Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

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Declaration of Regulation Change (15-09)

Under authority of Section 26-159a of the Connecticut General Statutes and Section 26-159a-22 of the Regulations of Connecticut State Agencies, the Commissioner of Energy and Environmental Protection is authorized to establish or adjust, by declaration, closed seasons, length limits, creel limits, trip limits and trip limit adjustment values in order to comply with interstate fishery management plans (FMP) adopted by the Atlantic States Marine Fisheries Commission (ASMFC) or the U.S. Department of Commerce (DOC).

In accordance with the aforementioned authority, the following sections of Departmental regulations are amended as specified on pages 2 through 9 of this Declaration.

Measures applying to American eel, American lobster, Atlantic menhaden, black sea bass, bluefish, scup, spiny dogfish, summer flounder, tautog, weakfish and winter flounder are necessary to maintain compliance with the mandatory provisions of the Atlantic States Marine Fisheries Commission fishery management plans adopted for these species under the Atlantic Coastal Fisheries Cooperative Management Act. Measures applying to minimum lengths of northeast groundfish species (p 2) are adopted consistent with Northeast Multispecies (groundfish) federal fishery management plans adopted under the Fishery Conservation and Management Act.

12/9/15

Robert J. Klee **Date**
Commissioner

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26-142a-8a. Species restrictions. Subsection (b) Minimum Legal Length. -- is modified as follows.

(b) **Minimum Legal Length.** No person shall possess any fish taken by any commercial fishing gear or for commercial purposes less than the lengths specified below measured from the tip of the snout to the end of the tail and, notwithstanding section 26-159a-4 of the Regulations of Connecticut State Agencies, no person shall buy, sell, offer for sale or possess in a place where fish are offered for sale, any of said species less than the minimum legal length stated herein.

(1) Atlantic tomcod (frostfish) (Microgadus tomcod) - 7 inches

(2) Tautog (blackfish) (Tautoga onitis) - ~~14~~ **16** inches

(3) Scup (porgy) (Stenotomus chrysops) - 9 inches

(4) Black sea bass (Centropristis striata) - 11 inches

(5) Winter flounder (Pseudopleuronectes americanus) - 12 inches

(6) Bluefish (Pomatomus saltatrix) - 9 inches

(7) Summer flounder (fluke) (Paralichthys dentatus) - 14 inches

(8) Atlantic cod (Gadus morhua) - [~~22 inches~~] **the length specified in 50 CFR § 648.83(a)**

(9) Weakfish (Cynoscion regalis) - 16 inches

(10) Yellowtail flounder (Pleuronectes ferrugineus) - [~~13 inches~~] **the length specified in 50 CFR § 648.83(a)**

(11) Haddock (Melanogrammus aeglefinus) - [~~22 inches~~] **the length specified in 50 CFR § 648.83(a)**

(12) Pollock (Pollachius virens) - [~~19 inches~~] **the length specified in 50 CFR § 648.83(a)**

(13) Witch flounder (Glyptocephalus cynoglossus) - [~~14 inches~~] **the length specified in 50 CFR § 648.83(a)**

(14) American plaice (Hippoglossoides platessoides) - [~~14 inches~~] **the length specified in 50 CFR § 648.83(a)**

(15) Redfish (Sebastes marinus) - [~~9 inches~~] **the length specified in 50 CFR § 648.83(a)**

(16) American eel (Anguilla rostrata): 9 inches;

Any of said species less than the minimum legal length taken by any commercial fishing gear shall, without avoidable injury, be returned immediately to the water from which taken. No person on board any vessel engaged in commercial fishing or landing species taken by commercial fishing gear shall possess any summer flounder fillet less than the minimum total length for the species unless the carcass of the fish from which the fillet was removed has been retained and meets the minimum length. This subsection shall not be construed to prevent filleting of fish on shore or at the dockside.

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26-157c-1. Taking lobsters – general - is modified as follows.

