

## **Part VII – Streamlined, Consolidated, Reorganized, & Revised**

1. Re-title Part VII: From “Minimum Sizes of Fish/Shellfish” to “Finfish”
2. Create detailed “Table of Contents”
3. Update/correct/clarify applicable governing statutes under “Authority.” [Does 42-17.6 need to be cited?]
4. Re-write “Administrative Findings”
5. Repeal all references to “rules and regulations promulgated by the R.I. Marine Fisheries Council.”
6. Repeal all provisions pertaining to minimum sizes of quahogs, soft-shelled clams, mussels, oysters, sea clams, and scallops, since provisions already occur in Part IV
7. Transfer from Part I all definitions that relate to Part VII. Clarify/standardize/improve wording of certain definitions. Add new definitions relating to provisions in Part VII.
8. Separate all commercial and recreational regulations, establishing separate and distinct sections for each.
9. Establish new introductory section, titled “Harvesting and Landing of Finfish for Commercial Purposes,” and include all basic regulatory provisions governing the harvesting and landing of all finfish for commercial purposes, as well as the provisions relating to record-keeping. [Q: Is the across-the-board requirement relating to record keeping a codification of existing rule, or a new/expanded rule?] As part of this new section, add the following two “new” provisions, which, as presented, constitute a new regulatory standard that moves RI closer to a vessel-based licensing program, and a licensed-person-in-charge orientation:

7.6.1 -- Finfish may only be commercially harvested and landed in Rhode Island by properly licensed individuals and, if vessels are employed, by properly declared vessels operated by properly licensed individuals, pursuant to the terms and provisions of Chapters 20-2.1 and 20-4 and the rules and regulations promulgated pursuant thereto.

7.6.2 -- No vessel may commercially harvest, possess, or land finfish without a properly licensed individual on board and in charge. Said individual must be on board the vessel whenever the vessel is engaged in any commercial fishing activity, including but not limited to harvesting, transiting, landing, and offloading.

10. Establish new introductory sections, titled “Quota Management: Modification of Possession/Landing Limits During Sub-Periods, and Sub-Period Closures,” and

- “Quota Management: Modification of Sub-Period Allocations” and include all basic regulatory provisions governing modifications made by the Division during sub-periods to manage the sub-period quotas, as well as changes to sub-period allocations resulting from overages or underages. Delete provisions that require the Division to “base” any possession/landing limit adjustments on “advice from fishing industry representatives and Rhode Island Marine Fisheries Council.” Add that the news release, announcing any change, will also be posted on the Department’s website. Add new provision stating that any modification will become effective no sooner than forty-eight (48) hours after the filing with the Secretary of State and the issuance of the news release.
- Note that the *intra-year* overage and underage provisions currently only apply to the Fall Sub-Period for summer flounder, and for tautog and black sea bass. It is assumed that the provision is intended to apply to all of the sub-periods for summer flounder. It is not clear if the provision is intended to apply to scup.
  - Note that the *inter-year* overage and underage provisions currently only apply to tautog and black sea bass. It is not clear if the provision is intended to be applied to summer flounder and scup as well.
10. Re-write “Minimum Fish Sizes” to include all regulated commercial finfish species (minimum sizes are currently scattered throughout Part VII).
- Clarify that for all species, minimum size relates to the fish “or parts thereof.” That phrase currently pertains to some, but not all, of the minimum size regulations for species covered under Part VII.
  - Clarify that “no person or vessel may possess or land” fish less than the minimum sizes. Currently, with regard to minimum sizes, the regulations variously say: “no person shall possess or take...,” “no person commercially licensed under [] shall possess or harvest ...,” “no person shall take, possess, sell, possess for sale, or offer for sale ...,” and “it is unlawful for any person [commercially licensed] to land or possess...”
  - Clarify that for all species, minimum sizes apply to all fish “whether caught within the jurisdiction of this State or otherwise.” Currently, that phrase pertains to some, but not all, of the minimum size regulations for species covered under Part VII.
11. Establish new section titled “Prohibited Species,” and include all species subject to commercial bans.
12. Re-characterize “possession limits” as “possession/landing limits”

### Summer Flounder

13. Replace all references to “fluke” with “summer flounder.”
14. Repeal call-in requirement for summer flounder landings.

15. Streamline regulatory language relating to offloading.
16. Include sector allocation pilot program provisions.
17. Correct time frame pertaining to possession limit preceding onset of aggregate landing program: “From January 1 through the ~~Sunday~~ Saturday of the first full week in February: 100 pounds per vessel per day.”
18. Streamline regulatory language relating to aggregate landing program.
  - Allow all vessels operated by fishermen licensed to harvest and land summer flounder to harvest and land summer flounder in accordance with weekly trip limits during winter sub-period. Eliminate requirement that vessels must enroll in aggregate program in order to participate in program (for winter sub-period).
  - Eliminate provision that prevents anyone with prior violations from participating in program, and in so doing, eliminate background check requirement. (Use enforcement authority, prospectively, to take action against any vessel and any licensed operator of such vessel, found to be in violation.)
  - Eliminate requirement that fishermen in aggregate program may only sell to SAFIS-certified dealers (redundant and unnecessary, since all dealers are now “SAFIS-certified”). Eliminate requirement that dealers must apply to DEM for SAFIS certification in order to purchase summer flounder from vessels participating in aggregate program. Repeal provision that requires DFW to provide all fishermen in program with list of SAFIS-certified dealers.
19. Retain enrollment requirement for vessels wishing to harvest and land summer flounder in accordance with weekly trip limits during summer sub-period. Establish basic enrollment requirement as: must not have landed more than 100 pounds of summer flounder on any one day during the winter sub-period.
  - Eliminate provision that prevents anyone with prior violations from participating in program, and in so doing, eliminate background check requirement. (Use enforcement authority, prospectively, to take action against any vessel and any licensed operator of such vessel, found to be in violation.)
  - Eliminate requirement that fishermen in aggregate program may only sell to SAFIS-certified dealers (redundant and unnecessary, since all dealers are now “SAFIS-certified”). Eliminate requirement that dealers must apply to DEM for SAFIS certification in order to purchase summer flounder from vessels participating in aggregate program. Repeal provision that requires DFW to provide all fishermen in program with list of SAFIS-certified dealers.
  - Clarify that a decision to end the aggregate landing program early, based on a determination that 80% of the sub-period allocation has been harvested, will be implemented by the Division by filing a notice with the Secretary of

State's Office and announcing the termination via one or more of the following public notice procedures: a faxed notice to dealers, a posting on the Department's website (marine fisheries page), a listserve-email announcement, and/or a voice recording placed on the Division's possession/landing limit phone line.

- Add that the news release will also be posted on the Department's website. As a new provision, state that the termination will become effective no sooner than forty-eight (48) hours after the filing with the Secretary of State and the issuance of the news release.

20. Repeal summer flounder exemption certificate program.

### Scup

21. Under "Quota Management," more clearly differentiate federal and state scup quotas.

22. Streamline regulatory language relating to aggregate landing program.

- Allow all vessels operated by fishermen licensed to harvest and land summer flounder to harvest and land scup in accordance with bi-weekly trip limits during winter sub-period. Eliminate requirement that vessels must enroll in aggregate program in order to participate in program.
- Eliminate provision that prevents anyone with prior violations from participating in program, and in so doing, eliminate background check requirement. (Use enforcement authority, prospectively, to take action against any vessel and any licensed operator of such vessel, found to be in violation.)
- Eliminate requirement that fishermen in aggregate program may only sell to SAFIS-certified dealers (redundant and unnecessary, since all dealers are now "SAFIS-certified"). Eliminate requirement that dealers must apply to DEM for SAFIS certification in order to purchase scup from vessels participating in aggregate program. Repeal provision that requires DFW to provide all fishermen in program with list of SAFIS-certified dealers.

### Recreational Regulations

23. Clarify that "no person fishing recreationally may possess or land a species outside of the designated season for that species, [nor possess or land a species] that measures less than the minimum fish size for that species." Currently, with regard to minimum sizes, the regulations say either "possess," or "possess or take" or "take, attempt to take, possess, sell, or offer for sale." For the most part, no phrasing is used with regard to seasons (they are simply referred to as "open"

- or “closed.”). The phrase “possess or land,” as used under the commercial regulations, seems appropriate for the recreational regulations as well.
24. Establish blanket provision prohibiting the sale of any fish caught recreationally. Currently, there is an explicit no-sale provision only for winter flounder taken recreationally and tautog taken on charter and party boats.
  25. Repeal the provision, under the tautog regulations, that authorizes party and charter boats to “obtain a State permit by showing proof of a U.S. Coast Guard License to conduct their fishery within the territorial waters of Rhode Island.” Party and charter boat are already subject to the generic state permit requirements set forth under the licensing regulations.

#### Dealer Regulations

26. Ultimately, all dealer regulations should be relocated to Part XIX. Until that effort is made, those in Part VII that might have potential relevance and applicability are lumped together under section 7.8

#### Enforcement Provisions

27. Ultimately, all enforcement provisions should be relocated to another Part that specifically and exclusively addresses enforcement issues. Until that effort is made, those in Part VII that might have potential relevance and applicability are lumped together under section 7.9.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

~~BUREAU OF NATURAL RESOURCES~~  
**DIVISION OF FISH AND WILDLIFE**  
&  
**DIVISION OF LAW ENFORCEMENT**



~~RHODE ISLAND MARINE FISHERIES STATUTES AND~~  
~~REGULATIONS~~

Rules and Regulations Governing the Management of Marine Fisheries

Part VII  
~~Minimum Sizes of Fish/Shellfish~~  
**Finfish**

May 1, 2008

**December 2008 – DRAFT**

***[This document is being released as an initial draft. It will be subject to formal review – at a time and in a manner TBD – in coordination with the RI Marine Fisheries Council and in accordance with the Administrative Procedures Act. For further information, contact Robert Ballou at RIDEM, Robert.Ballou@dem.ri.gov, 401-222-4700, ext. 4420]***

**AUTHORITY:** These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, 20-2.1, and 20-4 through 20-10, and sections 20-1-2, 20-1-4, and 20-3-2 through 20-3-6, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

~~BUREAU OF NATURAL RESOURCES~~

Division of Fish and Wildlife  
&  
Division of Law Enforcement

~~RHODE ISLAND MARINE FISHERIES  
STATUTES AND REGULATIONS~~

Rules and Regulations Governing the Management of Marine Fisheries  
Part VII -- Finfish

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## 7.1 PURPOSE

The purpose of these rules and regulations is to provide for a system of adaptive management of ~~manage~~ the marine finfish resources of Rhode Island.

## 7.2 AUTHORITY

These rules and regulations are promulgated pursuant to Chapters 42.17.1, ~~42-17.6?~~, 20-2.1, 20-4, 20-4.1, 20-5, and 20-8, and sections 20-1-2, 20-1-4, and 20-3-2 ~~through 20-3-6, 20-4 through 20-10~~ and in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.

## 7.3 ADMINISTRATIVE FINDINGS

~~Rules and regulations are based upon the need to modify existing regulations (RIGL 20-3-2 through 20-3-6). The Department finds that the Rhode Island Marine Fisheries Statutes and Regulations, which exist in nineteen (19) separate parts as of 2008, are in need of updating to reflect recent statutory changes, and in need of reorganization and consolidation to improve their clarity. Part VII, which had been titled "Minimum Sizes of Fish/Shellfish," is the first part to be subject to this process of revision. The process will occur over time, and involve a series of regulatory modifications, undertaken pursuant to RIGL Chapter 42-35.~~

## 7.4 APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

**The following definitions are a combination of relevant definitions drawn verbatim from Part I, modified versions of relevant definitions from Part I, and new definitions that are relevant to Part VII:**

## **7.5 DEFINITIONS**

For the purposes of these regulations, the following terms shall have the following meanings:

- 7.5.1 “**Alewife**” means *Alosa pseudoharengus*.
- 7.5.2 “**American eel**” means *Anguilla rostrata*.
- 7.5.3 “**American shad**” means *Alosa sapidissima*.
- 7.5.4 “**American plaice**” (Dab) means *Hippoglossoides platessoides*.
- 7.5.5 “**Anadromous fish**” means any species of fish ~~which that~~ ascends rivers or streams from the sea for breeding purposes, e.g. Examples include ~~A~~alewife, ~~—~~*Alosa pseudoharengus*, ~~S~~salmon —*Salmo salar*, and ~~S~~shad —*Alosa sapidissima*.
- 7.5.6 “**Approved**” means approved by the Director.
- 7.5.7 “**ASMFC**” means **Atlantic States Marine Fisheries Commission**.
- 7.5.8 “**Atlantic cod**” means cod, which means *Gadus morhua*.
- 7.5.9 “**Atlantic herring**” means *Clupea harengus*.
- 7.5.10 “**Atlantic menhaden**” means menhaden, which means *Brevoortia tyrannus*.
- 7.5.11 “**Black sea bass**” means *Centropristes striatus*.
- 7.5.12 “**Blueback herring**” means *Alosa aestivalis*.
- 7.5.13 “**Bluefish**” means *Pomatomus saltatrix*.
- 7.5.14 “**Catadromous fish**” means any species of fish ~~which that~~ lives in fresh water, but must go to sea for breeding purposes, e.g., ~~the~~ An example is American eel — *Anguilla rostrata*.
- 7.5.15 “**Cod**” means Atlantic cod, which means *Gadus morhua*.
- 7.5.16 “**Codend**” means the terminal section of a trawl net in which captured fish may accumulate, ~~and is further defined as the last 45 rows of meshes in the terminal section of the net.~~
- 7.5.17 “**Day**” means the 24-hour day that begins at 12:00 AM and ends at 11:59 PM.
- 7.5.18 “**Department**” means the State Rhode Island Department of Environmental Management.

