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~~ Finfish~~/Shellfish~~

~~January 10, 2014~~

ANNOTATED REGULATIONS
MARCH 25, 2014 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 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

PUBLIC HEATING ITEM # 8

For general editing of entire regulations: to remove duplicative language; to add and/or correct statutory citations; and to add general provisions regarding possession limit changes, transiting, reporting requirements, penalties and appeals

~~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~~

Comment [PD1]: Unnecessary

TABLE OF CONTENTS

PURPOSE 3

AUTHORITY 3

~~ADMINISTRATIVE FINDINGS ..... 3~~

APPLICATION 3

SEVERABILITY 3

SUPERSEDED RULES AND REGULATIONS 3

REGULATIONS ..... 4 - XX

EFFECTIVE DATE XX

Comment [PD2]: Unnecessary

~~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~~

Comment [PD3]: Unnecessary

PURPOSE

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

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 42-35-18(b)(5), 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.~~

Comment [PD4]: Unnecessary

APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department (DEM) 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.

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

7.1 ~~(Repealed 8/2010)~~ **Possession limit changes: Any modifications made to the possession limit as set forth in these regulations will be promulgated in the RI Marine Fisheries regulations (RIMFR) Part III.**

7.2 ~~(Repealed 8/2010)~~ **Transiting:**

7.2.1 During the closure of a Rhode Island state allocated fishery quota, a federally permitted vessel fishing in the Exclusive Economic Zone may traverse Rhode Island state waters for the purpose of landing that species in another state, provided the vessel is in compliance with their federal permit, and the vessel nets are stowed pursuant to RIMFR Part X.

7.2.2 A federally permitted vessel fishing in the Exclusive Economic Zone may traverse Rhode Island state waters for the purpose of landing a species in Rhode Island, provided that the species in possession do not have a state allocated quota that is currently closed, provided the vessel is in compliance with their federal permit, provided the vessel nets are stowed pursuant to RIMFR Part X, and provided that the owner or operator possesses a valid RI Landing License pursuant to DEM's "Commercial and Recreational Saltwater Fishing Licensing Regulations".

7.2.3 A vessel in possession of a managed species caught in an open area of state waters may transit a closed portion of RI state waters in possession of that species for the purpose of landing, provided the operator of the vessel has a valid commercial or recreational fishing license, and if fishing with nets, the nets are stowed pursuant to RIMFR Part X.

7.3 ~~(Repealed 8/2010)~~ **Possession limit compliance aboard vessels:**

7.3.1 - Licensed party/charter vessels: Possession limit compliance aboard licensed party/charter vessels will be determined by dividing the number of fish by the number fishermen onboard the boat.

7.3.2 - Multiple licensed recreational fishermen fishing from a single vessel: Possession limit compliance aboard vessels with multiple licensed fishermen will be determined by dividing the number of fish by the number of licensed fishermen on board said vessel, except for tautog, which has a maximum possession limit per vessel.

7.4 ~~(Repealed 8/2010)~~ **Net obstruction or constriction: A fishing vessel subject to minimum mesh size restrictions shall not use any device or material, including,**

Comment [PD5]: Added as general provision and removed in several locations throughout body of text. Is redundant with Part III but kept to guide fishermen to Part III for current possession limits

Comment [PD6]: "Transiting" added as a general provision and removed in several locations throughout regs

Comment [PD7]: Would like to title as "Recreational Vessels" but not a defined term

Comment [PD8]: Removed in several locations throughout reg and added here as a general provision

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.

7.5 ~~(Repealed 1/2014)~~ **No one may transfer or attempt to transfer at sea, from one vessel to another, any finfish that are subject to these regulations.**

7.6 ~~(Repealed 1/2014)~~ **Reporting requirements: Accurately completed copies of the federal Vessel Trip Reports or the state reporting forms prescribed by the DFW shall be kept in numerical order on board the vessel dating back to January 1st and furnished upon request. A vessel shall be exempt from this requirement if the captain of said vessel is currently enrolled in an electronic logbook program. Instead, the vessel must have all records dating back to January 1st entered electronically. Reference DEM's "*Commercial and Recreational Saltwater Fishing Licensing Regulations*".**

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~~ **NOAA Fisheries**. ~~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 DEM. In order to provide for the orderly harvest of the quota, the State's summer flounder quota will be managed as follows:~~

7.7.1 Summer Flounder Sub-periods and Possession Limits:

7.7.1-1 Winter Sub-Period: January 1 - April 30 annually:
Target allocation - 54% of the annual quota ~~established in Section 7.7, unless modified pursuant to this part~~. ~~It shall be unlawful to possess or land from a~~ **The possession limit per** vessel~~, in any one~~ **per** calendar day~~, more than~~ **is** 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 RIMFC.~~

a. **Beginning on the Sunday of the first full week in February**: ~~Any~~

Comment [PD9]: Not new language. Relocated from Winter Flounder, section 7.8.2-1. Mistakenly located only in Winter Flounder

Comment [PD10]: Currently located only in sections 7.7.5-1 (Fluke), 7.11.4-1 (Scup) and 7.24.1-4 (Sharks). Removed in these sections and added as a general provision as applies to all species

Comment [PD11]: Not new language per se but edited and relocated here as a general provision and removed in several locations throughout reg

