated he felt they could get a set aside quota on the Federal level to conduct research, and not take it from the RI quota.

Public Comment: C. Akmakjian, RICRRA, stated that the proposal should be table for awhile for further review. He suggested looking to see what other states have done and the effects on the economy. This should all be considered before any decisions were made.

Public Comment: C. Brayton, sector member, stated he was not looking to make a lot of money on this, or to have any value or shares to sell. He just happens to think this was a smart way to fish. The sector vessels would be looking at working less. He could fish in the spring and in the fall so he could add fluke with other fisheries. If he was able to collectively catch fish he would be down to working about two days per week as opposed to going around working all week long just throwing fish away and saving little bits here and there. He stated that he only wants to survive not make a big profit on selling his license.

Public Comment: S. Denner stated he was opposed to the sector proposal.

M. Gibson stated that he would not close the sector allocation item of the public hearing. At the request of the Department he would keep this portion of the hearing open for

written comments which should be submitted to him at the Division of Fish and Wildlife at the Government Center by the close of business, 4:00 PM on Friday, November 21, 2008.

- 3) **Proposal to eliminate the summer flounder call-in requirement for state water fishers who are not fishing pursuant to the RI summer flounder exemption certificate program or for all fishers:** Two proposals were brought forward for public comment. One proposal was submitted by the RICRRA via the summer flounder AP, which was to eliminate the call-in requirement as it applied to state water fishers unless operating pursuant to the RI summer flounder exemption certificate program. The second proposal was brought forward by DEM, which proposed elimination of the summer flounder call-in requirement for all fishers.

Public Comment: S. Parent representing RICRRA, stated that his organization submitted Option 1 and they submitted it in that fashion because they thought that was the original intent of the regulation. He did not have a problem with Option 2, his organization would be in favor of either option.

Public Comment: I. Parente stated he disagreed with Option 1, because it should not be your responsibility to have to call in just because you have a summer flounder exemption certificate. He was in favor of Option 2.

Public Comment: Unidentified commercial fishermen stated he was in favor of Option 2.

Public Comment: J. Hovanesian stated he was in favor of Option 2.

Public Comment: G. Duckworth stated he was in favor of Option 2.

Public Comment: B. Smith stated he was in favor of Option 2.

Public Comment: J. Mattera stated he was in favor of Option 2.

Public Comment: R. Labriole stated he was in favor of Option 2.

M. Gibson closed this portion of the public hearing for this item.

- 5) **Proposal to establish consistency between State and Federal regulations regarding the transfer of summer flounder exemption certificates between vessels:** Filing this change will establish consistency with federal regulations.

Public Comment: B. Loftes stated that he thought the exemption allowed to land fluke and this has been the hold up with a few people trying to sell different licenses. That was the reason for having the exemption certificate. He felt the fluke exemption certificate should be allowed to go with the federal permit.

Public Comment: C. Brown questioned if the Federal regulations had the category of net tonnage. He indicated that the Federal regulations referenced gross tonnage but felt the department might be adding a category and there

was no need to add another layer of requirements. He asked that this be checked.

Public Comment: I. Parente stated this would be making it completely consistent with the Federal guidelines. He was in support of the change.

Public Comment: J. Koutesis stated he was in favor. He indicated that the process now was a complete disaster and needed to be straighten out.

Public Comment: B. Loftes stated this was the only state where the exemption certificate was tied to a Federal permit.

M. Gibson closed this portion of the public hearing for this item.

- 6) **Scup quota management proposals:** Only one proposal for 2009 scup quota management was brought forward for public comment. The proposal was to remain at status quo in 2009.

Public Comment: B. Smith stated his recommendation would be to move allocated quota out of the May sub-period in to the July and September sub-periods.

Public Comment: Brian Loftes agreed that the allocation needed to be redistributed. They needed a Sept. to Oct. fishery.

Public Comment: Brent Loftes agreed there needed to be a change; he felt 250 pounds per week was not a fishery.

Public Comment: G. Carvalho commented that the spring aggregate landing program hurt fishermen and that was the end of the fishery for the summer. He was opposed to the aggregate landing program.

Public Comment: W. Machintosh stated that May and October were the same for him he got most of his scup in those two months. In October the fishery was closed and he was throwing away 300 pounds per day. He indicated it did not make any sense not to catch the fish when they were here. They were killing them anyway it was a total waste not to be able to keep them.

