



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES  
FISH AND WILDLIFE  
&  
LAW ENFORCEMENT

## RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS

### **Part VII** **Minimum Sizes of Fish/Shellfish**



**March 5, 2004**

**AUTHORITY:** These regulations are adopted pursuant to Chapters 42-17.1, 42-17.6, Chapter 42-35-18(b)(5) and 20-4 through 20-10, and sections 20-1-2, 20-1-4, and 20-3-2 through 20-3-6, in accordance with Chapter 42-35, of the Rhode Island General Laws of 1956, as amended.

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STATUTES AND REGULATIONS**

**PURPOSE**

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

**AUTHORITY**

These rules and regulations are promulgated pursuant to Chapter 42.17.1, 42-17.6, 42-35-18(b)(5), 20-1-2, 20-1-4, 20-3-2 through 20-3-6, 20-4 through 20-10 and in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.

**ADMINISTRATIVE FINDINGS**

Rules and regulations are based upon the need to modify existing regulations (RIGL 20-3-2 through 20-3-6).

**APPLICATION**

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

**DEFINITIONS**

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

**SEVERABILITY**

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

**SUPERSEDED RULES AND REGULATIONS (#2903)**

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rules and regulations, and any policies regarding the administration and enforcement of **Part VII (#2903)** shall be superseded.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.

## Rule 8. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this 5th day of March 2004 to become effective 20 days from filing, unless **otherwise indicated below**, in accordance with the provisions of Chapters 42-17.1, 42-17.6, 42-35-18(b)(5), 20-1-2, 20-1-4, 20-3-2 through 20-3-6, 20-4 through 20-10, and 42-35 the General Laws of Rhode Island of 1956, as amended.

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Michael L. Lapisky,  
Acting Chief

Notice Given:	9/12/03
Public Hearing:	10/14/03
Filing date:	03/05/2004
Effective date:	03/05/2004

March 5, 2004

Honorable Matthew A. Brown  
Secretary of State  
217 State House  
Providence, RI 02907

Dear Mr. Secretary:

Pursuant to the provisions of Chapters 42-17.1 and 20-3, and in accordance with Sections 42-35-18(b)(5) of the Administrative Procedures Act of the General Laws of Rhode Island, 1956 as amended the Department of Environmental Management has adopted regulations governing the commercial harvest of summer flounder.

The purpose of this filing is to decrease the commercial possession limit for summer flounder.

This regulation becomes effective upon filing.

Sincerely,

Michael L. Lapisky  
Acting Chief

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

**7.1 Minimum Size of Quahaugs, Soft-Shell Clams, Mussels --**

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

No person shall take or have in his custody soft-shelled clams or mussels of a shell diameter less than one and one half inches (1 1/2") (taking the maximum shell diameter for soft-shelled clams and mussels), unless greater minimum sizes are established by the Rhode Island Marine Fisheries Council. (ref RIGL 20-6-11).

Penalty -- Any person who takes or possesses shellfish of less than the minimum size shall, upon conviction, be fined not less than ten dollars (\$10) nor more than fifty dollars (\$50) for each and every fifteen (15) shellfish taken or possessed; provided, however, that such penalty shall not attach if said person promptly returns the shellfish un mutilated to the same immediate water or shore area from which the quahaugs were first taken. (ref RIGL 20-6-11)

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

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

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

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

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

**AMERICAN PLAICE (DAB): Commercial and Recreational 14"**  
**ATLANTIC STURGEON: Commercial and Recreational - no possession**  
**COD: Commercial - 19"; Recreational - 20"**  
**EEL: Commercial and Recreational - 6"**  
**HADDOCK: Commercial and Recreational - 19"**  
**MONKFISH: Commercial and Recreational - 17". When possessed as tails either processed or mutilated the minimum length shall be 11"**  
**POLLOCK: Commercial and Recreational - 19"**  
**SCUP: Commercial - 9" and Recreational -10". Floating trap fishermen may possess undersize scup provided they are not sold, bartered, traded, and exchanged, but following culling, are taken to sea and released back into the water.**  
**WEAKFISH (SQUETEAGUE): Commercial and Recreational 16"**  
**WITCH FLOUNDER (GRAY SOLE): Commercial and Recreational 14"**  
**YELLOWTAIL FLOUNDER: Commercial and Recreational 13"**  
**All minimum sizes for the above listed fish shall be measured as total length (from tip of snout to tip of tail).**  
**(RIMFC REGULATION) [Penalty - Part 3.3; (RIGL 20-3-3)]**