Comment [PD12]: Licensing regs

Comment [PD13]: Extra unnecessary wordiness

Comment [PD14]: Added as a general provision

~~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 RI 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 sub-period beginning on the Sunday of the first full week in February until the Winter sub-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 2,000 pounds in any calendar week period so long as the total landed by that vessel does not exceed 2,000 pounds in any calendar week period. It shall be unlawful for the cumulative landings to exceed the weekly trip limit.~~ **For vessels permitted in the Winter sub-period of the RI Summer Flounder Aggregate Landing Program (Aggregate Landing Program), the maximum possession limit is 2,000 pounds per vessel per calendar week.** 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 **sub-period** ~~summer flounder~~ quota has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **(DFW),** 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 RIMFC. 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 Landing Program period as defined **in paragraph a.** above, the ~~commercial~~ possession limit ~~of Summer flounder~~ for vessels that are not permitted in the Aggregate Landing Program, **but which possess a valid RI Summer Flounder Exemption Certificate,** shall be 200 pounds per vessel per calendar day ~~for vessels which possess a valid state of RI Summer Flounder Exemption Certificate~~. When 90% of the Winter **sub-period** ~~summer flounder~~ quota has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **(DFW),** the possession limit per vessel shall be 100 pounds per calendar day. ~~It shall be unlawful for any person operating a vessel that is not permitted to participate in the Aggregate Landing Program to land more than the poundage of Summer flounder, as specified above, in Rhode Island during any calendar day commencing at 12:00 AM and ending at~~

Comment [PD15]: Duplicative with paragraph d. below

Comment [PD16]: Programmatic, not regulatory

Comment [PD17]: Reworded in following sentence

Comment [PD18]: 200? Jay

Comment [PD19]: "90%" sentence in paragraphs a., b., and c. Redundant?

Comment [PD20]: Not current practice

Comment [PD21]: Added as a general provision

Comment [PD22]: Added this as there appears to be a distinction, or what is paragraph c. for? Same question for Summer sub-period Or is it this by default and don't need to specify

Comment [PD23]: "90%" sentence in paragraphs a., b., and c. Redundant?

~~11:59 PM of that same day. Any modifications made by the Division of Fish and Wildlife (Division) 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 **valid** ~~state of RI Summer Flounder~~ Exemption Certificate is 200 pounds per day. When 90% of the Winter **sub-period** ~~summer flounder~~ quota has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **(DFW)**, the possession limit per vessel shall be 100 pounds per calendar day.

d. An applicant vessel shall be considered eligible **and may apply** 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~~ **(DFW)** 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 RI 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 RI 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 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~~ **(DFW)**;

(2) ~~A vessel may commence the application process for obtaining a~~

Comment [PD24]: Overly wordy and redundant with previous sentence

Comment [PD25]: Added as a general provision

Comment [PD26]: Reconcile with same sections in Summer sub-period

Comment [PD27]: "90%" sentence in paragraphs a., b., and c. Redundant?

~~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 **for an Aggregate Landing Program Permit** must be filled out in its entirety and returned to the ~~Division of Fish and Wildlife~~ **(DFW)** (3 Fort Wetherill Road Jamestown, RI 02835). The application will be reviewed by the ~~Division of Fish and Wildlife~~ **(DFW)** 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;

Comment [PD28]: Programmatic, not regulatory

(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~~ **(DFW)** and the Division of Law Enforcement for use in accounting for the amount of Summer flounder landed by a specific vessel during a calendar week;

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

Comment [PD29]: Added as a general provision

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 **remainder of the Winter sub-period or** the subsequent Winter ~~fishery~~ **sub-period**. If for any reason a Winter ~~fishery~~ **sub-period** 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 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".~~

Comment [PD30]: Added as a general penalty provision at end of reg

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 RIGL 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.~~

Comment [PD31]: Added as a general penalty provision at end of reg

Comment [PD32]: Covered by adding language in paragraph "f." above

~~(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.~~

Comment [PD33]: Added as a general Appeal provision at end of reg

h. Any applicant who is permitted for the Winter **sub-period for the** Aggregate **Landing** Program as set forth above will not be allowed to participate in the Summer **sub-period** aggregate landing program within the same year.

~~7.7.1-1 Repealed (12/2010)~~

7.7.1-2 Summer Sub-Period: May 1 - 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~~ **is** 100 pounds per calendar day **between May 1 and May 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.~~

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 RI 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 RI 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~~. **For vessels permitted in the Summer sub-period of the Aggregate Landing Program, the maximum possession limit is 700 pounds per vessel per week.** 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)~~ **(DFW)** 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 RIMFC. 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 Landing Program period as defined in paragraph a. above**, The ~~commercial~~ possession limit ~~of Summer flounder~~ for vessels that are not permitted in the Aggregate Landing Program **but which possess a valid RI Summer Flounder Exemption Certificate,** 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~~

Comment [PD34]: Added as a general provision

Comment [PD35]: Redundant with paragraph d. below

Comment [PD36]: Programmatic, not regulatory

Comment [PD37]: Reworded in following sentence

Comment [PD38]: 200? Jay

Comment [PD39]: Not currently practiced; redundant with Part III

Comment [PD40]: Added as a general provision

Comment [PD41]: Added this as there appears to be a distinction, or what is paragraph c. for? Same question for Winter sub-period. Or is it this by default and don't need to specify

Comment [PD42]: 200? Jay

~~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 **valid** ~~RI Summer Flounder~~ Exemption Certificate is 100 pounds per day.

d. An applicant vessel shall be considered eligible **and may apply** 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~~ **(DFW)** 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 RI 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 RI 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~~ **DFW**;