- 7.5.19 “**Division**” means the Division of Fish and Wildlife, within of the Rhode Island Department of Environmental Management so-called in the RIGL’s.
- 7.5.20 “**Finning**” means the act of taking a spiny dogfish or shark, removing the fins, and returning the remainder of the spiny dogfish or shark to the sea..
- 7.5.21 “**Fishery**” means one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographic, scientific, technical, recreational, and economic characteristics; and any fishing for such stocks. Examples of individual fisheries include, but are not limited to, those for summer flounder, scup, striped bass, black sea bass, tautog, winter flounder, bluefish, weakfish, and menhaden.
- 7.5.22 “**Floating Fish Trap**” means a floating trap, pound, stub, or any other equivalent or thing device set on, or in, or anchored to the bottom or shore for extended periods of time, for the purpose of catching fish. —(Each fish trap is required to be individually licensed by the Department of Environmental Management).
- 7.5.23 “**Monkfish**” (Goosefish) means *Lophius americanus*.
- 7.5.24 “**Land or landing**” means to enter port with fish on board, to begin offloading fish, or to offload fish.
- 7.5.25 “**Menhaden**” means Atlantic menhaden, which means *Brevoortia tyrannus*.
- 7.5.26 “**Offload**” means to remove fish from a vessel.
- 7.5.27 “**Party/charter boat**” ~~Charter and party boat~~ means any vessel that carries passengers for hire to engage in fishing.
- 7.5.28 “**Pollock**” means *Pollachius virens*.
- 7.5.29 “**Port**” means any city or town with a harbor and docking facilities where vessels can land.
- 7.5.30 “**Possession**” means the exercise of dominion or control over the resource commencing at the time a decision is made not to return the resource to the immediate vicinity from which it was taken. The decision must be made at the first practical opportunity.
- 7.5.31 “**Possession/landing limit**” ~~Trip Limit (Possession limit)~~ means the maximum quantity of marine products/species amount of fish, shellfish, or crustaceans, generally established at a fishery- or species-specific level, that may be possessed or landed by a vessel or person in a given time period; vessels or persons are only allowed one trip limit in possession per calendar day.
- 7.5.32 “**Quota**” means the maximum amount of fish, in weight or number, of fish that can legally be landed within a stated given time period. A quota can apply to an entire fishery, or segment thereof, or to an individual fisherman or vessel.

- 7.5.33 **“River herring”** means alewives and/or blueback herring.
- 7.5.34 **“Salmon”** means *Salmo salar.*
- 7.5.35 **“Scup”** means *Stenotomus chrysops.*
- 7.5.36 **“Season”** means the time frame during the year when fishing may occur, pursuant to all applicable rules and regulations.
- 7.5.37 **“Spiny dogfish”** means *Squalus acanthias.*
- 7.5.38 **“Striped bass”** means *Morone saxatilis.*
- 7.5.39 **“Summer flounder”** (fluke) means *Paralichthys dentatus.*
- 7.5.40 **“Take or taking”** means the process and each of the activities in that process undertaken to remove the resource from its natural habitat until the time at which possession begins.
- 7.5.41 **“Tautog”** (blackfish) means *Tautoga onitis*
- 7.5.42 **“Total length”** means the straight linear distance from the tip of the snout to the end of the tail.
- 7.5.43 **“Transfer”** means to convey, pass, or remove something from one person, place, and/or vessel to another.
- 7.5.44 **“Trawl devices”** mean any type of fishing apparatus drawn behind a vessel ~~which that~~ consists of otter doors and/or ground cables, ropes, and/or netting. ~~this will apply to, but not be limited to~~ Examples include beam trawls, otter trawls, Scottish seines, and pair trawls.
- 7.5.45 **“Trip”** means a fishing voyage beginning with the departure from any port and terminating with the return any port, regardless of the duration of time.
- 7.5.46 **“Vessel”** means ~~Every description of any~~ Every description of any watercraft, other than a seaplane on the water, that is used, or capable of being used, as a means of transportation on water.
- 7.5.47 **“Week”** means the 7-day/168-hour period beginning on Sunday at 12:00 AM and ending on the following Saturday at 11:59 PM.
- 7.5.48 **“Winter flounder”** (blackback flounder) means ~~*(Pseudopleuronectes americanus)*~~ *(Pseudopleuronectes americanus)* —common names— blackback flounder, flatfish
- 7.5.49 **“Witch flounder”** (gray sole) means *Glyptocephalus cynoglossus*
- 7.5.50 **“Yellowtail flounder”** means *Limanda ferruginea*

## **7.6** **COMMERCIAL REGULATIONS**

### **7.6.1** **General Provisions**

#### **7.6.1-1** **Harvesting and Landing of Finfish for Commercial Purposes**

- a. Finfish may only be commercially harvested and landed in Rhode Island by properly licensed individuals and, if vessels are employed, by properly declared vessels operated by properly licensed individuals, pursuant to the terms and provisions of Chapters 20-2.1 and 20-4 and the rules and regulations promulgated pursuant thereto.
- b. No vessel may commercially harvest, possess, or land finfish without a properly licensed individual on board and in charge. Said individual must be on board the vessel whenever the vessel is engaged in any commercial fishing activity, including but not limited to harvesting, transiting, landing, and offloading.
- c. No one may transfer or attempt to transfer at sea, from one vessel to another, any finfish that are subject to the rules and regulations set forth in this Part.
- d. All commercially harvested finfish landed in Rhode Island must be landed at a dealer that holds a valid and applicable dealer's license issued by the Department. Provided, however, that holders of a license with a dockside sales endorsement may sell live lobsters and crabs directly to consumers at dockside, pursuant to all terms and conditions set forth in section 6.8-9 of the Rules and Regulations Governing the Management of Marine Fisheries.
- e. Every vessel that commercially harvests and/or lands finfish in Rhode Island must maintain records of all landings of finfish dating back to January 1 of each year. The fishermen's copy of the Vessel Trip Report logbook (aka "VTR") for the vessel, or the fishermen's copy of the RI Commercial Harvester Logbook for the vessel, must be used for this purpose. Such records must be kept current, must be kept aboard the vessel at all times, must be kept in numerical order, and must be presented to State or Federal Law Enforcement authorities upon request. At a minimum, such records must include: the dates on which any amount of finfish was landed, the amount and type of finfish landed on each occasion, and the names and addresses of the dealers where the landings took place. Such records must be consistent with the information provided to the Division by dealers.
- f. Net obstruction or constriction -- A fishing vessel subject to minimum mesh size restrictions shall not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 in (7.6 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. "The top of the trawl net" means the 50 percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.

#### **7.6.1-2** **Quota Management: Modification of Possession/Landing Limits During Sub-Periods, and Sub-Period Closures**

With regard to all species-specific quota management programs set forth in this Part:

1. The Division will monitor catch rates during each sub-period and, in consideration thereof, and of the time remaining in each sub-period, enact any necessary and appropriate modifications, as set forth below.
2. If the Division determines that an allocation for a sub-period is likely to be fully harvested prior to the end of the sub-period, the Division may adjust the possession/landing limit downward to help ensure that the fishery remains open at sustainable levels for as long as possible. If an allocation for a sub-period allocation is fully harvested prior to the end of the sub-period, the Division will close the fishery for the remainder of the sub-period.
3. If the Division determines that an allocation for a sub-period is unlikely to be fully harvested by the end of the sub-period, the Division may adjust the possession/landing limit upward to help ensure that the sub-period allocation will be fully harvested during the sub-period.
4. If the Division decides to modify a possession/landing limit or close a fishery in accordance with this sub-section, the Division will file a notice with the Secretary of State's Office, and the modification or closure will become effective upon filing. At least forty-eight hours prior to the filing, the Division will announce the modification or closure via one or more of the following public notice procedures: a faxed notice to dealers, a posting on the Department's website (marine fisheries page), a listserv-email announcement, and/or a voice recording placed on the Division's possession/landing limit phone line.

#### **7.6.1-3 Quota Management: Modification of Sub-Period Allocations**

With regard to all species-specific quota management programs set forth in this Part:

1. Any unused portion of an allocation for a sub-period will be equally distributed to the allocation(s) for the remaining sub-period(s) in the same calendar year.
2. Any over-harvest of an allocation for a sub-period will be equally deducted from the allocation(s) for the remaining sub-period(s) in the same calendar year.
3. Any over-harvest of an allocation for a sub-period shall be deducted from the allocation for the same sub-period in the following calendar year, and the percentage deduction will be equally distributed to the allocations for the other sub-periods in the following calendar year.

#### **7.6.2 Minimum Fish Sizes**

~~7.6 Minimum sizes, other species -- Except as specifically noted, no person shall possess or take any of the following species which are less than the following minimum size~~

~~AMERICAN PLAICE (DAB): Commercial and Recreational 14"~~

~~ATLANTIC STURGEON: Commercial and Recreational – no possession~~  
~~EEL: Commercial and Recreational – 6"~~  
~~HADDOCK: Commercial and Recreational – 19"~~  
~~POLLOCK: Commercial and Recreational – 19"~~  
~~SCUP: Commercial – 9" and Recreational – 10 1/2". Floating trap fishermen may possess undersize scup provided they are not sold, bartered, traded, and exchanged, but following culling, are taken to sea and released back into the water.~~  
~~WEAKFISH (SQUETEAGUE): Commercial and Recreational – 16"~~  
~~WITCH FLOUNDER (GRAY SOLE): Commercial and Recreational – 14"~~  
~~YELLOWTAIL FLOUNDER: Commercial and Recreational – 13"~~  
~~All minimum sizes for the above listed fish shall be measured as total length (from tip of snout to tip of tail).~~  
~~(RIMFC REGULATION) [Penalty – Part 3.3; (RIGL 20-3-3)]~~

No person or vessel fishing commercially may possess or land any of the following species, or parts thereof, that measure less than the specified minimum sizes, whether caught within the jurisdiction of this State or otherwise. All minimum sizes pertain to total length, that is, the straight linear distance from the tip of the snout to the end of the tail, unless otherwise indicated.

American Eel: 6 inches

American Plaice (Dab): 14 inches

Black Sea Bass: 11 inches

Cod: 22 inches

Haddock: 19 inches

Monkfish: 17 inches total length; 11 inches tail length

Pollock: 19 inches

Scup: 9 inches

Floating fish trap fishermen may possess undersize scup provided they are not sold, bartered, traded, or exchanged, but following culling, are taken to sea and released back into the water.

Striped Bass:

Summer Flounder (Fluke): 14 inches

Tautog: 16 inches

Weakfish: 16 inches

Winter Flounder: 12 inches

Witch Flounder (Gray Sole): 14 inches

Yellowtail Flounder: 13 inches

### **7.6.3 Prohibited Species**

~~7.13 Atlantic Sturgeon – Moratorium on Harvest -- No harvest or possession of Atlantic Sturgeon will be permitted within the territorial waters of the State of Rhode Island until further notice. (RIMFC REGULATION) [Penalty – Part 3.3(RIGL 20-3-3) (RIGL 20-6-29)]~~

~~7.17 American Shad – The commercial harvesting, landing, or possession of American Shad (*Alosa sapidissima*) within the State of Rhode Island and its territorial waters is prohibited. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 30-3-3)]~~

~~7.20 River Herring – No person shall land, catch, take, or attempt to catch or take any alewives, *Alosa pseudoharengus* or blueback herring *Alosa aestivalis*, from any marine waters of the State of Rhode Island. Possession of any alewives or blueback herring at any time is prohibited and shall be evidence that said herring was taken in violation of this section. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 30-3-3)]~~

No person or vessel may possess or land any of the following species:

Atlantic Sturgeon

American Shad

River Herring (Alewives, Blueback Herring)

## 7.6.4 Species-Specific Management Programs

### 7.6.4-1 SUMMER FLOUNDER (FLUKE)

*The following is a complete, verbatim summary of all current commercial fishing regulations in Part VII pertaining to summer flounder:*

~~7.7 Fluke (Summer Flounder) -- No person commercially licensed under RIGL 20-2-27 or RIMFC Part II shall possess or harvest any fluke which is less than fourteen (14) inches total length. A total annual statewide quota for fluke will be established. It shall be the most recent allocation established for the State by the Atlantic States Marine Fisheries Commission 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 R.I. Marine Fisheries Council. In order to provide for the orderly harvest of the quota the R.I. Marine Fisheries Council has established the following sub-period allocations:~~

#### 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 100 pounds, or the poundage as provided in this part, of summer flounder during the period from January 1 through 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 and running through the Saturday of the first full week in April 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 1,000 pounds in any calendar week period so long as the total landed by that vessel does not exceed 1,000 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. On the Sunday of the first full week in April or when 80% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), whichever occurs first, 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.~~

- ~~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 for vessels which possess a valid state of Rhode Island Summer Flounder Exemption Certificate. On the Sunday of the first full week in April or when 80% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), whichever occurs first, the possession limit per vessel 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 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.
- ~~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 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. and/or Part 7.11 Scup Regulation 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 (401-423-1943) 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 Rd 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) The operator of any vessel permitted for the aggregate landing program shall only sell summer flounder to a dealer who is certified on a list maintained by the Division of Fish and Wildlife as a Standard Atlantic Fisheries Information System (SAFIS) dealer. A certified SAFIS dealer shall be defined as a dealer who is linked to the SAFIS reporting system and has demonstrated to the satisfaction of the Division of Fish and Wildlife its ability to make timely reports to the requisite governmental entities. A list of certified SAFIS dealers will be furnished to all permitted fishermen. A certificate attesting to the dealer's designation shall be posted through the Winter I Period at the dealer's facility.~~
- ~~(5) The information recorded by the SAFIS reporting system referenced in section (4) of this part 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) The State's 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.~~
- ~~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 20-3-3) 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 20-3-3) 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.~~

~~7.7.1-1.1 Any dealer which possesses a valid license to barter or trade in summer flounder may apply for a certification from the Division of Fish and Wildlife that it is qualified to purchase summer flounder from any vessel which is permitted by 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 and running through the Saturday of the last full week in April or until the program is terminated as provided in this part. A dealer is prohibited from purchasing or otherwise acquiring summer flounder from a permitted vessel during the above described period unless the dealer has applied to the Division for and obtained certification as a dealer who is certified on a list maintained by the Division as a Standard Atlantic Fisheries Information System (SAFIS).~~