Public Comment: C. Brown stated there was no one more dependent upon scup than him; however he indicated that P. Kurkel was the stumbling block. He indicated that with the small scup quota Kurkel had seen reason to close the fishery just a few weeks in to May. The idea behind the aggregate management strategy was to capture as many fish as possible before we got shut down. He indicated that her shutting them down and fishers hitting landing trigger do not have anything to do with each other. He wanted to caution fishermen of that scenario, which would most like happen again. He agreed there needed to be some fish harvested in the fall for a greater value, but also stated that it was a complicated problem.

Public Comment: Unidentified fish trap fisher stated that they were hoping for 4,000 pounds for Sept. 1st on the trap quota.

Public Comment: J. Hovanesian stated they needed something to keep a steady supply of fish to market. He indicated the quota was way to low for the stock size. He requested something be set up so there is no interruption.

Public Comment: J. Koutesis stated he agreed there should be some type of fishery in Sept. and Oct. to keep it open.

Public Comment: T. Baker stated he was primarily a pot fisherman he proposed to reallocated the quota to the summer and the fall. He explained why; this last spring in May and June pot fishers did not land any scup. By the time they could catch scup it was closed. His second reason was that the economy would be stimulated with the amount of fish moved in to the summer and early fall because of the price of fish.

Public Comment: J. Orwits stated that the possession limit had gone from 1,000 lbs./week to 250 lbs./week and they lost 60 days of fishing, so that was about a 92 percent cut. He stated there were only a few fish trappers so those six guys were killing hundreds of other fishermen. He did not think the allocation between the floating fish trap category and the general category was fair.

M. Gibson closed this portion of the public hearing for this item.

7) Black sea bass quota management proposals: Three proposals for 2009 black sea bass quota management were brought forward for public comment. The first was a proposal from RICRRA to remain at status quo for 2009 and the second was a proposal for an aggregate landing program for May, August, and November sub periods with Friday, Saturday, and Sunday closure days for the May and August sub periods. This proposal came from J. Grant. The third proposal was presented by S. Crandall which was the same as the second proposal except also called for the month of August to be closed.

Public Comment: J Carvalho offered the following proposal: not less than 100 lbs/day, no closed days, and no closed season. J. Carvalho later stated he was support of option 1 with no closure days.

Public Comment: I. Parente stated he supported option 1 - status quo. He explained he did not work in an office and did not except the Friday, Saturday, Sunday closures. He felt it was ridicules to tell a commercial fisherman which days to fish. I. Parente also indicated that there would be more mortality having the fishery closed on the weekends, because people don't stop catching fish.

Public Comment: G. Mataronas stated he was against the Friday, Saturday, and Sunday closures. He felt this was one persons attempt to try to take quota away from the rod and reel fishermen. He supported option 1.

Public Comment: J. Grant stated that he supported option 2, the aggregate landing program with the closure days. He stated that this past fall season was a disaster where most of the month of Oct was lost and only eleven days in Nov-Dec sub period were open. He felt next year would be worse due to the 45 percent cut in quota. He stated that maintaining the current management program was not an option. He read through a statement which outlined reasons for his support of option 2. J. Grant added one more comment about discard mortality, this past year he lost some of his gear that was recovered three weeks later and not one dead fish was in the pot., which demonstrated they could live in a pot for a few weeks.

Public Comment: S. Parent, Sakonnet Point Fishermen's Association, stated that he supported option 1 - status quo. He was not in favor of closure days.

Public Comment: J. Hovanesian stated that he would like to be in support of option 1, which was status quo but he indicated that we were not at status. We were at a lower possession limit than what was stated in the proposal for this current sub period.

Public Comment: S. Parent, on behalf of the RI Commercial Rod and Reel Anglers Association (RICRRA) stated that he supported option 1 status quo for 2009, which was the proposal submitted by the RICRRA. He indicated this proposal was submitted because the other two proposals were unacceptable to his association. He also felt the other two proposal were not appropriately submitted by an advisory panel member as per the Advisory Panel Policy. He explained that the other two proposals were unacceptable because they excluded fishing on the weekends which negatively impacted the commercial rod and reel fishermen.

Public Comment: C. Brown stated that if the fishery was producing discards and fishing mortality then that needed to be addressed. He proposed increasing the minimum size limit of the black sea bass for a year or two to increase the value of the catch for the average fisherman.

Public Comment: B. Smith stated that sea bass can live for a month in a fish pots. He supported option 2, stating that J. Grant did an excellent job at explaining why option 2 would work better.

Public Comment: T. Baker stated that he supported option 2, because the quota will be a lot less than last year, otherwise he would have supported option 1. He also indicated he would be in favor of higher size limits. This would give the fish more time to breed and they would have better quality of fish at a better price.