(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~~

Comment [PD43]: Overly wordy and redundant with previous sentence

Comment [PD44]: Added as a general provision

Comment [PD45]: 200? Duplicate of 1st sentence of paragraph "b." immediately above> Need to look at entire section and improve clarity and intent of language

Comment [PD46]: Reconcile with same sections in Winter sub-period

~~8:30 AM until 4:00 PM during the entire Summer sub-period.~~ The application **for an Aggregate Landing Program permit** 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~~ **(DFW)** 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;

Comment [PD47]: Programmatic, not regulatory

(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~~ **(DFW)** and the Division of Law Enforcement for use in accounting for the amount of summer flounder landed by a specific vessel during a calendar week;

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

f. Non-compliance with the provisions of these regulations or the permit agreement shall subject both the owner and the operator to revocation of enrollment and participation in the commercial fisheries for the **remainder of the Summer sub-period or** 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 is permitted for the Winter **sub-period for the** Aggregate **Landing** Program as set forth above will not be allowed to participate in the Summer **sub-period** aggregate landing program within the same year.

7.7.1-3 Fall Sub-Period: 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~~ **is** 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~~ **DFW**, 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~~ **DFW** 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.

PUBLIC HEATING ITEM # 1
Recreational Summer Flounder

Option 1 - Status Quo:

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.

Option 2 – change minimum size and season:

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~~ **seventeen** inches ~~(18")~~ **(17")** total length, and no person fishing recreationally shall possess, per calendar day, more than ~~eight (8)~~ **five (5)** 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~~ **22** through ~~December 31~~ **September 30**.

Option 3 – change minimum size and season :

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~~ **seventeen** inches ~~(18")~~ **(17")** 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~~ **22** through ~~December 31~~ **September 30**.

Option 4 - change minimum size and season:

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~~ **sixteen and one half** inches ~~(18")~~ **(16.5")** total length, and no person fishing recreationally shall possess, per calendar day, more than ~~eight (8)~~ **five (5)** 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~~ **22** through ~~December 31~~ **September 30**.

Option 5 - change minimum size and season:

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~~ **sixteen and one half** inches ~~(18")~~ **(16.5")** total length, and no person fishing recreationally shall possess, per calendar day, more than ~~eight (8)~~ **three (3)** 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~~ **22** through ~~December 31~~ **September 30**.

Option 6 – "Fish for the Future" proposal:

The RIDEM seeks input on the allowance of a small scale management program for a portion of the RI charter boat fleet which would allocate a 2% portion of the 2014 RI recreational harvest limit for fluke to a group of charter vessels. The group of vessels will opt in to a contract to track and report their harvest to the RIDFW and will be obligated to cease fishing for summer flounder when their allocation is exhausted. A full proposal can be found at: http://www.dem.ri.gov/programs/bnatres/fishwild/pdf/sfl022014p.pdf

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;

Comment [PD48]: Added as a general provision

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.~~

Comment [PD49]: Unnecessary

~~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.~~

Comment [PD50]: Redundant with Licensing regs 6.6-1

~~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.~~

Comment [PD51]: Not regulatory

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

Comment [PD52]: Unnecessary. Don't want to prescribe how DLE does things

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 **valid** ~~summer flounder~~ Exemption Certificate issued by ~~Fish and Wildlife~~ **DFW** and a valid Rhode Island commercial fishing license. ~~Application for an summer flounder Exemption permit must be received by Fish and Wildlife prior to January 1, 1997.~~

7.7.7 **Rhode Island Summer Flounder** Exemption Certificate: ~~Fish and Wildlife~~

DFW will issue a **RI Summer Flounder** Exemption Certificate **(Exemption Certificate)** for a vessel if the owner of the vessel or his/her representative applies to ~~Fish and Wildlife~~ **DFW** 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**se** ~~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 **a RI Summer Flounder Exemption** Certificate ~~of Exemption~~: A vessel is eligible to receive an ~~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~~ **DFW** 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 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 section 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 section 7.7.7; and

7.7.8-5: provide ~~Fish and Wildlife~~ DFW 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 **DFW** office ~~of Fish and Wildlife~~ at: ~~Oliver Stedman Government Center, 4808 Tower Hill Rd., Wakefield, RI 02879, Attention: Fluke Exemption~~ **3 Fort Wetherill Road, Jamestown, RI 02835.**

7.7.10 Transfer of ~~Rhode Island Summer Flounder~~ **an Exemption Certificate** ~~of Exemption~~: An **Exemption** Certificate ~~of Exemption~~ issued by the ~~Division~~ **DFW** 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: An **Exemption** 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 an **Exemption** 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 **Certificate** issued by the ~~Division~~ **DFW** must apply to the ~~Division~~ **DFW** for approval and provide to the satisfaction of the ~~Division of Fish and Wildlife~~ **DFW** proof that the applicant vessel is replacing a

vessel which has been removed from the Summer Flounder Exemption Program ~~(as described in section 7.7.6)~~

Comment [PD53]: Incorrect citation and unnecessary

(1) The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's **Exemption** Certificate ~~of Exemption~~ for purposes of replacing the vessel. If a vessel owner elects to sever the Certificate of Exemption from a vessel, the **Exemption** 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), **Exemption** Certificates ~~of Exemption~~, and fishing history cannot be split.

(3) **An Exemption** Certificate ~~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 an **Exemption** Certificate ~~of Exemption~~.

(6) A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain an **Exemption** 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) **Exemption** 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.

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.