- ~~a. An applicant dealer shall be considered eligible to be certified as a Standard Atlantic Fisheries Information System (SAFIS) Dealer if it signs a letter of agreement with the Division of Fish and Wildlife and the Division of Law Enforcement. A dealer who wishes to participate has the opportunity to sign the letter furnished by the Division of Fish and Wildlife during the month of December of the preceding year. The dealer must also satisfy each of the following criteria:~~
- ~~(1) The applicant dealer shall apply to the Division of Fish and Wildlife for the issuance of such certification to acquire summer flounder from vessel permitted in the in the aggregate landing program for summer flounder described in Part 7.7.1-1;~~
  - ~~(2) The applicant dealer shall present evidence that it possesses a valid, current license to barter or trade in summer flounder;~~
  - ~~(3) The applicant dealer shall demonstrate to the satisfaction of the Division its ability to make timely reports to the requisite governmental entities utilizing the SAFIS reporting system; and~~
- ~~b. The applicant dealer shall execute a written agreement with the Division attesting to the fact that dealer shall strictly adhere to each of the following requirements:~~

- ~~(1) The dealer certified as a SAFIS dealer shall file timely reports of acquisitions of summer flounder to all required governmental entities employing the SAFIS reporting system.~~
- ~~(2) The dealer shall display its certification attesting to its designation as a SAFIS dealer at the dealer's facility.~~
- ~~(3) Should the dealer be terminated as SAFIS certified dealer, the dealer shall so advise permitted vessels of such termination prior to acquiring any summer flounder from such vessels.~~

~~c. Non-compliance with the provisions of these regulations or the dealer 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 dealer to commercially sell fish shall be suspended for the same calendar time period as described in the current Winter I period upon adjudication.~~

~~Additionally, the dealer shall be subject to the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) 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".~~

~~d. 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 certification agreement, the dealer 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 dealer 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 certification agreement as well as the termination of certification and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) as well as the ineligibility to reapply for~~

~~certification 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 dealer certification as a SAFIS certified dealer 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 9(a) or 9(b) must be received by with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 with the time period indicated.~~

~~7.7.1-2 Summer Sub-Period: May 1 – October 31 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.~~

~~Beginning June 1, in each calendar week it will be prohibited to commercially possess, sell, or land summer flounder during the two-day period beginning at 12:00 AM on Friday and ending at 11:59 PM on Saturday.~~

- ~~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 350 pounds in any calendar week period so long as the total landed by that vessel does not exceed 350 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 Thursday 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.~~

~~**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.~~

~~**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 Rd 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) The operator of any vessel permitted for the aggregate landing program shall only sell summer flounder to a dealer who is certified on a list maintained by the Division of Fish and Wildlife as a Standard Atlantic Fisheries Information~~

~~System (SAFIS) dealer. A certified SAFIS dealer shall be defined as a dealer who is linked to the SAFIS reporting system and has demonstrated to the satisfaction of the Division of Fish and Wildlife its ability to make timely reports to the requisite governmental entities.~~

~~(5) The information recorded by the SAFIS reporting system referenced in section (4) of this part 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) The State's 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.~~

~~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 20-3-3) 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 20-3-3) 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.~~

~~7.7.1-4 Fall Sub-Period: November 1 - 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 225 pounds per calendar day. 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.~~

#### 7.7.2 Summer flounder Trip Limits (possession limit)

~~7.7.2-1 Repealed 5/11/01~~

~~7.7.2-2 The possession limit may vary from the amount specified in sections 7.7.1-1 through 7.7.1-4. Fish and Wildlife, after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time remaining in the sub-period, Fish and Wildlife will decide whether the possession limit should be decreased or increased. Fish and Wildlife will file a notice with the Secretary of State's Office if the rate is changed, and publish a news release announcing the change in a newspaper of daily circulation throughout the State.~~

~~[Effective April 14, 2007 at 12:01 AM the commercial summer flounder fishery will be closed until the next sub-period which begins on May 1, 2007 with a possession limit of 100 pounds per vessel per calendar day.~~

~~7.7.3 Summer flounder Mesh Regulations — Otter trawlers that land or possess 100 pounds (45.4 kg) or more of summer flounder from May 1 through October 31; or 200 pounds (90.8 kg) or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and codend portion of the net.~~

#### 7.7.5 Summer flounder Dealer/Shipping/Transfer/Reporting Regulations/Penalty --

~~7.7.5-1 Prohibition on the transfer of Summer flounder -- No Summer flounder (Paralichthys dentatus), may be purchased, bartered, or sold within the State of Rhode Island unless marked, processed, shipped, labeled, and handled in accordance with the following rules:~~

~~a. All persons are prohibited from transferring or attempting to~~

~~transfer at sea summer flounder from one vessel to another vessel, and the licensed person in charge of the vessel may only transfer summer flounder to dealers who possess a valid Rhode Island Dealer's License.~~

- ~~b. No licensed person in charge of the vessel may land summer flounder after 8:00 PM or prior to 6:00 AM. The legal hours for landing summer flounder are from 6:00 AM to 8:00 PM only.~~
- ~~c. The licensed person in charge of the vessel pursuant to RIGL Title 20-2 must notify the Rhode Island Office of Law Enforcement (401) 222-2284 or 222-3070 at least one hour prior, but not more than six hours prior, to offloading any commercial vessel which possesses more than 200 pounds of summer flounder or the maximum allowable possession limit or the lesser thereof. Said notice shall be provided by the vessel who will be involved in the transfer and must include the name of the dealer, the name of the vessel, the landing time, and the precise landing location.~~
- ~~d. All summer flounder must be weighed prior to the removal of the summer flounder from the dealer's premises or from the point of transfer.~~
- ~~e. The weight scales must be certified in accordance with Rhode Island law RIGL, Chapter 47-1.~~
- ~~f. All summer flounder may only be shipped out of state in standard 60 or 100 pound cartons (containers) unless specific prior written authorization is requested and received from the Rhode Island Office of Law Enforcement, 83 Park St., Providence, RI 02903.~~
- ~~g. Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations~~

**7.7.5-2 License Suspension:**

- ~~a. In addition to the penalty prescribed in RIGL 20-1-16, the license of any person who refuses or neglects to make the report required herein will be suspended by the Director. The license of any person who knowingly or willfully makes a false report or violates any provision of these regulations may be suspended for a period not to exceed one year.~~
- ~~b. The Director has determined that non-compliance with these regulations seriously threatens the proper management of the available stock of summer flounder and, thus, the general welfare as represented that it is appropriate to suspend the license of alleged violators pending formal suspension or revocation hearing arising from the alleged violation.~~
- ~~c. No person shall take, sell, or possess within this state any summer flounder which have not been taken in compliance with the provisions of this regulation. Any summer flounder which~~

~~the Director shall have reasonable cause to believe have not been taken in compliance with the provisions of RIGL Title 20 and the regulations adopted in accordance therewith shall be confiscated and sold by the Department of Environmental Management.~~

~~(RIMFC REGULATION) [Penalty – Part 3.3; (RIGL 20-3-3)]~~

~~**7.7.6 Moratorium on the Landing of Summer Flounder** -- No person shall possess, land, sell, or offer for sale in excess of two hundred (200) pounds of summer flounder *Paralichthys dentatus*, in any calendar day, in the State of Rhode Island or the jurisdictional waters of the state without a summer flounder exemption certificate issued by Fish and Wildlife and a valid Rhode Island commercial fishing license. Application for a summer flounder exemption permit must be received by Fish and Wildlife prior to January 1, 1997.~~

~~**7.7.7 Exemption Certificates** -- Fish and Wildlife will issue an exemption certificate for a vessel if the owner of the vessel or his/her representative applies to Fish and Wildlife prior to January 1, 1997, for the issuance of such a certificate and demonstrates to the satisfaction of the Director that:~~

~~**7.7.7-1** the operator of the vessel possesses a valid Rhode Island commercial fishing license to land summer flounder up to the amount permitted by the Rhode Island Marine Fisheries Council regulations; and~~

~~**7.7.7-2** the subject vessel meets any of the following criteria:~~

~~a. the vessel was operated by a person who possessed a valid Rhode Island commercial fishing license and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992; or~~

~~b. the vessel fished exclusively in the Exclusive Economic Zone (EEZ) and landed and sold in excess of one pound of summer flounder to a licensed Rhode Island licensed dealer sometime during the period January 1, 1987, through December 31, 1992. The Department may require additional supporting documents including but not limited to the ship's logs, ice and fuel slips; or~~

~~c. the vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and sold in~~

~~excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss; or~~

~~d. the vessel replaces a vessel which fished exclusively in the EEZ and landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer, during the period January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss.~~

~~e. If the vessel is replacing a vessel that was lost by sinking or was otherwise destroyed, documentation must be presented from a licensed insurance company, U.S. Coast Guard report, or some other valid evidence of ownership to the satisfaction of the Director.~~

~~**7.7.8 Application for Certificate of Exemption** -- A vessel is eligible to receive a Rhode Island Summer Flounder Exemption Certificate if it meets the following conditions. The applicant applying for an exemption certificate shall:~~

~~**7.7.8-1** provide Fish and Wildlife with a copy of the operator's valid current Rhode Island commercial fishing license or non-resident landing license, and Federal Fluke Permit if the summer flounder is to be taken in the Exclusive Economic Zone (EEZ); and~~

~~**7.7.8-2** submit a completed notarized application for said certificate; and~~

~~**7.7.8-3** submit proof that the vessel meets the requirements set out in 7.7.7 and~~

~~**7.7.8-4** provide a completed notarized waiver authorizing the Department to access records verifying that this vessel and operator meet the criteria set forth in 7.7.7; and~~

~~**7.7.8-5** provide Fish and wildlife with a copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel.~~

~~**7.7.9 Submission of Application** -- Application for an exemption~~

~~certificate shall be mailed or submitted prior to January 1, 1997 to the office of Fish and Wildlife at: Oliver Stedman Government Center, 4808 Tower Hill Rd., Wakefield, RI 02879, Attention: Fluke Exemption.~~

**7.7.10 ~~Transfer of Rhode Island Summer Flounder Certificate of Exemption—~~**

~~Any Certificate of Exemption issued by the Division is only valid for the vessel to which it is issued. A vessel may be sold with all certificates, permits (state and federal) and history transferred together or without the certificates, permits (state and federal) and history for purposes of replacing the vessel. In instances when a vessel owner retains all certificates, permits, and history they must be applied to a replacement vessel owned by said individual within ninety (90) days.~~

- ~~(a) Change in ownership: A Certificate of Exemption is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. Individuals who purchase a vessel issued a Certificate of Exemption must supply credible written evidence verifying that they are the full owner of said vessel. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.~~
- ~~(b) Replacement Vessels: A vessel owner wishing to transfer a Certificate of Exemption issued by the Division must apply to the Division for approval and provide to the satisfaction of the Division of Fish and Wildlife proof that the applicant vessel is replacing a vessel which has been removed from the Summer Flounder Exemption Program (as described in 7.7.6)~~
- ~~(1) The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's Certificate of Exemption for purposes of replacing the vessel. If a vessel owner elects to sever the Certificate of Exemption from a vessel, the Certificate of Exemption may be transferred only to another vessel fully owned by said vessel owner. Proof of full ownership of both vessels is required. Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.~~

~~(2) Vessel permits (state and federal), Certificates of Exemption, and fishing history cannot be split.~~

~~(3) Certificates of Exemption may not be combined to create larger replacements vessels.~~

~~(4) The replacement vessel may not exceed a 10 percent increase in length overall (LOA), a 10 percent increase in gross registered tonnage (GRT) or net tonnage (NT), or a 20 percent increase in horsepower of the vessel's baseline specifications, as applicable.~~

~~(5) Vessel baseline specifications: The vessel baseline specifications in this section are the respective specifications (length, gross registered tonnage, net tonnage, horsepower) of the vessel that was initially issued a Certificate of Exemption.~~

~~(6) A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain a Certificate of Exemption, only if the upgrade complies with the following:~~

- ~~i. The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.~~
- ~~ii. The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.~~

~~(c) Certificates of Exemption or permits may not be:~~

- ~~(1) pledged, mortgaged, leased, or encumbered in any way;~~
- ~~(2) transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer;~~
- ~~or~~
- ~~(3) attached, distrained, or sold on execution of judgment.~~

~~(RIMF REGULATION) [Penalty – Part 3.3; (RIGL 20-3-3)]~~

#### 7.6.4-1 SUMMER FLOUNDER (FLUKE)

***The following is the proposed re-write of the commercial fishing regulations for the summer flounder fishery for Part VII:***

- a. **Minimum Mesh Size** – Otter trawlers that land or possess 100 pounds or more of summer flounder per trip from May 1 through October 31<sup>st</sup>, or 200 pounds or more of summer flounder per trip from November 1 through April 30, must fish with nets or combinations of nets that have a minimum mesh size of 5.5 inch (14.0 cm) diamond, or 6 inch (15.2 cm) square mesh applied throughout the body, extension(s) and codend portion of the net.
- b. **Offloading** – No summer flounder may be offloaded between the hours of 8:00 PM and 6:00 AM.
- c. **Quota Management --** A total annual state quota for summer flounder will be established. It shall be the most recent allocation established for the State by the ASMFC and/or the Secretary of the U.S. Dept. of Commerce and published in the Federal Register. In order to provide for the orderly harvest of the quota, and to allow for the implementation of a one-year research program involving sector allocation, the State's summer flounder quota for 2009 will be managed as follows:

A portion of the quota will be set aside for research purposes -- namely, a one-year sector allocation pilot program for 2009, administered in accordance with the terms and conditions set forth in sub-section 7.6.4-1(c)(2) herein. The remaining portion of the quota – hereinafter referred to as the modified annual state quota -- will be made available for harvest by all fishermen and vessel holding valid and applicable commercial fishing licenses and/or landing permits, and who are not participating in the sector allocation pilot program, in accordance with the sub-period schedules, allocations, and possession/landing limits set forth below in sub-section 7.6.4 -1(c)(1)

#### 1. **Sub-Periods and Possession/Landing Limits**

##### i. **Winter Sub-Period**

A. **Dates:** January 1 - April 30 annually.

B. **Target Allocation:** 54% of the modified annual state quota.

##### C. **Possession/Landing Limits**

- I. From January 1 through the ~~Sunday~~ Saturday of the first full week in February: 100 pounds per vessel per day.
- II. From the Sunday of the first full week in February until the aggregate landing program ends for the sub-period: 1,000 pounds per vessel per week. No vessel may possess or land, at any one time or cumulatively, more than the weekly possession/landing limit during the 7-day period.
- III. From the day after the aggregate landing program ends for the sub-period

until April 30: 100 pounds per vessel per day.