Public Comment: I. Parente stated he was in agreement with C. Brown that increasing the size limit would help. He indicated that he was not opposed to an aggregate landing program or a lower weekly limit; he was just against the three day closures.

Public Comment: B. Smith stated he would be in favor of increasing the size limit to at least another inch.

Public Comment: P. Allen stated he supported option 2 with no closed days.

Public Comment: A. Conti stated that raising the size limit made a lot of sense.

Public Comment: K. Booth, RICRRA, stated he supported option 1 – status quo. He felt that if we went with closure days Tuesday, Wednesday, and Thursdays were as good as weekend days.

Public Comment: B. Burrs, RICRRA, stated he supported option 1 – status quo. He was against closed days.

M. Gibson closed the public hearing. He noting that at the request of the Department he would keep the sector allocation portion of the public hearing open for written comments which should be submitted to him at the Division of Fish and Wildlife at the Government Center by the close of business, 4:00 PM on Friday, November 21, 2008.

There were three written comments received at the public hearing by M. Gibson on the public hearing items: Exhibits E, F, and G.

List of Exhibits received at the Pubic Hearing:

Exhibit A – Affidavit of Publication/Posting and Public Notice

Exhibit B – Copy of Public Hearing Summary Document

Exhibit C – Letter submitted by the RI Marine Trade Association - **(which was later withdrawn by A. Conti, on behalf of the RI Marine Trade Association)**

Exhibit D – Letter submitted by RICRRA pertaining to the sector allocation pilot program - **(which was later withdrawn by S. Parent, on behalf of the (RICRRA))**

Exhibit E – Letter submitted by RICRRA pertaining to the black sea bass quota mgt. plan

Exhibit F – Document submitted by B. Ballou, DEM (The Legal implications of Establishing a Pilot Cooperative Sector in the Fluke Fishery of RI by: Kathleen Haber, Roger Williams University School of Law)

Exhibit G – Document submitted by B. Ballou, DEM (Comments Regarding Sector Allocation Pilot Program Proposal for the Summer Flounder Fishery)

The following exhibits were received subsequent to the close of the public hearing on November 13, 2008 but prior to the close of the extended period for receipt of written comments, which was on November 21, 2008 at 4:00 PM:

Exhibit H – Letter submitted by A. Conti, on behalf of the RI Marine Trade Association

Exhibit I – Letter submitted by S. Parent, on behalf of the RICRRA for proposed modifications to the sector allocation plan

Exhibit J – Letter submitted by S. Parent, on behalf of the RICRRA for comments relative to the proposed sector allocation pilot program

Exhibit K – Letter submitted by B. O’Hara pertaining to sector allocation

Exhibit L – Letter submitted by Attorney Jeanne LaPiana representing a group of RI fishermen and fishing vessel owners

Exhibit M – Letter submitted by T. Baker

Appendix 3

**RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
December 1, 2008 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI**

RIMFC Members Present: S. Macinko J. King, S. Parente, R. Hittinger, C. Anderson,
K Ketcham, D. Preble, S. Medeiros

Chairperson: M. Gibson

RIDEM F&W Staff: N. Scarduzio, D. Erkan

DEM Staff: R. Ballou, G. Powers, Larry Mouradjian

DEM Enforcement: S. Hall

Public: 35 people attended

M. Gibson called the meeting to order. He asked if there were any changes or adjustments to make to the agenda. S. Parente asked if he could make a statement relative to a recent newspaper article that appeared in the Narragansett Times on November 28, 2008. M. Gibson suggested this could be taken up under the public comment section. Gibson asked if there were any other issues from Council members relative to the agenda. Hearing none, he asked for a motion to approve the agenda. **J. King made a motion to approve the agenda. Gibson asked if there were any objections to approving the agenda. Hearing none, the December 1, 2008, agenda was approved.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the November 3, 2008, meeting. Gibson asked if there were any objections to approving the minutes. Gibson asked if there was a motion to approve the minutes. **J. King made a motion to approve the minutes as written. R. Hittinger seconded the motion. Gibson asked if there were any objections to approving the minutes. Hearing no objections, the minutes from the November 3, 2008 Council meeting were approved as written.**

Public Comments

S. Parente explained there was an article in the Narragansett Time written by M. Souza regarding the public hearing held on November 13, 2008. He commented that in the article he was misunderstood, misidentified, and/or misquoted relative to the role of a Council member at a public hearing. He went on to outline some misquotes in the article. He clarified his conversation with M. Souza indicating there was no requirement for a Council member to sit with the Hearing Officer at a public meeting. Parente explained he was sitting in the audience the night of the public hearing because he was representing the RICRRA and would not have been able to make comments on their behalf if he was

sitting at the front table. There were a few other comments that S. Parente made to clarify what was misstated in the article. M. Gibson responded that he was disappointed in the article as well.