26-157c-1. Taking lobsters – general

(a) **Definitions**

(4) "LMA" means any lobster management area as defined in the FMP.

(5) "LMA 6 maximum length" means a carapace length of 5-1/4 inches.

(6) "LMA 6 minimum length" means a carapace length of ~~[3 5/16]~~ **3 3/8** inches.

26-159a-8. Winter flounder – is modified by the addition of the following restrictions.

Winter flounder.

(a) Commercial Fishery Possession Limit.

(1) No person engaged in commercial fishing shall possess or land winter flounder in excess of 50 pounds or 38 fish, unless such fish were taken in federal waters under a federal commercial fisheries northeast multispecies permit.

(2) The possession and landings limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Possession and landing limits shall apply per trip or per day, whichever is the longer period of time. Transfer of winter flounder between vessels at sea is prohibited.

(3) Any winter flounder taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

26-159a-9. Bluefish (Pomatomus saltatrix). (c) Open Commercial Fishing Season and (d) Commercial Fishery Possession Limit are superseded by the following restrictions.

Bluefish (Pomatomus saltatrix).

(d) **Commercial Fishery Possession Limit.**

(1) No person engaged in commercial fishing shall possess or land bluefish in excess of the following possession limits that are based on Connecticut's annual bluefish quota specified in the Bluefish Fishery Management Plan of the Atlantic States Marine Fisheries Commission:

(A) during the winter one period defined herein as the period between January 1 and April 30, inclusive, the possession and landing limit shall be 1,000 pounds, except as provided in subparagraphs (D), (E) and (F) of this subdivision, and the period target quota shall be 33% of Connecticut's annual quota;

(B) during the summer period defined herein as the period between May 1 and October 31, inclusive, the possession limit shall be 500 pounds, except as provided in subparagraphs (D), (E) and (F) of this subdivision, and the period target quota shall be 84% of Connecticut's annual quota;

(C) during the winter two period defined herein as the period between November 1 and December 31, inclusive, the possession limit shall be 1,000 pounds, except as provided in subparagraphs (D), (E) and (F) of this

subdivision, and the period target quota shall be 100% of Connecticut's annual quota;

(D) during each period the department shall monitor weekly landings and may periodically adjust the possession limit if less than or more than the period target quota specified in subparagraphs (A), (B) and (C) of this subdivision is projected to be landed. Except as provided in subparagraph (E) of this subdivision, the adjusted possession limit shall be calculated as (Q / T / W), rounded to the nearest 100 pounds, where Q is the amount of Connecticut's annual quota remaining in the period and T is the projected number of fishing trips per week landing summer flounder during the weeks remaining in the period and W is the number of weeks remaining in the period;

(E) the possession limit shall not exceed 1,000 pounds at any time.

(F) when 100% of Connecticut's annual quota is landed the possession limit shall be zero pounds.

(2) The possession limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Possession limits shall apply per trip or per day whichever is the longer period of time. Transfer of bluefish between vessels at sea is prohibited.

(3) Any bluefish taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

26-159a-10. Summer flounder (Paralichthys dentatus) – subsection (c) Commercial Fishery Possession Limit is superseded by the following restrictions.

Summer flounder.

(c) **Summer Flounder Commercial Fishery Possession Limit.**

(1) No person engaged in commercial fishing shall possess or land summer flounder in excess of the following possession limits that are based on Connecticut's annual summer flounder quota specified in the Summer Flounder Fishery Management Plan of the Atlantic States Marine Fisheries Commission:

(A) during the winter one period defined herein as the period between January 1 and April 30, inclusive, the possession and landing limit shall be 1,000 pounds per week, except as provided in subparagraphs (D) and (E) of this subdivision, and the period target quota shall be 45% of Connecticut's annual quota;

(B) during the summer period defined herein as the period between May 1 and October 31, inclusive, the possession limit shall be 100 pounds, except as provided in subparagraphs (D) and (E) of this subdivision, and the period target quota shall be 95% of Connecticut's annual quota;