PUBLIC HEATING ITEM # 2
Recreational Winter Flounder

Option 1 – change season:

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,~~ **Between March 1 and December 31 of each year,** 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.~~

Comment [PD54]: Added as a general provision

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) ~~Transit Provisions:~~

~~(1) Vessels fishing in open portions of state waters 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.~~

~~(2) Vessels fishing in federal waters may traverse portions of Rhode Island waters while in possession of more than the Rhode Island winter flounder possession limit for the purpose of landing provided the vessel possesses a valid federal permit allowing commercial harvest of winter flounder from federal waters for the amount of winter flounder onboard the vessel and they are not fishing and nets are stowed in accordance with Section 10.10 of these regulations.~~

Comment [PD55]: Added as a general provision

~~(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.~~

Comment [PD56]: Added as a general provision

~~7.8.3-3 Recreational Transit Provisions - Vessels fishing in Party/Charter mode in federal waters may traverse portions of Rhode Island waters while in possession of more than the Rhode Island winter flounder possession limit to return to port provided the vessel possesses a valid federal permit allowing recreational harvest of winter flounder from federal waters for the amount of winter flounder onboard the vessel and they are not fishing and fishing gear is stowed.~~

Comment [PD57]: Added as a general provision

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.

PUBLIC HEATING ITEM # 3
Recreational Tautog

Option 1 - Status Quo:

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).

Comment [PD58]: Added as a general provision

Option 2 – Earlier start date:

7.9.1~~-1~~ Recreational:
- No person may possess more than three (3) tautog per person per calendar day from April ~~15~~ **1** 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 1~~5~~ 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).

PUBLIC HEATING ITEM # 4
Commercial Tautog

Option 1 - Status Quo:

7.9.~~2~~3 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 ASMFC. ~~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 RIGL Title 20.~~ The quota shall only be available during the following seasons:

Comment [PD59]: Covered in Licensing regs

(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~~ **total** 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~~ **total** 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~~ **total** 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 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.~~

Comment [PD60]: Redundant with language within sub-period sections above

Comment [PD61]: Added as a general provision

~~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.~~

Comment [PD62]: Added as a general provision

~~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.~~

Comment [PD63]: Unnecessary

~~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)~~

Comment [PD64]: Not sure how this became located in Tautog section. Inaccurate, obsolete and/or redundant with authority established in Part III to adjust

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.~~

Comment [PD65]: All repealed

Comment [PD66]: Added as a general provision

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 ASMFC. ~~The quota may be harvested only by permitted gear types and licensed fishermen in~~

~~accordance with all rules and regulations promulgated by the Department.~~ To provide for the orderly harvest of the quota, the Department 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~~ **DFW** 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)]~~

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 roller regs]* (RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29)]~~

(a) Minimum size: Nine (9) inches.

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 ASMFC. ~~The quota may be harvested only by permitted gear types and licensed fishermen in accordance with all rules and regulations promulgated by the Department.~~ To provide for the orderly harvest of the quota, the Department has established the following sub-period allocations:

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

7.11.2-1 Winter I **sub-**period (January - April):

1) Beginning January 1 **of each year**, 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 federal coastwide scup

Comment [PD67]: Unnecessary

Comment [PD68]: Added as a general provision

Comment [PD69]: Unnecessary

Comment [PD70]: Overly wordy. Replaced with following section for minimum size. Unknown why reference to Part 10.12 Roller regs

Comment [PD71]: Unnecessary

quota has been harvested as determined by ~~the National Marine Fisheries Service (NMFS)~~ **NOAA Fisheries**. ~~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)

2) Winter II **sub-**period (November - December): Beginning November 1 **of each year**, 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~~ **has been harvested as determined by NOAA Fisheries**.. ~~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 **sub-**period (May - October): A state quota for scup will be established annually for the Summer- Fall **sub-**period ~~and shall be the most recent amount allocated to the State of Rhode Island~~ by the ASMFC and/or ~~the Secretary of the U.S. Department of Commerce and published in the Federal Register~~ **NOAA Fisheries**. The ~~total~~ **State quota for** scup ~~quota~~ will be divided as follows:

FLOATING **FISH** TRAPS: Licensed by the state of Rhode Island – Sixty percent (60%) of the Summer-Fall **sub-**period quota will be allocated to the floating **fish** 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*~~ **operators permitted pursuant to RIGL Section 20-5-1** 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~~ **DFW** estimates that the Floating Fish Trap sector will not fully utilize its scup allocation prior to the end of the **Summer-Fall** sub-period, beginning on June 15, the ~~Division~~ **DFW** 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~~ **DFW** will consult with the Floating Fish Trap ~~Licensees~~ **operators** 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.

7.11.2-2.2: If the ~~Division~~ **DFW** estimates that the Floating Fish Trap sector may have a reasonable likelihood of utilizing prior to the end of the **Summer-Fall** sub-period, a portion of its scup allocation that has been transferred to the general category scup fishery pursuant to sub-section 7.11.2-~~2~~**3**.1 above and has not as yet been used, by the general category scup fishery, the ~~Division~~ **DFW** 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 ~~sub-section 7.11.2-2.1above~~ **these regulations**.