G. Duckworth brought up his concerns regarding the RI monkfish and codfish fisheries. He pointed out that RI was not in line with our neighboring states. He explained this was an extreme economic disadvantage to RI fishermen, and requested this be addressed. His second concern was for all SKYMATE users. He outlined potential problems with the system and handed information to the Council Chair on this subject. He felt this was important to let users know about some potential problems with the system that could end up in fines.

I. Parente also wanted to express his concerns for the cod and monkfish fisheries. He wanted to see the Federal limits for cod follow what had been done with monkfish, where they could also fish in state waters as long as they were on DAS regardless of what the state limit was. He indicated it was a glitch and never intended to happen and he would like to see it straighten out.

New Business

Council recommendations on November 13, 2008 Public hearing

Summer flounder quota management proposals:

S. Parent made a motion to recommend to the Director to remain at status quo for 2009.

S. Medeiros seconded the motion. The Council voted unanimously to approve the motion.

There was no Council discussion. There were audience comments in favor of remaining at status quo however; a few individuals would prefer not to have Friday and Saturday closures during the summer sub period.

Proposal to eliminate the summer flounder call-in requirement for state water fishers who are not fishing pursuant to the RI summer flounder exemption certificate program or for all fishers:

D. Preble made a motion to recommend to the Director to adopt option 2, which was to eliminate the summer flounder call-in requirement for all fishers. R. Hittinger seconded the motion. The Council voted unanimously to approve the motion.

There was no Council discussion. S. Hall, representing the DEM, Division of Law Enforcement, indicated they were in favor of the motion for option 2. There was no opposition from the audience on the motion.

Proposal to establish consistency between State and Federal regulations regarding the transfer of summer flounder exemption certificates between vessels:

K. Ketcham made a motion to recommend to the Director to adopt language to mirror the Federal regulations as intended by the Division. J. King seconded the motion.

K. Ketcham was not sure if net tonnage was included in the Federal regulations he thought it was just gross tonnage. He wanted the language to mirror the Federal regulations

I. Parente stated that both net and gross tonnage were included in the Federal regulations.

The Council voted unanimously to approve the motion to adopt language to mirror the Federal regulations.

Scup quota management proposals:

K. Ketcham made a motion to recommend to the Director to remain at status quo for 2009. D. Preble seconded the motion.

S. Parente stated he supported status quo for 2009 however, going forward he thought they should consider moving more quota from the May/June period into the July/September and September/October periods, also look at the allocation percentages for the floating fish trap and general categories.

K. Ketcham commented that as far as the state goes, it does not matter what RI does but as far as the Federal government goes, they know that P. Kurkel will shut down the scup fishery sometime during the end of May until November 1st because the Federal quo would be caught. If they do not catch their share of the Federal quota and they do not show their catch over a number of years RI would lose the quota. Then it would be lost forever.

It was determined by the Council that reallocation of quota should be reviewed at the advisory panel level for 2010.

J. Carvalho stated that the aggregate program did not help the fishery and he was opposed to the program for the summer scup fishery.

I. Parente agreed with K. Ketcham, and supported staying at status quo.

The Council voted unanimously to approve the motion to recommend to the Director to remain at status quo for 2009.

Black sea bass quota management proposals:

S. Parente stated he opposed options 2 and 3 and only supported option 1, which was to remain at status quo. He was not in favor of the Friday, Saturday, and Sunday closure days, he felt this discriminated against the rod and reel fishers.

K. Ketcham commented that since having the closed days was not a popular option he suggested altering option 2 by having an aggregate program with no closed days.

R. Hittinger suggested that status quo would be the more acceptable option since they did not have any further feedback for the scup/black sea bass AP. He recommended going forward with status quo.

J. King recommended going forward with status quo but wanted the AP to discuss the increase in minimum fish size in the future..

J. King made a motion to recommend option 1 to the Director to remain at status quo for 2009. R. Hittinger seconded the motion.

I. Parente agreed with K. Ketcham, which was option 2, the aggregate program with no closed days. He stated this would give them the most flexibility.

G. Mataronas commented that he supported status quo however, he could see where an aggregate program would work for some fishermen. He was also in support of increasing the minimum size to twelve inches.