(C) during the winter two period defined herein as the period between November 1 and December 31, inclusive, the possession limit shall be 100 pounds, except as provided in subparagraph (D) of this subdivision, and the period target quota shall be 100% of Connecticut's annual quota;

(D) during each period the department shall monitor weekly landings and periodically adjust the possession limit if less than or more than the period target quota specified in subparagraphs (A), (B) and (C) of this subdivision is projected to be landed. The adjusted possession limit shall be calculated as (Q / T / W), rounded to the nearest 25 pounds, where Q is the amount of Connecticut's annual quota remaining in the period and T is the projected number of fishing trips per week landing summer flounder during the weeks remaining in the period and W is the number of weeks remaining in the period;

(E) when 100% of Connecticut's annual quota is landed the possession limit shall be zero pounds.

(2) The possession limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Possession limits shall apply per trip or per day whichever is the longer period of time. Transfer of summer flounder between vessels at sea is prohibited.

(3) Any summer flounder taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

(4) When a weekly landing or possession limit specified in subdivision (1) of this subsection is in effect, no person engaged in commercial fishing shall possess or land summer flounder more than the stated weekly limit during each weekly period that begins Sunday morning at 0001 hours and ends the following Saturday night at 2359 hours.

(5) When a weekly landing or possession limit specified in subdivision (1) of this subsection is in effect, the commercial fishing vessel operator shall, prior to departure on any trip in which summer flounder will be possessed, inform the Department Energy and Environmental Protection Environmental Conservation Police of the vessel's departure and provide information that shall include, but not be limited to, the vessel's name, captain's name, departure date and time, estimated return date and time and the port of landing.

26-159a-13. Tautog (Blackfish) (Tautoga onitis) – is superseded by the following restrictions

Tautog.

(a) **Closed Season.** No person engaged in commercial fishing shall possess or land any tautog, wherever taken, except from April 1 to April 30, July 1 to August 31, October 8 to December 24, all dates inclusive.

(b) **Commercial Fishery Possession Limit.** No person engaged in commercial fishing shall possess or land tautog in excess of 10 fish.

(1) The possession and landing limits specified in this subsection shall apply to the vessel, regardless of how many persons are on board. Possession and landing limits shall apply per trip or per day, whichever is the longer period of time. No person shall transfer tautog between vessels at sea.

(2) Any tautog taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

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26-159a-15. Scup (porgy) (Stenotomus chrysops) subsection (c) Commercial Fishery Possession Limits – is superseded by the following restrictions.

Scup.

(c) **Commercial Fishery Possession and Landing Limits.**

(1) No person engaged in commercial fishing shall possess or land scup in excess of the following possession limits that are based on the coastwide scup quota and Connecticut's summer period scup quota as specified in the Scup Fishery Management Plan of the Atlantic States Marine Fisheries Commission:

(A) during the winter one period defined herein as the period between January 1 and April 30, both dates inclusive, the possession limit shall be 50,000 pounds until 80% of the winter one coastwide quota has been landed, at which time the possession limit shall be 1,000 pounds until 100% of this period quota has been landed, at which time the limit shall be zero pounds;

(B) during the summer period defined herein as the period between May 1 and October 31, both dates inclusive, the possession limit shall be 1,000 pounds except as provided in subparagraph (D) of this subdivision, and the period target quota shall be 100% of Connecticut's summer period quota;

(C) during the winter two period defined herein as the period between November 1 and December 31, both dates inclusive, the possession limit shall be 12,000 pounds until 100% of the winter two coastwide quota has been landed, at which time the limit shall be zero pounds;

(D) during the summer period the department shall monitor landings weekly and periodically adjust the possession limit if less than or more than 100% of Connecticut's summer period quota is projected to be landed. The adjusted possession limit shall be calculated as (Q / T / W), rounded to the nearest 100 pounds, where Q is the amount of Connecticut's summer period quota remaining and T is the projected number of fishing trips per week landing scup during the weeks remaining in the period and W is the number of weeks remaining in the period, except that:

(i) in the lobster pot fishery when in possession of lobsters, the possession limit shall be 10 fish;

(ii) at any time during the summer period, when 100% of Connecticut's summer period quota is landed the possession limit shall be zero pounds for all gear types.

