Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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Marine Fisheries
3 Ft. Wetherill Road
Jamestown, RI 02835

PUBLIC NOTICE CONCERNING PROPOSED REGULATORY CHANGES

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

Public comment will be solicited on the following proposals:

1) Amendments to the RIDEM Fish and Wildlife Freshwater and Anadromous Fishing Regulations for the 2014-2015 Season, regarding the management of **American Eel** (in conjunction with public hearing item #2);
2) Amendments to the RI Marine Fisheries regulations Part VII - Minimum Sizes of Fish/Shellfish, regarding the management of **American Eel** (in conjunction with public hearing item #1);
3) Amendments to the RI Marine Fisheries regulations Part XI – Commercial Fisheries, regarding the **removal of the October closure provision for Atlantic herring**;
4) Amendments to the RI Marine Fisheries regulations Part VII - Minimum Sizes of Fish/Shellfish, regarding the **commercial quota for Summer flounder** and the **Summer Flounder Exemption Certificate program**;
5) Amendments to the RI Marine Fisheries regulations, Part VII - Minimum Sizes of Fish/Shellfish, regarding the **commercial quota for Scup**;
6) Amendments to the RI Marine Fisheries regulations, Part VII - Minimum Sizes of Fish/Shellfish, regarding the **commercial quota for Black Sea Bass**.
7) Amendments to the RI Marine Fisheries regulations Part VII - Minimum Sizes of Fish/Shellfish, regarding the management of **Coastal Sharks**;
8) Amendments to the RI Marine Fisheries regulations Part XV - Lobsters, Other Crustaceans, and Horseshoe Crabs, regarding a **RI Lobster Trap Transferability Program** (in conjunction with public hearing item 9), and to **remove outdated language**; and
9) Amendments to the RI Marine Fisheries regulations Commercial and Recreational Saltwater Fishing Licensing Regulations, to allow for endorsement changes relating to the **RI Lobster Trap Transferability Program** (in conjunction with public hearing item 8).

The public hearing will commence at 6:00 PM on **Tuesday, November 19, 2013,** at the University of Rhode Island, Graduate School of Oceanography, Corless Auditorium, South Ferry Road, Narragansett, RI 02882. The room is accessible to the disabled. Interpreter services for the hearing impaired will be provided if such services are requested at least (3) business days prior to the hearing. Requests for such services may be made in writing or by calling TTY (711) or (401) 222-5300. A recording of the hearing will be made by DEM staff. Written comments concerning the regulations proposed for promulgation by the DEM may be submitted to the Division of Fish and Wildlife, 3 Fort Wetherill Road, Jamestown, RI 02835 **no later than 12:00 PM on November 19, 2013**.

Janet L. Coit,
Director

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS
Part VII
Minimum Sizes of Fish/Shellfish

~~**April 11, 2013**~~

ANNOTATED REGULATIONS
NOVEMBER 19, 2013 PUBLIC HEARING

AUTHORITY: These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42.17.7, and in accordance with Chapter 42-35, Administrative Procedures Act 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

FISH AND WILDLIFE
&
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

FISH AND WILDLIFE &
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS

PURPOSE

The purpose of these rules and regulations is to manage the marine resources of Rhode Island.

AUTHORITY

These rules and regulations are promulgated pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42.17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

ADMINISTRATIVE FINDINGS

These administrative rules and regulations are based upon the need to modify existing regulations in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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.

DEFINITIONS

See Rhode Island Marine Statutes and Regulations, Part I, '1.3.

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.

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.

PART VII - MINIMUM SIZES OF FISH/SHELLFISH

7.1 (Repealed 8/2010)

7.2 (Repealed 8/2010)

7.3 **(Repealed 8/2010)**

7.4 **(Repealed 8/2010)**

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 20-1-16)]

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

with all rules and regulations promulgated by the Department of Environmental Management. In order to provide for the orderly harvest of the quota, the State's summer flounder quota will be managed as follows:

PUBLIC HEARING ITEM # 4 (sections 7.7.1 and 7.7.13)

Option 1 (of 4) – Modify possession limits commensurate with quota

7.7.1 Summer Flounder Sub-periods and Possession Limits

7.7.1-1 Winter Sub-Period: January 1 - April 30 annually.
Target allocation - 54% of the annual quota established in Section 7.7, unless modified pursuant to this part. It shall be unlawful to possess or land from a vessel, in any one calendar day, more than ~~300~~ 200 pounds, or the poundage as provided in this part, of summer flounder during the period from January 1 until the Sunday of the first full week in February. The DFW may adjust the possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.

a. **Any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to apply to obtain a permit from the Division of Fish and Wildlife in the aggregate landing program for summer flounder during the Winter I period beginning on the Sunday of the first full week in February until the Winter I period ends or until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land summer flounder in any amount between 0 and ~~2,500~~ 2,000 pounds in any calendar week period so long as the total landed by that vessel does not exceed ~~2,500~~ 2,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the program will terminate and the possession limit per vessel shall be ~~300~~ 100 pounds per calendar day. The DFW may adjust the aggregate program possession limit during the sub-period based on the current catch**

rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

b. During the aggregate program period as defined above, the commercial possession limit of summer flounder for vessels that are not permitted in the aggregate landing program shall be ~~300~~ 200 pounds per vessel per calendar day for vessels which possess a valid state of Rhode Island Summer Flounder Exemption Certificate. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the possession limit per vessel shall be ~~300~~ 100 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the aggregate landing program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

c. The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 200 pounds per day. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the possession limit per vessel shall be 100 pounds per calendar day.

d. An applicant vessel shall be considered eligible for a permit to participate in the aggregate landing program for summer flounder by demonstrating to the satisfaction of the Division of Fish and Wildlife and the Division of Law Enforcement that it satisfies each of the following criteria:

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

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

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

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

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

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

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

(4) Repealed (12/2010)

(5) The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the amount of summer flounder landed by a specific vessel during a calendar week.

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

the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.

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

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

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

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

(2) Any person who seeks an adjudicatory hearing relative to a determination to deny an applicant vessel a permit in the aggregate landing program for summer flounder must file said request in writing with the clerk of Administrative Adjudication Division, 235

Promenade Street, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.

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

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

<u>7.7.1-1</u> Repealed (12/2010)

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

a. <u>Beginning June 1</u> - any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to apply to obtain a permit from the Division of Fish and Wildlife for the aggregate landing program for summer flounder during the Summer sub period until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land summer flounder in any amount between 0 and 700 pounds in any calendar week period so long as the total landed by that vessel does not exceed 700 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 80% of the Summer sub period summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division) the program will terminate and the possession limit per vessel shall be 100 pounds per calendar day. The DFW may adjust the aggregate program possession limit during the sub-period based on the current catch rate and advice from

fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

b. The commercial possession limit of summer flounder for vessels that are not permitted in the aggregate landing program shall be 100 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the summer aggregate landing program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

c. The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 100 pounds per day.

d. An applicant vessel shall be considered eligible for a permit to participate in the summer aggregate landing program for summer flounder by demonstrating to the satisfaction of the Division of Fish and Wildlife and the Division of Law Enforcement that it satisfies each of the following criteria:

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

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

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

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

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

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

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

(4) Repealed (12/2010)

(5) The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the amount of summer flounder landed by a specific vessel during a calendar week.

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

f. Non-compliance with the provisions of these regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for the

subsequent Summer sub period fishery. If for any reason a Summer sub period fishery does not exist by regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current Summer sub period upon adjudication.