If there is non-compliance with the reporting requirements as set forth above, the Floating Fish Trap ~~Licensees*~~ **operators will be notified and** will default to the program as set forth below:

> April 15 – October 31: During those years in which the Winter I federal coastwide scup quota allocation is completely exhausted prior to April 15, the floating fish trap quota will be available on April 15. The possession limit will be 25,000 pounds per 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.~~

May 1 – October 31: During those years in which the Winter I federal coastwide scup quota allocation is not completely exhausted prior to April 15, the floating fish trap quota will be available on May 1. The possession limit will be 25,000 pounds per floating fish ~~trap licensee*~~ **operator** 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~~ **operator**" – for purposes of this section, fish trap ~~licensee~~ **operator** shall refer to a resident person or resident corporation currently issued a ~~license~~ **permit** pursuant to RIGL §20-5-2. The maximum

Comment [PD72]: References a "permit" not a "license"

possession limit per **floating** 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 **floating** fish trap ~~licensee~~ **operator**. While engaged in the operation of a fish trap, any licensed fisherman that may be working for or may enter into contract with the **floating** fish trap ~~licensee~~ **operator** waives any individual right to possess scup pursuant to a possession limit set out in **these** 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 State quota for Scup 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:

Summer Sub-Period: Two-thirds (2/3) of the General Category State quota for Scup will be available during the Summer sub-period, defined as May 1 through the Saturday before the third Sunday in 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 Summer sub-period so long as the total landed by that vessel does not exceed 10,000 pounds in any calendar week period.~~ **The possession limit is 10,000 pounds per vessel per calendar week.** 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 State quota for Scup has been harvested as determined by the ~~Division of Fish and Wildlife (Division)~~ **DFW** 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 RIMFC. 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~~

Comment [PD73]: Overly wordy. Simplified in following sentence

Comment [PD74]: Not current practice

Comment [PD75]: Added a s a general provision

Comment [PD76]: Not a regulation

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.

Comment [PD77]: Added as a general provision

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 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.

Comment [PD78]: Obsolete

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".

Comment [PD79]: General provision

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 RIGL 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.~~

Comment [PD80]: Obsolete. This only applies when Scup Agg permits issued

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.~~

Comment [PD81]: Redundant with Part III

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 possession limit is 10,000 pounds per vessel per calendar week.** 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)~~ **DFW** the fishery will close. The fishery will restart at the beginning of the Winter II ~~fishery~~ **sub-period** 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 RIMFC. 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.~~

Comment [PD82]: Overly wordy. Simplified in following sentence

Comment [PD83]: Not current practice

Comment [PD84]: Added as a general provision

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.~~

Comment [PD85]: Unnecessary; not a regulation

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 sub-section if the vessel is currently enrolled in the e-Trips electronic logbook program and the vessel has been issued a letter by the Division of Fish and Wildlife confirming its enrollment and compliance with the requirements of the program. This confirming letter shall be kept upon the vessel at all times and furnished upon request by an employee of the Department of Environmental Management.~~

Comment [PD86]: General provision

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.~~

Comment [PD87]: No longer applicable. Only applied when Scup Agg permits issued

~~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".~~

Comment [PD88]: Added as a general penalty provision at end of reg

e. ~~If the Chief of the Division of Fish and Wildlife **DFW** 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.~~

Comment [PD89]: No longer applicable. Only applied when Scup Agg permits issued

~~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.~~

Comment [PD90]: Redundant with Part III. Authority to adjust in Part III

~~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~~

Comment [PD91]: Unnecessary

PUBLIC HEATING ITEM # 5
Recreational Scup

Option 1 - Status Quo:

7.11.3 Scup – Recreational:

7.11.~~4~~3-1: 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.~~

Comment [PD92]: Added as a general provision

7.11.~~4~~3-2: The recreational season for scup in Rhode Island waters will be open from May 1 through December 31 annually.

7.11.~~4~~3-3: 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.~~

Comment [PD93]: Added as a general provision

7.11.~~43~~-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.~~54~~ Scup - Scup Dealer/Shipping/Transfer/Reporting Regulations:

7.11.~~54~~-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. T~~he 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 Department (in compliance with RIGL 20-2-27 (d), or 20-2-28.1).

Comment [PD94]: Added as a general provision

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 the RIMFR 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)] **Repealed**

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)]

Comment [PD95]: Obsolete

Comment [PD96]: Unnecessary

Comment [PD97]: Redundant with Licensing Regs 6.6-1

Comment [PD98]: Not a regulation. Unnecessary

Comment [PD99]: Unnecessary. Don't prescribe what DLE does

Comment [PD100]: Shellfish statute

Comment [PD101]: Not deleted. Relocated as a General provision at end of reg – section 7.31

Comment [PD102]: Repealed to maintain numbering sequence

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 ASMFC and/or the Secretary of the ~~U.S. Department of Commerce as published in the Federal Register~~ **NOAA Fisheries**. 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.~~

Comment [PD103]: General provision

(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.~~

Comment [PD104]: General provision

(c) July 1 – July 31: Nineteen and a half percent (19.5%) of the quota established in this part shall be available from July 1 through July 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. ~~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.~~

Comment [PD105]: General provision

(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 50 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.~~

Comment [PD106]: General provision

(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 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.~~

Comment [PD107]: General provision

(f) 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~~**~~3~~** ~~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.~~

Comment [PD108]: Redundant with Part III

~~7.14.1- 5 Reporting Requirement -- Dealers must comply with the reporting requirements as set forth in section 19.14 of the RIMFR Marine Fisheries Regulations (RIMFC REGULATION) [Penalty - Part 3.3 (RIGL 20-1-16) (RIGL 20-6-29)]~~

Comment [PD109]: Unnecessary

PUBLIC HEATING ITEM # 6
Recreational Black Sea Bass

Option 1 – change season:

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~~ **June 22** 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.