**7.7 Fluke (Summer Flounder) -- No person commercially licensed under RIGL 20-2-27 or RIMFC Part II shall possess or harvest any fluke which is less than fourteen (14) inches total length. A total annual statewide quota for fluke will be established. It shall be the most recent allocation established for the State by the Atlantic States Marine Fisheries Commission and/or the Secretary of the U.S. Dept. of Commerce and published in the Federal Register. The quota may be harvested by licensed gear fishermen in accordance with the provisions of Title 20 of the General Laws and in accordance with all rules and regulations promulgated by the R.I. Marine Fisheries Council. In order to provide for the orderly harvest of the quota the R.I. Marine Fisheries Council has established the following sub-period allocations:**

#### **7.7.1 Summer flounder Sub-periods and Possession Limits**

**7.7.1-1 Winter Sub-Period: January 1 - April 30 annually.**  
**Target allocation - 54% of the annual quota established in Section 7.7, unless modified pursuant to this part. The DFW will adjust the possession limit during the sub-period based on the current catch rate and advice from fishing industry representatives and the Rhode Island Marine Fisheries Council.**

- a. Any vessel which possesses a valid federal summer flounder moratorium permit if harvesting summer flounder from federal**

waters and possesses a valid state of Rhode Island summer flounder exemption certificate; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land summer flounder for commercial purposes in Rhode Island and possesses a valid state of Rhode Island summer flounder exemption certificate, may opt to enter into an agreement with the Division of Fish and Wildlife to participate in the weekly trip limit program for summer flounder during the Winter I period (January 1 – April 30) or until the program is terminated as provided in this part. Any applicant vessel deemed to satisfy the agreement shall be issued a permit and is thereby authorized to land summer flounder in any amount between 0 and 3,000 pounds in any calendar day so long as the total landed by that vessel does not exceed 3,000 pounds in any calendar week. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week begins on Sunday at 12:00 AM and ends on Saturday at 11:59 PM of each week. When 80% of the Winter I summer flounder quota has been harvested as determined by the Division of Fish and Wildlife (Division), the program will terminate and the possession limit per vessel will be 700 pounds per calendar day.

- b.** The commercial possession limit of summer flounder for vessels that are not permitted to participate in the weekly trip limit program shall be 700 pounds per calendar day for vessels which possess a valid state of Rhode Island Summer Flounder Exemption Certificate. It shall be unlawful for any person operating a vessel that is not permitted to participate in the weekly trip limit program to land more than 700 pounds of summer flounder in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day.
- c.** The possession limit for vessels which do not possess a RI Summer Flounder Exemption Certificate is 200 pounds per day
- d.** A vessel shall be considered eligible to participate in the weekly trip limit program for summer flounder by demonstrating to the Division that it satisfies each of the following criterion:

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



- (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.
- e. Participants in the weekly trip limit program for summer flounder agreement shall satisfy the following requirements:**
- (1) A vessel shall be enrolled from the date the participant enters the program until the end of the winter I sub period or until the participant terminates enrollment, whichever first occurs.
  - (2) Permits shall be available from the Division of Fish and Wildlife (3 Fort Wetherill Road, Jamestown, RI 02835) on Mondays and Tuesdays, 8:30 AM until 4:00 PM for the entire winter I sub period.
  - (3) No vessel shall possess simultaneously more than one weekly trip limit permit.
  - (4) Permits must be onboard the permitted vessel at all times.
  - (5) The operator of any vessel permitted for the weekly trip limit program shall report the following information no later than 24 hours following each landing: weight of summer flounder landed; weekly trip limit permit number; and date landed.
  - (6) The operator of any vessel permitted for the weekly trip limit program who did not land summer flounder in any calendar week shall report a negative report within 24 hours after the end of the calendar week.
  - (7) The information referenced in sections (5) and (6) of this part shall be documented on forms provided by the Division of Fish and Wildlife or in a Vessel Trip Report logbook at the time summer flounder are landed in Rhode Island. This information shall be reported via the Division of Fish and Wildlife interactive voice recording (IVR) system and by submitting the State's copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife to the Division of Fish and Wildlife (3 Fort Wetherill Road, Jamestown, RI 02835) within one week after landing, including the name and address of the dealer where the summer flounder were landed.
  - (8) Non-compliance with the provisions of these regulations or the permit agreement shall subject the owner and or operator to revocation of the permit and the imposition of a penalty pursuant to part 3.3 (RIGL 20-3-3) as well as ineligibility to reapply for issuance of a permit for the subject vessel for the remainder of

the Winter I period.

- (9) If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement find sufficient evidence 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 revocation of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) as well as the ineligibility to reapply for issuance of a permit for the subject vessel for the remainder of the Winter I period.

(a) Any person who seeks 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.

(b) Any person who seeks an adjudicatory hearing relative to license and permits appeals arising under 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 thirty (30) calendar days of receipt of the contested agency action.