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

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

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

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

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

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

7.7.1-3 Fall Sub-Period: November 1 - December 31 annually. Target allocation - 11% of the annual quota established in Section 7.7, unless modified pursuant to this part. The possession limit per vessel will be ~~700~~ 300 pounds per calendar day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

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

Option 2 (of 4) – Modify possession limits commensurate with quota and change summer and winter period duration

7.7.1 Summer Flounder Sub-periods and Possession Limits

7.7.1-1 Winter Sub-Period: January 1 - April 30 annually. Target allocation - 54% of the annual quota established in Section 7.7, unless modified pursuant to this part. It shall be unlawful to possess or land from a vessel, in any one calendar day, more than ~~300~~ 200 pounds, or the poundage as provided in this part, of summer flounder during the period from January 1 until the Sunday of the first full week in February. The DFW may adjust the possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.

a. Any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to apply to obtain a permit from the

Division of Fish and Wildlife in the aggregate landing program for summer flounder during the Winter I period beginning on the Sunday of the first full week in February until the Winter I period ends or until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land summer flounder in any amount between 0 and ~~2,500~~ 2,000 pounds in any calendar week period so long as the total landed by that vessel does not exceed ~~2,500~~ 2,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the program will terminate and the possession limit per vessel shall be ~~300~~ 100 pounds per calendar day. The DFW may adjust the aggregate program possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

b. During the aggregate program period as defined above, the commercial possession limit of summer flounder for vessels that are not permitted in the aggregate landing program shall be ~~300~~ 200 pounds per vessel per calendar day for vessels which possess a valid state of Rhode Island Summer Flounder Exemption Certificate. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the possession limit per vessel shall be ~~300~~ 100 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the aggregate landing program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

c. The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 200 pounds per day. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the possession limit per vessel shall be 100 pounds per calendar day.

d. An applicant vessel shall be considered eligible for a permit to participate in the aggregate landing program for summer flounder by demonstrating to the satisfaction of the Division of Fish and Wildlife and the Division of Law Enforcement that it satisfies each of the following criteria:

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

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

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

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

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

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

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

(4) Repealed (12/2010)

(5) The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the amount of summer flounder landed by a specific vessel during a calendar week.

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

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

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

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

before the Administrative Adjudication Division pursuant to R.I. Gen. Laws Chapter 42-17.7 relative to either or both the finding that sufficient evidence exists of non-compliance with the provisions of these regulations or the permit agreement as well as the termination of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Winter I period.

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

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

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

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

7.7.1-1 Repealed (12/2010)

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

a. Beginning June 1 - any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and

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

b. The commercial possession limit of summer flounder for vessels that are not permitted in the aggregate landing program shall be 100 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the summer aggregate landing program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

c. The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 100 pounds per day.

d. An applicant vessel shall be considered eligible for a permit to participate in the summer aggregate landing program for summer flounder by demonstrating to the satisfaction of the Division of Fish and Wildlife and the Division of Law Enforcement that it satisfies each of the following criteria:

(1) The vessel if harvesting summer flounder from federal waters possesses a valid federal summer flounder moratorium permit and possesses a valid state of Rhode Island summer flounder exemption certificate, or, if harvesting exclusively in State waters, the vessel's

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

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

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

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

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

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

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

(4) Repealed (12/2010)

(5) The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the amount of summer flounder landed by a specific vessel during a calendar week.

(6) A copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife shall be kept in

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

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

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

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

(1) Any person who feels aggrieved such a determination may seek an

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

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

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

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

7.7.1-3 Fall Sub-Period: ~~November 1~~ September 16 - December 31 annually.
Target allocation - 11% of the annual quota established in Section 7.7, unless modified pursuant to this part. The possession limit per vessel will be ~~700~~ 200 pounds per calendar day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

Option 3 (of 4) – Modify possession limits commensurate with quota and change summer and winter period duration and 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 ~~300~~ 200 pounds, or the poundage as provided in this part, of summer flounder during the period from January 1 until the Sunday of the first full week in February. The DFW may adjust the possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.

a. **Any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to apply to obtain a permit from the Division of Fish and Wildlife in the aggregate landing program for summer flounder during the Winter I period beginning on the Sunday of the first full week in February until the Winter I period ends or until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land summer flounder in any amount between 0 and ~~2,500~~ 2,000 pounds in any calendar week period so long as the total landed by that vessel does not exceed ~~2,500~~ 2,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the program will terminate and the possession limit per vessel shall be ~~300~~ 100 pounds per calendar day. The DFW may adjust the aggregate program possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.**

b. **During the aggregate program period as defined above, the commercial possession limit of summer flounder for vessels that are not permitted in the aggregate landing program shall be ~~300~~ 200 pounds per vessel per calendar day for vessels which possess a valid state of Rhode Island Summer Flounder Exemption Certificate. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the possession limit per vessel shall be ~~300~~ 100 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the aggregate landing program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III,**

section 3.2.1-3.

c. The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 200 pounds per day. When 90% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the possession limit per vessel shall be 100 pounds per calendar day.

d. An applicant vessel shall be considered eligible for a permit to participate in the aggregate landing program for summer flounder by demonstrating to the satisfaction of the Division of Fish and Wildlife and the Division of Law Enforcement that it satisfies each of the following criteria:

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

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

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

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

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

(2) A vessel may commence the application process for obtaining a permit to participate in the program by downloading the application from DEMs website, or may obtain one directly from the Division of Fish and Wildlife (401-423-1927) on Mondays and Tuesdays, from 8:30 AM until 4:00 PM during the entire Winter I sub period. The application must be filled out in its entirety and returned to the

Division of Fish and Wildlife (3 Fort Wetherill Road Jamestown, RI 02835). The application will be reviewed by the Division of Fish and Wildlife and the Division of Law Enforcement and upon acceptance, a permit will be issued to the applicant vessel to take effect the first Sunday after the permit is received.

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

(4) Repealed (12/2010)

(5) The information recorded by the SAFIS reporting system shall be documented by the Division of Fish and Wildlife and the Division of Law Enforcement for use in accounting for the amount of summer flounder landed by a specific vessel during a calendar week.

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

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

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

g. If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or the permit agreement, the owner

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

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

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

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

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

7.7.1-1 Repealed (12/2010)

7.7.1-2 Summer Sub-Period: May 1 - ~~October 31~~ September 15 annually. Target allocation – ~~35~~28% of the annual quota established in Section 7.7, unless modified pursuant to this part. The possession limit per vessel will be 100 pounds per calendar day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

a. **<u>Beginning June 1</u> - any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to apply to obtain a permit from the Division of Fish and Wildlife for the aggregate landing program for summer flounder during the Summer sub period until the program is terminated as provided in this part. The name of any applicant vessel deemed to satisfy the requirements for enrollment in the program shall be maintained on a list to be kept by DEM Division of Fish and Wildlife and DEM Division of Law Enforcement and is thereby authorized to land summer flounder in any amount between 0 and 700 pounds in any calendar week period so long as the total landed by that vessel does not exceed 700 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When 80% of the Summer sub period summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division) the program will terminate and the possession limit per vessel shall be 100 pounds per calendar day. The DFW may adjust the aggregate program possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.**

b. **The commercial possession limit of summer flounder for vessels that are not permitted in the aggregate landing program shall be 100 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the summer aggregate landing program to land more than the poundage of summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.**

c. **The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 100 pounds per day.**

d. **An applicant vessel shall be considered eligible for a permit to participate in the summer aggregate landing program for summer flounder by demonstrating to the satisfaction of the Division of Fish and Wildlife and the Division of Law Enforcement that it satisfies each of the**

following criteria:

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

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

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

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

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

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

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

(4) Repealed (12/2010)

(5) The information recorded by the SAFIS reporting system shall be

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

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

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

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

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

the termination of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-1-16) as well as the ineligibility to reapply for a permit for the subject vessel for the remainder of the Summer sub period.

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

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

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

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

7.7.1-3 Fall Sub-Period: ~~November 1~~ September 16 - December 31 annually.
Target allocation - ~~11~~18% of the annual quota established in Section 7.7, unless modified pursuant to this part. The possession limit per vessel will be ~~700~~ 200 pounds per calendar day. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

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

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 possession limit is changed, and electronically notify the public utilizing the marine fisheries informational Listserve.

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.