Comment [PD110]: General provision

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.

Option 2- change season:

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~~**October 28**. ~~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.

Comment [PD111]: General provision

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.

Option 3 – change possession limit:

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)~~ **three (3)** black sea bass from September 1 through December 3. ~~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.

Comment [PD112]: General provision

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 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 ASMFC, 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~~ **DFW** 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 **RIMFR** Part III ~~Section 3.2.1~~, the ~~Division~~ **DFW** 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~~ **DFW** 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)~~

7.16 American Eel

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 harvest 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 for an individual with a valid commercial fishing license.
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 for the licensed captain and any employed crew member. For any paying customer the possession limit is twenty-five (25) American eels per angler per day.

7.17 American Shad:
The 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)~~

Comment [PD113]: General provision

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)~~ **NOAA Fisheries**, 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.~~

Comment [PD114]: General provision

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

(a) Issuance of the RI~~DFW~~ State Waters Atlantic Herring Fishing Permit is contingent on fishing vessel captains attending a meeting with ~~RI~~DFW 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 ~~RI~~DFW at which the captain can access while fishing for the purpose of receiving advisories pertaining to river herring.

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

(b) RI~~DFW~~ **State Waters** Atlantic herring fishing permits are valid for one calendar year from January 1 to December 31.

(c) Initial issuance or renewal of the RI~~DFW~~ **State Waters** 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 RIMFR sections 7.19 (Atlantic herring) or 7.20 (River herring) or more than one marine fisheries violation.

7.19.1-3 River Herring Bycatch Allowance: 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.~~

Comment [PD115]: General provision

~~(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.~~

Comment [PD116]: Redundant with Licensing regs.

(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~~ **these regulations** ~~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. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached. In SAFIS landing monkfish in the “whole” is reported using the grade “gutted, head on, tail on”.

(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~~ **NOAA Fisheries.** When 2% of the SMA TAL has been harvested as determined by the ~~Division of Fish and Wildlife~~ **DFW**, 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.~~

Comment [PD117]: General provision

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. Whole weight is defined as the weight of monkfish that are gutted (i.e. stomach, liver, and other entrails removed) and have the head and tail attached ~~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 nineteen inches (19") total length whether caught

within the jurisdiction of this State or otherwise.

7.22.1-2 Possession Limits:

(a) For any vessel fishing in state waters 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 Georges Bank cod annual catch limit (ACL) for the given fishing year. When 90% of the state water quota has been harvested as determined by the ~~Division of Fish and Wildlife~~ **DFW**, the possession limit will decrease to 75 pounds of cod per vessel per calendar day for the remainder of the fishing year.

~~7.22.1-3 Transiting Provision: 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.~~

Comment [PD118]: General provision

7.24.1-~~4~~**3** Commercial Fishing Year: The commercial Cod fishery shall operate on a May 1 through April 30 fishing year.

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 in accordance with 7.22.2-1(a), 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)~~

Comment [PD119]: General provision

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.~~

Comment [PD120]: General provision

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 HEATING ITEM # 7
Commercial and recreational Coastal Sharks

Option 1 – changes to Commercial Species Groups:

7.24 Coastal Sharks

7.24.1 – Commercial:

7.24.1-1 Commercial Species Groupings: Species managed under the ASMFC Interstate Fishery Management Plan (IFMP) for Atlantic Coastal Sharks shall be grouped into ~~six~~ **eight** commercial "species groups" for management purposes, hereafter referred to as: Prohibited Species, Research Species, Smoothhound Sharks, ~~Small Coastal Sharks, Non-Sandbar Large Coastal Sharks~~, **Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead 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)~~ **NOAA Fisheries**, the ASMFC, or the ~~Division of Fish and Wildlife~~ **DFW** in accordance therewith:

a. Properly licensed commercial fishermen may possess any of the species of sharks listed in Table 7.24.1 below in the Smoothhound Sharks, ~~Small Coastal Sharks, Non-Sandbar Large Coastal Sharks~~, **Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks, Hammerhead Sharks,** and Pelagic Sharks species groups.

b. There are no commercial trip limits or possession limits for Smoothhound Sharks 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~~ **Aggregated Large Coastal Sharks or Hammerhead Sharks** species group.

Table 7.24.1: Sharks in the Smoothhound Sharks, ~~Small Coastal Sharks, Non-Sandbar Large Coastal Sharks~~, **Non-Blacknose Small Coastal Sharks, Blacknose Sharks, Aggregated Large Coastal Sharks,**

Hammerhead Sharks, and Pelagic **Sharks** Species Groups.

Common Name	Scientific Name
Smoothhound Sharks	
Smooth Dogfish	*Mustelus canis*
Florida smoothhound	*Mustelis norrisi*
~~Small Coastal Sharks~~ **Non-Blacknose Small Coastal Sharks**	
Atlantic sharpnose	*Rhizoprionodon terraenovae*
Finetooth	*Carcharhinus isodon*
Bonnethead	*Sphyrna tiburo*
~~Small Coastal Sharks~~ **Blacknose Sharks**	
Blacknose	*Carcharhinus acronotus*
~~Non-Sandbar Large Coastal Sharks~~ **Aggregated Large Coastal Sharks**	
Silky	*Carcharhinus falciformis*
Tiger	*Galeocerdo cuvier*
Blacktip	*Carcharhinus limbatus*
Spinner	*Carcharhinus brevipinna*
Bull	*Carcharhinus leucas*
Lemon	*Negaprion brevirostris*
Nurse	*Ginglymostoma cirratum*
~~Non-Sandbar Large Coastal Sharks~~ **Hammerhead Sharks**	
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*