J. Grant supported option 2 the aggregate program with the closure days, but if the Council went with status quo he wanted the May sub period to remain at 100 pounds per day,

J. Carvalho stated he was opposed to the aggregate program. C. Brown was in agreement with J. Carvalho.

K. Ketcham indicated that RI quota for black sea bass would be about half of what it was last year so even if we cut the daily possession limits in half we would still have to close the fishery down.

J. King may an amendment to his motion to recommend option 1 to the Director but adopt the following changes: adjust the possession limits for the January/April period to 750 lbs/day, and the November/December period to 250 lbs/day, and not go below 100 lbs/day in any of the sub periods. The Council voted (6) six in favor (J. King, S. Medeiros, S. Parente, S. Macinko, D. Preble, R. Hittinger) (2) two opposed (K. Ketcham, C. Anderson), the motion passed.

Proposal for a summer flounder sector allocation pilot program to be implemented for January 2009 and run for at least a period of one year:

D. Preble made a motion to recommend to the Director to adopt a summer flounder sector allocation pilot program to be implemented for January 2009 and run for at least a period of one year. J. King seconded the motion.

K. Ketcham recused himself from voting on this issue.

There was Council discussion about the proposal.

J. King suggested that the following items be incorporated into the sector proposal; there should be a dockside official present when landing, VMS on every sector vessel, observer coverage on all sector vessels, cameras should be on all sector vessels, there should be a 5 to 10 percent set aside, keep all fish 14 inches in length or greater, and control dates need to be adjusted in time, no selling of earned quota by anyone to anyone, should be consistent with other management plans in other states and matched with Federal plans, and no violations for the past three years to be in a sector.

S. Parente made an alternate motion to recommend to the Director that any consideration of a sector allocation for summer flounder be postponed for one year, but with continued discussions about the issue. S. Medeiros seconded the motion.

R. Hittinger stated what he felt was positive about the sector allocation proposal was that it aimed at reducing discards and that the Council needed to work toward reducing discards. He was in favor of a postponement so further discussions could continue.

I. Parente stated that he was opposed to the sector allocation proposal.

P. Duckworth was in favor of postponing the issue for a year and suggested the sector group approach the Federal government for a research set aside to conduct the pilot program.

H. Loftes stated that he was opposed to the sector allocation proposal and it should be postponed for at least a year.

K. Ketcham, speaking from the audience, clarified that the quota amount the sector had requested was the amount of fish the sector vessels had documented as being harvested over the previous five years. He indicated that the only reason the state wanted to use the new increased part of the RI quota so it would not set forth a closure date for others to enter into the same program. He indicated this was explained in a letter received from Roger Williams College. This was a way to allow the state to give a quota to the sector program with out penalizing any other vessels.

There were other comments made from the audience, which echoed what was stated at the public hearing.

S. Medeiros stated that another consideration to be concerned about was who would be paying for 100 percent observer coverage. He indicated he knew that DEM would not be in a position to accomplish this.

K. Ketcham indicated that the sector vessels had electronic logbooks on board their vessels, which recorded everything including locations fished. He also indicated that people from the NMFS would be on their vessels to monitor entries into logbooks. They still needed to look in to observer coverage.

S. Macinko was not comfortable not know what elements would be implemented from the DEM information introduced at the public hearing.

M Gibson called a vote on the motion to recommend to the Director that any consideration of a sector allocation for summer flounder be postponed for one year, but with continued discussions about the issue. The Council voted (4) four in favor to postpone (S. Medeiros, S. Parente, S. Macinko, R. Hittinger) (3) three opposed (J. King, D. Preble, C. Anderson), the motion to postpone for one year passed.

2009 Council Calendar- N. Scarduzio:

N. Scarduzio stated she had prepared a 2009 calendar for Council members to review. She reminded Council members that for 2009 we were trying to consolidate and reduce the number of Council meeting when possible. The Division had proposed five meetings for the year with the understanding to allow flexibility for additional meeting. She requested Council members to run through the calendar to see if there were any conflicts. Scarduzio suggested the members may not need a meeting in January and June, and for the months of February and May the meeting date may need to be moved to the second Monday of the month instead of the first Monday because of ASMFC meetings. It was suggested to move the February meeting to the second Monday of the month. There were no other comments from the Council.

Rewriting of Part 7 – Minimum Sizes of Fish/Shellfish – Marine Fisheries Regulation – B. Ballou:

M. Gibson explained that B. Ballou had done a lot of work on trying to clean up Part 7 of the regulations. B. Ballou indicated there were two documents that had been passed out to Council members; Part 7 of the regulations and an outline of what he would like to rewrite. He indicated that it was a 40-page document filled with redundancies, which made it very difficult to read. Ballou explained he would like to streamline and consolidate the document. He referred to the outline to review some of the proposed changes. The document once rewritten would go to public hearing.