**D. Ending of Aggregate Landing Program**

- I. The aggregate landing program for the sub-period will continue until the Saturday of the first full week of April, or until 80% of the allocation of the winter sub-period is harvested, as determined by the Division, whichever occurs first.
- II. A decision to end the aggregate landing program prior to the Saturday of the first full week in April, based on a determination that 80% of the sub-period allocation has been harvested, will be implemented by the Division by filing a notice with the Secretary of State's Office. The termination will become effective upon filing. At least forty-eight hours prior to the filing, the Division will announce the termination via one or more of the following public notice procedures: a faxed notice to dealers, a posting on the Department's website (marine fisheries page), a listserve-email announcement, and/or a voice recording placed on the Division's possession/landing limit phone line.

ii. **Summer Sub-Period**

- A. **Dates:** May 1 – October 31 annually.
- B. **Target Allocation:** 35% of the [modified](#) annual state quota.
- C. **Closed Days:** From June 1 through October 31, no one may commercially possess, land, or sell summer flounder during Friday and Saturday of each week.

**D. Possession/Landing Limits**

- I. For vessels not enrolled in the aggregate landing program for summer flounder during the summer sub-period: 100 pounds per vessel per day.
- II. For vessels enrolled in the aggregate landing program for summer flounder during the summer sub-period:

From May 1 through May 31: 100 pounds per vessel per day.

From June 1 (or on the first Sunday following June 1 if June 1 occurs on a Friday or Saturday) until the program ends for the summer sub-period: 350 pounds per vessel per fishing week -- i.e., per the 5-day period beginning on Sunday at 12:00 AM and ending on Thursday at 11:59 PM. No vessel may possess or land, at any one time or cumulatively, more than the applicable possession/landing limit during the 5-day period.

From the day after the program ends for the summer sub-period (if prior to October 31) until October 31: 100 pounds per vessel per day.

**E. Aggregate Landing Program - Eligibility**

- I. No vessel may participate in the aggregate landing program for the summer sub-period unless the owner of the vessel has first applied for and received a summer flounder aggregate landing program permit from the Division. No vessel may operate under more than one permit during any individual sub-period.
- II. The vessel must be operated by the holder of a valid and applicable RI commercial fishing license and/or landing permit.
- III. The vessel must not have landed more than one hundred (100) pounds of summer flounder in Rhode Island in any one day during the immediately preceding winter sub-period.
- IV. Once issued, an aggregate program permit shall remain valid until the aggregate program ends for the summer sub-period, or until the permit holder terminates enrollment in the program, whichever occurs first. To terminate enrollment in the program, the permit holder must provide written notice to the Division; the termination shall take effect on the ~~Saturday~~ Sunday following receipt of the written notice by the Division.

**F. Ending of Aggregate Landing Program**

- I. The aggregate landing program for the sub-period will continue until October 31 (or until the Thursday preceding October 31 if October 31 falls on a Friday or Saturday), or until 80% of the allocation of the winter sub-period is harvested, as determined by the Division, whichever occurs first.
- II. A decision to end the aggregate landing program prior to October 31, based on a determination that 80% of the sub-period allocation has been harvested, will be implemented by the Division by filing a notice with the Secretary of State's Office. The termination will become effective upon filing. At least forty-eight hours prior to the filing, the Division will announce the termination via one or more of the following public notice procedures: a faxed notice to dealers, a posting on the Department's website (marine fisheries page), a listserve-email announcement, and/or a voice recording placed on the Division's possession/landing limit phone line.

**iii. Fall Sub-Period**

- A. Dates: November 1 – December 31 annually.
- B. Target Allocation: 11% of the [modified](#) annual state quota.
- C. Possession/Landing Limit: 225 pounds per vessel per day.

**2. [Sector Allocation Pilot Program for 2009](#)**

**[\[Insert; pending adoption\]](#)**

## 7.6.4-2 SCUP

*The following is a complete, verbatim summary of all current commercial fishing regulations in Part VII pertaining to scup:*

~~7.11 Scup Regulations – Minimum Size – 9" total length (TL) – It is unlawful for any person commercially licensed under RIGL 20-2-27 or RIMFC Part II, to land or possess any scup, or parts thereof, that do not meet this size limit. [see Part 10.12 for gear roller regs] (RIMFC REGULATION) [Penalty- Part 3.3 (RIGL 20-3-3) (RIGL 20-6-29)]~~

~~7.11.1 Scup – Commercial Quota – A total allowable harvest of scup will be established annually, and shall be that amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the Atlantic States Marine Fisheries Commission. The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the Rhode Island Marine Fisheries Council. To provide for the orderly harvest of the quota, the Rhode Island Marine Fisheries Council has established the following sub-period allocations.~~

~~7.11.2 Scup Commercial Quota – Sub-Periods~~

~~7.11.2-1 Winter Period I (January-April)–~~

- ~~a. Any vessel which possesses a valid federal scup moratorium permit if harvesting scup from federal waters; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land scup for commercial purposes in Rhode Island may opt to apply to obtain a permit from the Division of Fish and Wildlife in the biweekly trip limit program for scup during the Winter I period beginning on January 1 and running through April 30 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 scup in any amount between 0 and 30,000 pounds in any two calendar week period so long as the total landed by that vessel does not exceed 30,000 pounds in any two calendar week period. It shall be unlawful for the cumulative landings to exceed the biweekly trip limit. The two calendar week period shall begin on Sunday at 12:00 AM and ends on the second following Saturday at 11:59 PM. On April 30 or when 80% of the Winter I scup quota has been harvested as~~

determined by the National Marine Fisheries Service (NMFS), whichever first occurs, the program will terminate and the possession limit per vessel will be 1,000 pounds per calendar day.

~~b.~~ The commercial possession limit of scup for vessels that are not permitted for the biweekly trip limit program shall be 2,000 pounds per trip. It shall be unlawful for any person operating a vessel that is not permitted to participate in the biweekly trip limit program to land more than 2,000 pounds of scup in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day.

~~c.~~ An applicant vessel shall be considered eligible for a permit to participate in the biweekly trip limit program for scup by demonstrating to the satisfaction of the Division that it satisfies each of the following criteria:

~~(1) The vessel if harvesting scup from federal waters possesses a valid federal scup moratorium permit, or, if harvesting exclusively in State waters, the vessel's operator possesses a valid license to harvest or land scup for commercial purposes in Rhode Island;~~

~~(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 scup 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. and/or Part 7.11 Scup Regulation et al. or more than one marine fisheries violation~~

~~d.~~ 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 ending the biweekly period following the receipt of the 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 (401-423-1943) 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 Rd 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 biweekly trip limit permit.~~
- ~~(4) The operator of any vessel permitted for the biweekly trip limit program shall only sell scup to a dealer who is a certified on a list maintained by the Division as a Standard Atlantic Fisheries Information System (SAFIS) dealer. A certified SAFIS dealer shall be defined as a dealer who is linked to the SAFIS reporting system and has demonstrated to the satisfaction of the Division its ability to make timely reports to the requisite governmental entities. A list of certified SAFIS dealers will be furnished to all enrolled fishermen. A certificate attesting to the dealer's designation shall be posted through the Winter I Period at the dealer's facility.~~
- ~~(5) The information recorded by the SAFIS reporting system referenced in section [d. (4)] of this part shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the amount of scup landed by a specific vessel during a two calendar week period.~~
- ~~(6) The State's 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 scup were landed.~~
- ~~e. 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 owner(s) and operator(s) privilege to commercially fish will be suspended for the same calendar time period as described in the current Winter I period upon adjudication.~~

~~Additionally, imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) 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".~~

~~f. 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 20-3-3) 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 permitted for the biweekly trip limit program for scup 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.~~

~~7.11.2-1.1 Any dealer which possesses a valid license to barter or trade in scup may apply for a certification from the Division of Fish and Wildlife that it is qualified to purchase scup from any vessel which is enrolled by the Division of Fish and Wildlife in the biweekly trip limit program for scup during the Winter I period beginning January 1 through April 30 or until the program is terminated as provided in this part. A dealer is prohibited from purchasing or otherwise acquiring scup from a permitted vessel during the above described period unless the dealer has applied to the Division for and obtained certification as a dealer who is certified on a list maintained by the Division as a Standard Atlantic Fisheries Information System (SAFIS).~~

- ~~a. An applicant dealer shall be considered eligible to be certified as a Standard Atlantic Fisheries Information System (SAFIS) Dealer if it signs a letter of agreement with the Division of Fish and Wildlife and the Division of Law Enforcement. A dealer who wishes to participate has the opportunity to sign the letter furnished by the Division of Fish and Wildlife during the month of December of the preceding year. The dealer must also satisfy each of the following criteria:~~

- ~~(1) The applicant dealer shall apply to the Division of Fish and Wildlife for the issuance of such certification to acquire scup from vessels permitted for the biweekly trip limit program for scup described in Part 7.11.2-1;~~
- ~~(2) The applicant dealer shall present evidence that it possesses a valid, current license to barter or trade in scup;~~
- ~~(3) The applicant dealer shall demonstrate to the satisfaction of the Division its ability to make timely reports to the requisite governmental entities utilizing the SAFIS reporting system; and~~

~~b. The applicant dealer shall execute a written agreement with the Division attesting to the fact that dealer shall strictly adhere to each of the following requirements:~~

~~(1) The dealer certified as a SAFIS dealer shall file timely reports of acquisitions of scup to all required governmental entities employing the SAFIS reporting system.~~

~~(2) The dealer shall display its certification attesting to its designation as a SAFIS dealer at the dealer's facility.~~

~~(3) Should the dealer be terminated as a SAFIS certified dealer, the dealer shall so advise permitted vessels of such termination prior to acquiring any scup from such vessels.~~

~~c. Non-compliance with the provisions of these regulations or the dealer 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 dealer to commercially sell fish shall be suspended for the same calendar time period as described in the current Winter I period upon adjudication.~~

~~Additionally, the dealer shall be subject to the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) 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".~~

~~d. 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 certification agreement, the dealer 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 dealer 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 certification agreement as well as the termination of~~

~~certification and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) as well as the ineligibility to reapply for certification 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 dealer certification as a SAFIS certified dealer 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 9(a) or 9(b) must be received by with the clerk of Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 with the time period indicated.~~

~~Winter Period II (November-December) -- possession and landing limit is 3,500 pounds, decreasing to 500 pounds once 70% of the period quota is landed.~~

~~7.11.2-2 Summer-Fall Period (May - October) A state quota for scup will be established annually for the Summer-Fall period and shall be the most recent amount allocated to the State of Rhode Island by the Atlantic States Marine Fisheries Commission and/or the Secretary of the U.S. Department of Commerce and published in the Federal Register. The total quota for will be divided as follows:~~

~~FLOATING TRAPS licensed by the state of Rhode Island – Sixty percent (60%) of the Summer-Fall period quota will be allocated to the floating trap harvesting sector. Twelve percent (12%) of the floating fish trap sector quota will be set aside at the beginning of the season annually. The quota allocated to the floating trap sector will be available during the following sub-periods:~~

~~APRIL 15 – October 31: During those years in which the Winter I federal coastwide scup quota allocation is completely exhausted~~

~~prior to April 15, the floating fish trap quota will be available on April 15. The possession limit will be 25,000 pounds per fish trap licensee\* per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota (minus the set aside) has been harvested~~

~~MAY 1 – OCTOBER 31: During those years in which the Winter I federal coastwide scup quota allocation is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be 25,000 pounds per fish trap licensee\* per calendar day. Once ninety percent (90%) of the sub-period allocation is projected to be harvested, the possession limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota (minus the set aside) has been harvested.~~

~~Annually, on June 7 the twelve percent (12%) set aside will become available at a possession limit of 5,000 pounds per fish trap licensee per calendar day. When 30,000 pounds of the set aside remains, the possession limit will drop to 300 pounds per fish trap licensee per calendar day until the entire set aside has been completely harvested. If on June 7th the 90% quota trigger has not been hit, the possession limit will remain at 25,000 pounds per fish trap licensee per calendar day until that level is reached and then will follow the schedule as set forth above.~~

~~Annually, no later than August 1, the unharvested portion of the floating fish trap quota shall be made available to all gear types upon consultation with the floating fish trap industry representatives.~~

~~\* “Fish trap licensee” – for purposes of this section, fish trap licensee shall refer to a resident person or resident corporation currently issued a license pursuant to RI General Laws §20-5-2. The maximum possession limit per fish trap licensee shall be the amount set forth above regardless of the number of authorized trap locations, the number of vessels or the number of licensed fishermen who may be working for or may enter into contract with the fish trap licensee. While engaged in the operation of a fish trap, any licensed fisherman that may be working for or may enter into contract with the fish trap licensee waives any individual right to possess scup pursuant to a possession limit set out in RIMF Regulations Part 7.11.2-2. Dealers must comply with the reporting requirements as set forth in~~

~~section 19.14 of the RI Marine Fisheries Regulations~~

~~GEAR TYPES OTHER THAN FLOATING FISH TRAPS – Forty percent (40%) of the Summer- Fall period quota will be allocated to all gear types except floating fish traps. The quota allocated to the other gear type sector will be available during the following sub-periods.~~

~~MAY - JUNE: One-third (1/3) of the other gear type quota will be available from May 1 through June 30. The possession limit will be reduced at the discretion of the Division. The fishery will close once the entire period allocation is projected to be harvested.~~