7.7.4 Summer Flounder Recreational Regulations:

7.7.4-1 Size and Possession – No person fishing recreationally shall possess a summer flounder less than eighteen inches (18") total length, and no person fishing recreationally shall possess, per calendar day, more than eight (8) 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 May 1 through December 31.

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. Repealed 01/01/09

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, 235 Promenade Street, Providence, Rhode Island 02908.

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 20-1-16)]

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 20-1-16)]

7.7.11 Research Set Aside – Repealed (12/12/2011)

7.7.12 Control Date

A control date of December 31, 2010, is established for the commercial summer flounder fishery in Rhode Island.

Option 4 (of 4) – Activation of latent Rhode Island Summer Flounder Exemption Certificates

7.7.13 Summer Flounder Exemption Certificates

a. Beginning January 1, 2014, the Division will review the existing list of summer flounder exemption certificates (certificates). Any certificates that has not been active during the five (5) year period beginning January 1, 2009 and ending on December 31, 2013, meaning the vessel which is assigned a certificate has not had at least one (1) pound of summer flounder landed by that vessel as recorded in SAFIS at a RI seafood dealer during the defined five (5) year period, will be designated as a "latent" certificate. Each owner of a vessel that has been determined to have a latent certificate assigned to it will be notified that the certificate that was previously assigned to said vessel has been determined to be latent and as such will be available for assignment by the Division to a vessel as provided below in Section 7.7.13(b) and 7.7.13 (c).

b. At a date to be determined by the Division , the certificates designated as "latent" certificates will be made available for issuance to applicants through a lottery process until the latent certificates have been exhausted.

c. Application Process -- A vessel is eligible for the issuance of a Rhode Island Summer Flounder Exemption Certificate from the latent certificate list if it meets the following conditions. The applicant applying for an exemption certificate shall demonstrate to the satisfaction of the Division each of the following:

1. the vessel is owned or operated by a person who is a Rhode Island resident ;

2. shall provide the Division with a copy of the operator's valid current Rhode Island commercial fishing license or resident landing license,

and Federal Fluke Permit if the summer flounder is to be taken in the Exclusive Economic Zone (EEZ);

3. shall submit a completed and notarized application on a form to be provided by the Division for said certificate;

4. shall provide a completed and notarized waiver authorizing the Department to access records verifying that this vessel and operator have actively landed summer flounder in Rhode Island during the period defined in this section;

5. shall provide the Division with a copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel, as well as evidence that the vessel is commercially declared in Rhode Island; and

6. Application for an exemption certificate shall be mailed or submitted to the Division of Fish and Wildlife at: 3 Fort Wetherill Rd., Jamestown, RI 02835, Attention: Summer Flounder Exemption Certificate within the time period prescribed by the notice posted by the Division. Submittals before or after the required time period will be returned to the sender.

d. Any person who feels aggrieved relative to a determination as set forth in Section 7.7.13 (a), Section 7.7.13(b) or 7.7.13 (c) may seek an adjudicatory hearing by filing a request in writing with the clerk of Administrative Adjudication Division, 1 Capitol Hill, Providence, Rhode Island 02908 within thirty (30) calendar days of receipt of the contested agency action.

7.8 Winter Flounder (Blackback)

7.8.1 Winter Flounder – Recreational Regulations

7.8.1-1 Legal Minimum Size – No person fishing recreationally 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.

7.8.1-2 Recreational Seasons, Possession Limits, and Closed Areas –

(a) 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 two (2) winter flounder per person per calendar day in Rhode Island waters, except in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge,

where the harvest or possession of winter flounder is prohibited.

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.

(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.

7.8.3 Winter Flounder – Commercial Regulations

7.8.3-1 Legal Minimum Size -- No person fishing commercially 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.

7.8.3-2 Commercial Seasons, Possession Limits, and Closed Areas --
(a) January 1 – December 31: It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more

than 50 pounds of winter flounder.

(b) Harvest or possession of winter flounder in Narragansett Bay north of the Colregs line, and in Potter Pond, Point Judith Pond and the Harbor of Refuge, is prohibited.

(c) It is illegal for a trawl vessel to initiate trawling in Narragansett Bay north of the Colregs line and haul back south of the Colregs line and possess winter flounder.

(d) Vessels fishing south of the Colregs line or in the Exclusive Economic Zone (EEZ) may traverse closed portions of 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.

(e) Unless otherwise specified in this section, any modifications made by the Division of Fish and Wildlife to the commercial possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

7.8.4 With the exception of gillnets and fyke nets, fishing for winter flounder in waters north of the seaward entrance to all coastal salt ponds, (with the exception of Point Judith Pond and the Harbor of Refuge where the harvest or possession of winter flounder is prohibited), including the waters of Narrow River, and the waters of Little Narragansett Bay north of a line from Napatree Point to the western end of Sandy Point, including the waters of the Pawcatuck River, will be prohibited from one hour after sunset until one hour before sunrise. Gillnets and fyke nets may not be hauled from one hour after sunset to one hour before sunrise.

(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-1-16)]

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.

7.9.1-1 Recreational – No person may possess more than three (3) tautog per person per calendar day from April 15 through May 31. The tautog fishery will be closed from June 1 through July 31. No person may possess more than three (3) tautog per person per calendar day from August 1 through the Friday before the third Saturday in October. No person may possess more than six (6) tautog per person per calendar day from the third Saturday in October through December 15. While the fishery is open the possession limit shall be per person per calendar day, as stated above, or a maximum of ten (10) fish per vessel per calendar day, whichever amount is less.

7.9.1-2 Licensed Party and Charter Boats – No licensed party/charter boat may possess more than three (3) tautog per person per calendar day from

April 15 through May 31. The tautog fishery will be closed from June 1 through July 31. No licensed party/charter boat may possess more than three (3) tautog per person per calendar day from August 1 through the Friday before the third Saturday in October. No licensed party/charter boat may possess more than six (6) tautog per person per calendar day from the third Saturday in October through December 15. Compliance aboard licensed party/charter boats will be determined by dividing the number of fish onboard the boat by the number of recreational fishermen onboard the boat. Licensed party/charter boats are not subject to the ten (10) fish per vessel per calendar day restriction that applies to the rest of the recreational fishery. Any licensed party/charter boat participating in the tautog fishery must report each trip targeting tautog into the eREC logbook (the electronic logbook hosted by ACCSP).

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 vessel per calendar day.

(b) August 1 – September 15: 1/3 of the annual quota established in this part shall be available from August 1 – September 15, 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 vessel per calendar 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 vessel per calendar 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.

7.9.3 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.

7.9.4 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 20-1-16)]

7.10 Bluefish - Possession limit for recreational fishermen -- No person shall possess more than fifteen (15) 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.

7.10.1 Bluefish - Commercial Quota -- A total allowable harvest of bluefish 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 Department of Environmental Management. To provide for the orderly harvest of the quota, the Department of Environmental Management has established the following sub-period allocations.

7.10.2 Bluefish Commercial Quota - Sub-Periods

7.10.2-1 Spring sub-period - January 1 through June 30 annually. Quota - 50% of the annual allocation.

7.10.2-2 Summer-Fall Sub Period - July 1 through December 31 annually. Quota - 50% of the annual allocation.

When 50% of any seasonal sub-period quota is reached, Fish and Wildlife 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. Fish and Wildlife 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 possession limit may be modified by Fish and Wildlife providing such notification is made.

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 20-1-16)]

PUBLIC HEARING ITEM # 5 (section 7.11)

Option 1 (of 2) – Status Quo

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 III, 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 20-1-16) (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 Department of Environmental Management. To provide for the orderly harvest of the quota, the Department of Environmental Management has established the following sub-period allocations.