**7.7.1-2 Summer I Sub-Period: May 1 - July 31 annually.**

Target allocation - 12% of the annual quota established in Section 7.7, unless modified pursuant to this part. The possession limit per vessel will be 100 pounds per calendar day.

**7.7.1-3 Summer II Sub-Period: August 1 - October 31 annually.**

Target allocation - 23% of the annual quota established in section 7.7, unless modified pursuant to this part. The possession limit per vessel will be 150 pounds per calendar day.

**7.7.1-4 Fall Sub-Period:** November 1 - December 31 annually.

Target allocation - 11% of the annual quota established in Section 7.7, unless modified pursuant to this part. The possession limit per vessel will be 450 pounds per calendar day. Any unused portion of the quota from a 'sub-period' will be equally distributed to the allocations of the remaining sub-periods. The over-harvest of a sub-period allocation will be deducted from the allocations of the remaining sub-periods.

Annually, the target allocations specified in sections 7.7.1-1 through 7.7.1- 4 shall be adjusted by the DFW to charge over-harvest of a sub-period allocation during a given year to the same sub-period of the next following year.

**7.7.1-5** For the 2004 fishing year, any authorized quota over and above the base 2,183,907 pounds allocated in sections 7.7.1-1 through 7.7.1-4 above, will be added exclusively to the summer I sub-period.

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

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

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

**[Effective March 6, 2004 at 12:01 AM the commercial possession limit for the summer flounder fishery will be 300 pounds per vessel, per calendar day.]**

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

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

**7.7.4-1 Size and Possession** – No person fishing recreationally shall possess a summer flounder less than seventeen and one-half inches

(17.5”) total length, and no person fishing recreationally shall possess, per calendar day, more than 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 through September 20. The season is closed from September 21 through April 30. Possession of summer flounder taken from any waters of the state for recreational purposes during the closed season is prohibited.

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

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

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

**(1) Each dealer shall maintain a written record, on forms provided by**

Fish and Wildlife, of each summer flounder transaction at their permanent place of business in Rhode Island. Records must be available at the dealer's Rhode Island office for a period of three years.

(2) The record must include: date of purchase; time of purchase; location of purchase; the vessel name; the Rhode Island License Holder; the Rhode Island License number; the amount of summer flounder transferred.

(3) It is illegal for anyone to land summer flounder in Rhode Island more than once in a calendar day.

(4) Data forms must be signed by the Rhode Island licensed dealer or his agent and transmitted weekly to the Rhode Island Division of Fish and Wildlife: 3 Fort Wetherill Rd., Jamestown, RI 02835; Phone – (401) 423-1920; FAX - (401) 423-1925.

(5) The total weekly purchases in pounds of summer flounder must be reported by phone to the Rhode Island DEM Division of Fish and Wildlife: 3 Fort Wetherill Rd., Jamestown, RI 02835; Phone - (401) 423-1920; FAX - (401) 423-1925.

**7.7.5-2 License Suspension:**

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

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

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

1997.

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

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

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

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

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

c. the vessel replaces a vessel which was operated by a person who possessed a valid Rhode Island commercial fishing license, and the vessel being replaced landed and sold in excess of one pound of summer flounder to a Rhode Island licensed dealer during the period from January 1, 1987, through December 31, 1992, and if the vessel being replaced was lost by sinking or was otherwise destroyed, the replaced vessel is required to have been owned by the applicant at the time of the loss; or

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

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

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

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

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

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

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

**7.7.8-5** provide Fish and wildlife with a copy of the vessel's U.S. Coast Guard documentation papers or state issued boat registration certificate proving ownership of the vessel. If replacing a vessel, proof of ownership for both boats is required, and

**7.7.8-6** provide to the satisfaction of the Division of Fish and Wildlife proof that the applicant vessel is replacing a vessel which has been removed from the Summer Flounder Exemption Program (as described in **7.7.6**)

(a) A vessel may be sold with all permits and history (state and federal) transferred together or without the vessel history and permits. A vessel owner may sever the permits and history in entirety from the vessel for the purposes of replacing the vessel. The vessel owner must supply credible written evidence verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel. If a vessel owner elects to sever permits and history from a vessel, the permits and history may be transferred only to another vessel owned by said vessel owner.

(b) Vessel permits, Certificates of Exemption, and fishing history cannot be split.

(c) Vessel permits or Certificates of Exemption may not be combined to create larger replacements vessels.

(d) The replacement vessel may not exceed a 10% increase in length overall (LOA), a 10% increase in gross registered tonnage (GRT) or net tonnage, or a 20% increase in horsepower of the vessel being replaced.

(e) Only one vessel upgrade based upon the original issuance of certificate is allowed for the Certificate of Exemption or permit.