- ~~a. Beginning May 1 any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 2,500 pounds in any calendar week period from May 1 through June 30 so long as the total landed by that vessel does not exceed 2,500 pounds in any calendar week period. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the May 1 through June 30 sub-period scup quota has been harvested as determined by the Division of Fish and Wildlife (Division) the fishery will close. The fishery will restart at the beginning of the July 1 through September 15 sub-period, and will be administered as set forth in this part. The Division may adjust the possession limit during the May through June sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.
  - ~~(1) 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 scup landed by a specific vessel during a calendar week.~~
  - ~~(2) The State's 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 scup were landed. The vessel must have all reports dating back to May 1st on board the vessel.~~~~
- ~~b. Non-compliance with the provisions of these regulations shall subject both the owner and the operator to revocation of participation in the commercial fisheries for the subsequent May through June sub period fishery. If for any reason a May through June 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 May through June 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 20-3-3) 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".~~

- ~~c. 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 the owner and/or operator of the 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 as well as the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3).~~
- ~~(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 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.~~

~~JULY – SEPT. 15: One-third (1/3) of the other gear type quota will be available from July 1 through September 15.~~

- ~~a. Beginning July 1 any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 250 pounds in any calendar week period from July 1 through September 15 so long as the total landed by that vessel does not exceed 250 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 the July 1 through September 15 sub period scup quota has been harvested as determined by the Division the fishery will close. The fishery will restart at the beginning of the September 16 through October 31 sub period, and will be administered as set forth in this part. The Division may adjust the possession limit during the July through September 15 sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.~~

~~(1) 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 scup landed by a specific vessel during a calendar week.~~

~~(2) The State's 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 scup were landed. The vessel must have all reports dating back to May 1st on board the vessel.~~

- ~~b. Non-compliance with the provisions of these regulations shall subject both the owner and the operator to revocation of participation in the commercial fisheries for the subsequent July through September 15 sub period fishery. If for any reason a July through September 15 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 July through September 15 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 20-3-3) 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".~~

~~c. 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 the owner and/or operator of the 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 as well as the the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3).~~

~~(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 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.~~

~~SEPT. 16 – OCTOBER 31: One-third (1/3) of the other gear type quota will be available from September 16 through October 31. Annually, on October 15, or thereafter, the Division may increase the possession limit if they project the entire quota will not be harvested by the end of the sub-period. Any unused portion of a sub-period allocation will be divided~~

~~between the two remaining period(s). The DFW will have the discretion of adjusting trip limits upwards or downwards as necessary.~~

- a. ~~Beginning September 16 any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 250 pounds in any calendar week period from September 16 through October 31 so long as the total landed by that vessel does not exceed 250 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 the September 16 through October 31 sub period scup quota has been harvested as determined by the Division of Fish and Wildlife (Division) the fishery will close. The fishery will restart at the beginning of the Winter 2 fishery as set forth in this part. The Division may adjust the possession limit during the September 16 through October 31 sub-periods based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.~~

~~(1) 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 scup landed by a specific vessel during a calendar week.~~

~~(2) The State's 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 scup were landed. The vessel must have all reports dating back to May 1st on board the vessel.~~

- b. ~~Non-compliance with the provisions of these regulations shall subject both the owner and the operator to revocation of participation in the commercial fisheries for the subsequent September 16 through October 31 sub period fishery. If for any reason a September 16 through October 31 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 September 16 through October 31 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 20-3-3) 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".~~

~~c. 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 the owner and/or operator of the 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 as well as the the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3).~~

~~(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 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.~~

~~7.11.2-3 Possession Limit Adjustments -- Fish and Wildlife, after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time~~

~~remaining in the sub-period, Fish and Wildlife will decide whether the possession limit should be decreased or increased. Fish and Wildlife will file a notice with the Secretary of State's Office if the rate is changed and publish a news release announcing the change. The rate may be modified by Fish and Wildlife upon providing such notification with the possession limit altered between a range of 0-10,000 pounds in possession.~~

~~**7.11.3 Scup - Reporting Requirement -- Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations**~~

~~**7.11.5 Scup - Scup Dealer/Shipping/Transfer/Reporting Regulations**~~

~~**7.11.5-1 Prohibition on the transfer of Scup -- No Scup, *Stenotomus chrysops*, may be purchased, bartered, or sold within the State of Rhode Island unless in compliance with the following:**~~

~~**A. All persons are prohibited from transferring or attempting to transfer scup from one vessel to another vessel while at sea. The licensed person in charge of the vessel may only transfer scup to a dealer licensed by the State of Rhode Island. Dealers are required to be licensed by the R.I. Department of Environmental Management (in compliance with RIGL 20-2-27 (d), or 20-2-28.1).**~~

~~**B. All scup must be weighed prior to the removal of the scup from the dealer's premises or from the point of transfer.**~~

~~**C. The weight scales must be certified in accordance with RIGL, Chapter 47-1.**~~

~~**D. Vessels are only allowed one trip limit in possession per calendar day. In addition, no person may land more than one trip limit in any calendar day. No person shall transport into the State of Rhode Island any scup which is not landed at a port located within the state unless the transaction of the first point of sale is in another state.**~~

~~**E. All dealers are required to record and report all transfers of scup in accordance with the following:**~~

~~**(1) Dealers shall maintain a written record on forms provided by the DFW, or dealer forms, of each scup transaction at their permanent place of business in Rhode Island, or with an authorized agent located in**~~

~~Rhode Island for inspection 8:00 AM – 4:00 PM during the course of normal daily business operations. Records must be available by 10:00 AM on the next business day following the date of landing. Records must be available at the dealer’s or agent’s Rhode Island office for a period of three years.~~

~~(2) The record must include: date of purchase, time of offloading, location of purchase, the vessel name, the name and license number of the Rhode Island license holder and the amount of scup transferred.~~

~~F. Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations~~

#### 7.11.5-2 License Suspension

~~A. In addition to the penalty prescribed in RIGL 20-1-16, the license of any person who refuses or neglects to make the report required herein will be suspended by the Director. The license of any person who knowingly or willfully makes a false report or violates any provision of these regulations may be suspended for a period not to exceed one year.~~

~~B. The Director has determined that non-compliance with these regulations seriously threatens the proper management of the available stock of scup and thus the general welfare as represented that it is appropriate to suspend the license of alleged violators pending formal suspension or revocation hearing arising from the alleged violation.~~

~~C. No person shall take, sell, or possess within this state any scup which have not been taken in compliance with the provisions of this regulation. Any scup which the Director shall have reasonable cause to believe have not been taken in compliance with the provisions of RIGL Title 20 and the regulations adopted in accordance therewith shall be confiscated and sold by the Department of Environmental Management.~~

~~(RIMFC REGULATION) [Penalty – Part 3.3 (RIGL 20-3-3) (RIGL 20-6-29)]~~

## 7.6.4-2 SCUP

*The following is the proposed re-write of the commercial fishing regulations for the scup fishery for Part VII:*

- a. **Quota Management** – An annual federal scup quota, established for all States by the Regional Fishery Management Council(s), and/or the ASMFC, and/or the Secretary of Commerce, and published in the Federal Register, will be available to appropriately licensed/permitted RI fishermen during the Winter I and Winter II sub-periods; in order to provide for the orderly harvest of the quota, it shall be managed in accordance with the sub-period provisions set forth below. Additionally, an annual state scup quota, established for Rhode Island by the ASMFC and/or the Secretary of Commerce and published in the Federal Register, will be available to all appropriately licensed/permitted RI fishermen during the Summer-Fall sub-period; in order to provide for the orderly harvest of the quota, it shall be managed in accordance with the sub-period provisions set forth below.-

### 1. **Sub-Periods and Possession/Landing Limits**

#### i. **Winter I Sub-Period**

A. **Dates:** January 1 - April 30 annually.

#### B. **Possession/landing limits**

- I. From January 1 until the aggregate landing program ends for the winter sub-period: 30,000 pounds per vessel per two-week period. A two-week period begins on Sunday at 12:00 AM and ends on the second following Saturday at 11:59 AM. No vessel may possess or land, at any one time or cumulatively, more than the bi-weekly possession/landing limit during the 14-day period.
- II. From the day after the aggregate landing program ends for the winter sub-period (if prior to April 30): 1,000 pounds per vessel per day.

#### C. **Ending of Aggregate Landing Program**

- I. The aggregate landing program for the winter sub-period will continue until April 30, or until 80% of the allocation of the winter sub-period is harvested, as determined by the Division, whichever occurs first.
- II. A decision to end the aggregate landing program prior to April 30, based on a determination that 80% of the sub-period allocation has been harvested, will be implemented by the Division by filing a notice with the Secretary of State's Office. The termination will become effective upon filing. At least forty-eight hours prior to the filing, the Division will announce the termination via one or more of the following public notice procedures: a faxed notice to dealers, a posting on the Department's website (marine fisheries page), a listserve-email announcement, and/or a voice recording placed on the Division's possession/landing limit phone line.

ii.

**Summer-Fall Sub-Period**

- A. **Dates:** May 1- October 31 annually.
- B. **Sub-Allocation of Sub-Period Quota:** The overall allocation for the summer-fall sub-period will be sub-allocated, with sixty percent (60%) made available to the floating fish trap harvesting sector and managed in accordance with sub-section (3) below, and forty percent (40%) made available to all gear types except floating fish traps and managed in accordance with subsection (4) below.
- C. **Sub-Period Management Program for Floating Fish Trap Sector**
- I. \***“Fish trap licensee”**— Ffor purposes of this section, fish trap licensee shall refer to a resident person or resident corporation currently issued a license pursuant to RI General Laws §20-5-2. The maximum possession limit per fish trap licensee shall be the amount set forth above regardless of the number of authorized trap locations, the number of vessels, or the number of licensed fishermen who may be working for or may enter into contract with the fish trap licensee. While engaged in the operation of a fish trap, any licensed fisherman that may be working for or may enter into contract with the fish trap licensee waives any individual right to possess scup pursuant to the possession limits set out in RIMF Regulations Part 7.11.2 2 forth elsewhere in Part 7.6.4-2.
- II. **Twelve percent (12%) of the allocation for the floating fish trap harvesting sector will be set aside prior to the start of the season.**
- III. **April 15 – October 31: During those years in which the Winter I federal coastwide scup quota allocation is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. If the (federal) allocation for the Winter I sub-period is fully harvested prior to April 15, the summer-fall sub-period allocation for the floating fish trap harvesting sector will become available to that sector on April 15. The possession/landing limit will be 25,000 pounds per fish trap licensee per calendar day. Once ninety percent (90%) of the sub-period allocation for the floating fish trap harvesting sector is projected to be harvested, the possession/landing limit will be 5,000 pounds per fish trap licensee per calendar day until one hundred percent (100%) of the quota allocation (minus the set aside) has been harvested.**
- IV. **May 1 – October 31: During those years in which the Winter I federal coastwide scup quota allocation is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1. If the (federal) allocation for the Winter I sub-period is not fully harvested prior to April 15, the summer-fall sub-period allocation for the floating fish trap harvesting sector will become available to that sector on May 1. The possession /landing limit will be 25,000 pounds per fish trap licensee per calendar day. Once ninety percent (90%) of the sub-period allocation for the floating fish trap harvesting sector is projected to be harvested, the possession/landing limit will be 5,000 pounds per fish trap licensee per calendar day until one**

hundred percent (100%) of the ~~quota~~ allocation (minus the set aside) has been harvested.

- V. ~~Annually, on~~ On June 7, the twelve percent (12%) set aside will become available to the floating fish trap harvesting sector at a possession/landing limit of 5,000 pounds per fish trap licensee per calendar day. When 30,000 pounds of the set aside remains, the possession/landing limit will drop to 300 pounds per fish trap licensee per calendar day until the entire set aside has been completely harvested one hundred percent (100%) of the set aside has been harvested. If, on June 7, ~~the 90% quota trigger has not been hit of the sub-period allocation for the floating fish trap harvesting sector has not been harvested,~~ the 90% quota trigger has not been hit of the sub-period allocation for the floating fish trap harvesting sector has not been harvested, the possession/landing limit will remain at 25,000 pounds per fish trap licensee per calendar day until ~~that level~~ the 90% threshold is reached and then will follow the schedule as set forth above.
- VI. ~~Annually, no later than August 1, the~~ On or before August 1, any unharvested portion of the floating fish trap quota sub-period allocation for the floating fish trap harvesting sector shall be made available to other gear types, upon consultation with representatives of the floating fish trap harvesting sector industry representatives.

**D. Sub-Period Management Program for Other Gear Types (Except Floating Fish Traps)**

- I. May 1 – June 30: Thirty-three percent (33%) of the summer-fall sub-period allocation for other gear types will become available on May 1. The possession/landing limit will be 2,500 pounds per vessel per week.
- II. July 1 – September 15: Thirty-three percent (33%) of the summer-fall sub-period allocation for other gear types will become available on July 1. The possession/landing limit will be 250 pounds per vessel per week.
- III. September 16 – October 31: Thirty-three percent (33%) of the summer-fall sub-period allocation for other gear types will become available on September 16. The possession/landing limit will be 250 pounds per vessel per week.
- IV. No vessel may possess or land, at any one time or cumulatively, more than the weekly possession/landing limit during the 7-day period.

iii. **Winter II Sub-Period**

- A. Dates: November 1 through December 31 annually
- B. Possession/landing limit: 3,500 pounds per vessel per day, decreasing to 500 pounds per vessel per day once 70 percent (70%) of the quota for the sub-period is harvested.