7.11.2 Scup Commercial Quota - Sub-Periods

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

1) **Beginning January 1 – the possession and landing limit is 50,000 pounds per vessel per calendar day, decreasing to 1,000 pounds per vessel per calendar day once 80% of the Winter I scup quota has been harvested as determined by the National Marine Fisheries Service (NMFS). Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3. The fishery will restart on May 1, and will be administered as set forth in this part.**

7.11.2-1.1 (Repealed 12.2010)

Winter Period II (November - December) -- Beginning November 1 – the possession and landing limit is 2,000 pounds per vessel per calendar day, decreasing to 500 pounds per vessel per calendar day once 70% of the period quota is landed. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

7.11.2-2 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 scup quota 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.

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. 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.

Floating Fish Trap Licensees* will be required to report landings of scup to SAFIS every Monday, Wednesday, and Friday, of every week that the trap is in operation.

7.11.2-2.1 If the Division estimates that the Floating Fish Trap sector will not fully utilize its scup allocation prior to the end of the sub period, beginning on June 15, the Division has the authority to

move the designated Floating Fish Trap sector allocation in to the general category fishery as set forth in this part. The Division will consult with the Floating Fish Trap Licensees or their designee prior to enacting any allocation roll over, and will maintain written correspondence in the form of a letter on file as proof of said consultation.

<u>7.11.2-2.2</u> If the Division estimates that the Floating Fish Trap sector may have a reasonable likelihood of utilizing prior to the end of the sub period, a portion of its scup allocation that has been transferred to the general category scup fishery pursuant to subsection 7.11.2-2.1 above and has not as yet been used, by the general category scup fishery, the Division has the authority to move the designated General Category scup fishery quota so received to the Floating Fish Trap sector. The Division will review information recorded by the SAFIS reporting system and consult with the affected sector prior to enacting any quota roll over. Any quota that was rolled over from the General Category to the Floating Fish Trap sector shall not exceed the amount that may have been transferred from the Floating Fish Trap sector to the General Category pursuant to subsection 7.11.2-2.1 above.

If there is noncompliance with the reporting requirements as set forth above, the Floating Fish Trap Licensees* will default to the program as set forth below:

<u>APRIL 15 – October 31</u>: 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 floating 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 has been harvested. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, **section 3.2.1-3.**

<u>MAY 1 – OCTOBER 31</u>: 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 floating 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 has been harvested. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III,

section 3.2.1-3.

If the Floating Fish Trap Licensees* are found to be out of compliance with the reporting regulations as set forth above, the Licensees will be notified and a notice will be filed with the Secretary of States Office.

*** "Floating 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

General Category scup fishery (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 General Category sector will be available during the following sub-periods.

Spring Sub Period: One-third (1/3) of the General Category quota will be available during the Spring Sub Period, defined as May 1 until the first Sunday in July. 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 10,000 pounds in any calendar week period during the Spring Sub Period so long as the total landed by that vessel does not exceed 10,000 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 Spring 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 on the first Sunday in July, and will be administered as set forth in this part. The Division may adjust the possession limit during the Spring Sub Period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III,**

section 3.2.1-3.

b. The 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.

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

d. 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 Spring Sub Period fishery. If for any reason a Spring 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 Spring Sub Period upon adjudication.

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

e. 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 20-1-16).

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.

<u>Summer Sub Period</u>: One-third (1/3) of the General Category quota will be available from the first Sunday in July until the third Sunday in September.

a. <u>Beginning the first Sunday in July</u> - any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 10,000 pounds in any calendar week period during the Summer Sub Period so long as the total landed by that vessel does not exceed 10,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Summer Sub Period scup quota has been harvested as determined by the Division the fishery will close. The fishery will restart on the third Sunday in September, and will be administered as set forth in this part. The Division may adjust the possession limit during the Summer Sub Period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

b. The 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.

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

d. 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 Summer Sub Period fishery. If for any reason a Summer Sub Period fishery does not exist by regulation, the privilege of the owner(s) and operator(s) to commercially harvest fish shall be suspended for the same calendar time period as described in the current Summer Sub Period upon adjudication.

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

e. 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 20-1-16).

~~(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.

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<u>Fall Sub Period</u>: One-third (1/3) of the General Category quota will be available from the third Sunday in September through October 31. The Division may increase the possession limit if they project the entire quota will not be harvested by the end of the sub-period. The DFW will have the discretion of adjusting trip limits upwards or downwards as necessary.

a. <u>Beginning the third Sunday in September</u> - any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 10,000 pounds in any calendar week period during the Fall Sub Period so long as the total landed by that vessel does not exceed 10,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Fall 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 Fall Sub Period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

b. The 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.

c. A copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife shall be kept in numerical order on board the vessel and furnished upon request,

including the name and address of the dealer where the scup were landed. The vessel must have all reports dating back to May 1st on board the vessel. A vessel shall be exempt from the foregoing requirements of this subsection if the vessel is currently enrolled in the e-Trips electronic logbook program and the vessel has been issued a letter by the Division of Fish and Wildlife confirming its enrollment and compliance with the requirements of the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.

d. 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 Fall Sub Period fishery. If for any reason a Fall 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 Fall Sub Period upon adjudication.

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

e. 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 20-1-16).

(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

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Option 2 (of 2) – Change sub periods

General Category scup fishery (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 General Category sector will be available during the following sub-periods.

Spring Sub Period: One-third (1/3) of the General Category quota will be available during the Spring Sub Period, defined as May 1 until the ~~first~~ third Sunday in ~~July~~ September. 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 10,000 pounds in any calendar week period during the Spring Sub Period so long as the total landed by that vessel does not exceed 10,000 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 Spring 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 on the ~~first~~ third Sunday in ~~July~~ September, and will be administered as set forth in this part. The Division may adjust the possession limit during the Spring Sub Period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

b. The 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.

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

d. 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 Spring Sub Period fishery. If for any reason a Spring 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 Spring Sub Period upon adjudication.

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~~f. Beginning the first Sunday in July - any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 10,000 pounds in any calendar week period during the Summer Sub Period so long as the total landed by that vessel does not exceed 10,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Summer Sub Period scup quota has been harvested as determined by the Division the fishery will close. The fishery will restart on the third Sunday in September, and will be administered as set forth in this part. The Division may adjust the possession limit during the Summer Sub Period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.~~

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~~j. 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 20-1-16).~~

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Fall Sub Period: One-third (1/3) of the General Category quota will be available from the third Sunday in September through October 31. The Division may increase the possession limit if they project the entire quota will not be harvested by the end of the sub-period. The DFW will have the discretion of adjusting trip limits upwards or downwards as necessary.

a. Beginning the third Sunday in September - any vessel authorized to land scup for commercial purposes in Rhode Island is authorized to land scup in any amount between 0 and 10,000 pounds in any calendar week period during the Fall Sub Period so long as the total landed by that vessel does not exceed 10,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week period shall begin on Sunday at 12:00 AM and ends on the following Saturday at 11:59 PM. When the Fall 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 Fall Sub Period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

b. The 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.

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

This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.

d. 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 Fall Sub Period fishery. If for any reason a Fall 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 Fall Sub Period upon adjudication.

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e. 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 20-1-16).

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(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 submit a listserve notice announcing the change.

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

7.11.4 Scup - Recreational

7.11.4-1 - No person fishing recreationally shall possess scup less than ten inches (10") total length, and no person fishing recreationally shall possess, per calendar day, more than thirty (30) 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 1 through December 31 annually.

7.11.4-3 – While fishing on a party or charter boat, no person shall possess scup less than ten inches (10”) 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 thirty (30) scup from May 1 through August 31, and more than forty-five (45) scup from September 1 through October 31 and shall possess no more than thirty (30) scup from November 1 through December 31. 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.

7.11.4-4 – Notwithstanding any other provisions of this Section, while fishing from the shore at India Point Park in Providence, RI; Conimicut Park in Warwick, RI; or at Stone Bridge in Tiverton, RI; no person shall possess scup less than nine inches (9”) total length, and no person fishing from the shore while at the designated sites set forth above shall possess, per calendar day,

whether caught within the jurisdiction of this State or otherwise, more than thirty (30) scup from May 1 through December 31.