(2) The possession and landing limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Possession limits shall apply per trip or per day, whichever is the longer period of time. No person shall transfer scup between vessels at sea.

(3) Any scup taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

26-159a-16. Black sea bass (Centropristis striata) subsection (c) Commercial Fishery Possession Limits – is superseded by the following restrictions.

Black sea bass.

(c) **Commercial Fishery Possession Limits.**

(1) No person engaged in commercial fishing shall possess or land black sea bass in excess of the following possession limits that are based on Connecticut's annual black sea bass quota as specified in the Black Sea Bass Fishery Management Plan of the Atlantic States Marine Fisheries Commission:

(A) during the winter one period defined herein as the period between January 1 and April 30, inclusive, the possession and landing limit shall be 100 pounds, except as provided in subparagraphs (D) and (E) of this subdivision, and the period target quota shall be 33% of Connecticut's annual quota;

(B) during the summer period defined herein as the period between May 1 and October 31, inclusive, the possession limit shall be 50 pounds, except as provided in subparagraphs (D) and (E) of this subdivision, and the period target quota shall be 84% of Connecticut's annual quota;

(C) during the winter two period defined herein as the period between November 1 and December 31, inclusive, the possession limit shall be 50 pounds, except as provided in subparagraphs (D) and (E) of this subdivision, and the period target quota shall be 100% of Connecticut's annual quota;

(D) during each period the department shall monitor weekly landings and periodically adjust the possession limit if less than or more than the period target quota specified in subparagraphs (A), (B) and (C) of this subdivision is projected to be landed. The adjusted possession limit shall be calculated as (Q / T / W), rounded to the nearest 10 pounds or equivalent number of fish, where Q is the amount of Connecticut's annual quota remaining in the period and T is the projected number of fishing trips per week landing black sea bass during the weeks remaining in the period and W is the number of weeks remaining in the period, except that in the lobster pot fishery when in possession of lobsters, the possession limit shall be 10 fish.

(E) When 100% of the Connecticut quota is landed the possession limit shall be zero pounds for all gear types.

(2) The possession and landing limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Possession limits shall apply per trip or per day, whichever is the longer period of time. No person shall transfer black sea bass between vessels at sea.

(3) Any black sea bass taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

26-159a-19. Spiny dogfish (Squalus acanthius) -- is superseded by the following restrictions

Spiny dogfish.

(a) Commercial Fishery Possession Limits

(1) No person engaged in commercial fishing shall possess or land spiny dogfish in excess of the following possession limits that are based on the northern region spiny dogfish quota as specified in the Spiny Dogfish Fishery Management Plan of the Atlantic States Marine Fisheries Commission:

(A) between May 1 and October 31, both dates inclusive, the possession limit shall be 5,000 pounds, except as provided in subparagraph (C) of this subdivision;

(B) between November 1 and April 30, , both dates inclusive, the possession limit shall be 5,000 pounds, except as provided in subparagraph (C) of this subdivision.

(C) when 100% of the northern region quota is landed the possession limit shall be zero pounds.

(2) The possession and landing limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Possession limits shall apply per trip or per day, whichever is the longer period of time. No person shall transfer spiny dogfish between vessels at sea.

(3) Any spiny dogfish taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

Weakfish (*Cynoscion regalis*)

(a) Commercial Fishery Possession Limits.

(1) No person engaged in commercial fishing shall possess or land weakfish in excess of 100 pounds.

(2) The possession and landing limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Possession limits shall apply per trip or per day, whichever is the longer period of time. Transfer of weakfish between vessels at sea is prohibited.

