

250-RICR-90-00-14

TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 90 – MARINE FISHERIES

SUBCHAPTER 00 – N/A

PART 14 – SUMMER FLOUNDER EXEMPTION CERTIFICATE PROGRAM

14.1 Purpose

- A. The purpose of these Regulations is to authorize a program which will assist with the management of the commercial summer flounder fishery.

14.2 Authority

- A. These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Title 20, R.I. Gen. Laws Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with R.I. Gen. Laws Chapter 42-35, Administrative Procedures Act.

14.3 Application

- A. 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.

14.4 Definitions

- A. See Part [1](#) of this Subchapter.

14.5 Severability

- A. 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.

14.6 Superseded Rules and Regulations

- A. On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of these Regulations shall be superseded.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.

14.7 General

- A. The Summer Flounder Exemption Certificate (Exemption Certificate) will be issued only to a vessel. The vessel owner will be identified on the Exemption Certificate for the purpose of maintaining vessel owner contact information.
- B. Exemption Certificates may not be:
 - 1. Pledged, mortgaged, leased, or encumbered in any way;
 - 2. Transferred with any retained right of repossession or foreclosure, or any condition requiring a subsequent transfer; or
 - 3. Attached, distrained, or sold on execution of judgment.
- C. Notice of change of address: Whenever a person owning a vessel issued an Exemption Certificate, or in possession of an Exemption Certificate in Confirmation of Certificate Status (CCS), shall move from the address specified on their last certificate application, that person shall, within ten (10) days subsequent to moving, notify the Division of Coastal Resources of their new address.
- D. Any application made pursuant to these Regulations shall be made on forms as prescribed by the Director.

14.8 Applicability

- A. No person shall possess or land summer flounder in excess of two hundred (200) pounds per vessel or per person per day unless that person holds a valid Exemption Certificate or exempted program permit established pursuant to this Chapter. An Exemption Certificate authorizes a vessel to possess and land greater than two hundred (200) pounds of summer flounder per vessel per day provided that:
 - 1. The current Rhode Island possession limit for summer flounder is greater than two hundred (200) pounds per vessel per day; and
 - 2. The vessel's operator holds a valid Rhode Island commercial fishing license or landing permit to harvest or land summer flounder.

14.9 Eligibility

- A. No new Exemption Certificates will be available for issuance. All valid certificates are eligible for renewal pursuant to these Regulations.

14.10Exemption Certificate Expiration and Renewal

- A. Exemption Certificates shall be valid until December 31, 2035, at which time the certificate shall expire unless application for renewal is received by the application deadline.
- B. Application required: Renewal applications shall contain the following information:
 - 1. Vessel name;
 - 2. Vessel owner;
 - 3. USCG documentation/State registration number;
 - 4. Federal permit number or Rhode Island commercial fishing license number, that authorizes the harvest or landing of summer flounder;
 - 5. Vessel Length Overall (LOA);
 - 6. Vessel Gross Registered Tonnage (GRT);
 - 7. Vessel Horsepower.
 - 8. Hailing Port.
 - 9. Notary signature and stamp.
- C. Renewal application deadline:
 - 1. Notice of certificate expiration and renewal requirement will be mailed to the person and mailing address on file with the Department no later than October 1, 2035.
 - 2. Renewal applications must be received by the Department or postmarked by December 31, 2035 to be considered for renewal.
 - 3. For any vessel sale/transfer that takes place during the renewal application period, ninety (90) days from the date of sale/transfer will be allowed to renew the Exemption Certificate.
- D. If application for an Exemption Certificate renewal is denied, the applicant may appeal the denial to the Administrative Adjudication Division for Environmental Matters pursuant to R.I. Gen. Laws § 42-17.7-1 *et seq.* and the procedures set forth in Part [10-00-1](#) of this Title, Rules and Regulations for the Administrative Adjudication Division.

14.11 Transfer of an Exemption Certificate

14.11.1 General

- A. An Exemption Certificate may only be transferred upon change in vessel ownership or upon vessel replacement. Any vessel replacement or change in vessel ownership requires a transfer application to be submitted to the Department and new certificate issued to be valid.
- B. If no transfer approval occurs at time of change in vessel ownership or upon vessel transfer, the Exemption Certificate shall not be valid until such time that a transfer application is submitted and a new certificate issued.

14.11.2 Change in Vessel Ownership

- A. Applicability: Any change in vessel ownership shall require application to the Department for an Exemption Certificate transfer. No Exemption Certificate transfer is valid unless approved by the Director.
- B. Application required:
 - 1. Applications shall be submitted to the Department no later than sixty (60) days after the change in ownership.
 - 2. Application shall include a written agreement signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of changing vessel owner.
 - 3. Validation of vessel ownership is required and shall be determined solely by the valid (unexpired) US Coast Guard documentation or State registration issued.
- C. An Exemption Certificate may only be transferred to a vessel or replacement vessel that possesses a valid USCG documentation and/or valid State registration and is commercially declared pursuant to Part 2 of this Subchapter.

14.11.3 Vessel Replacement

- A. Applicability: Any change in vessel shall require application to the Department for such transfer. No transfer is valid unless approved by the Director.
- B. Application required:
 - 1. Application shall include a written agreement, or other credible written evidence, that must be signed by the vessel transferor/seller and vessel transferee/buyer, verifying that the vessel transferor/seller is retaining the Exemption Certificate for the purpose of replacing the vessel.

2. The vessel owner must prove that the applicant vessel is replacing a vessel and that the Exemption Certificate is only applicable to the vessel for which the Exemption Certificate has been transferred.
3. The Exemption Certificate shall only be transferred to another vessel with a USCG vessel documentation/State registration number and State commercial vessel declaration.
4. The Exemption Certificate must be applied to a replacement vessel owned by the seller/transferee within five (5) years of approval of application.

C. Confirmation of certificate status:

1. If a vessel owner severs the Exemption Certificate from a vessel, the vessel owner may elect to apply to the Department for Confirmation of Certificate Status (CCS).
 - a. CCS allows the maintenance of the certificate history without it being attached to a vessel.
 - b. Application for CCS must be made on forms provided by the Director.
2. Application to the DEM must be made to take an Exemption Certificate out of CCS.
 - a. The Exemption Certificate must be applied to a vessel within five (5) years of approval of application for CCS.
 - b. An Exemption Certificate shall be authorized to remain in CCS for a period not greater than five years, after five (5) years, the Exemption Certificate shall be deemed invalid if not applied to a vessel.
 - c. Exemption Certificates in CCS are subject to the renewal requirements as specified in these Regulations.

14.11.4 Change in Exemption Certificate Holder While in CCS

- A. Applicability: Any change in Exemption Certificate holder shall require application to the Department for an Exemption Certificate transfer. No Exemption Certificate transfer is valid unless approved by the Director.
- B. Application required:
 1. Application shall include a written agreement signed by the transferor/transferee and transferor/transferee, or other credible written

evidence, verifying that the transferor/transferee is transferring the Exemption Certificate only with no vessel attached.

2. Proof of a valid certificate issued to the transferor is required and shall be determined by the documentation issued by the Department.
- C. Exemption Certificates transferred while in CCS are still bound to the original five (5) year period established when the Exemption Certificate entered CCS status.

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