



## RHODE ISLAND

### DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

#### OFFICE OF THE DIRECTOR

235 Promenade Street, Room 425  
Providence, Rhode Island 02908

**To:** Conor McManus, Ph.D.  
Chief, Division of Marine Fisheries

**From:** Terrence Gray, P.E.  
Director

**Terrence Gray**

Digitally signed by Terrence Gray  
Date: 2024.03.13 11:14:39 -04'00'

**Date:** March 13, 2024

**Re:** Final decisions regarding proposed regulation amendments that were the subject of a RI Marine Fisheries Council meeting held on March 4, 2024. Below is a summary of the proposed amendments, including a summary of comments received and recommendations of the RI Marine Fisheries Council.

I have received and reviewed your memo to me, dated March 5, 2024 (attached), regarding the regulatory matters that were subject of a RI Marine Fisheries Council (Council) meeting held on March 4, 2024. The specific regulatory items, and the final decisions for each, are as follows:

1. **Commercial Shellfish Harvest Schedule for Providence River Shellfish Management Area/Conditional Area "E" (Part 4 – Shellfish)**

Decision: Amend the rule as recommended by the Council and supported by the Division, which establishes a schedule for this area from May 2024 through April 2025. The following schedule is noted below.

2024 schedule:

- Open 8:00am – 11:00am with a six (6) bushel/person/day possession limit (status quo) per the following schedule:
- May 6, 13, 20, 22, 28.
- June 3, 10, 17, 19, 24, 26, 28.
- July 1, 2, 8, 10, 15, 17, 22, 24, 29, 31.
- August 5, 7, 12, 14, 19, 21, 26, 28, 30.
- September 3, 9, 16, 23, 30.
- October 7, 14, 21, 28.
- For the months May-October 2024, the area will close upon twenty-one (21) days open to harvest.

- December 15-21: Open the first two (2) non-consecutive weekdays not closed due to water quality impairment.
- December 22-28: Open on the first available weekday not closed due to water quality impairment; closed December 24 and 25.

2025 schedule:

- Open 8:00am – 10:00am with a six (6) bushel/person/day possession limit per the following schedule:
- February 10 and 24.
- March 10 and 24.
- April 7 and 21.

2. **Start/cessation of harvest and possession in the Providence River Shellfish Management Area/Conditional Area “E” (Part 4 – Shellfish)**

Decision: Amend the rule as recommended by the Council and Division of Law Enforcement and supported by the Division, which establishes a clear timeframe when harvest and possession is allowed when the area is closed to account for the needs of harvesters for culling their catch and transiting. The rules reflect the language noted below.

- On days closed as specified herein, the taking or possession of bay quahog is prohibited, and all gear used in the taking of bay quahog shall be stowed.
- On days open as specified herein, all gear used in the taking of bay quahog shall be stowed except during the scheduled opening.
- On days open as specified herein, possession of bay quahog is prohibited forty-five (45) minutes after a scheduled closure.
- A vessel in possession of bay quahog harvested in an open area of State waters may transit a closed portion of State waters in possession of that species, provided the operator of the vessel has a valid fishing license, and all gear capable of harvesting shellfish is stowed.



**Rhode Island Department of Environmental Management  
Division of Marine Fisheries**

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1231 Succotash Road, Wakefield, RI 02879



**INTER-OFFICE MEMO**

To: Terrence Gray, P.E., Director

From: Dr. Conor McManus, Chief

Date: March 5, 2024

Subject: Decisions regarding proposed regulation amendments that were the subject of a RI Marine Fisheries Council meeting held on March 4, 2024. Below is a summary of the proposed amendments, including a summary of comments received and recommendations of the RI Marine Fisheries Council.