**7.7.9 Submission of Application** -- Application for an exemption certificate shall be mailed or submitted prior to January 1, 1997 to the office of Fish and Wildlife at: Oliver Stedman Government Center, 4808 Tower Hill Rd., Wakefield, RI 02879, Attention: Fluke Exemption.

**7.7.10 Transfer of permit or Certificate of Exemption –**

(a) A vessel owner wishing to transfer any permit or Certificate of Exemption issued by the Division must apply to the Division for approval. If approved for a transfer, all vessel permits (state and federal) shall be transferred together only.

(1) any vessel permit or Certificate of Exemption and fishing history cannot be split;

(2) permits or certificates may not be combined to create larger replacement vessels;

(3) a vessel with a Federal Moratorium Permit or Certificate of Exemption can be replaced by another vessel and the permit transferred voluntarily

(4) Only one vessel transfer based upon the original issuance of certificate is allowed for the Certificate of Exemption or permit.

(b) Any permit or Certificate of Exemption issued by the Division pursuant to Title 20 RIGL is only valid for the person/vessel to which it is issued. In instances of a permitted vessel, the owner of that vessel may either transfer the permit or Certificate of Exemption along with the vessel to a new owner, or retain the permit or Certificate of Exemption and apply it within ninety (90) days to another vessel that he owns.

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

(1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or

(3) attached, distrained, or sold on execution of judgement.

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

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

**7.8.1 Winter Flounder - Four fish recreational possession limit** -- The taking and possession of winter flounder by recreational fishermen is prohibited with the exception that annually, beginning on the third Saturday in April and continuing for 37 days, and beginning on the last Saturday in September and continuing for 31 days, fishermen may take and possess not more than four



(4) winter flounder in Rhode Island waters. Said fish shall not be offered for sale. The four fish possession limit shall not apply to fishermen licensed pursuant to RIGL 20-2-26, 20-2-27, 20-2-28, or 20-2-28.1, provided winter flounder possessed by those licensed in the above sections are harvested in compliance with R.I. Marine Fisheries Council Statutes and Regulations.

**7.8.2 Winter Flounder - Mesh Regulations/Commercial Fishing Gear** -- With the exception of the taking of winter flounder in the Coastal Marine Life Management Area as provided in 11.19 and 11.19-1, it shall be illegal to fish for winter flounder in Rhode Island waters with any commercial fishing gear except fyke nets unless such gear has mesh size measuring no less than six (6) inches stretched diamond, or six (6) inches stretched square mesh. Vessels may utilize commercial fishing gear with mesh smaller than the sizes referenced in this section provided they do not possess any winter flounder except as provided in Section 7.8-1.

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

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

**7.9.1 Recreational** -- Except as provided in Part II, no person may possess more than three (3) tautog from May 1 through October 14, annually, and no more than ten (10) tautog from October 15 through December 31, annually. Compliance aboard vessels will be determined by dividing the number of fish onboard a vessel by the number of recreational fishermen onboard said vessel.

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

- (a) **April 15 – May 31**: 1/3 of the annual quota established in this part shall be available from April 15 through May 31, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day.
- (b) **August 1 – September 15**: 1/3 of the annual quota established in this part

shall be available from August 1 – September 15, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day

**(c) October 15 – December 15:** 1/3 of the annual quota established in this part shall be available from October 15 – December 15, unless modified pursuant to this part. It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than ten (10) tautog during this period. The aggregate number of tautog on any vessel, regardless of how many licensed fishermen are onboard, may not exceed the ten (10) fish limit per day. [Effective November 19, 2003 at 12:01 AM the commercial tautog fishery will be closed until the next sub-period begins on April 15, 2004.]

**(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 and any over-harvest will be deducted equally from all periods in the next calendar year. No licensed commercial fishermen may possess more than ten (10) tautog in any calendar day. During a closure of the R.I. tautog fishery a federally permitted vessel fishing in the Exclusive Economic Zone (EEZ), may traverse Rhode Island waters for the purpose of landing tautog in another state, provided their nets are stowed in accordance with Section 10.10 of these regulations.

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

**7.9.4 Reporting requirements.** -- For the purpose of determining the commercial landings of tautog in Rhode Island, and whether the landings are increasing or decreasing during any period, every person licensed to catch, possess, purchase, or sell tautog shall report weekly by telephone a record of the pounds of tautog taken, possessed, purchased, or sold in Rhode Island during the period for which such record is requested. Compliance in the party and charter boat industry will be satisfied through submission of the blue copy of the National Marine Fisheries Service fishing vessel trip report to Fish and Wildlife, or they must report weekly landings as requested by Fish and Wildlife. Provided, however, such returns from any person shall only be made public in a statistical format.

