

**R.I. Marine Fisheries Statutes and Regulations
PART VII - MINIMUM SIZES OF FISH/SHELLFISH**

7.7 Summer Flounder (Fluke) -- No person commercially licensed under RIGL Chapters 20-2.1 or 20-4 shall possess or harvest any summer flounder which is less than fourteen (14) inches total length. A total annual statewide quota for summer flounder will be established. It shall be the most recent allocation established for the State by the Atlantic States Marine Fisheries Commission (ASMFC) and/or the Secretary of the U.S. Dept. of Commerce and published in the Federal Register. The quota may be harvested by gear fishermen licensed in accordance with the provisions of Title 20 of the General Laws and in accordance with all rules and regulations promulgated by the Department of Environmental Management. In order to provide for the orderly harvest of the quota, the State's summer flounder quota will be managed as follows:

7.7.1 Summer Flounder Sub-periods and Possession Limits

7.7.1-1 Winter Sub-Period: January 1 - April 30 annually.

Target allocation - 54% of the annual quota established in Section 7.7, unless modified pursuant to this part. It shall be unlawful to possess or land from a vessel, in any one calendar day, more than ~~300~~ 200 pounds, or the poundage as provided in this part, of summer flounder during the period from January 1 until the Sunday of the first full week in February. The DFW may adjust the possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.

- a. Any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to apply to obtain a permit from the Division of Fish and Wildlife in the aggregate landing program for summer flounder during the Winter I period beginning on the Sunday of the first full week in February until the Winter I period ends or until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land summer flounder in any amount between 0 and ~~2,500~~ 2,000 pounds in any calendar week period so long as the total landed by that vessel does not exceed ~~2,500~~ 2,000 pounds in any calendar week

period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the program will terminate and the possession limit per vessel shall be ~~300~~ 100 pounds per calendar day. The DFW may adjust the aggregate program possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

- b. During the aggregate program period as defined above, the commercial possession limit of summer flounder for vessels that are not permitted in the aggregate landing program shall be ~~300~~ 200 pounds per vessel per calendar day for vessels which possess a valid state of Rhode Island Summer Flounder Exemption Certificate. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the possession limit per vessel shall be ~~300~~ 100 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the aggregate landing program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.
- c. The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 200 pounds per day. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the possession limit per vessel shall be 100 pounds per calendar day.
- d. An applicant vessel shall be considered eligible for a permit to participate in the aggregate landing program for summer flounder by demonstrating to the satisfaction of the Division of Fish and Wildlife and the Division of Law Enforcement that it satisfies each of the following criteria:
 - (1) The vessel if harvesting summer flounder from federal waters possesses a valid federal summer flounder moratorium permit

and possesses a valid state of Rhode Island summer flounder exemption certificate, or, if harvesting exclusively in State waters, the vessel's operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate;

(2) The vessel shall be operated by a person who possesses a valid multipurpose, principal effort, or landing license issued by the State of Rhode Island to land summer flounder for commercial purposes; and

(3) The vessel shall be operated by a licensed person who has not been assessed a criminal or administrative penalty in the past three years for a violation of Part 7.7 Fluke (Summer Flounder) et al. or more than one marine fisheries violation

e. The operator of the applicant vessel shall strictly adhere to each of the following requirements:

(1) The subject vessel shall be permitted from the date the participant enters the program until the end of the Winter I sub-period or until the participant terminates enrollment by providing written notice of the termination from the program, whichever first occurs. Said termination shall take effect no earlier than the Saturday following the receipt of the written notice by the Division.

(2) A vessel may commence the application process for obtaining a permit to participate in the program by downloading the application from DEMs website, or may obtain one directly from the Division of Fish and Wildlife (401-423-1927) on Mondays and Tuesdays, from 8:30 AM until 4:00 PM during the entire Winter I sub-period. The application must be filled out in its entirety and returned to the Division of Fish and Wildlife (3 Fort Wetherill Road Jamestown, RI 02835). The application will be reviewed by the Division of Fish and Wildlife and the Division of Law Enforcement and upon acceptance, a permit will be issued to the applicant vessel to take effect the first Sunday after the permit is received.

(3) No vessel shall possess simultaneously more than one aggregate landing program permit.

(4) Repealed (12/2010)

(5) The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of

Law Enforcement for use in accounting for the amount of summer flounder landed by a specific vessel during a calendar week.

- (6) A copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife shall be kept in numerical order on board the vessel and furnished upon request, including the name and address of the dealer where the summer flounder were landed. The vessel must have all reports dating back to January 1st on board the vessel. A vessel shall be exempt from the foregoing requirements of this sub-section if the vessel is currently enrolled in the e-Trips electronic logbook program, and the vessel has been issued a letter by the Division of Fish and Wildlife confirming its enrollment and compliance with the requirements of the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.**
- f. Non-compliance with the provisions of these regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for the subsequent Winter I fishery. If for any reason a Winter I fishery does not exist by regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current Winter I period upon adjudication.**

Additionally, the owner(s) and operator(s) shall be subject to the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) and the Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".

- g. If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) as**

well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Winter I period.

- (1) Any person who feels aggrieved such a determination may seek an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.
 - (2) Any person who seeks an adjudicatory hearing relative to a determination to deny an applicant vessel a permit in the aggregate landing program for summer flounder must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.
 - (3) The written request for hearing pursuant to Rule 8(a) or 8(b) must be received by with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 with the time period indicated.
- h. Any applicant who is permitted for the winter 1 aggregate program as set forth above will not be allowed to participate in the summer aggregate program within the same year.