### 7.6.4-3 BLACK SEA BASS

*The following is a complete, verbatim summary of all current commercial fishing regulations in Part VII pertaining to black sea bass:*

#### 7.14 Black Sea Bass

##### 7.14.1 Commercial Harvest

~~7.14.1-1 Legal Minimum Size -- No person fishing commercially shall take, possess, sell, possess for sale, or offer for sale any black sea bass measuring less than eleven (11) inches total length whether caught within the jurisdiction of this State or otherwise.~~

~~7.14.1-2 Commercial Seasons and Possession Limits -- A state quota for black sea bass will be established annually and shall be the most recent amount allocated to the State of Rhode Island by the Atlantic States Marine Fisheries Commission and/or the Secretary of the U.S. Department of Commerce as published in the Federal Register. The quota shall be available during the following seasons:~~

- ~~(a) January 1 -- April 30: Twenty-five percent (25%) of the quota established in this part shall be available from January 1 through April 30, unless modified pursuant to section 7.14.1-2(e). It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 1,500 pounds of black sea bass during this period. When 60% of the sub-period allocation has been harvested, the possession limit will drop to 1,000 pounds. Refer to section 7.14.1-3 for current possession limit.~~
- ~~(b) May 1 -- July 31: Twenty-five percent (25%) of the quota established in this part shall be available from May 1 through July 31, unless modified pursuant to section 7.14.1-2(e). It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 100 pounds of black sea bass during this period. Refer to section 7.14.1-3 for the current possession limit.~~
- ~~(c) August 1 -- October 31: Twenty-five percent (39%) of the quota established in this part shall be available from August 1 through October 31, unless modified pursuant to section 7.14.1-2(e). It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 100 pounds of black sea bass during this period. Refer to section 7.14.1-3 for the current possession limit.~~

~~(d) November 1 – December 31: Twenty-five percent (11%) of the quota established in this part shall be available from November 1 through December 31, unless modified pursuant to section 7.14.1-2(e). It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 500 pounds of black sea bass during this period. Refer to section 7.14.1-3 for the current possession limit.~~

~~(e) 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 quota allocations specified in section 7.14.1-2(a-d) 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 following year.~~

~~**7.14.1-3 Current Commercial Possession Limit –**~~

~~Unless otherwise specified in this section, refer to 7.14.1-2 (a-e) for current commercial possession limit.~~

~~**7.14.1-4 Possession Limit Adjustments –** The possession limits specified according to section 7.14.1-2 may be modified by the Division of Fish and Wildlife, who, after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time remaining in the sub-period, Fish and Wildlife will decide whether the possession limit should be decreased or increased. Fish and Wildlife will file a notice with the Secretary of State’s Office if the possession limit is changed and publish a news release announcing the change. Fish and Wildlife may modify the possession limit upon providing such notification.~~

~~**7.14.1-5 Reporting Requirement –** Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations~~

~~(RIMFC REGULATION) [Penalty – Part 3.3 (RIGL 20-3-3) (RIGL 20-6-29)]~~

### 7.6.4-3 BLACK SEA BASS

*The following is the proposed re-write of the commercial fishing regulations for the black sea bass fishery for Part VII:*

- a. Quota Management -- A state quota for black sea bass will be established annually. It shall be the most recent amount allocated to the State of Rhode Island by the ASMFC and/or the Secretary of the U.S. Department of Commerce as published in the Federal Register. In order to provide for the orderly harvest of the quota, it shall be managed in accordance with the sub-period provisions set forth below.

#### Sub-Periods and Possession/Landing Limits

1. January 1 – April 30: Twenty-five percent (25%) of the quota shall become available on January 1. The possession/landing limit will be 1,500 pounds per vessel per day. When sixty percent (60%) of the sub-period allocation has been harvested, the possession/landing limit will drop to 1,000 pounds per vessel per day.
2. May 1 – July 31: Twenty-five percent (25%) of the quota shall become available on May 1. The possession/landing limit will be 100 pounds per vessel per day.
3. August 1 – October 31: Thirty-nine percent (39%) of the quota shall become available on August 1. The possession/landing limit will be 100 pounds per vessel per day.
4. November 1 – December 31: Eleven percent (11%) of the quota shall become available on November 1. The possession/landing limit will be 500 pounds per vessel per day.

#### 7.6.4-4 TAUTOG (BLACKFISH)

*The following is a complete, verbatim summary of all current commercial fishing regulations in Part VII pertaining to tautog:*

~~7.9 Tautog (Blackfish) -- No person shall take, possess, sell, possess for sale, or offer for sale any tautog measuring less than sixteen (16) inches total length whether caught within the jurisdiction of this State or otherwise.~~

~~7.9.2 Commercial -- The total allowable harvest of tautog will be established annually, and will be that amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the Atlantic States Marine Fisheries Commission. The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the DEM and the RIGL Title 20. The quota shall only be available during the following seasons:~~

- ~~(a) April 15 – May 31: 1/3 of the annual quota established in this part shall be available from April 15 through May 31, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day.~~
- ~~(b) July 15 – August 29: 1/3 of the annual quota established in this part shall be available from July 15 – August 29, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day.~~
- ~~(c) October 15 – December 31: 1/3 of the annual quota established in this part shall be available from October 15 – December 31, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day.~~
- ~~(d) Within each period the allocation may be harvested until it is exhausted. Any unused quota not harvested during a sub-period will be carried forward into the next period, unless an overage has occurred in a previous sub-period during the same calendar year, and any over-harvest will be deducted equally from all periods in the next calendar year. No licensed commercial fishermen may~~

~~possess more than ten (10) tautog in any calendar day. During a closure of the R.I. tautog fishery a federally permitted vessel fishing in the Exclusive Economic Zone (EEZ), may traverse Rhode Island waters for the purpose of landing tautog in another state, provided their nets are stowed in accordance with Section 10.10 of these regulations.~~

~~**7.9.4 Reporting requirements. -- Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations**~~

~~**7.9.5 Closure of commercial fisheries managed under a federally mandated quota or allocation system. -- Any landing of a marine species managed under a quota or allocation system, or the taking or possession of any marine species, may be prohibited by the Director for a specified portion of the calendar year upon the finding by the Director that ninety percent (90%) or more of the annual quota is about to be harvested, and upon submission of a notice of closure to the Office of Secretary of State, and publication of the closure notice in a daily newspaper of statewide circulation. Further, it is the responsibility of the licensed person in charge of a vessel harvesting species regulated in this section to call the DEM hotline for current harvesting and possession regulations.**~~

~~**(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]**~~

#### 7.6.4-4 TAUTOG (BLACKFISH)

*The following is the proposed re-write of the commercial fishing regulations for the tautog fishery for Part VII:*

- a. **Quota Management --** A state quota for tautog will be established annually. It shall be the most recent amount allocated to the State of Rhode Island by the Regional Fishery Management Council and/or the Atlantic States Marine Fisheries Commission. In order to provide for the orderly harvest of the quota, it shall be managed in accordance with the sub-period provisions set forth below.

##### **Sub-Periods and Possession/Landing Limits**

1. **Spring Sub-Period:** One-third (1/3) of the quota shall become available on April 15. The possession/landing limit will be ten (10) fish per vessel per day. The fishery will remain open until May 31, or until the sub-period quota is fully harvested, as determined by the Division, whichever occurs first.
  2. **Summer Sub-Period:** One-third (1/3) of the quota shall become available on July 15. The possession/landing limit will be ten (10) fish per vessel per day. The fishery will remain open until August 29, or until the sub-period quota is fully harvested, as determined by the Division, whichever occurs first.
  3. **Fall-Winter Sub-Period:** One-third (1/3) of the quota shall become available on October 15. The possession/landing limit will be ten (10) fish per vessel per day. The fishery will remain open until December 31, or until the sub-period quota is fully harvested, as determined by the Division, whichever occurs first.
- b. **Transiting --** During any closure of the R.I. tautog fishery, a federally permitted vessel fishing in the Exclusive Economic Zone (EEZ), may traverse Rhode Island waters for the purpose of landing tautog in another state, provided their nets are stowed in accordance with Section 10.10 of Part X (Equipment Restrictions) of the ~~these~~ regulations governing marine fisheries.

#### 7.6.4-5 WINTER FLOUNDER (BLACKBACK)

*The following is a complete, verbatim summary of all current commercial fishing regulations in Part VII pertaining to winter flounder:*

~~7.8 Winter Flounder (Blackback) -- No person shall take possess, sell, possess for sale, or offer for sale any winter flounder measuring less than twelve (12) inches total length whether caught within the jurisdiction of this State or otherwise. During a closure of the R.I. winter flounder fishery a vessel fishing in the Exclusive Economic Zone (EEZ) may traverse Rhode Island waters for the purpose of landing winter flounder provided they are not fishing and nets are stowed in accordance with Section 10.10 of these regulations.~~

~~7.8.2 Winter Flounder - Mesh Regulations/Commercial Fishing Gear -- The minimum mesh size for bottom trawl nets is six (6) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied to the codend of the bottom trawl nets as defined in paragraphs (a) and (b) of this section. The minimum mesh size for gill nets is six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the net. Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any winter flounder except as provided in Section 7.8.1.~~

~~(a) For vessels greater than 45 ft in length overall, a diamond mesh codend is defined as the first 50 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 100 bars counting from the terminus of the net~~

~~(b) For vessels 45 ft or less in length overall, a diamond mesh codend is defined as the first 25 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 50 bars counting from the terminus of the net.~~

#### ~~7.8.2-1 Net obstruction or constriction~~

~~A fishing vessel subject to minimum mesh size restrictions shall not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 in (7.6 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. "The top of the~~

**trawl net” means the 50 percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.**

**(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]**

#### **7.6.4-5 WINTER FLOUNDER (BLACKBACK)**

***The following is the proposed re-write of the commercial fishing regulations for the winter flounder fishery for Part VII:***

- a. **Minimum Mesh Size** – ~~Vessels that land or possess any amount of winter flounder must fish with nets that meet the following minimum mesh size specifications.~~ The minimum mesh size for gill nets is six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the net. The minimum mesh size for bottom trawl nets is six (6) inch diamond mesh or six and one half (6.5) inch square mesh applied throughout the body and extension of the net, or any combination thereof, and six and one half (6.5) inch diamond mesh or six and one half (6.5) inch square mesh applied to the codend of the ~~bottom trawl nets, as defined in paragraphs (a) and (b) of this section.~~ ~~Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any winter flounder except as provided in Section 7.8.1.~~ (a) For vessels greater than 45 ft in length overall, a diamond mesh codend is defined as the first 50 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 100 bars counting from the terminus of the net. (b) For vessels 45 ft or less in length overall, a diamond mesh codend is defined as the first 25 meshes counting from the terminus of the net, and a square mesh codend is defined as the first 50 bars counting from the terminus of the net.
- b. **Transiting --** During any closure of the R.I. winter flounder fishery, a vessel fishing in the Exclusive Economic Zone (EEZ) may traverse Rhode Island waters for the purpose of landing winter flounder provided they are not fishing and nets are stowed in accordance with Section 10.10 of Part X (Equipment Restrictions) of the these regulations governing marine fisheries.

#### **7.6.4-6 STRIPED BASS**

**Part XII to be incorporated here**

***The following are the proposed amendments to the provisions of Part VII pertaining to the commercial fishing regulations for the monkfish, cod, spiny dogfish, bluefish, and weakfish fisheries.***

**7.6.4-7 MONKFISH**

**a. Possession/Landing Limits – Non-Federally Permitted Vessels**

1. For any non-federally permitted RI licensed vessel, the possession/landing limit ~~will be~~ is 50 pounds tail weight or 166 pounds whole weight of monkfish per vessel per ~~calendar~~ day beginning August 1 through March 31 annually.
2. For any non-federally permitted RI licensed vessel, the possession/landing limit ~~will be~~ is 200 pounds tail weight or 664 pounds whole weight of monkfish per vessel per ~~calendar~~ day beginning April 1 through July 31 annually.
3. The possession/landing limit may be modified on the basis of a RI state water monkfish quota as set by DEM. When the state water quota has been harvested as determined by the Division, the Director shall close the state water monkfish fishery.

**b. Possession/Landing Limits – Federally Permitted Vessels --** Vessels in possession of a federal permit allowing the harvest of monkfish may harvest monkfish in state waters if and only if they are operating during a previously and properly declared day-at-sea; in such instances, such vessels may harvest monkfish in the amount authorized to be possessed pursuant to federal regulations, and thus not be bound by the possession/landing limits set forth above in sub-section 7.21.1-2 7.6.4-7.1.

**c. Transiting --** Vessels in possession of a federal permit allowing the commercial harvest of monkfish may also transit state waters in possession of monkfish in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed, in accordance with Section 10.10 of Part X (Equipment Restrictions) of the regulations governing marine fisheries, while in state waters.

**7.6.4-8 COD**

**a. Possession/Landing Limits – Non-Federally Permitted Vessels --** For any non-federally permitted RI licensed vessel, the possession/landing limit ~~will be~~ is 75 pounds of cod per vessel per ~~calendar~~ day.

**b. Possession/Landing Limits – Federally Permitted Vessels --** Vessels in possession of a federal permit allowing the harvest of cod may harvest cod in state waters if and only if they are operating during a previously and properly declared day-at-sea; in such instances, such vessels may harvest cod in the amount authorized to be possessed pursuant to federal regulations, and thus not be bound by the possession/landing limits set forth above in sub-section 7.22.1-2 7.6.4-8.1.

**c. Transiting --** Vessels in possession of a federal permit allowing the commercial

harvest of cod may also transit state waters in possession of cod in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed, in accordance with Section 10.10 of Part X (Equipment Restrictions) of the regulations governing marine fisheries, while in state waters.

#### 7.6.4-9 SPINY DOGFISH

- a. Commercial Seasons and Possession/Landing Limits – The commercial season shall extend from May 1 until April 30 of the following year and shall be divided into two semi annual periods. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 2,000 pounds of spiny dogfish during the period May 1 through October 31 and 2,000 pounds of spiny dogfish during the period November 1 through April 30. When notified that the quota in any given period has been harvested, as determined by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission, the Division of Fish and Wildlife shall file a notice with the Office of the Secretary of State prohibiting the commercial landings, harvest and possession of spiny dogfish in state waters for the remainder of the designated period and publish a news release announcing the closure in a newspaper of daily circulation throughout the State. The closure will become effective upon filing. At least forty-eight hours prior to the filing, the Division will announce the closure via one or more of the following public notice procedures: a faxed notice to dealers, a posting on the Department’s website (marine fisheries page), a listserve-email announcement, and/or a voice recording placed on the Division’s possession/landing limit phone line.

~~7.15.2 Current Commercial Possession Limit~~ – Effective May 1, 2004 at 12:01 AM the commercial landings and possession limits of spiny dogfish will follow the regulations as set out in section 7.15.