**7.9.5 Closure of commercial fisheries managed under a federally mandated quota or allocation system.** -- Any landing of a marine species managed under

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

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

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

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

**7.10.2 Bluefish Commercial Quota - Sub-Periods**

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

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

When 50% of any seasonal sub-period quota is reached, Fish and Wildlife will determine if a possession limit of between 200 - 10,000 pounds should be established depending upon the time remaining in the quota period and the current catch rate. Fish and Wildlife will file a notice with the Secretary of State's office if a possession limit is established, and will publish a news release announcing the change. The possession limit may be modified by Fish and Wildlife providing such notification is made.

**7.10.3 Bluefish - Reporting Requirement** -- For the purpose of determining the commercial landings of bluefish in Rhode Island and whether the landings are increasing or decreasing during any period, every person licensed to catch, possess, purchase, or sell bluefish shall report weekly by telephone a record

of the pounds of bluefish taken, possessed, purchased, or sold in Rhode Island during the period for which such record is requested; provided, however, such returns from any person or firm shall not be made public, shall be kept only in the files of said Division and be used only for statistical and fisheries management purposes.

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

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

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

**7.11.2 Scup Commercial Quota - Sub-Periods**

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

- a. Any vessel which possesses a valid federal scup moratorium permit if harvesting scup from federal waters; or, if harvesting exclusively in State waters, any vessel whose operator possesses a valid license to harvest or land scup for commercial purposes in Rhode Island, may opt to enter into an agreement with the Division of Fish and Wildlife to participate in the weekly trip limit program for scup during the Winter I period (January 1 – April 30) or until the program is terminated as provided in this part. Any applicant vessel deemed to satisfy the agreement shall be issued a permit and is thereby authorized to land scup in any amount between 0 and 15,000 pounds in any calendar day so long as the total landed by that vessel does not exceed 15,000 pounds in any calendar week. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week begins on Sunday at 12:00 AM and ends on Saturday at 11:59 PM of each week. When 80% of the Winter I scup quota has been harvested as determined by the National Marine Fisheries Service (NMFS), the program will terminate and the possession limit per vessel will be 1,000 pounds per calendar day.

- b. The commercial possession limit of scup for vessels that are not

permitted to participate in the weekly trip limit program shall be 2,000 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to participate in the weekly trip limit program to land more than 2,000 pounds of scup in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. When 80% of the Winter I scup quota has been harvested as determined by NMFS the possession limit per vessel will be 1,000 pounds per calendar day.

- c. A vessel shall be considered eligible to participate in the weekly trip limit program for scup by demonstrating to Division that it satisfies each of the following criterion:
  - (3) The vessel if harvesting scup from federal waters possesses a valid federal scup moratorium permit, or, if harvesting exclusively in State waters, the vessel's operator possesses a valid license to harvest or land scup for commercial purposes in Rhode Island; and
  - (4) The vessel shall be operated by a person who possesses a valid multipurpose, principal effort, or landing license issued by the State of Rhode Island to land scup for commercial purposes.
- d. Participants in the weekly trip limit program for scup agreement shall satisfy the following requirements:
  - (10) A vessel shall be enrolled from the date the participant enters the program until the end of the Winter I sub-period or until the participant terminates enrollment.
  - (11) Permits shall be available from Division of Fish and Wildlife (3 Fort Wetherill Road, Jamestown, RI 02835) on Mondays and Tuesdays, 8:30 AM until 4:00 PM for the entire Winter I sub-period.
  - (12) No vessel shall possess simultaneously more than one weekly trip limit permit.
  - (13) Permits must be onboard the permitted vessel at all times.
  - (14) The operator of any vessel permitted for the weekly trip limit program shall report the following information no later than 24 hours following each landing: weight of scup landed; weekly trip limit permit number; and date landed.
  - (15) The operator of any vessel permitted for the weekly trip limit program who did not land scup in any calendar week shall report a negative report within 24 hours after the end of the calendar week.

- (16) The information referenced in sections (5) and (6) of this part shall be documented on forms provided by the Division of Fish and Wildlife or in a Vessel Trip Report logbook at the time scup are landed in Rhode Island. This information shall be reported via the Division of Fish and Wildlife interactive voice recording (IVR) system and by submitting the State's copy of the Vessel Trip Report logbook or the reporting form provided by the Division of Fish and Wildlife to the Division of Fish and Wildlife (3 Fort Wetherill Road, Jamestown, RI 02835) within one week after landing, including the name and address of the dealer where the scup were landed.
- (17) Non-compliance with the provisions of these regulations or the permit agreement shall subject the owner and or operator to revocation of the permit and the imposition of a penalty pursuant to part 3.3 (RIGL 20-3-3) as well as ineligibility to reapply for issuance of a permit for the subject vessel for the remainder of the Winter I period.
- (18) If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement find sufficient evidence 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 revocation of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) as well as the ineligibility to reapply for issuance of a permit for the subject vessel for the remainder of the Winter I period.
- a. Any person who seeks 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.
  - b. Any person who seeks an adjudicatory hearing relative to license and permits appeals arising under 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 thirty (30) days of  
receipt of the contested agency action.