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 second business day following the date of landing, not to exceed 48 hours after the 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 20-1-16) (RIGL 20-6-29)]

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. (RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29)]

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 20-1-16) (RIGL 20-6-29)]

PUBLIC HEARING ITEM # 6 (section 7.14)

Option 1 (of 2) – Status Quo

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. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 750 pounds of black sea bass during this period. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

(b) May 1 – June 30: Twenty-five percent (25%) of the quota established in this part shall be available from May 1 through June 30. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 50 pounds of black sea bass during this period. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

(c) July 1 – October 31: Thirty-nine (39%) of the quota established in this part shall be available from July 1 through October 31. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 50 pounds of black sea bass during this period when open. The commercial black sea bass fishery will be closed from August 1 through August 31. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

(d) November 1 – December 31: Eleven percent (11%) of the quota established in this part shall be available from November 1 through December 31. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 250 pounds of black sea bass during this period. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

(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 the above sections 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.

Option 2 (of 2) – Create Fall Sub period and Change Possession Limit

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. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 750 pounds of black sea bass during this period. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

(b) May 1 – June 30: Twenty-five percent (25%) of the quota established in this part shall be available from May 1 through June 30. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ~~50~~ 25 pounds of black sea bass during this period. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

(c) July 1 – July 31~~October 31~~: ~~Thirty-nine (39%)~~ Nineteen and a half percent (19.5%) of the quota established in this part shall be available from July 1 through October 31. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ~~50~~ 25 pounds of black sea bass during this period when open. ~~The commercial black~~

~~sea bass fishery will be closed from August 1 through August 31.~~ **Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3**

(d) September 1 – October 31: Nineteen and a half percent (19.5%) of the quota established in this part shall be available from September 1 through October 31. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 25 pounds of black sea bass during this period when open. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

(e) November 1 – December 31: Eleven percent (11%) of the quota established in this part shall be available from November 1 through December 31. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ~~250~~ 100 pounds of black sea bass during this period. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

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 the above sections 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, any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

7.14.1-4 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 20-1-16) (RIGL 20-6-29)]

7.14.2 Black Sea Bass - Recreational Harvest

7.14.2-1 – Legal Minimum Size and possession limit -- No person fishing recreationally shall possess a black sea bass less than thirteen inches (13") total length, and no person fishing recreationally shall possess, per calendar day, more than three (3) black sea bass whether caught within the jurisdiction of this State or otherwise, from June 15 through August 31, and shall possess not more than four (4) black sea bass from September 1 through December 31. 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. Total length measurement for black sea bass does not include the tendril located on the caudal (tail) fin.

7.14.2-2 – Recreational Season – The recreational season for black sea bass in Rhode Island waters will be open from June 15 at 12:01 a.m. through 11:59 p.m. on December 31, annually.

7.15 Spiny dogfish

7.15.1 Commercial Season and Possession Limits – The commercial season shall extend from May 1 until April 30 of the following year. RI is currently designated as a state that is part of the Northern region. A Northern region quota for spiny dogfish will be established annually and shall be the most recent allocation by the Atlantic States Marine Fisheries Commission (ASMFC) and/or the Secretary of the U.S. Department of Commerce as published in the Federal Register, which is currently set at 58% of the coastwide quota. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 4,000 pounds of spiny dogfish. When notified that the quota in the Northern region has been harvested, or projected to be 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.

(a) The Division is hereby authorized to enter into agreements with the other Northern Region States for the purpose of establishing seasons and possession limits governing the taking of spiny dogfish. Pursuant to the authority of Part III Section 3.2.1, the Division is further authorized to

adjust season(s) and possession limits governing the taking of spiny dogfish as may be deemed necessary to comply with said agreements. The Division will consult with the Rhode Island state-water spiny dogfish fishers prior to negotiating the subject agreements.

7.15.2 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 must land fins in proportion to carcasses, with a maximum 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 20-1-16)]

PUBLIC HEARING ITEM # 2 (section 7.16)

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 20-1-16)]~~

7.16.1 Commercial

7.16.1-1 Minimum size - No person shall take, attempt to take, possess, sell, or offer for sale any American Eel measuring less than nine inches (9”).

7.16.1-2 Season and possession limit – The commercial season for American eels in Rhode Island waters is January 1 through December 31, annually. Commercial possession will be prohibited between September 1 through December 31 annually from any gear type other than baited traps/pots or spears. The possession limit is unlimited at all other times.

7.16.1-3 Commercial gear restrictions - Eel pots shall have a minimum mesh size of ½ by ½ inches or shall have a 4 by 4 inch escape panel constructed of a mesh size of at least ½ by ½ inch mesh. The escape vent allowance will be in effect from January 1, 2014 – December 31, 2016, after which the entire pot must meet the ½ by ½ inches mesh requirement.

7.16.2 Recreational

7.16.2-1 Minimum size - No person shall take, attempt to take, or possess any American Eel measuring less than nine inches (9”).

7.16.2-2 Season and possession limit – The recreational season for American eels in Rhode Island waters is open January 1 through December 31, annually. The recreational possession limit is twenty-five (25) American eels per angler per day.

7.16.1-3 Licensed Party and Charter Boat possession limit – The licensed party and charter boat season for American eels in Rhode Island waters is open January 1 through December 31, annually. The licensed party and charter boat possession limit is fifty (50) American eels per angler per day.

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 20-1-16)]

7.18 Weakfish

7.18.1 – Commercial

7.18.1-1 Minimum size -- No person fishing commercially shall take, possess, sell, possess for sale, or offer for sale any weakfish measuring less than sixteen inches (16") total length whether caught within the jurisdiction of this State or otherwise.

7.18.1-2 Season and Possession Limits – During the period June 1 through June 30 and the period August 7 through November 8, the commercial possession limit for weakfish shall be 100 pounds of weakfish per vessel per calendar day. For directed trawl operations, codend mesh size must be ≥ 4.5" diamond or 4.0" square. At all other times, it shall be unlawful to possess aboard or land from a vessel more than 100 pounds of weakfish, as bycatch, in any one calendar day and it shall also be unlawful to possess aboard or land from a vessel any amount of weakfish, up to 100 pounds, where there is not at least an equal poundage of other species on board the vessel. Provided, however, that the commercial hook and line fishery is not permitted a bycatch allowance.

7.18.2 – Recreational

7.18.2-1 Minimum Size -- No person fishing recreationally shall possess a weakfish less than sixteen inches (16") total length.

7.18.2-2 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 one (1) 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.

RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]

7.19 Atlantic Herring (*Clupea harengus*)

7.19.1 Commercial

7.19.1-1 Season and Possession Limits - The season for Atlantic herring begins annually on January 1. The possession limit is 2,000 pounds per vessel per day, unless the vessel holds a permit issued pursuant to sub-section 7.19.1-2. When the Atlantic Herring quota has been harvested as determined by the National Marine Fisheries Service (NMFS), the season will close. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3

7.19.1-2 State Waters Atlantic Herring Fishing Permit - An Atlantic Herring fishing permit issued annually by the Division of Fish and Wildlife (RIDFW) is required for vessels engaged in the fishing and/or processing of over 2,000 pounds of Atlantic Herring in Rhode Island state waters.

f. Issuance of the RIDFW state waters Atlantic herring fishing permit is contingent on fishing vessel captains attending a meeting with RIDFW staff where they are required to give proof that:

(1) The vessel and its captain(s) have obtained all necessary and applicable authorizations to fish for Atlantic herring in RI waters (license, endorsements(s), and vessel declarations).

(2) The vessel captain(s) have provided a valid email address to RIDFW at which the captain can access~~ed~~ while fishing for the purpose of receiving advisories pertaining to river herring.

(3) The vessel captain(s) have received from RIDFW a chart of fixed commercial fishing gear locations in Rhode Island waters and will have said chart in his/her possession while

engaged in the fishing and/or processing of Atlantic Herring in RI waters.