- b. Prohibition of Finning – Finning is defined as the act of taking a spiny dogfish, removing the fins, and returning the remainder of the spiny dogfish to the sea. Finning spiny dogfish shall be prohibited in all state waters. Vessels that land spiny dogfish taken from outside of state waters must land fins in proportion to carcasses, with a maximum five percent (5%) fin to carcass ratio, by weight. Fins may be removed at sea, but the corresponding carcass must be retained. All fins and carcasses must be landed at the same time and in the same location.  
RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 30-3-3)]

#### 7.6.4-10 BLUEFISH

- a. Commercial Quota Management -- A total allowable harvest of annual state quota for bluefish will be established, annually, and It shall be that the most recent amount allocated to the State of Rhode Island by the Regional Fishery Management Councils and/or the Atlantic States Marine Fisheries Commission. ~~The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the Rhode Island Marine Fisheries Council.~~ To provide

for the orderly harvest of the quota, ~~the Rhode Island Marine Fisheries Council has established the~~ it shall be managed in accordance with the following sub-period allocations provisions set forth below.

### Sub-periods and Possession/Landing Limits

1. ~~Bluefish Commercial Quota Sub-Periods~~ Spring Sub-Period

- i. Dates: January 1 through June 30 annually.
- ii. ~~Quota~~ Target allocation: 50% of the annual ~~allocation~~ state quota.

2. Summer-Fall Sub-Period

- i. Dates: July 1 through December 31 annually.
- ii. ~~Quota~~ Target allocation: 50% of the annual ~~allocation~~ state quota.

3. Possession/Landing Limits – The Division will monitor catch rates during each sub-period. When If 50% of any seasonal sub-period quota allocation is reached, Fish and Wildlife the Division will determine if a possession limit of between 200–10,000 pounds should be established depending upon the time remaining in the quota period and the current catch rate assess the catch rate and, in consideration thereof, and of the time remaining in the sub-period, determine whether a possession/landing limit should be established to help ensure that the fishery remains open at a sustainable level for as long as possible. If a possession/landing limit is deemed necessary and appropriate, it will be established as a fixed amount, ranging from a minimum of 200 pounds per vessel per day to a maximum of 10,000 pounds per vessel per day. Fish and Wildlife If a limit is established, the Division will file a notice with the Secretary of State's office, if a possession limit is established, and will publish a news release announcing the change The limit will become effective upon filing. At least forty-eight hours prior to the filing, the Division will announce the limit via one or more of the following public notice procedures: a faxed notice to dealers, a posting on the Department's website (marine fisheries page), a listserve-email announcement, and/or a voice recording placed on the Division's possession/landing limit phone line. The possession limit may be modified by Fish and Wildlife providing such notification is made.

~~[Effective December 6, 2006 at 12:01 AM the commercial Bluefish fishery will be closed until the next sub period begins on January 1, 2007.]~~

~~7.10.3 Bluefish Reporting Requirement Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations~~

~~(RIMFC REGULATION) [Penalty Part 3.3; (RIGL 20-3-3)]~~

## 7.6.4-11 WEAKFISH (SQUETEAGUE)

a. Seasons and Possession/Landing Limits

1. ~~During the period~~ From June 1 through June 30 and ~~the period from~~ August 7 through November 8; ~~the commercial possession/~~**landing** limit for weakfish shall be ~~is~~ unlimited.
2. At all other times; ~~it shall be unlawful to possess aboard or land from a vessel more than 150 pounds of weakfish in any one calendar~~ **per vessel per** day, and it shall also be unlawful to possess aboard or land from a vessel any amount of weakfish where there is not at least an equal poundage of other species on board the vessel.

#### 7.6.4-12 **ATLANTIC MENHADEN**

[Part XVI to be incorporated here.](#)

~~7.16 American Eel -- No person shall possess more than fifty (50) American eel per day unless commercially licensed pursuant to RIGL 20-2-26, 20-2-27, 20-2-28, 20-2-28.1. RIMFC REGULATIONS [Penalty – Part 3.3 (RIGL 30-3-3)]~~

~~7.19 Atlantic Herring (*Clupea harengus*)~~

~~7.19.1 Commercial~~

~~7.19.1-1.1 Season and Possession Limits – The season for Atlantic herring begins annually on January 1. The possession limit is unlimited unless otherwise indicated in this section. When the Atlantic Herring quota has been harvested as determined by the National Marine Fisheries Service (NMFS), the season will close.~~

**The following is a complete, verbatim summary of all current recreational fishing regulations in Part VII:**

~~**7.5 Striped Bass** -- Except as provided for in 12.3 and 12.5 no person, firm, or corporation shall possess any striped bass measuring less than twenty-eight (28) inches total length, whether caught within the jurisdiction of this State or otherwise. (RIMFC REGULATIONS) [Penalty - Part 12.2; (RIGL 20-4-11)]~~

~~**7.6 Minimum sizes, other species** -- Except as specifically noted, no person shall possess or take any of the following species which are less than the following minimum size~~

~~AMERICAN PLAICE (DAB): Commercial and Recreational - 14"~~

~~ATLANTIC STURGEON: Commercial and Recreational - no possession~~

~~EEL: Commercial and Recreational - 6"~~

~~HADDOCK: Commercial and Recreational - 19"~~

~~POLLOCK: Commercial and Recreational - 19"~~

~~SCUP: Commercial - 9" and Recreational - 10 1/2". Floating trap fishermen may possess undersize scup provided they are not sold, bartered, traded, and exchanged, but following culling, are taken to sea and released back into the water.~~

~~WEAKFISH (SQUETEAGUE): Commercial and Recreational - 16"~~

~~WITCH FLOUNDER (GRAY SOLE): Commercial and Recreational - 14"~~

~~YELLOWTAIL FLOUNDER: Commercial and Recreational - 13"~~

~~All minimum sizes for the above listed fish shall be measured as total length (from tip of snout to tip of tail).~~

~~(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]~~

#### ~~**7.7.4 Summer flounder Recreational Regulations**~~

~~**7.7.4-1 Size and Possession** -- No person fishing recreationally shall possess a summer flounder less than twenty inches (20") total length, and no person fishing recreationally shall possess, per calendar day, more than seven (7) summer flounder whether caught within the jurisdiction of this state or otherwise. Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~

~~**7.7.4-2 Season** -- The recreational season for summer flounder in Rhode Island waters is open from January 1 through December 31.~~

~~**7.8 Winter Flounder (Blackback) -- No person shall take, possess, sell, possess for sale, or offer for sale any winter flounder measuring less than twelve (12) inches total length whether caught within the jurisdiction of this State or otherwise. During a closure of the R.I. winter flounder fishery a vessel fishing in the Exclusive Economic Zone (EEZ) may traverse Rhode Island waters for the purpose of landing winter flounder provided they are not fishing and nets are stowed in accordance with Section 10.10 of these regulations.**~~

~~**7.8.1 Winter Flounder - Four fish recreational possession limit -- The taking and/or possession of winter flounder by recreational fishermen is prohibited with the exception that annually, beginning on the fourth Saturday in April and continuing for 30 days, and beginning on the last Saturday in September and continuing for 30 days, fishermen may take and possess not more than four (4) winter flounder in Rhode Island waters. Said fish shall not be offered for sale. The four fish possession limit shall not apply to fishermen licensed pursuant to RIGL 20-2-26, 20-2-27, 20-2-28, or 20-2-28.1, provided winter flounder possessed by those licensed in the above sections are harvested in compliance with R.I. Marine Fisheries Council Statutes and Regulations.**~~

~~**7.9 Tautog (Blackfish) -- No person shall take, possess, sell, possess for sale, or offer for sale any tautog measuring less than sixteen (16) inches total length whether caught within the jurisdiction of this State or otherwise.**~~

~~**7.9.1 Recreational -- No person may possess more than three (3) tautog from April 15 through May 31. The tautog fishery will be closed from June 1 through June 30. No person may possess more than three (3) tautog from July 1 through the Friday before the third Saturday in October. No person may possess more than eight (8) tautog from the third Saturday in October through December 15, annually. Compliance aboard vessels will be determined by dividing the number of fish onboard a vessel by the number of recreational fishermen onboard said vessel.**~~

~~**7.9.3 Possession Limits for Charter and Party Boats -- Compliance aboard vessels will be determined by dividing the number of fish on board a vessel by the number of recreational fishermen on board said vessel. Said fish shall not be offered for sale. Party and charter boats may obtain a State permit by showing proof of a U.S. Coast Guard License to conduct their fishery within the territorial waters of Rhode Island.**~~

~~7.10 **Bluefish** – Possession limit for recreational fishermen -- No person shall possess more than ten bluefish unless he/she has a permit meeting the requirements of RIGL 20-2-26, 20-2-26.1, 20-2-27, 20-2-28, 20-2-28.1. Compliance onboard vessels will be determined by dividing the number of fish onboard a vessel by the number of recreational fishermen onboard said vessel.~~

#### ~~7.11.4 **Scup** – Recreational~~

~~7.11.4-1 – No person fishing recreationally shall possess scup less than ten and one half inches (10.5") total length, and no person fishing recreationally shall possess, per calendar day, more than ten (10) scup, whether caught within the jurisdiction of this State or otherwise except as provided in section 7.11.4-3. Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on board a vessel by the number of fishermen on board said vessel.~~

~~7.11.4-2 – The recreational season for scup in Rhode Island waters will be open from May 24 through September 25 annually.~~

~~7.11.4-3 – While fishing on a party or charter boat, no person shall possess scup less than eleven inches (11") total length, and no person fishing while on a party or charter boat shall possess, per calendar day, whether caught within the jurisdiction of this State or otherwise, more than ten (10) scup from June 12 through August 31, and more than forty-five (45) scup from September 1 through October 15. Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on board a vessel by the number of fishermen on board said vessel.~~

#### ~~7.14 **Black Sea Bass**~~

##### ~~7.14.2 **Recreational Harvest**~~

~~7.14.2-1 – **Legal Minimum Size** -- No person fishing recreationally shall possess a black sea bass less than twelve inches (12") total length, and no person fishing recreationally shall possess, per calendar day, more than twenty-five (25) black sea bass whether caught within the jurisdiction of this State or otherwise. Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~

~~7.14.2-2 – **Recreational Season** -- The recreational season for black sea bass in Rhode Island waters is open from January 1 through December 31,~~

annually.

~~**7.16 American Eel** – No person shall take, attempt to take, possess, sell, or offer for sale any American Eel measuring less than six inches (6”). No person shall possess more than fifty (50) American eel per day unless commercially licensed pursuant to RIGL 20-2-26, 20-2-27, 20-2-28, 20-2-28.1. RIMFC REGULATIONS [Penalty – Part 3.3 (RIGL 30-3-3)]~~

### ~~**7.18 Weakfish**~~

#### ~~**7.18.1 Recreational**~~

~~**7.18.1-1 Minimum Size** – No person fishing recreationally shall possess a weakfish less than sixteen inches (16”) total length.~~

~~**7.18.1-2 Season and Possession Limits** – The recreational season for weakfish in Rhode Island waters is open January 1 through December 31, annually. No person fishing recreationally shall possess, per calendar day, more than six (6) fish whether caught within the jurisdiction of this state or otherwise. Compliance with the possession limit aboard vessels will be determined by dividing the number of fish on a vessel by the number of recreational fishermen onboard said vessel.~~

### ~~**7.21 Monkfish**~~

#### ~~**7.21.2 Recreational**~~

~~**7.21.2-1 Minimum Size** – No person fishing recreationally, shall land or possess any monkfish measuring less than seventeen inches (17”) total length or eleven inches (11”) tail length whether that fish was caught within the jurisdiction of this State or otherwise.~~

~~**7.21.2-2 Possession Limits** – No person who is fishing recreationally in RI waters, may possess more than 50 pounds tail weight or 166 pounds whole weight of monkfish per vessel per calendar day.~~

### ~~**7.22 Cod**~~

#### ~~**7.22.2 Recreational**~~

~~**7.22.2-1 Minimum Size** – No person fishing recreationally shall land or possess any cod measuring less than twenty-two inches (22”) total length whether caught within the jurisdiction of this State or otherwise.~~

~~7.22.2-2 Possession Limits – No person who is fishing recreationally in RI waters, may possess more than ten (10) cod per person per calendar day.~~

~~7.22.2-3 Vessels in possession of a federal permit allowing the recreational harvest of cod may transit state waters in possession of cod in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.~~

**The following is the proposed re-write of the recreational regulations for Part VII:**

## **7.7 RECREATIONAL REGULATIONS**

### **7.7.1 General Provisions**

- a. For all species except monkfish, the possession/landing limits are per person, not per vessel. For all species except monkfish, compliance with possession/landing limits aboard vessels will be determined by dividing the number of fish aboard the vessel by the number of recreational fishermen aboard the vessel.
- b. No person fishing recreationally may possess or land a species outside of the designated season for that species.
- c. No person fishing recreationally may possess or land a species that measures less than the minimum fish size for that species. All minimum sizes pertain to total length, i.e., the straight linear distance from the tip of the snout to the end of the tail, unless otherwise indicated.
- d. No fish taken recreationally may be sold or offered for sale.
- e. All recreational regulations set forth in this Part pertain to fish possessed and/or landed in Rhode Island waters, regardless of where the fish were caught. When fishing outside of RI State waters, fishermen are bound by the applicable regulations governing those waters, and upon entering RI state waters, are also bound by the regulations set forth in this Part.
- f. All recreational regulations set forth in this Part pertain exclusively to people and vessels fishing recreationally. It is unlawful to possess and/or land fish taken under both commercial and recreational regulations, as set forth in this Part.