(3) Any weakfish taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

Atlantic Menhaden (*Brevoortia tyrannus*)

(a) Commercial Fishery Possession Limits.

(1) Except as provided in subdivision (4) of this subsection, no person engaged in commercial fishing shall possess or land Atlantic menhaden in excess of the following possession limit that is based on Connecticut's Atlantic menhaden quota specified in the Atlantic Menhaden Fishery Management Plan of the Atlantic States Marine Fisheries Commission: 6,000 pounds.

(2) The possession and landing limits specified in subdivision (1) of this subsection shall apply to the vessel, regardless of how many persons are on board. Possession limits

shall apply per trip or per day, whichever is the longer period of time. The transfer of more than 6,000 pounds per day of menhaden between vessels at sea is prohibited.

(3) Any Atlantic menhaden taken contrary to this section shall, without avoidable injury, be returned immediately to the water from which taken.

(4) Landing in excess of 6,000 pounds shall be permitted provided:

(A) the Commissioner receives and accepts an offer of quota transfer from another state in an amount equal to or greater than the amount of fish to be landed, and;

(B) such quota transfer conforms with the requirements of the Atlantic Menhaden Fishery Management Plan of the Atlantic States Marine Fisheries Commission for quota transfers between states, and;

(C) such quota transfer is completed before fish are offloaded in this state.

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Justification for Marine Fisheries Declaration

Need: 1) To meet the requirements of the ASMFC fishery management plans (FMPs) for American eel, American lobster, Atlantic menhaden, black sea bass, bluefish, scup, spiny dogfish, summer flounder, tautog, weakfish and winter flounder. 2) To effectively manage Connecticut's annual adjusted commercial fishery allocations of summer flounder, scup, black sea bass, bluefish, and Atlantic menhaden and the New England region allocation of spiny dogfish. 3) To align Connecticut commercial fishery minimum legal lengths with the federal waters Northeast Multispecies Fishery Management Plan enacted by the U.S. Department of Commerce – NOAA Fisheries. 4) Provide Connecticut based commercial fishermen the fullest opportunity afforded under ASMFC and federal fishery management plans.

Under 16 U.S.C. Chapter 17 - Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) Section 5106, states are required to implement and enforce ASMFC fishery management plans. If ASMFC finds that a state has failed to implement mandatory measures of a Commission plan, the Secretary of Commerce is required to impose a moratorium on fishing for that species within the waters of the noncomplying state and prohibit landings of that species regardless where taken.

Special Comment:

The federal commercial minimum legal lengths for northeast multispecies and redfish are incorporated by reference as we currently do for some recreational northeast multispecies fisheries. Incorporating the new minimum sizes by reference to the CFR will eliminate the need to revisit these measures with each subsequent change in federal rules for species that rarely occur in state waters.

Management Background:

Lobster: The 3 3/8" minimum size is mandated by ASMFC for all inshore Lobster Management areas south of Cape Cod, including LMA 6 – Long Island Sound.

Winter flounder: stocks in southern New England are in an overfished state. The low possession limit in this Declaration is mandated by ASMFC and is intended to eliminate targeted fishing, but prevent waste by allowing unavoidable bycatch to be landed. The possession limit was reviewed and reaffirmed by ASMFC in October, 2014.

State Quota Managed Species: The **Summer Flounder, Scup and Black Sea Bass** Management Board and the Bluefish Management Board of the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fishery Management Council and NOAA Fisheries establish annual state specific commercial quotas for summer flounder, black sea bass and bluefish. Scup quotas are managed differently by season with January through April (Winter 1) and November-December (Winter 2) being managed as a coastwide basis whereas in May through October (Summer) scup quota is allocated by ASMFC on a state specific basis.

To allow equitable fishing opportunity for all participants in these commercial fisheries, to maximize the economic return of the fish landed, and to ensure that Connecticut does not exceed its quota allocation, the department is compelled to implement adjustments to the possession limits for summer flounder, scup, black sea bass and bluefish.