M. Gibson solicited Council members as to how they would like to proceed with the review of Part 7 relative to the advisory panel process. He wanted to know if the Council would like to have the IAC give input or some ad hoc group that combined other AP's.

B. Ballou indicated that eventually they would like to consolidate all the finfish in one part, crustacean in a separate part and shellfish. He thought the Department might be able to take 15 parts and boil them down to four parts.

M. Gibson asked for Council comments.

C. Karp requested that the draft of Part 7 be posted on line so that the public could give comment.

G. Carvalho also requested that it be posted online and stated he was encourage that the Department has taken the initiative to try to consolidate and simplify the regulations. He would like to see the same thing happen in statute with Title 20.

B. Ballou stated that is was not currently on line but it could be posted.

S. Medeiros indicated that he would like to review the document and give feedback at the next Council meeting.

C. Karp suggested that the public be allowed to be involved in the development of the document.

S. Medeiros explained that all AP meetings were open to the public and this was the avenue the Council used to solicit input from the public, as well as industry.

There was further discussion about making material available for public review and the opportunities afforded to the public to participate in RIMFC AP meetings.

B. Ballou concluded the discussion by stating that the draft of Part 7 would be posted on line and the issue would be revisited at the next Council meeting.

Old Business

Shellfish Advisory Panel (SAP) action items from 10/16/08 meeting – J. King:

J. King suggested moving the Quonochontaug Pond oyster restoration back to the SAP for further discussion.

D. Erkan indicated he could simplify the concerns of the SAP members and felt the item may not need to return to the SAP. He explained there were concerns about the proposed number of acres utilized for the restoration. He had recalculated the area using a more precise method and found the acreage to be 14 instead of 23 acres, which he had initially proposed. The SAP members had voted to reduce the size of the restoration area and to reduce the number of years from the proposed 5-year pond-wide closure on oyster harvest to a 3-year pond-wide closure on oyster harvest. Erkan explained that the SAP members were not in favor of closing off the area to oyster shellfishing for a 5 year period, however, the Division felt there was a need to close the pond to oyster harvesting for 5 years in order to establishment a mature population of oysters and allow recruitment of juvenile oysters throughout the pond. The oysters that remain after the 5-year period would be more likely to survive diseases and contribute to the establishment of more disease-resistant oysters. Erkan also explained that SAFIS data indicated there had only been 150 individual oysters landed in the last three years in Quonochontaug Pond.

M. Gibson asked if this was a time sensitive issue. D. Erkan commented that the project called to have the pond closed by January 1, 2009 in order for the oyster restoration efforts that were waiting in the wings be able to place oysters in the area. Roger Williams University also proposed placing small numbers of oyster in the pond and were planning for a January 1, pond closure for a 5-year duration.

M. Gibson indicated there would not be enough time if this were referred back to the SAP to make a January 1 effective date.

J. King indicated he did not have any recommendations from industry even though the acreage had been reduced.

S. Medeiros asked if the pond was an actively fished area. D. Erkan commented there were no oysters that could be found in Quonochontaug Pond. He explained as the oysters recruit in the pond the Division does not want the oysters they plant to be harvested immediately after they reach legal size which is in about three years, the Division would like them to remain to spawn with in the 5-year period. Erkan stated if everything were successful, the intent would be to reopen the fishery in 5-years.

There was further discussion about the length of time. The shellfishermen wanted access in 3-years and the Division wanted to wait 5-years until the oysters had an opportunity to mature and spawn.

S. Medeiros suggested allowing the proposal to go forward with a 3-year period, and as the project progressed, in one to two years when a stock status had been completed then they could revisit the issue and possibly recommend extending the period for another two years.

D. Erkan commented it was the Division's goal to recognize there was a disease problem statewide, not just in the pond. All oysters that demonstrate some disease resistance are the ones they would like to remain and spawn. Not every oyster demonstrates resistance and it would be beneficial to have it remain instead of having it harvested after 3-years. It would be better to have the oysters spawn a couple of times before it was harvested. Additionally, the expense of the project and number of other organizations involved would make it more cost effective if it were closed for the 5-years. He also indicated the Division did not feel they would be displacing shellfishermen from harvesting oysters because there were none to harvest.