### **7.7.2 Species-Specific Management Programs**

#### **7.7.2-1 SUMMER FLOUNDER (FLUKE)**

- a. Minimum Fish Size: 20 inches
- b. Possession/Landing Limit: Seven (7) fish per person per day
- c. Season: Open year-round

#### **7.7.2-2 SCUP**

- a. For all people fishing recreationally, except those fishing on party/charter boats:

1. Minimum Fish Size: 10.5 inches
2. Possession/Landing Limit: Ten (10) fish per person per day
3. Season: May 24 through September 25

b. For all people fishing on party/charter boats:

1. Minimum Fish Size: 11 inches
2. Seasons and Possession/Landing Limits:

June 12 through August 31: Ten (10) fish per person per day

September 1 through October 15: Forty-five (45) fish per person per day

#### 7.7.2-3 BLACK SEA BASS

- a. Minimum Fish Size: 12 inches
- b. Possession/Landing Limit: Twenty-five (25) fish per person per day
- c. Season: Open year-round

#### 7.7.2-4 TAUTOG (BLACKFISH)

- a. Minimum Fish Size: 16 inches
- b. Seasons and Possession/Landing Limits:

April 15 through May 31: Three (3) fish per person per day

[June 1 through June 30: Closed]

July 1 through the Friday before the third Saturday of October: Three (3) fish per person per day

Third Saturday of October through December 15: Eight (8) fish per person per day

#### 7.7.2-5 WINTER FLOUNDER (BLACKBACK)

- a. Minimum Fish Size: 12 inches
- b. Seasons and Possession/Landing Limits:

Beginning on the fourth Saturday in April and continuing for thirty (30) days: Four

(4) fish per person per day

Beginning on the last Saturday in September and continuing for thirty (30) days: Four (4) fish per person per day

**7.7.2-6 STRIPED BASS**

**Part XII to be incorporated here**

**7.7.2-7 MONKFISH**

- a. Minimum Fish Size: 17 inches total length; 11 inches tail length
- b. Possession/Landing Limit: 166 pounds whole weight, or 50 pounds tail weight, per vessel per day
- c. Season: Open year-round

**7.7.2-8 COD**

- a. Minimum Fish Size: 22 inches
- b. Possession/Landing Limit: Ten (10) fish per person per day
- c. Season: Open year-round
- d. Vessels in possession of a federal permit allowing the recreational harvest of cod may transit state waters in possession of cod in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.

**7.7.2-9 BLUEFISH**

- a. Possession/landing limit: Ten (10) fish per person per day
- b. Season: Open year-round

**7.7.2-10 WEAKFISH (SQUETEAGUE)**

- a. Minimum Fish Size: 16 inches
- b. Possession/Landing Limit – Six (6) fish per person per day

**7.7.2-11 AMERICAN EEL**

**a. Minimum Fish Size: 6 inches**

**B. Possession/Landing Limit: Fifty (50) fish per person per day**

**7.7.3 Minimum Fish Sizes – Other Species**

**American Plaice (Dab): 14 inches**

**Haddock: 19 inches**

**Pollock: 19 inches**

**Striped Bass: 28 inches**

**Witch Flounder (Gray Sole): 14 inches**

**Yellowtail Flounder: 13 inches**

## 7.8 DEALER PROVISIONS

*The following regulations from Part VII will be retained in Part VII until such time as they are repealed or re-written, re-organized and/or codified and relocated to Part XIX.*

### 7.7.5 Summer flounder Dealer/Shipping/Transfer/Reporting Regulations/Penalty --

- 7.7.5-1 Prohibition on the transfer of Summer flounder -- No Summer flounder (Paralichthys dentatus), may be purchased, bartered, or sold within the State of Rhode Island unless marked, processed, shipped, labeled, and handled in accordance with the following rules:
- ~~a. All persons are prohibited from transferring or attempting to transfer at sea summer flounder from one vessel to another vessel, and the licensed person in charge of the vessel may only transfer summer flounder to dealers who possess a valid Rhode Island Dealer's License.~~
  - ~~b. No licensed person in charge of the vessel may land summer flounder after 8:00 PM or prior to 6:00 AM. The legal hours for landing summer flounder are from 6:00 AM to 8:00 PM only.~~
  - ~~c. The licensed person in charge of the vessel pursuant to RIGL Title 20-2 must notify the Rhode Island Office of Law Enforcement (401) 222-2284 or 222-3070 at least one hour prior, but not more than six hours prior, to offloading any commercial vessel which possesses more than 200 pounds of summer flounder or the maximum allowable possession limit or the lesser thereof. Said notice shall be provided by the vessel who will be involved in the transfer and must include the name of the dealer, the name of the vessel, the landing time, and the precise landing location.~~
  - ~~d. All summer flounder must be weighed prior to the removal of the summer flounder from the dealer's premises or from the point of transfer.~~
  - ~~e. The weight scales must be certified in accordance with Rhode Island law RIGL, Chapter 47-1.~~
  - ~~f. All summer flounder may only be shipped out of state in standard 60 or 100 pound cartons (containers) unless specific prior written authorization is requested and received from the Rhode Island Office of Law Enforcement, 83 Park St. 235 Promenade St., Providence, RI 02903 02908.~~
  - ~~g. Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations~~

### 7.11.5 Scup - Scup Dealer/Shipping/Transfer/Reporting Regulations

**7.11.5-1 Prohibition on the transfer of Scup -- No Scup, *Stenotomus chrysops*, may be purchased, bartered, or sold within the State of Rhode Island unless in compliance with the following:**

~~A. All persons are prohibited from transferring or attempting to transfer scup from one vessel to another vessel while at sea. The licensed person in charge of the vessel may only transfer scup to a dealer licensed by the State of Rhode Island. Dealers are required to be licensed by the R.I. Department of Environmental Management (in compliance with RIGL 20-2-27 (d), or 20-2-28.1).~~

**B. All scup must be weighed prior to the removal of the scup from the dealer's premises or from the point of transfer.**

**C. The weight scales must be certified in accordance with RIGL, Chapter 47-1.**

~~D. Vessels are only allowed one trip limit in possession per calendar day. In addition, no person may land more than one trip limit in any calendar day. No person shall transport into the State of Rhode Island any scup which is not landed at a port located within the state unless the transaction of the first point of sale is in another state.~~

**E. All dealers are required to record and report all transfers of scup in accordance with the following:**

**(1) Dealers shall maintain a written record on forms provided by the DFW, or dealer forms, of each scup transaction at their permanent place of business in Rhode Island, or with an authorized agent located in Rhode Island for inspection 8:00 AM - 4:00 PM during the course of normal daily business operations. Records must be available by 10:00 AM on the next business day following the date of landing. Records must be available at the dealer's or agent's Rhode Island office for a period of three years.**

**(2) The record must include: date of purchase, time of offloading, location of purchase, the vessel name, the name and license number of the Rhode Island license holder and the amount of scup transferred.**

~~F. Dealers must comply with the reporting requirements as set forth in section 19.14 of the RI Marine Fisheries Regulations~~

## 7.9 ENFORCEMENT PROVISIONS

*The following regulations from Part VII will be retained in Part VII until such time as they are repealed or re-written, re-organized and/or codified and relocated to another Part that specifically and exclusively addresses the enforcement of marine fisheries laws and regulations.*

**7.12 Size, Possession, and Daily Limit Violations On Board Vessels** -- In any instance, when there is a violation of the size, possession, or daily limit on board a vessel carrying more than one person when the catch is commingled, the violation shall be deemed to have been committed by the owner of the vessel, or the operator of the vessel, if the owner is not on board.

**With regard to the aggregate landing program for summer flounder during the summer subperiod (7.6.4-1(c)(1)(ii)):**

~~(7)~~ The information recorded by the SAFIS reporting system referenced in section (4) of this part 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.

~~h.~~ 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 20-3-3) 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".

~~i.~~ 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 20-3-3) as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub period.

- (4) 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.
- (5) 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.
- (6) 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.

**With regard to the commercial regulations governing summer flounder:**

**7.7.5-2 License Suspension:**

- c. In addition to the penalty prescribed in RIGL 20-1-16, the license of any person who refuses or neglects to make the report required herein will be suspended by the Director. The license of any person who knowingly or willfully makes a false report or violates any provision of these regulations may be suspended for a period not to exceed one year.

- d. The Director has determined that non-compliance with these regulations seriously threatens the proper management of the available stock of summer flounder and, thus, the general welfare as represented that it is appropriate to suspend the license of alleged violators pending formal suspension or revocation hearing arising from the alleged violation.
- d. No person shall take, sell, or possess within this state any summer flounder which have not been taken in compliance with the provisions of this regulation. Any summer flounder which the Director shall have reasonable cause to believe have not been taken in compliance with the provisions of RIGL Title 20 and the regulations adopted in accordance therewith shall be confiscated and sold by the Department of Environmental Management.

**With regard to the commercial regulations governing scup:**

- e. Non-compliance with the provisions of these regulations shall subject both the owner and the operator to revocation of participation in the commercial fisheries for the subsequent ~~September 16 through October 31~~ sub period fishery during the following year. If for any reason a ~~September 16 through October 31~~ the same sub period fishery does not exist the following year 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 ~~September 16 through October 31~~ 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 20-3-3) 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".

- f. 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 the owner and/or operator of the 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 as well as the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3).

- (4) 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.
- (5) Any person who seeks an adjudicatory hearing 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.
- (6) 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.

#### **7.11.5-2 License Suspension**

- A. In addition to the penalty prescribed in RIGL 20-1-16, the license of any person who refuses or neglects to make the report required herein will be suspended by the Director. The license of any person who knowingly or willfully makes a false report or violates any provision of these regulations may be suspended for a period not to exceed one year.
- B. The Director has determined that non-compliance with these regulations seriously threatens the proper management of the available stock of scup and thus the general welfare as represented that it is appropriate to suspend the license of alleged violators pending formal suspension or revocation hearing arising from the alleged violation.
- D. No person shall take, sell, or possess within this state any scup which have not been taken in compliance with the provisions of this regulation. Any scup which the Director shall have reasonable cause to believe have not been taken in compliance with the provisions of RIGL Title 20 and the

**regulations adopted in accordance therewith shall be  
confiscated and sold by the Department of Environmental  
Management.**

**The following regulations from Part VII will be retained in Part VII until such time as they are relocated to Part IV.**

## **7.23 Sea Scallops**

### **7.23.1 – Commercial**

**7.23.1-1 Minimum size -- No person fishing commercially shall land or possess any sea scallops measuring less than three and one half inches (3.5”) shell length whether caught within the jurisdiction of this State or otherwise. Shell length is a straight line measurement from the hinge to the part of the shell that is furthest away from the hinge.**

**7.23.1-2 Possession Limits – For any non-federally permitted RI licensed vessel, the possession limit will be forty (40) pounds of shucked or five (5) bushels of in-shell scallops.**

**7.23.1-3 Vessels in possession of a federal permit allowing the commercial harvest of sea scallops may transit state waters in possession of sea scallops in the amount authorized to be possessed pursuant to applicable federal regulations and land the same if so permitted pursuant to Rhode Island State Law, so long as all of the fish harvesting gear on board the vessel is stowed while in state waters.**

**7.23.1-4 Equipment – The maximum dredge size allowed for a vessel in possession of sea scallops will be ten and one half feet (10.5’).**

### **7.23.2 - Recreational**

**7.23.2-1 Minimum Size -- No person who is fishing recreationally, shall land or possess any sea scallops measuring less than three and one half inches (3.5”) shell length whether caught within the jurisdiction of this State or otherwise. Shell length is a straight line measurement from the hinge to the part of the shell that is furthest away from the hinge.**

**7.23.2-2 Possession Limits – No person who is fishing recreationally in RI waters, will possess more than forty (40) pounds of shucked or five (5) bushels of in-shell scallops.**

**7.23.2-3 Equipment – The maximum dredge size allowed for a vessel in possession of sea scallops will be ten and one half feet (10.5’).**

**RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-3-3)]**

**The following regulations from Part VII are to be deleted, since they already occur, verbatim, in Parts XII (Striped bass) and IV (Shellfish):**

~~**7.5 Striped Bass** -- Except as provided for in 12.3 and 12.5 no person, firm, or corporation shall possess any striped bass measuring less than twenty-eight (28) inches total length, whether caught within the jurisdiction of this State or otherwise. (RIMFC REGULATIONS) [Penalty - Part 12.2; (RIGL 20-4-11)]~~

~~**7.1 Minimum Size of Quahaugs, Soft-Shell Clams, Mussels** -- No person shall take or have in his custody or possession quahaugs of less than one inch (1") shell thickness (hinge width). For purposes of this regulation, hinge width is defined as the distance between the convex apex of the right shell and convex apex of the left shell. (ref 20-6-11) (RIMFC REGULATIONS) [Penalty - Part 3.3; (RIGL 20-3-3)]~~

~~(a) No person shall take and/or possess any quahogs less than one inch (1") shell thickness (hinge width). In addition, no person shall take and/or possess soft shell clams, taken from the free and common soft shell clam fisheries, of a diameter less than one and one half inches (1 1/2") taking the maximum shell diameter, or any oysters, taken from the free and common oyster fisheries, measuring less than three inches (3") measured parallel to the long axis of the oyster, unless greater minimum sizes are established by the director, in consultation with the marine fisheries council. Any person who takes and/or possesses shellfish of less than the minimum size, as delineated above, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each and every fifteen (15) shellfish taken. Additionally, any person who takes and/or possesses shellfish of less than the minimum size commingled and/or otherwise stored or contained with shellfish of not less than the minimum size, where the percentage of the less than minimum size shellfish is not less than ten percent (10%) of the total piece count of the commingled and/or otherwise stored or contained package, shipment, or container, shall be subject to seizure and/or forfeiture of the entire commingled and/or otherwise stored or contained package, shipment, or container, in accordance with the provisions of §§ 20-1-8(e) and (f) and 20-1-8.1. (RIGL 20-6-11)~~

~~**7.2 Oysters** -- **Minimum Size: Three (3) inches measured parallel to the long axis of the oyster.** (ref 20-6-11) (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]~~

~~**7.3 Sea Clams (Surf Clams)** -- **Minimum Size: Five (5) inches measured parallel to the longest axis of the clam.** (RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]~~

7.4 Scallops -- Taking and Possession of Seed Scallops -- Every person taking any seed scallops, and failing to restore them as soon as possible to their natural beds in the water from which taken, shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) or be imprisoned exceeding thirty (30) days, or both, for each offense. For the purpose of this Chapter, a "seed scallop" means a scallop with a bright, thin, slightly curved shell with no foreign adherent, the shell having no well-defined raised annual growth line, and the scallop being less than one (1) year old. (RIGL 20-6-17)

## **7.10 SEVERABILITY**

If any provision of these Rules and Regulations, or the application thereof, to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

## **7.11 SUPERSEDED RULES AND REGULATIONS**

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of **Part VII** shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

## **7.12 EFFECTIVE DATE**