~~7.24.1-4 Transfer of Sharks: No person shall transfer sharks between vessels at sea.~~ **Repealed**

Comment [PD121]: General provision

Comment [PD122]: Repealed to maintain numbering sequence

7.24.1-5 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 7.24.2: 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 ASMFC and/or ~~the Secretary of the U.S. Department of Commerce as published in the Federal Register~~ **NOAA Fisheries**. It shall be unlawful for any person to possess any species of shark in state waters when the ~~National Marine Fisheries Service (NMFS)~~ **NOAA Fisheries** 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)~~ **NOAA Fisheries**, the ASMFC, or the ~~Division of Fish and Wildlife~~ **DFW**, the ~~Division of Fish and Wildlife~~ **DFW** 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~~ **DFW.**

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~~ **NOAA Fisheries.**

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~~ **NOAA Fisheries.** [*Federal Commercial Shark Dealer Permits are open access and can be obtained by contacting the ~~National Marine Fisheries Service~~ **NOAA Fisheries** 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, 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 fins year round. If fins are removed, the total wet weight of the shark fins may not exceed 12 percent of the total dressed weight of smoothhound 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 7.24.3.

Table 7.24.3: Recreationally Permitted Species List.

Recreationally PERMITTED Species	
Smooth Dogfish (Smoothhound)[1]	*Mustelus canis*
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] Smooth dogfish are considered and referred to as smoothhound.

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 7.24.4.

Table 7.24.4: 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 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 smoothhound, which have no minimum size limit. (see Table 7.24.4).

Option 2 – changes to recreational minimum sizes:

Table 7.24.5: Recreational Minimum Size Limits

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

No Minimum Size	Minimum Fork Length of 54 inches (4.5 Feet)		Minimum Fork Length of 78 inches (6.5 Feet)
Smooth Dogfish (Smoothhound) Atlantic sharpnose Finetooth Blacknose Bonnethead	Tiger Blacktip Spinner Bull Lemon Nurse	Shortfin mako Porbeagle Common thresher Oceanic whitetip Blue	Scalloped hammerhead Smooth hammerhead Great 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 7.24.3*), 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 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 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)~~ **NOAA Fisheries** 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)~~ **NOAA Fisheries**, 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.~~

Comment [PD123]: General provision

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)~~.

Comment [PD124]: References itself?

7.26 American Plaice (Dab)

7.26.1 – Commercial

7.26.1-1 Commercial Fishing Year: The commercial American plaice fishery shall operate on a May 1 through April 30 fishing year.

7.26.1-2 Minimum size: No person fishing commercially shall land or possess any American plaice measuring less than twelve inches (12") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.26.1-3 Possession Limits: There are no possession limits for American plaice provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of American plaice.

A. Vessels in possession of a federal permit allowing the harvest of American plaice in federal waters may harvest American plaice in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.26.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the commercial harvest of American plaice may transit state waters in possession of American plaice 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.~~

Comment [PD125]: General provision

7.26.2 – Recreational

7.26.2-1 Recreational Fishing Year: The recreational American plaice fishery shall operate on a May 1 through April 30 fishing year.

7.26.2-2 Minimum size: No person fishing recreationally shall land or possess any American plaice measuring less than fourteen inches (14") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.26.2-3 Possession Limits: There are no recreational possession limits for American plaice provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of American plaice.

A. Vessels in possession of a federal permit allowing the recreational harvest of American plaice in federal waters may harvest American plaice in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.26.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the recreational harvest of American plaice may transit state waters in possession of American plaice 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)]~~

Comment [PD126]: General provision

7.27 Haddock

7.27.1 – Commercial:

7.27.1-1 Commercial Fishing Year: The commercial haddock fishery shall operate on a May 1 through April 30 fishing year.

7.27.1-2 Minimum size: No person fishing commercially shall land or possess any haddock measuring less than sixteen inches (16") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.27.1-3 Possession Limits: There are no possession limits for haddock provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of haddock.

A. Vessels in possession of a federal permit allowing the harvest of haddock in federal waters may harvest haddock in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.27.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the commercial harvest of haddock may transit state waters in possession of haddock 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.~~

Comment [PD127]: General provision

7.27.2 – Recreational:

7.27.2-1 Recreational Fishing Year: The recreational haddock fishery shall operate on a May 1 through April 30 fishing year.

7.27.2-2 Minimum size: No person fishing recreationally shall land or possess any haddock measuring less than eighteen inches (18") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.27.2-3 Possession Limits: There are no recreational possession limits for haddock provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of haddock.

A. Vessels in possession of a federal permit allowing the recreational harvest of haddock in federal waters may harvest haddock in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.27.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the recreational harvest of haddock may transit state waters in possession of haddock 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)]~~

Comment [PD128]: General provision

7.28 Pollock

7.28.1 – Commercial:

7.28.1-1 Commercial Fishing Year: The commercial pollock fishery shall operate on a May 1 through April 30 fishing year.

7.28.1-2 Minimum size: No person fishing commercially shall land or possess any pollock measuring less than nineteen inches (19") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.28.1-3 Possession Limits: There are no possession limits for pollock provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of pollock.