7.7.1-1 Repealed (12/2010)

7.7.1-2 Summer Sub-Period: May 1 - ~~October 31~~ September 15 annually. Target allocation – 35% of the annual quota established in Section 7.7, unless modified pursuant to this part. The possession limit per vessel will be 100 pounds per calendar day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

- a. **Beginning June 1** - any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to apply to obtain a permit from the Division of Fish and Wildlife for the aggregate landing program for summer flounder during the

Summer sub-period until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land summer flounder in any amount between 0 and 700 pounds in any calendar week period so long as the total landed by that vessel does not exceed 700 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 80% of the Summer sub-period summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division) the program will terminate and the possession limit per vessel shall be 100 pounds per calendar day. The DFW may adjust the aggregate program possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

- b. The commercial possession limit of summer flounder for vessels that are not permitted in the aggregate landing program shall be 100 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the summer aggregate landing program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.**
- c. The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 100 pounds per day.**
- d. An applicant vessel shall be considered eligible for a permit to participate in the summer aggregate landing program for summer flounder by demonstrating to the satisfaction of the Division of Fish and Wildlife and the Division of Law Enforcement that it satisfies each of the following criteria:**
 - (1) The vessel if harvesting summer flounder from federal waters possesses a valid federal summer flounder moratorium permit and possesses a valid state of Rhode Island summer flounder exemption certificate, or, if harvesting exclusively in State waters, the vessel's operator possesses a valid license to**

harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate;

(2) The vessel shall be operated by a person who possesses a valid multipurpose, principal effort, or landing license issued by the State of Rhode Island to land summer flounder for commercial purposes; and

(3) The vessel shall be operated by a licensed person who has not been assessed a criminal or administrative penalty in the past year for a violation of Part 7.7 Fluke (Summer Flounder) et al. or more than one marine fisheries violation

e. The operator of the applicant vessel shall strictly adhere to each of the following requirements:

(1) The subject vessel shall be permitted from the date the participant enters the program until the end of the Summer sub-period or until the participant terminates enrollment by providing written notice of the termination from the program, whichever first occurs. Said termination shall take effect no earlier than the Sunday following the receipt of the written notice by the Division.

(2) A vessel may commence the application process for obtaining a permit to participate in the program by downloading the application from DEMs website, or may obtain one directly from the Division of Fish and Wildlife (401-423-1927) on Mondays and Tuesdays, from 8:30 AM until 4:00 PM during the entire Summer sub-period. The application must be filled out in its entirety and returned to the Division of Fish and Wildlife (3 Fort Wetherill Road Jamestown, RI 02835). The application will be reviewed by the Division of Fish and Wildlife and the Division of Law Enforcement and upon acceptance, a permit will be issued to the applicant vessel to take effect the first Sunday after the permit is received.

(3) No vessel shall possess simultaneously more than one aggregate landing program permit.

(4) Repealed (12/2010)

(5) The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the

amount of summer flounder landed by a specific vessel during a calendar week.

(6) A copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife shall be kept in numerical order on board the vessel and furnished upon request, including the name and address of the dealer where the summer flounder were landed. The vessel must have all reports dating back to January 1st on board the vessel. A vessel shall be exempt from the foregoing requirements of this subsection if the vessel is currently enrolled in the e-Trips electronic logbook program, and the vessel has been issued a letter by the Division of Fish and Wildlife confirming its enrollment and compliance with the requirements of the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.

- f. Non-compliance with the provisions of these regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for the subsequent Summer sub-period fishery. If for any reason a Summer sub-period fishery does not exist by regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current Summer sub-period upon adjudication.**

Additionally, the owner(s) and operator(s) shall be subject to the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) and the Rules and Regulations Governing the Suspension/Revocation of Commercial Marine Fisheries, Shellfish Buyer, Lobster Dealer, Finfish Dealer, and Multi-purpose Dealer, licenses issued pursuant to Title 20 of RIGL "Fish and Wildlife".

- g. If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner and/or operator of the permitted vessel shall be advised of such determination and the specific grounds therefore in writing by delivery of same by certified mail or by personal service upon the owner or operator in compliance with the requirements set out in Rule 4 of the Rhode Island Superior Court Rules of Civil Procedure. The determination shall specifically include notice that an opportunity for an impartial hearing is available before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the**

finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub-period.

(1) Any person who feels aggrieved such a determination may seek an adjudicatory hearing in order to contest an enforcement action which alleges violation(s) of these rules and regulations must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within twenty (20) calendar days of receipt of the contested agency enforcement action.

(2) Any person who seeks an adjudicatory hearing relative to a determination to deny an applicant vessel a permit in the aggregate landing program for summer flounder must file said request in writing with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.

(3) The written request for hearing pursuant to Rule 8(a) or 8(b) must be received by with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 with the time period indicated.

h. Any applicant who was permitted for the winter 1 aggregate program as set forth above will not be allowed to participate in the summer aggregate landing program within the same year.

7.7.1-3 Fall Sub-Period: ~~November 1~~ September 16 - December 31 annually.

Target allocation - 11% of the annual quota established in Section 7.7, unless modified pursuant to this part. The possession limit per vessel will be ~~700~~ **200** pounds per calendar day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

7.7.1-4 Any unused portion of the quota from a sub-period will be equally distributed to the allocations of the remaining sub-periods. The over-harvest of a sub-period allocation will be deducted from the allocations of the remaining sub-periods. Annually, the target allocations specified in sections 7.7.1-1 through 7.7.1- 4 shall be adjusted by the DFW to

charge over-harvest of a sub-period allocation during a given year to the same sub-period of the next following year.