**Winter Period II (November-December)** -- possession and landing limit is 2,000 pounds, decreasing to 500 pounds once 70% of the period quota is landed. [Effective 12:01 AM on November 1, 2003, the possession limit for scup will be 4,000 pounds per vessel, per calendar day.]

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

**FLOATING TRAPS** licensed by the state of Rhode Island – Sixty percent (60%) of the Summer-Fall period quota will be allocated to the floating trap harvesting sector. The quota allocated to the floating trap sector will be available during the following sub-periods:

**MAY 1 – MAY 31:** Ninety percent (90%) of the floating trap quota, will be available from May 1 through May 31. The possession limit will be 25,000 pounds per fish trap licensee\* per calendar day. Once eighty percent (80%) of the sub-period allocation is projected to be harvested, the possession limit will be 10,000 pounds per fish trap licensee per calendar day.

**JUNE 1 – AUGUST 31:** Ten percent (10%) of the floating trap quota, will be available from June 1 through August 31. The possession limit will be 2,000 pounds per fish trap licensee per calendar day. If 80% of the May 1 – May 31 allocation is not harvested by May 31 the possession limit on June 1 shall be 25,000 pounds per fish trap licensee per calendar day until 80% of the May allocation is projected to be harvested, at such time the possession limit shall be 10,000 pounds per fish trap licensee per calendar day. Once ninety percent (90%) of the entire quota is projected to be harvested the possession limit shall be 2,000 pounds per fish trap licensee per calendar day. Annually on August 1, the unharvested portion of the floating fish trap quota shall be made available to all gear types. [Effective 12:01 AM on June 20, 2003 the commercial scup fishery for floating fish traps will be closed for the remainder of 2003.]

**SEPTEMBER 1 – OCTOBER 31:** The possession limit for floating fish traps shall be unlimited. The floating trap fishery will close during this

period once an amount equal to the unharvested portion of the floating trap fishery quota made available to all gear types on August 1 is harvested by the floating trap sector.

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

Dealers are required to report scup landings daily to the DFW.

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

**MAY - JUNE:** One-third (1/3) of the other gear type quota will be available from May 1 through June 30. The possession limit per vessel on May 1 will be 1,000 pounds per calendar day. 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.

**JULY - SEPT. 15:** One-third (1/3) of the other gear type quota will be available from July 1 through September 15. The possession limit per vessel will be 100 pounds per calendar day until the end of the sub-period or until the entire sub-period allocation is projected to be harvested, at which time the fishery will close.

**SEPT. 16 – OCTOBER 31:** One-third (1/3) of the other gear type quota will be available from September 16 through October 31. The possession limit per vessel will be 100 pounds per calendar day until the end of the sub-period or until the entire sub-period allocation is projected to be harvested, at which time the fishery will close. Annually, on October 15, or thereafter, the Division may increase the possession limit if they project the entire quota will not be harvested by the end of the sub-period. [Effective 12:01 AM on October 30, 2003 the possession limit of scup for gear types other than floating fish traps will be 1,000 pounds per vessel per calendar until next sub-period begins on November 1 with a possession limit of 4,000 pounds per vessel per calendar day.]



Any unused portion of a sub-period allocation will be divided between the two remaining period(s). The DFW will have the discretion of adjusting trip limits upwards or downwards as necessary.

**7.11.2-3 Possession Limit Adjustments** -- Except for scup harvested from floating fish traps licensed by the State of Rhode Island, the possession limit may vary from 0 - 10,000 pounds. Fish and Wildlife, after discussions with fishing industry representatives, will determine, based upon the period of time remaining in the quota period and the current catch rate, whether the quota will be reached prior to the end of the sub-period. Having determined the catch rate and time remaining in the sub-period, Fish and Wildlife will decide whether the possession limit should be decreased or increased. Fish and Wildlife will file a notice with the Secretary of State's Office if the rate is changed and publish a news release announcing the change. The rate may be modified by Fish and Wildlife upon providing such notification with the possession limit altered between a range of 0 - 10,000 pounds in possession.

**7.11.3 Scup - Reporting Requirement** -- For the purpose of determining the commercial landings of scup in Rhode Island and whether the landings are increasing or decreasing during any period, every person licensed to catch, possess, purchase, or sell scup shall report weekly by telephone a record of the pounds of scup taken, possessed, purchased, or sold in Rhode Island during the period for which such record is requested; provided, however, such returns from any person or firm shall not be made public, shall be kept only in the files of said Division and be used only for statistical and fisheries management purposes.

