



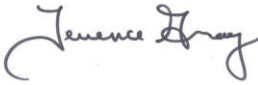
RHODE ISLAND

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF THE DIRECTOR

235 Promenade Street, Room 425
Providence, Rhode Island 02908

To: Conor McManus
Chief, Division of Marine Fisheries

From: Terrence Gray, P.E.
Acting Director 

Date: November 4, 2022

Re: Final Decisions Pertaining to the September 12, 2022 Marine Fisheries Public Hearing Items and October 11, 2022 Marine Fisheries Council meeting.

I have received and reviewed your memo to me, dated October 28, 2022 (attached), regarding the regulatory matters that were subject to a public hearing on September 12, 2022 and the RI Marine Fisheries Council (Council) meeting on October 11, 2022. I have also received and reviewed all relevant supporting documentation, including the public comments received and the draft Council meeting minutes.

The specific regulatory items, and the final decisions for each, are as follows:

1. **Exit:entry ratio for the issuance of the Unlimited Finfish endorsement**

Decision: Amend the rule as, recommended by the Council and Division, which changes the exit:entry ratio for the Unlimited Finfish endorsement from 1:2 to 1:1. The change will result in twelve (12) new Unlimited Finfish endorsements available for issuance in 2023.

2. **Exit:entry ratio for the issuance of the Unlimited Shellfish endorsement**

Decision: Maintain status quo, an exit:entry ratio of 1:1, as recommended by the Council and Division. This will result in thirty (30) new Unlimited Shellfish endorsements available for issuance in 2023.

3. **Multipurpose Vessel License**

Decision: As recommended by the Council, amend the rule pertaining to the

Multipurpose Vessel License only by providing that no Multipurpose Vessel Licenses shall be issued before January 1, 2024. I support the Division's plans to vet this issue again next year through the Division's regulatory workshop process.

4. **Shellfish harvest schedules (other than shoredigging) in Greenwich Bay, Bissel Cove/Fox Island, and Bristol Harbor (i.e., "winter harvest areas") Shellfish Management Areas**

Decision: Amend the rules, as recommended by the Council and Division, which provides for a December 2022 (other than shoredigging) harvest schedule for the Greenwich Bay and Bissel Cove/Fox Island Shellfish Management Areas, the specific dates being those set forth in your attached October 28, 2022 memo. As recommended by the Council and Division, maintain status quo (current default schedule) for the Bristol Harbor Shellfish Management Area.

5. **Clarification of rule regarding Greenwich Bay Shellfish Management Area sub-areas 1 and 2 commercial shoredigging possession limit**

Decision: Amend the rule, as recommended by the Council and Division, which clarifies that the rule is a commercial provision only, and also clarifies the commercial possession shoredigging possession limit that is specific to this shellfish management area.



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF MARINE FISHERIES
3 Fort Wetherill Road
Jamestown, Rhode Island
02835

INTER-OFFICE
MEMO

To: Terrence Gray, P.E., Director

From: Conor McManus, Chief

A handwritten signature in black ink, appearing to read 'C. McManus', is positioned to the right of the 'From:' field.

Date: October 28, 2022

Subject: Decisions regarding proposed regulation amendments that were subject of a public hearing held on September 12, 2022 and RI Marine Fisheries Council meeting held on October 11, 2022.

The public hearing folder contains all the necessary documentation related to this hearing, including the proposed rules that were publicly noticed and the comments received. Below is a summary of the proposed amendments, including a summary of comments received and recommendations of the RI Marine Fisheries Council:

1. **Exit:entry ratio for the issuance of the Unlimited Finfish endorsement (§ 2.7.4(C)(4)(a)):**

- **Background:** Annual review of management. A workshop was held on July 18th to solicit input and proposals from the public prior to noticing the proposed rule.
- **Proposal:** Two proposals were publicly noticed:
 - **Proposal # 1:** Status quo (ratio = 1:2)
 - **Proposal # 2:** Industry proposal to amend to 1:1
- **Public comment:**
 - ≈ 37 comments provided in support of amending the ratio from 1:2 to 1:1 (proposal # 2 as noticed)
 - RI Commercial Rod and Reel Association in support of 1:1 (proposal # 2 as noticed)
 - 1 comment in support of 2:1
 - No comments provided in support of status quo 1:2
- **RIMFC:** 5 – 1 in support of amending the rule to adopt a ratio of 1:1
- **Marine Fisheries:** The Division can effectively manage either of the proposed

ratios, but noted that in light of the new licensing structure taking effect in 2023, it may be prudent to implement a 1:1 ratio for 2023 and evaluate ratios thereafter.

2. **Exit:entry ratio for the issuance of the Unlimited Shellfish endorsement (§ 2.7.4(C)(4)(b)):**

- **Background:** Annual review of management. A workshop was held on July 18th to solicit input and proposals from the public prior to noticing the proposed rule.
- **Proposal:** No amendments were noticed
- **Public comment:** No comments or testimony were provided.
- **RIMFC:** 6 – 0 in support of maintaining the current ratio of 1:1
- **Marine Fisheries:** Support to maintain a ratio of 1:1.