(4) The vessel captain(s) have received from RIDFW a copy of all applicable regulations governing the commercial harvest of Atlantic herring in Rhode Island waters.

(b) RIDFW Atlantic herring fishing permits are valid for one calendar year from January 1 to December 31.

(c) Initial issuance or renewal of the RIDFW Atlantic herring fishing permit will be subject to a background check to determine if the applicant captain or vessel has been assessed a criminal or administrative penalty in the past three years of RIMF regulation sections 7.19 (Atlantic herring) or 7.20 (river herring) or more than one marine fisheries violation.

7.19.1-3 <u>River Herring Bycatch Allowance</u> - Vessels possessing a federal Atlantic herring permit fishing in federal waters may transit Rhode Island state waters and make a landing in possession of alewives, *Alosa pseudoharengus* or blueback herring, *Alosa aestivalis* (river herring) provided that the count of the combined river herring is 5% or less than the count of Atlantic herring onboard the vessel.

(a) Vessels transiting state waters must have all of the fish harvesting gear on board the vessel and stowed while in state waters.

(b) Vessels landing in Rhode Island must possess an applicable RIDEM landing permit or be operated by the holder of an applicable RIDEM commercial fishing license as defined in RIDEM *Commercial and Recreational Saltwater Fishing Licensing Regulations* sections 6.8, 6.9 and 6.10.

(c) The percentage of river herring in the catch will be assessed by sorting and counting a batch of fish taken from the catch of Atlantic herring on board the vessel or being landed by the vessel. This determination as to the percentage of river herring in the catch shall be accomplished by filling a container as defined pursuant to section 7.19.1-3(e) with a portion of the catch and examining the contents of said container. The percentage of river herring in said container shall be deemed to be representative of the percentage of river herring in the catch as a whole for purposes of a determination as to whether a vessel is in compliance with the requirements of this section.

(d) A batch of fish is defined as all fish in a separate container.

(e) A container is defined as any box, tote, bag, bucket or other receptacle capable of retaining at least 25 gallons of loose fish which may be separated from the total catch of Atlantic herring being landed.

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 20-1-16)]

7.21 Monkfish

7.21.1 – Commercial

7.21.1-1 Minimum size -- No person fishing commercially 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.

7.21.1-2 Possession Limits –
(a) For any non-federally permitted RI licensed vessel, the possession limit will be 550 pounds tail weight or 1,826 pounds whole weight of monkfish per vessel per calendar day.

(1) The possession of monkfish livers may not exceed the number of gutted-fish and tails combined.

(2) The possession of monkfish heads may not exceed the number of gutted-head-off-fish and tails combined.

(b) Repealed

(c) The possession limit may be modified on the basis of a RI state water monkfish quota as set by DEM, which shall be equal to 3% of the federal Southern Management Area (SMA) Total Allowable Landings (TAL) as specified by NMFS. When 2% of the SMA TAL has been harvested as determined by the Division of Fish and Wildlife, the possession limit will decrease to 50 pounds tail weight or 166 pounds whole weight of monkfish per vessel per calendar day, where it shall remain for the remainder of the fishing year.

(d) Commercial Fishing Year - The commercial monkfish fishery shall

operate on a May 1 through April 30 fishing year.

7.21.1-3 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 limits set forth in section 7.21.1-2. 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 while in state waters.

7.21.2 – Monkfish - Recreational Harvest

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.

RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]

7.22 Cod

7.22.1 – Commercial

7.22.1-1 Minimum size -- No person fishing commercially 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.

7.22.1-2 Possession Limits –
(a) For any non-federally permitted RI licensed vessel, the possession limit will be 1,000 pounds of cod per vessel per calendar day.
(b) The possession limit may be modified on the basis of a RI state water cod quota as set by DEM, which shall be equal to 1% of the federal New England (Georges Bank) cod quota. When 90% of the state water quota has been harvested as determined by the Division of Fish and Wildlife, the possession limit will decrease to 75 pounds of cod per vessel per calendar day. When the state water quota has been harvested as determined by the Division, the Director shall close the state water cod

fishery.

7.22.1-3 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 limits set forth in section 7.22.1-2. 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 while in state waters.

7.22.2 – Cod - Recreational Harvest

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, or any cod fillet measuring less than fourteen inches (14") in total length, whether caught within the jurisdiction of this State or otherwise.

(a) Filleting of Cod - The fillets or cleaned cod (head and tail removed) shall measure at least fourteen inches (14") in length, and each fillet shall have at least two (2) square inches (5.1 square centimeters) of skin left intact to assist in species identification. This section shall remain in effect through June 30, 2012.

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.

RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]

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 four hundred (400) pounds of shucked or fifty (50) 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'). The ring size used in a scallop dredge possessed or used by scallop vessels shall not be smaller than 4 inches (4"). The mesh size of a net, net material or any other material on the top of a scallop dredge (twine top) possessed or used by vessels fishing with scallop dredge gear shall not be smaller than 10 inch (10") square or diamond mesh.

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 20-1-16)]

PUBLIC HEARING ITEM # 7 (section 7.24)

7.24 Coastal Sharks

7.24.1 – Commercial

7.24.1-1 Commercial Species Groupings - Species managed under the Atlantic States Marine Fisheries Commission (ASMFC) Interstate Fishery Management Plan (IFMP) for Atlantic Coastal Sharks shall be grouped

into six commercial "species groups" for management purposes, hereafter referred to as: Prohibited Species, Research Species, Smoothhound Sharks ~~Smooth dogfish~~, Small Coastal Sharks, Non-Sandbar Large Coastal Sharks, and Pelagic Sharks. These groupings apply to all commercial shark fisheries in state waters.

7.24.1-2 Commercial Fishing Year - The commercial shark fishery shall operate on a January 1 through December 31 fishing year.

7.24.1-3 Commercial Possession Limits – Possession limits, quotas, and seasonal periods for commercial shark fisheries will be established annually either through the National Marine Fisheries Service (NMFS), ~~or~~ the Atlantic States Marine Fisheries Commission (ASMFC), or the Division of Fish and Wildlife~~. In~~ in accordance therewith:

a. **Properly licensed commercial fishermen may possess any of the species of sharks listed in Table 7.1 below in the Smoothhound Sharks ~~Smooth dogfish~~, Small Coastal Sharks, Non-Sandbar Large Coastal Sharks and Pelagic Sharks species groups.**

b. **There are no commercial trip limits or possession limits for Smoothhound Sharks ~~Smooth dogfish~~, or for the sharks listed in the Small Coastal Sharks and the Pelagic Species groups.**

c. **No person shall possess more than 36 sharks, per vessel per calendar day, regardless of species, from the Non-Sandbar Large Coastal Sharks species group.**

Table 7.1 Sharks in the Smoothhound Sharks ~~Smooth dogfish~~, Small Coastal Sharks, Non-Sandbar Large Coastal Sharks, and Pelagic Species Groups.

Common Name	Scientific Name
Smoothhound Sharks ~~Smooth dogfish~~	
Smooth Dogfish	*Mustelus canis*
Florida smoothhound	*Mustelis norrisi*
Small Coastal Sharks (SCS)	
Atlantic sharpnose	*Rhizoprionodon terraenovae*
Finetooth	*Carcharhinus isodon*
Blacknose	*Carcharhinus acronotus*
Bonnethead	*Sphyrna tiburo*
Non-Sandbar Large Coastal Sharks (LCS)	
Silky	*Carcharhinus falciformis*
Tiger	*Galeocerdo cuvier*

Blacktip	***Carcharhinus limbatus***
Spinner	***Carcharhinus brevipinna***
Bull	***Carcharhinus leucas***
Lemon	***Negaprion brevirostris***
Nurse	***Ginglymostoma cirratum***
Scalloped hammerhead	***Sphyrna lewini***
Great hammerhead	***Sphyrna mokarran***
Smooth hammerhead	***Sphyrna zygaena***
Pelagic Sharks	
Shortfin mako	***Isurus oxyrinchus***
Porbeagle	***Lamna nasus***
Common thresher	***Alopias vulpinus***
Oceanic whitetip	***Carcharhinus longimanus***
Blue	***Prionace glauca***

<u>7.24.1-4</u> <u>Transfer of Sharks</u> - No person shall transfer sharks between vessels at sea.