A. Vessels in possession of a federal permit allowing the harvest of pollock in federal waters may harvest pollock in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.28.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the commercial harvest of pollock may transit state waters in possession of pollock 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.~~

Comment [PD129]: General provision

7.28.2 – Recreational

7.28.2-1 Recreational Fishing Year: The recreational pollock fishery shall operate on a May 1 through April 30 fishing year.

7.28.2-2 Minimum size: No person fishing recreationally shall land or possess any pollock measuring less than nineteen inches (19") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.28.2-3 Possession Limits: There are no recreational possession limits for pollock provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of pollock .

A. Vessels in possession of a federal permit allowing the recreational

harvest of pollock in federal waters may harvest pollock in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.28.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the recreational harvest of pollock may transit state waters in possession of pollock 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)]~~

Comment [PD130]: General provision

7.29 Witch Flounder (Grey Sole)

7.29.1 – Commercial:

7.29.1-1 Commercial Fishing Year: The commercial witch flounder fishery shall operate on a May 1 through April 30 fishing year.

7.29.1-2 Minimum size: No person fishing commercially shall land or possess any witch flounder measuring less than thirteen inches (13") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.29.1-3 Possession Limits: There are no possession limits for witch flounder provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of witch flounder.

A. Vessels in possession of a federal permit allowing the harvest of witch flounder in federal waters may harvest witch flounder in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.29.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the commercial harvest of witch flounder may transit state waters in possession of witch flounder 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.~~

Comment [PD131]: General provision

7.29.2 – Recreational

7.29.2-1 Recreational Fishing Year: The recreational witch flounder fishery shall operate on a May 1 through April 30 fishing year.

7.29.2-2 Minimum size: No person fishing recreationally shall land or possess any witch flounder measuring less than fourteen inches (14") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.29.2-3 Possession Limits: There are no recreational possession limits for witch flounder provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of witch flounder .

A. Vessels in possession of a federal permit allowing the recreational harvest of witch flounder in federal waters may harvest witch flounder in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.29.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the recreational harvest of witch flounder may transit state waters in possession of witch flounder 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)]~~

Comment [PD132]: General provision

7.30 Yellowtail Flounder

7.30.1 – Commercial

7.30.1-1 Commercial Fishing Year: The commercial yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.

7.30.1-2 Minimum size: No person fishing commercially shall land or possess any yellowtail flounder measuring less than twelve inches (12") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.30.1-3 Possession Limits: There are no possession limits for yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of yellowtail flounder.

A. Vessels in possession of a federal permit allowing the harvest of yellowtail flounder in federal waters may harvest yellowtail flounder in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.30.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the commercial harvest of yellowtail flounder may transit state waters in possession of yellowtail flounder 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.~~

Comment [PD133]: General provision

7.30.2 – Recreational:

7.30.2-1 Recreational Fishing Year: The recreational yellowtail flounder fishery shall operate on a May 1 through April 30 fishing year.

7.30.2-2 Minimum size: No person fishing recreationally shall land or possess any yellowtail flounder measuring less than thirteen inches (13") total length whether that fish was caught within the jurisdiction of this State or otherwise.

7.30.2-3 Possession Limits: There are no recreational possession limits for yellowtail flounder provided the vessel is fishing in state waters and does not have a federal permit allowing the harvest of yellowtail flounder.

A. Vessels in possession of a federal permit allowing the recreational harvest of yellowtail flounder in federal waters may harvest yellowtail flounder in state waters in the amount authorized to be possessed pursuant to federal regulations.

~~7.30.1-4 Transiting Provision - Vessels in possession of a federal permit allowing the recreational harvest of yellowtail flounder may transit state waters in possession of yellowtail flounder 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)]~~

Comment [PD134]: General provision

7.31 ~~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.

7.32 VIOLATIONS FOR NON-COMPLIANCE: If the DFW and/or the Chief of the Division of Law Enforcement determine that there has been non-compliance with the provisions of these regulations or a 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 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.

7.33 PENALTIES

7.33.1 Judicially imposed penalty for violations: Unless otherwise specifically provided, the violation of any law or rule or regulation relating to wild animals, wild birds, lobsters and fish, marine, freshwater and anadromous fisheries and shellfisheries shall be a misdemeanor, punishable by a fine of not more than five hundred dollars ($500) or imprisonment for up to ninety (90) days, or both (RIGL §20-1-16)

7.33.2 Additionally, a person may be subject to the imposition of a administrative penalty pursuant to DEM's "*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".*

7.34 APPEALS

7.34.1 Denial of a license or permit: Persons denied a license or permit may request an appeal as provided by RIGL Chapter 42-17.7 and pursuant to DEM's "*Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters"*

7.34.2 Enforcement Action: Any person affected by a decision of the Director for an enforcement action pursuant to these regulations may file and appeal in accordance with RIGL Chapter 42-17.7 and DEM's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.*

Rule ~~8~~7. EFFECTIVE DATE

The foregoing rules and regulations "Rhode Island Marine **Fisheries** ~~Statutes and~~ Regulations**, Part VII, Minimum Sizes of Finfish**" after due notice, are hereby adopted and filed with the Secretary of State this ~~**10th day of January, 2014**~~ 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 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

_____

Janet L. Coit, Director
Department of Environmental Management

Notice Given: ~~N/A~~ **02/21/2014**
Public Hearing: ~~N/A~~ **03/25/2014**

Filing date: ~~01/10/2014~~
Effective date: ~~01/08/2014~~

ERLID# ~~7638~~
~~Technical Revision~~