1. **Commercial Shellfish Harvest Schedule for Providence River Shellfish Management Area/Conditional Area “E” (Part 4 – Shellfish):**

- **Background:** This area has been open to harvest since May 2021, and as a result of rule change reclassifying the pollution status from “closed” to “conditionally closed” by the Office of Water Resources. Currently, harvest schedules are revised annually. The Council’s Shellfish Advisory Panel (SAP) met on February 14, 2024 to deliberate the schedule for this area, and offered a schedule for the Council’s consideration as outlined below.
- **Public comments:** Amendments to rules in established Shellfish Management Areas are exempt from the requirements of Chapter 42-35 “*Administrative Procedures*” pursuant to [R.I. Gen. Laws § 42-17.1-2\(38\)\(i\)-\(v\)](#). As such a proposed rule was not publicly noticed, nor was there an established public comment period. Opportunity for public comment was therefore provided at the SAP and Council meetings, in which several members in the audience expressed support for the SAP proposal as addressing the concerns of both east and west-Bay shellfishers; none opposed.
- **RIMFC:** 4-0 in support of the following commercial schedule for this area:
  - **2024 schedule:** Open 8:00am – 11:00am with a six (6) bushel/person/day possession limit (status quo) on the following dates:
    - May 6, 13, 20, 22, 28.
    - June 3, 10, 17, 19, 24, 26, 28.
    - July 1, 2, 8, 10, 15, 17, 22, 24, 29, 31.

- August 5, 7, 12, 14, 19, 21, 26, 28, 30.
- September 3, 9, 16, 23, 30.
- October 7, 14, 21, 28.
- For the months May-October 2024, the area will close upon twenty-one (21) days open to harvest.
- December 15-21: Open the first two (2) non-consecutive weekdays not closed due to water quality impairment.
- December 22-28: Open on the first available weekday not closed due to water quality impairment; closed December 24 and 25.
- 2025 schedule: Open 8:00am – 10:00am with a six (6) bushel/person/day possession limit on the following dates:
  - February 10 and 24.
  - March 10 and 24.
  - April 7 and 21.
- Marine Fisheries: Support as recommended by the Council. The Division was agreeable to allow for twenty-one days from May through October, as this represents the RIMFC approved eighteen days for the same period in 2023, with three days added based on those not being realized in 2023 due to rain closures. While the Division understands and appreciates the forward thinking of a winter 2025 schedule in the event day are unused in the 2024 schedule, the Division noted that if all twenty-one days from May-October 2024 are used and days in the winter 2025 are realized, this could inform the Divisions recommendation for harvest schedules in May-October and December 2025.

2. **Start/cessation of harvest and possession in the Providence River Shellfish Management Area/Conditional Area “E” (Part 4 – Shellfish):**

- Background: The Division of Law Enforcement has received numerous complaints regarding the continuation of harvest after closure at 11:00am. Upon investigation, most harvesters were found to be merely culling catch post-harvest. DLE has requested that rule language be developed to address the issue. The Council’s Shellfish Advisory Panel (SAP) met on February 14, 2024 to deliberate the matter.
- Public comments: Amendments to rules in established Shellfish Management Areas are exempt from the requirements of Chapter 42-35 “*Administrative Procedures*” pursuant to [R.I. Gen. Laws § 42-17.1-2\(38\)\(i\)-\(v\)](#). As such a proposed rule was not publicly noticed, nor was there an established public comment period. Opportunity for public comment was therefore provided at the SAP and Council meetings. Several members in the audience expressed support for the proposal; none opposed.
- RIMFC: 4-0 in support of adopting the following language in rule to address this matter:
  - On days closed as specified herein, the taking or possession of bay quahog is prohibited, and all gear used in the taking of bay quahog shall be stowed.

- On days open as specified herein, all gear used in the taking of bay quahog shall be stowed except during the scheduled opening.
- On days open as specified herein, possession of bay quahog is prohibited forty-five (45) minutes after a scheduled closure.
- A vessel in possession of bay quahog harvested in an open area of State waters may transit a closed portion of State waters in possession of that species, provided the operator of the vessel has a valid fishing license, and all gear capable of harvesting shellfish is stowed.
- Marine Fisheries: Support as recommended by the Council and DLE.