J. King made a motion to recommend to the Director to go forward with the Quonochontaug Pond oyster restoration project for a 3-year period. Oyster harvest in Quonochontaug Pond in its entirety would be prohibited from January 1, 2009 to December 31, 2011 (3 years). K. Ketcham seconded the motion with an amendment to the motion. At the end of the 3-year period, the Council would receive a status report from Division staff and reevaluate whether to extend the closure period for another two years or not. The Council voted (7) in favor (S. Medeiros, S. Parente, R. Hittinger, J. King, D. Preble, C. Anderson, K. Ketcham) and (1) abstained (S. Macinko), the motion passed.

J. King stated the next action item pertained to the February 2009 openings for the High Banks Shellfish Management Area. Currently it is open Monday, Wednesday, and Friday for four hours per opening. There were two proposals for 2009 that came from the SAP,

the first was for seven days per week (Sunday through Saturday) from sunrise to sunset at a 3 bushel possession limit) until April 30, 2009. The second proposal was for five days per week (Monday through Friday) from sunrise to sunset at 3 bushel possession limit) until April 30, 2009.

There was Council discussion about the area being open from sunrise to sunset.

S. Hall expressed the difficulty Law Enforcement would have with trying to monitor possession limits during this timeframe. He also stated, if approved it would become part of the free and common fisheries.

D. Erkan stated this area was one of the areas that received transplanted quahaugs that was funded out of the 804 account and the Allen Harbor damage fund. He indicated the Division's position was that fishermen had access during the winter months and those quahaugs that were not harvested remained as broodstock. Those quahaugs were intended to contribute to recruitment to the adjacent areas as well as the beds themselves. He was concerned that long-term openings of that area would result in lower density and not as much recruitment potential.

There were audience comments explaining their need to have access to this area.

J. King made a motion to recommend to the Director to go forward with the High Banks management proposal for five days per week (Monday, through Friday) from sunrise to sunset at 3 bushel possession limit) until April 30, 2009. D. Preble Seconded the motion.

There was no Council discussion.

C. Karp asked how would the Council know if this would work or not. M. Gibson explained the Division conducted shellfish surveys in the area, and the number of pounds place in the area from the transplant is a known factor.

The Council voted unanimously to approve the motion to recommend to the Director to go forward with the High Banks management proposal for five days per week (Monday, through Friday) from sunrise to sunset at 3 bushel possession limit) until April 30, 2009.

J. King went on to the next action item, which was the March 2009 openings for the Greenwich Bay Shellfish Management Area. The proposal was for a start date of March 1, 2009 for three days per week (Monday, Wednesday, and Friday) for three hours each opening, and from April 1 through April 30, 2009, it would be three days per week (Monday, Wednesday, and Friday) for four hours per week.

J. King made a motion to recommend to the Director to go forward with the March 2009 openings for the Greenwich Bay Shellfish Management Area; March 1, 2009 for three days per week (Monday, Wednesday, and Friday) for three hours each

opening with a 3 bushel possession limit, and from April 1 through April 30, 2009, it would be three days per week (Monday, Wednesday, and Friday) for four hours per week with a 3 bushel possession limit. S. Medeiros seconded the motion.

M. Gibson asked D. Erkan how these changes stand in terms of conservation equivalency from what was in place now. D. Erkan indicated he would have to calculate it out, however the days in March have been reduced so it would be less hours. He indicated that as long as the effort was not increased it did not matter what days they fished. This proposal was more conservative.

There was no Council discussion on the motion.

M. McGivney explained how they came up the modified schedule.

The Council voted unanimously to approve the motion to recommend to the Director to go forward with March 1, 2009, three days per week (Monday, Wednesday, and Friday) for three hours each opening with a 3 bushel possession limit, and from April 1 through April 30, 2009, it would be three days per week (Monday, Wednesday, and Friday) for four hours per week with a 3 bushel possession limit.

J. King went on to the next action item, which pertaining to the 2009 shellfish transplant schedule. They had planned for a five-week transplant schedule. They proposed to do the transplants in the coves and needed to close the High Banks, Bissel Cove, Fox Island, and Bristol Harbor Shellfish Management Areas on April 24, 2009, in order to accept transplanted shellfish on either April 28 or April 30.

J. King made a motion to recommend to the Director to approve the April 24, 2009, closure of the High Banks, Bissel Cove, Fox Island, and Bristol Harbor Shellfish Management Areas. C. Anderson seconded the motion.

There was no Council discussion on the motion. There was no audience discussion on the motion.

The Council voted unanimously to approve the motion to recommend to the Director to approve the April 24, 2009, closure of the High Banks, Bissel Cove, Fox Island, and Bristol Harbor Shellfish Management Areas.