3. **Multipurpose Vessel License (§ 2.7.4(C)(2)(e)):**

- **Background:** A new license type established by statute effective July 1, 2022, and subsequently in rule, also effective July 1, 2022, which only established the license but no rules specific to issuance (the rule specifically stated that no licenses would be issued prior to January 1, 2023 in order to provide to develop regulations). Workshops were held May 24, June 20, and July 18 to solicit input from the public.
- **Proposal:** Two proposals were publicly noticed:
 - **Proposal # 1:** Amend rule that no licenses to be issued prior to January 1, 2024
 - **Proposal # 2:** Amend rule to provide an opportunity for issuance in 2023.
Summary of proposed rule:
 - Annual fee = \$1,000 (per statute)
 - Available to natural persons who hold an Actively Fished Multipurpose Fishing License and who own a commercial fishing vessel that is commercially declared.
 - A maximum of thirty-one (31) licenses will be available for issuance. If the number of applications exceeds the number of licenses available for issuance, issuance shall be determined by lottery. This number derived as 10% of the number of active license holders
 - Operator permit issued by the Division for a fee (\$50)
 - Division-approved vessel monitoring system (VMS) device required
- **Public comment:**
 - ≈ 35 comments provided in support of proposal # 1 as noticed; to delay issuance of licenses until 2024.
 - RI Commercial Rod and Reel Association in support of proposal # 1 as noticed; to delay issuance of licenses until 2024.

- Seafreeze and Town Dock in support of the issuance of the license type, but to delay issuance until 2024 to allow for additional time to develop rules.
- 1 comment submitted to reduce the license fee and not to require VMS.
- 1 comment provided at the hearing by the Division of Law Enforcement that the rule, if adopted, include a provision that both the owner and operator be subject to penalties for non-compliance
- 1 comment provided at the hearing opposed to the absence of operator permit credentials in the proposed rule.
- **RIMFC:** 5 – 0 – 1 in support of proposal # 1 (J. Jarvis recused)
- **Marine Fisheries:** While the Division supports Proposal #2, the Division could support either proposal for 2023. This is largely based on overall lack of interest in the MVL from constituents and having not received detailed feedback on the Division’s Proposal #2. The Division plans to workshop this item again next year, as it does provide enhanced flexibility to fishing businesses, assuming no legislative changes have been pursued regarding the existence of the MVL.

4. **Shellfish harvest schedules (other than shoredigging) for Greenwich Bay, Bissel Cove/Fox Island, and Bristol Harbor (i.e., “winter harvest areas”) Shellfish Management Areas (§§ 4.12.2(D)(1)(b), 4.12.2(D)(8)(b), and 4.12.2(D)(10)(b)):**

- **Background:** The Council’s Shellfish Advisory Panel (SAP) meets annually to review these schedules and offer recommendations for amendments. The SAP met on September 28th and recommended the following:
 - **Greenwich Bay, December 2022:** Open 8AM – 12PM on December [14, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30](#) (equal to 48 hours total available harvest, the maximum allowed per rule for the month of December). The default schedule would then remain in effect after December 2022.
 - **Bissel Cove/Fox Island, December 2022:** Open 8AM – 12PM on the December [14, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30](#). The default schedule would then remain in effect after December 2022.
 - **Bristol Harbor:** Maintain the current default schedule (no amendments proposed)
- **Public comments:** N/A (this amendment filing is exempt from the requirements of [APA](#) pursuant to [R.I. Gen. Laws § 20-3-4](#)).
- **RIMFC:** 6 - 0 in support of adopting the SAP recommended schedules for each of these Shellfish Management Areas.
- **Marine Fisheries:** Support for the schedules as recommended by the Council.

5. **Clarification of rule regarding GB sub-areas 1 and 2 commercial shoredigging possession limit (§ 4.12.1(D)(1)):**

- **Background:** The proposed rule, intended for clarification purposes only, was presented to the SAP at their meeting on September 28th. The rule is intended to and should apply to commercial harvest only, and the rule cited within the rule should be to the Other than Shoredigging harvest schedule in order for the one (1) peck/person/day possession limit to be in effect. Without such clarification, the

possession limit would be three (3) bushels/person/day, which is clearly not the intent of the rule. The SAP recommended to amend the rule as proposed by the Division.

- Public comments: N/A (this amendment filing is exempt from the requirements of [APA](#) pursuant to [R.I. Gen. Laws § 20-3-4](#)).
- RIMFC: 6 - 0 in support of adopting the rule as proposed by the Division, as follows:

D. Area specific possession limits:

1. Greenwich Bay (GB) sub areas 1 and 2 commercial shoredigging for bay quahaug, soft-shell clam, blue mussel, surf clam and oyster: Three (3) bushels per person per day when the season specified in §4.12.2(D)(1)(b) is open; and one (1) peck per person per day when the season specified in §4.12.2(D)(1)(b) is not open.
- Marine Fisheries: Support as proposed to the Council.