<u>7.24.1-5</u> Prohibition on the Possession of Sharks in the Prohibited and Research Species Groups – No person shall possess any species of sharks listed in Table 7.2 below in the Prohibited Species and Research Species groups, except in accordance with the provisions of section 7.24.1-8.

Table 7.2 Sharks in the Prohibited and Research Species Groups

Prohibited Species Group	
Common Name	**Scientific Name**
Sand tiger	***Carcharias taurus***
Bigeye sandtiger	***Odontaspis noronhai***
Whale	***Rhincodon typus***
Basking	***Cetorhinus maximus***
White	***Carcharodon carcharias***
Dusky	***Carcharhinus obscurus***
Bignose	***Carcharhinus altimus***
Galapagos	***Carcharhinus galapagensis***
Night	***Carcharhinus signatus***
Reef	***Carcharhinus perezii***
Narrowtooth	***Carcharhinus brachyurus***
Caribbean sharpnose	***Rhizoprionodon porosus***
Smalltail	***Carcharhinus porosus***
Atlantic angel	***Squatina dumeril***
Longfin mako	***Isurus paucus***
Bigeye thresher	***Alopias superciliosus***
Sharpnose sevengill	***Heptranchias perlo***
Bluntnose sixgill	***Hexanchus griseus***
Bigeye sixgill	***Hexanchus nakamurai***

Research Species Group	
Sandbar	***Carcharhinus plumbeus***

7.24.1-6 Quota Specification – Quotas for coastal shark species will be established annually by the Atlantic States Marine Fisheries Commission and/or the Secretary of the U.S. Department of Commerce as published in the Federal Register. It shall be unlawful for any person to possess any species of shark in state waters when the National Marine Fisheries Service (NMFS) prohibits the possession of that species in federal waters.

When notified that the quota set for any species of shark is harvested or projected to be harvested, as determined by the National Marine Fisheries Service (NMFS), ~~or~~ the Atlantic States Marine Fisheries Commission (ASMFC), or the Division of Fish and Wildlife, the Division of Fish and Wildlife shall file notice with the Office of the Secretary of State prohibiting the commercial landings, harvest and possession of that species in state waters for the remainder of the designated period.

7.24.1-7 Commercial License – A person must hold a state commercial license in accordance with RIGL Chapter 20-2.1 in order to commercially land, harvest, possess, and sell sharks in state waters.

7.24.1-8 Display and Research of Sharks – No person shall possess, transport, sell or offer to sell any of the shark species listed in the Prohibited and Research Species Groups without the possession of a valid state collector's permit obtained from the Division of Fish and Wildlife.

Any person granted a collector's permit shall:

a. Report to the Director, within 30 days after coming into possession of a shark. For each and every shark collected for research or display, the report to the Director shall include the following information: species identification, length, weight, date and location where caught by latitude and longitude coordinates, and the gear used; and

b. For each shark taken for live display, the holder of the permit shall also report to the Director annually, by December 31 of each year, for the life of the shark. The annual report shall include all of the information set forth in the original report to the Director pertaining to the sharks, as well as updated information on the length and weight of the shark.

7.24.1-9 Dealer Permit

a. No person shall sell any shark species to a person or dealer who

does not possess a state commercial dealer license issued pursuant to RIGL 20-2.1, and a federal Commercial Shark Dealer Permit issued by the National Marine Fisheries Service.

b. No person shall purchase any shark species for sale or resale unless such person, possesses a state commercial dealer license issued pursuant to RIGL 20-2.1, and a federal Commercial Shark Dealer Permit issued by the National Marine Fisheries Service. [*Federal Commercial Shark Dealer Permits are open access and can be obtained by contacting the National Marine Fisheries Service Southeast Regional Office in St. Petersburg, FL at (727) 824-5326. Applications are available on the web at* http://sero.nmfs.noaa.gov/permits/permits.htm].

7.24.1-10 Authorized Commercial Gear – No person shall fish commercially for sharks in state waters by any method other than the following gear types:

- **Rod & reel**
- **Handlines, which are defined as a mainline to which no more than two gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel.**
- **Small Mesh Gillnets which are defined as having a stretch mesh size smaller than 5 inches**
- **Large Mesh Gillnets which are defined as having a stretch mesh size equal to or greater than 5 inches.**
- **Trawl nets.**
- **Shortlines which are defined as fishing lines containing 50 or fewer hooks and measuring less than 500 yards in length. A maximum of 2 shortlines shall be allowed per vessel.**
- **Pound nets/fish traps.**
- **Weirs.**

7.24.1-11 Bycatch Reduction Measures – Vessels using shortlines and large-mesh gillnets to catch sharks must abide by the following bycatch regulation measures. Any vessels using shortlines or large-mesh gillnets that do not follow the following bycatch reduction measures are prohibited from possession, landing or selling any sharks.

a. Any vessel using a shortline shall:

(1) use corrodible circle hooks, which are defined as non-offset hooks with the point turned perpendicularly back to the shanks; and

(2) practice the protocols, and possess the federally

required release equipment, for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; and

(3) have all captains and vessel owners federally certified in using, handling and release equipment. Captains and vessel owners can become certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA. [Information on these workshops can be found at http://www.nmfs.noaa.gov/sfa/hms/workshops/index.htm or by calling the Management Division at (727) 824-5399.]

b. Any vessel using large-mesh gillnets, must use nets that are shorter than 2.5 kilometers.

7.24.1-12 Prohibition of Finning – Finning is defined as the act of taking a shark and removing its fins. Finning of sharks is prohibited in all state waters. All sharks, with the exception of Smoothhound Sharks ~~Smooth dogfish~~, possessed by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass until landed. Fins may be cut as long as they remain attached to the carcass, by natural means, with at least a small portion of uncut skin. Sharks may be gutted and bled provided the tail is not removed. Sharks taken and possessed by commercial fishermen may have the heads removed, but no commercial fisherman shall fillet a shark at sea or otherwise cut a shark into pieces at sea.

Commercial fishermen may completely remove all Smoothhound Shark fins year round ~~the fins of smooth dogfish from March through June of each year~~. If fins are removed, the total wet weight of the shark fins may not exceed ~~5~~ 12 percent of the total dressed weight of Smoothhound Shark ~~smooth dogfish~~ carcasses landed or found on board a vessel.

~~From July through February for the smooth dogfish fishery only, commercial fishermen may completely remove the head, tail, pectoral fins, pelvic (ventral) fins, anal fin, and second dorsal fin, but must keep the dorsal fin attached naturally to the carcass through landing. Fins may be cut as long as they remain attached to the carcass, by natural means, with at least a small portion of uncut skin. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel.~~

7.24.2 - Recreational

7.24.2-1 Recreationally Permitted Species – **Recreational fishermen may possess any of the species of sharks listed in Table 7.3.**

Table 7.3 Recreationally Permitted Species List.

Recreationally PERMITTED Species	
Smooth Dogfish[1]	*Mustelus canis*
Florida smoothhound[1]	*Mustelis norrisi*
Atlantic sharpnose	*Rhizoprionodon terraenovae*
Finetooth	*Carcharhinus isodon*
Blacknose	*Carcharhinus acronotus*
Bonnethead	*Sphyrna tiburo*
Tiger	*Galeocerdo cuvier*
Blacktip	*Carcharhinus limbatus*
Spinner	*Carcharhinus brevipinna*
Bull	*Carcharhinus leucas*
Lemon	*Negaprion brevirostris*
Nurse	*Ginglymostoma cirratum*
Scalloped hammerhead	*Sphyrna lewini*
Great hammerhead	*Sphyrna mokarran*
Smooth hammerhead	*Sphyrna zygaena*
Shortfin mako	*Isurus oxyrinchus*
Porbeagle	*Lamna nasus*
Common thresher	*Alopias vulpinus*
Oceanic whitetip	*Carcharhinus longimanus*
Blue	*Prionace glauca*

[1] Smoothhound Sharks, including smooth dogfish and Florida smoothhound are not regulated in federal waters and are not prohibited as a result.