#### **7.11.4 Scup - Recreational**

**7.11.4-1** - No person fishing recreationally shall possess scup less than ten inches (10") total length, and no person fishing recreationally shall possess, per calendar day, more than fifty (50) scup, 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 board a vessel by the number of fishermen on board said vessel.

**7.11.4-2** – The recreational season for scup in Rhode Island waters will be open from January 1 through December 31, annually.

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

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

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

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

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

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

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

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

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

**F. The total weekly purchases in pounds of scup must be reported by phone to the R.I. DEM Division of Fish and Wildlife marine office at 3 Ft. Wetherill Rd., Jamestown, Rhode Island 02832 (1-800-839-1346) by Tuesday of the following week.**

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

**A. In addition to the penalty prescribed in RIGL 20-1-16, the license of any person who refuses or neglects to make the report required**

herein will be suspended by the Director. The license of any person who knowingly or willfully makes a false report or violates any provision of these regulations may be suspended for a period not to exceed one year.

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

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

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

**7.12 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 20-3-3) (RIGL 20-6-29)]

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

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

##### **7.14.1 Commercial Harvest**

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

**7.14.1-2 Commercial Seasons and Possession Limits** -- A state quota for black sea bass will be established annually and shall be the most recent amount allocated to the State of Rhode Island by the Atlantic States Marine Fisheries Commission and/or the Secretary of the U.S. Department

of Commerce as published in the Federal Register. The quota shall be available during the following seasons:

- (a) January 1 – April 30: Twenty-five percent (25%) of the quota established in this part shall be available from January 1 through April 30, unless modified pursuant to section 7.14.1-2(e). It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 1,500 pounds of black sea bass during this period. When 60% of the sub-period allocation has been harvested, the possession limit will drop to 1,000 pounds. Refer to section 7.14.1-3 for current possession limit.
- (b) May 1 – July 31: Twenty-five percent (25%) of the quota established in this part shall be available from May 1 through July 31, unless modified pursuant to section 7.14.1-2(e). It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 100 pounds of black sea bass during this period. Refer to section 7.14.1-3 for the current possession limit.
- (c) August 1 – October 31: Twenty-five percent (25%) of the quota established in this part shall be available from August 1 through October 31, unless modified pursuant to section 7.14.1-2(e). It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 100 pounds of black sea bass during this period. Refer to section 7.14.1-3 for the current possession limit.
- (d) November 1 – December 31: Twenty-five percent (25%) of the quota established in this part shall be available from November 1 through December 31, unless modified pursuant to section 7.14.1-2(e). It shall be unlawful to possess aboard or land from a vessel, in any one calendar day, more than 500 pounds of black sea bass during this period. Refer to section 7.14.1-3 for the current possession limit.
- (e) Any unused portion of the quota from a ‘sub-period’ will be equally distributed to the allocations of the remaining sub-periods. The over-harvest of a sub-period allocation will be deducted from the allocations of the remaining sub-periods. Annually, the quota allocations specified in section 7.14.1-2(a-d) shall be adjusted by the DFW to charge over-harvest of a sub-period allocation during a given year to the same sub-period of the following year.

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

**Effective November 19, 2003, at 12:01 AM the commercial black sea bass**

fishery will be closed until the next sub-period begins on January 1, 2004.

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

**7.14.1- 5 Reporting Requirement** -- For the purpose of determining the commercial landings of black sea bass in Rhode Island and whether the landings are increasing or decreasing during any period, every person licensed to catch, possess, purchase, or sell black sea bass shall report weekly by telephone a record of the pounds of black sea bass taken, possessed, purchased, or sold in Rhode Island during the period for which such record is requested; provided, however, such returns from any person or firm shall not be made public, shall be kept only in the files of said Division, and be used only for statistical and fisheries management purposes.

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

#### **7.14.2 Recreational Harvest**

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

**7.14.2-2 – Recreational Season** -- The recreational season for black sea bass in Rhode Island waters is open from January through September 1, and September 16 through November 30, annually. The season is closed September 2 through September 15, and December 1 through December 31, annually. It is unlawful to possess black sea bass taken for recreational purposes during the closed season.

### **7.15 Spiny dogfish**

Part VII - Minimum Sizes of Fish/Shellfish

**7.15.1 Commercial Season and Possession Limits** – The commercial season shall extend from May 1 until April 30. When notified that the quota in any given period has been harvested, as determined by the National Marine Fisheries Service or the Atlantic States Marine Fisheries Commission, the Division of Fish and Wildlife shall file a notice with the Office of the Secretary of State prohibiting the commercial landings, harvest and possession of spiny dogfish in state waters for the remainder of the designated period and publish a news release announcing the closure in a newspaper of daily circulation throughout the State.