Tautog: Under ASMFC Addendum VI each state was required to reduce both recreational and commercial harvest in 2008-2009 by 39%, which equated to just 12,613 pounds or 2,913 fish as Connecticut's target commercial harvest quota. The 10 fish possession limit for all gear types is consistent with this small target quota.

Spiny dogfish: This species is managed under multiple jurisdictions with ASMFC having its own FMP and management measures while NOAA Fisheries establishes management measures through FMP's of both the New England and Mid-Atlantic Fishery Management Councils. Under ASMFC the coastwide quota is divided into northern (ME-CT), southern (NY-VA) and North Carolina regions. The ASMFC Shark Management Board initially set a 4,000 pound possession limit for 2014, but during the August Meeting revised the limit to 5,000 pounds effective September 8, 2014.

Weakfish: This stock is depleted likely from a combination of natural causes and overfishing. Low possession limits mandated by ASMFC are intended to eliminate targeted fishing, but prevent waste by allowing unavoidable bycatch to be landed.

Atlantic Menhaden: In December, 2012 ASMFC adopted state by state quota management for this species effective April 15, 2013. The 6,000 pound commercial possession limit established in this Declaration equals the "bycatch limit" established by ASMFC. Connecticut prohibits the use of purse seines, the gear most commonly used in targeted menhaden fishing, meaning all of our fishery falls within the bycatch limit. Consequently, we do not expect the adoption of state quotas to impact current fishing practices in our state waters. On occasion out-of-state vessels land large quantities of menhaden in Connecticut, which this Declaration allows provided the vessel arranges a transfer of quota from another state to cover their landings here.

Public Input/Notice:

Public hearings were held at the time ASMFC mandated the measures pertaining to American eel, American lobster, Atlantic menhaden, black sea bass, bluefish, scup, spiny dogfish, summer flounder, tautog, weakfish and winter flounder. In particular, the depleted lobster stock condition and potential management responses that culminated in the ASMFC mandated closed season was the subject of eight public meetings and an industry Lobster Conservation Management Team (NY/CT lobstermen) over approximately two years.

On December 18, 2014, the Department held a public meeting at Marine Headquarters in Old Lyme to receive input on how best to achieve the quota management goals outlined above for summer flounder, scup, black sea bass and bluefish in 2015 (see State Quota Managed Species). Notice of the meeting was provided via Marine Fisheries News list-serve, which has approximately 1,000 subscribers including fishermen, media outlets and environmental groups, and by text message to summer flounder, scup and black sea bass endorsement letter holders and seafood dealers requesting such notification. The public meeting was also announced and posted on the DEEP Fisheries web page. Attendees at the meeting, primarily endorsement letter holders and seafood dealers, developed and were in consensus with, the proposed measures.

Regarding northeast multispecies and redfish minimum lengths, all public input and notice to date has occurred through the federal fisheries management process, via both the New England Fisheries Management Council and NOAA Fisheries. The fish species affected by this Declaration

do not normally occur in Connecticut waters, therefore have no impact on state-water fisheries or fishermen. Federal permit holders receive direct notice of these changes from NOAA Fisheries.

Authority

Regulation 26-159a-22. Compliance with Interstate Fishery Management Plans.
(a) The Commissioner may, by declaration, establish and adjust closed seasons, length limits, creel limits, trip limits, and trip limit adjustment values in order to comply with interstate fishery management plans and emergency actions adopted by the Atlantic States Marine Fisheries Commission or the U.S. Department of Commerce.

(b) The Commissioner shall inform the public of all such changes at least 10 days prior to the effective date by placing posters at state boat launch areas, by issuing news releases, by mailing notices to bait and tackle shops and by mailing notices to all affected license holders.

(c) Any declaration made under this section shall be for a period not more than 120 days provided, if notice of intent to amend regulations has been published under Chapter 54, such declaration shall remain in effect until said regulations have been adopted, but not longer than 240 days.