7.24.2-2 Recreationally Prohibited Species -- **No person fishing recreationally shall possess, in state waters any shark species that is not permitted to be taken in federal waters, as listed in Table 7.4.**

Table 7.4 Recreationally Prohibited Species List.

Recreationally PROHIBITED Species	
Sandbar	*Carcharhinus plumbeus*
Silky	*Carcharhinus falciformis*
Sand tiger	*Carcharias taurus*
Bigeye sand tiger	*Odontaspis noronhai*
Whale	*Rhincodon typus*
Basking	*Cetorhinus maximus*
White	*Carcharodon carcharias*
Dusky	*Carcharhinus obscurus*
Bignose	*Carcharhinus altimus*
Galapagos	*Carcharhinus galapagensis*
Night	*Carcharhinus signatus*
Reef	*Carcharhinus perezii*

Narrowtooth	***Carcharhinus brachyurus***
Caribbean sharpnose	***Rhizoprionodon porosus***
Smalltail	***Carcharhinus porosus***
Atlantic angel	***Squatina dumeril***
Longfin mako	***Isurus paucus***
Bigeye thresher	***Alopias superciliosus***
Sharpnose sevengill	***Heptranchias perlo***
Bluntnose sixgill	***Hexanchus griseus***
Bigeye sixgill	***Hexanchus nakamurai***

7.24.2-3 Recreational Landings Requirements – No person fishing recreationally shall possess or land sharks that do not have heads, tails, and fins attached naturally to the carcass. Sharks may be gutted and bled by making an incision at the base of the caudal peduncle provided the tail is not removed. No a person fishing recreationally shall fillet a shark at sea or otherwise cut a shark into pieces at sea.

7.24.2-4 Recreational Minimum Size Limits – No person fishing recreationally shall possess a shark with a fork length less than 54 inches, with the exception of Atlantic sharpnose, blacknose, finetooth, bonnethead, ~~and~~ smooth dogfish, and Florida Smoothhound which have no minimum size limit. (SeeTable 7.4).

Table 7.5 Recreational Minimum Size Limits

No Minimum Size Limit	At Least 54 inches (4.5 Feet) Fork Length	
Smooth Dogfish	Tiger	Shortfin mako
Florida smoothhound	Blacktip	Porbeagle
Atlantic sharpnose	Spinner	Common thresher
Finetooth	Bull	Oceanic whitetip
Blacknose	Lemon	Blue
Bonnethead	Nurse	Scalloped hammerhead
	Great hammerhead	Smooth hammerhead

7.24.2-5 Authorized Recreational Gear – No person fishing recreationally shall take sharks by any method other than rod and reel or handline. Handlines are defined as a mainline to which no more than two gangions or hooks are attached; retrieved by hand, not by mechanical means; and attached to, or in contact with, a vessel.

7.24.2-6 Recreational Shore-Fishing Possession Limits – No recreational fishermen fishing from shore shall possess, in any one calendar day, more than one shark from the recreationally permitted species list (*Section 7.24.2-1, Table 7.3*), except that each such fishermen may individually possess one additional bonnethead *(Sphyrna tiburo)*, and one additional Atlantic sharpnose *(Rhizoprionodon terraenovae)* per calendar day. However, recreational shore-fishermen may harvest an unlimited amount of

smooth dogfish and Florida Smoothhound.

Sharks that are transported by a vessel are considered 'boat assisted' and are regulated under the more restrictive vessel-fishing possession limits in section 7.24.2-7 regardless of how or where they were caught.

7.24.2-7 Recreational Vessel-Fishing Possession Limits - No vessel engaged in recreational fishing vessels shall possess, in any one calendar day, or any one trip, whichever is less, more than one shark from the recreationally permitted species list (*Section 7.24.2-1, Table 7.3)*, regardless of the number of people on board the vessel, except that each recreational fisherman fishing from a vessel may individually possess one additional bonnethead *(Sphyrna tiburo)*, and one additional Atlantic sharpnose *(Rhizoprionodon terraenovae)*, per calendar day, or per trip, whichever is less. However, recreational vessel-fishermen may harvest an unlimited amount of smooth dogfish and Florida Smoothhound. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]

7.25 Skate

7.25.1 – Commercial

7.25.1-1 Commercial Fishing Year – The commercial skate fishery shall operate on a May 1 through April 30 fishing year.

7.25.1-2 Prohibited Species – It shall be unlawful for any person to possess any barndoor (*Dipturus laevis*) or thorny (*Amblyraja radiata*) species of skate in Rhode Island.

7.25.1-3 Skate Wing Fishery – shall be defined as skate harvested, possessed, or landed for food for human consumption, i.e., product landed with a designated Atlantic Coastal Cooperative Statistics Program Disposition Code 001 = Food.

a. Current Commercial Possession Limit – There are no commercial trip limits or possession limits for commercial fishers engaged in the skate wing fishery, except as specified in 7.25.1-5, provided the vessel is fishing in state waters, not on a previously declared Day At Sea (DAS), and without an active federal open-access skate permit.

7.25.1-4 Skate Bait Fishery – shall be defined as skate harvested, possessed, or landed for use as bait i.e., product landed with a designated Atlantic Coastal Cooperative Statistics Program Disposition Code 008 = Bait.

a. Current Commercial Possession Limit – There are no commercial trip limits or possession limits for commercial fishers engaged in the skate bait fishery, except as specified in 7.25.1-5, provided the vessel is fishing in state waters, not on a previously declared DAS, without an active federal open-access skate permit, and without a federal skate bait Letter of Authorization (LOA).

7.25.1-5 Possession Limit Adjustments – When notified by the National Marine Fisheries Service (NMFS) that the federal Skate Wing or Skate Bait fishery possession limit is being reduced due to a federally-specified percentage of the Total Allowable Landings (TAL) being harvested, the RIDEM will promulgate a comparable reduced possession limit specific to the fishery being addressed by NMFS, until the end of the fishing year, or unless the federal restriction is relinquished. Any modifications made by the Division of Fish and Wildlife to the possession limit as set forth above will be promulgated in Part III, section 3.2.1-3.

7.25.2 Skate - Recreational Harvest

7.25.2-1 Prohibited Species – It shall be unlawful for any person to possess any barndoor (*Dipturus laevis*) or thorny (*Amblyraja radiata*) species of skate in Rhode Island.

7.25.2-2 Possession Limits – There are no recreational possession limits for skate provided the vessel is fishing in state waters, except as specified in 7.25.2-3.

7.25.2-3 Possession Limit Adjustments – The recreational possession limit for skate shall be adjusted to the most restrictive commercial possession limit if a possession limit is imposed on either of the two commercial skate fisheries as stated in sections 7.25.1-3, 7.25.1-4, and 7.25.1-5. Any modifications made to the recreational possession limit by the Division of Fish and Wildlife will be promulgated in Part VII, section 7.25.2. RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 20-1-16)]

Rule 8. EFFECTIVE DATE

The foregoing rules and regulations of the Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this ~~**11th day of April, 2013**~~ to become effective 20 days from filing, **unless otherwise indicated below**, in accordance with the provisions of Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

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Janet L. Coit, Director
Department of Environmental Management

Notice Given: ~~02/07/2013~~ **10/18/2013**
Public Hearing: ~~03/13/2013~~ **11/19/2013**

Filing date: ~~04/11/2013~~
Effective date: ~~05/01/2013~~

ERLID# ~~7224~~