**7.15.2 Current Commercial Possession Limit** – Effective October 26, 2003 at 12:01 AM the commercial landings, harvest, and possession of spiny dogfish shall comply with the following regulations as set forth below:

- a. Any vessel which possesses a valid Rhode Island commercial fishing license to harvest or land dogfish for commercial purposes in Rhode Island and harvesting exclusively in State waters, may opt to enter into an agreement with the Division of Fish and Wildlife to participate in the weekly trip limit program for dogfish until the program is terminated as provided in this part. Any applicant vessel deemed to satisfy the agreement shall be issued a permit and is thereby authorized to land dogfish in any amount between 0 and 7,000 pounds per trip so long as the total landed by that vessel does not exceed 21,000 pounds in any calendar week. It shall be unlawful for the cumulative landings to exceed the weekly trip limit. The calendar week begins on Sunday at 12:00 AM and ends on Saturday at 11:59 PM of each week. When the dogfish quota has been harvested as determined by the Atlantic States Marine Fisheries Commission (ASMFC), the program will terminate.
- b. The commercial possession limit of dogfish for any vessel which possesses a valid Rhode Island commercial fishing license to harvest or land dogfish for commercial purposes in Rhode Island and harvesting exclusively in State waters, and are not permitted to, or elect not to, participate in the weekly trip limit program shall be 3,000 pounds per calendar day. It shall be unlawful for any person operating a vessel that is not permitted to, or elects not to, participate in the weekly trip limit program to land more than 3,000 pounds of dogfish in Rhode Island during any calendar day commencing at 12:00 AM and ending at 11:59 PM of that same day. When the dogfish quota has been harvested as determined by NMFS and/or ASMFC the dogfish fishery will close.
- c. A vessel shall be considered eligible to participate in the weekly trip limit program for dogfish by demonstrating to the Division of Fish and Wildlife that it satisfies each of the following criteria:

- (1) The vessel must harvest dogfish exclusively in State waters and the vessel's operator must possess a valid license to harvest or land dogfish for commercial purposes in Rhode Island; and
  - (2) The vessel shall be operated by a person who possesses a valid multipurpose or principal effort finfish license issued by the State of Rhode Island to land dogfish for commercial purposes.
- d. Participants in the weekly trip limit program for dogfish agreement shall satisfy the following requirements:
  - (1) No vessel shall possess simultaneously more than one weekly trip limit permit.
  - (2) A valid Spiny Dogfish Permit and logbook as described below in part 7.15.2(d)(3) must be onboard the permitted vessel at all times.
  - (3) The operator of any vessel permitted for the weekly trip limit program shall report all landing information in either their Vessel Trip Report (VTR) logbook or a Dogfish Weekly Landing Logbook, which will be provided upon request at the time of obtaining the permit. The logbook shall be turned in to the Division of Fish and Wildlife (3 Fort Wetherill Rd, Jamestown, RI 02835) within 48 hours of the operator's receipt of a request for said logbook by a member of the Division of Fish and Wildlife or the Division of Law Enforcement, the operator's election to terminate participation in the permit program, or by the closure of the fishery.
  - (4) Non-compliance with the provisions of these regulations or the permit agreement shall subject the owner and or operator to revocation of the permit and the imposition of a penalty pursuant to part 3.3 (RIGL 20-3-3) as well as ineligibility to reapply for issuance of a permit for the subject vessel for one (1) year.
  - (5) If the Chief of the Division of Fish and Wildlife and/or the Chief of the Division of Law Enforcement find sufficient evidence 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 revocation of the permit and or the imposition of a penalty pursuant to Part 3.3 (RIGL 20-3-3) as well as the ineligibility to reapply for issuance of a permit for the subject vessel. The determination shall provide that the request for a hearing must be received in writing by the Clerk of the Administrative Adjudication Division, 235 Promenade Street, Providence, Rhode Island 02908 no later than twenty (20) days following receipt of the determination.

**7.15.3 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 30-3-3)]**

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

**7.17 American Shad** – The commercial harvesting, landing, or possession of American Shad (*Alosa sapidissima*) within the State of Rhode Island and its territorial waters is prohibited except during the period: June 18 – December 31, 2003. **RIMF REGULATIONS [Penalty – Part 3.3 (RIGL 30-3-3)]**

#### **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 unlimited. At all other times it shall be unlawful to possess aboard or land from a vessel more than 300 pounds of weakfish in any one calendar day and it shall also be unlawful to possess aboard or land from a vessel any amount of weakfish where there is not at least an equal poundage of other species



on board the vessel.

**7.18.2 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 ten (10) 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 30-3-3)]**