J. King went on to the last action item, pertaining to the pre-Memorial Day and pre-Fourth of July openings as make up days from the winter. He proposed opening days on April 27, 29, and May 1, 2009 but if rain or pollution closures occur it would then revert to the pre-Fourth of July openings (June 29 through July 3, 2009), for four hours from 8:00 AM to 12 Noon.

J. King made a motion to recommend to the Director to approve the pre-Memorial Day and pre-Fourth of July openings as make up days from the winter. He proposed opening days on April 27, 29, and May 1, 2009 but if rain or pollution closures occur

it would then revert to the pre-Fourth of July openings (June 29 through July 3, 2009), for four hours from 8:00 AM to 12 Noon. D. Preble seconded the motion.

There was no Council discussion on the motion.

The Council voted unanimously to approve the motion to recommend to the Director to approve the pre-Memorial Day and pre-Fourth of July openings as make up days from the winter. He proposed opening days on April 27, 29, and May 1, 2009 but if rain of pollution closures occur it would then revert to the pre-Fourth of July openings (June 29 through July 3, 2009), for four hours from 8:00 AM to 12 Noon.

Discussion on revised Species Advisory Panel Policy – M. Gibson:

M Gibson indicated the Council had some updated language suggestions on how to deal with AP members who acquired violations while on a panel and for meeting a quorum.

B. Ballou outlined there were two issues to be reviewed. One was the quorum issue and the Department felt that was ready to be adopted however, the second issue regarding the AP members who incur violations while on a panel remained a work in progress. Based on discussion with G. Powers there was a need to further revise that section.

B. Ballou asked for clarification from the Council as to their intent, if they wanted any individual who incurs any penalty of any nature to be removed from an AP. He needed direction from the Council as to what level or degree of infraction should an AP member be removed.

S. Medeiros stated he liked what was presented regarding how to handle violations.

B. Ballou suggested waiting for further legal review.

G. Powers indicated there might be a problem procedurally, and explained concerns about out-of-state penalties unknown to the State of RI. He suggested removing the AP member by action from the Council.

D. Preble voiced concerns about the Council having that responsibility since they were of an advisory capacity to the Director.

S. Hall suggested that if Law Enforcement detected an individual with a violation, it might be more appropriate to have the Director notify the individual that they were being removed from an AP due to a fisheries related violation. S. Hall felt it would be very awkward for the Council to be reviewing the status of an individual for removal, as well as for the individual if they were present at the meeting.

Council members were in agreement with S. Hall, they felt the Director should send a letter notifying the individual. M. Gibson suggested this section needed more work. He indicated this would come back at another meeting.

S. Macinko questioned the quorum section and suggested that instead of having different guidelines for the IAC than the other AP's he indicated they should have the same guidelines for establishing a quorum.

J. King defended the language by pointing out the frequency of a lack of a quorum at AP meetings. In particular, when there was material that needs to be reviewed for quota management proposals that were time sensitive for public hearings and meeting regulation start dates.

C. Anderson stated he understood the problem of having a lack of a quorum at AP meetings and the need to obtain a consensus from the individuals who showed up.

K. Ketcham stated he preferred Chief Hall's suggestion to have the Director send a letter to a panel member with a penalty. He did not want to be in a position of being the judge or jury of an individual. He also wanted the AP policy document to come back as one package for review.

M. Gibson stated that a revised policy would come back for review at the next Council meeting.

Director's Roundtable

B. Ballou announced to individuals that there was an upcoming Director's roundtable meeting on December 18, 2008. He asked for suggestions for the agenda.

S. Medeiros suggested bring the AP quorum issue to the roundtable to solicit advice on how to handle lack of quorums.

K. Ketcham asked to have a discussion on why the state would like to repeal the summer flounder exemption certificate program.

C. Karp wanted to hear about the status of the ocean special area management plan relative to fish and wildlife, status on CRMC's aquaculture plan, and how to go forward with ecosystem based management instead of managing species by species.

J. King wanted a status report on the EEZ, the transiting issue.

G. Duckworth asked about the RI monkfish and codfish possession limits being in line with neighboring states.

M. Gibson stated G. Duckworth's issues would be addressed at the upcoming groundfish AP on December 3, 2008.

ASMFC - NEMFC Updates

NEMFC November meeting –M. Gibson:

M. Gibson stated that because of the late hour, he would not go through the minutes but they were included in each Council member's packet. He stated that Council members could review the information and if they had any questions to contact him.

The Chairman adjourned the meeting.

Nancy E. Scarduzio, Recording Secretary