

"PERTAINING TO LANDING LICENSES"

CHAPTER 4VAC20-920-10 ET SEQ.

PREAMBLE

This chapter establishes a license for the landing of seafood for commercial purposes in Virginia and a special endorsement license to land summer flounder in Virginia. This chapter is promulgated pursuant to the authority contained in §§28.2-201 and 28.2-228.1 of the Code of Virginia. This chapter amends and re-adopts, as amended, 4 VAC 20-920-10 et seq., which was promulgated on July 26, 2005 and made effective on December 1, 2005. The effective date of this chapter, as amended, is December 1, 2010.

4VAC20-920-10. PURPOSE.

The purpose of this chapter is to establish a license for the landing of seafood for commercial purposes in Virginia and to limit the number of commercial fishing vessels which may land summer flounder in Virginia.

4VAC20-920-20. DEFINITION.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Land" or "landing" means to enter port with finfish, shellfish, crustaceans or other marine seafood, on board any boat or vessel, or to begin offloading finfish, shellfish, crustaceans or other marine seafood, or to offload finfish, shellfish, crustaceans or other marine seafood.

4 VAC 20-920-30. LICENSE REQUIREMENTS AND EXEMPTIONS.

- A. It shall be unlawful for any boat or vessel to land seafood in Virginia for commercial purposes without a Seafood Landing License provided from the Virginia Marine Resources Commission or its agent. The license shall be required of each boat or vessel used to land seafood for commercial purposes. Possession of any quantity of a marine seafood species which exceeds the recreational possession limit for that species shall be presumed to be for commercial purposes. Any boat or vessel so licensed shall display a Seafood Landing License decal provided by the Virginia Marine Resources Commission. The decals shall be displayed on both the port and starboard sides of the pilot house.
- B. It shall be unlawful for any buyer of seafood to receive any marine seafood from any boat or vessel which is not licensed for the landing of seafood unless that boat or vessel is exempt from the requirement to obtain a Seafood Landing License as described in this section.
- C. Any boat or vessel which is both owned and operated by a person who holds a valid Virginia Commercial Fisherman Registration License shall be exempt from the requirement to obtain a Seafood Landing License.

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- D. Any boat or vessel operated by a person harvesting and landing marine seafood from the Potomac River who holds a valid Potomac River Fisheries Commission commercial license shall be exempt from the requirement to obtain a Seafood Landing License.
- E. Any boat or vessel operated by a person harvesting and landing marine seafood from leased ground or reharvesting marine seafood as part of the shellfish relay process shall be exempt from the requirements to obtain a Seafood Landing License.

4VAC20-920-40. SUMMER FLOUNDER ENDORSEMENT LICENSE, RESTRICTED SUMMER FLOUNDER ENDORSEMENT LICENSE AND EXEMPTION.

- A. It shall be unlawful for any boat or vessel to land Summer Flounder, in Virginia, for commercial purposes, without first obtaining a Seafood Landing License, as described in 4VAC20-920-30, and a Summer Flounder Endorsement License or possessing a Restricted Summer Flounder Endorsement License. The Summer Flounder Endorsement License shall be required of each boat or vessel used to land Summer Flounder for commercial purposes. Possession of any quantity of Summer Flounder which exceeds the possession limit, described in 4VAC20-620-60, shall be presumed to be for commercial purposes. Any boat or vessel so licensed shall display a Summer Flounder Endorsement License decal, provided by the Virginia Marine Resources Commission. The decals shall be displayed on both the port and starboard sides of the pilot house.
- B. It shall be unlawful for any buyer of seafood to receive any Summer Flounder from any boat or vessel which is not licensed for the landing of Summer Flounder unless that boat or vessel is exempt from the requirement to obtain a Seafood Landing License and a Summer Flounder Endorsement License as described in 4VAC20-920-30 and this section.
- C. Any boat or vessel that is both owned and operated by a person who holds a valid Virginia Commercial Fisherman Registration License and is used solely for fishing for summer flounder only in Virginia waters shall be exempt from the requirement to obtain a Summer Flounder Endorsement License.
- D. Any boat or vessel operated by a person harvesting and landing marine seafood from the Potomac River who holds a valid Potomac River Fisheries Commission commercial license shall be exempt from the requirement to obtain a Summer Flounder Endorsement License.
- E. Any boat or vessel operated by a person harvesting and landing marine seafood from leased ground or reharvesting marine seafood as part of the relay process shall be exempt from the requirements to obtain a Summer Flounder Endorsement License.

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- F. To be eligible for a Summer Flounder Endorsement License the boat or vessel shall have landed and sold at least 500 pounds of Summer Flounder in Virginia in at least one year during the period of 1993 through 1995.
1. The owner shall complete an application for each boat or vessel by providing to the commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name, and registration or documentation number and a copy of the vessel's federal Summer Flounder moratorium permit.
 2. The owner shall complete a notarized authorization to allow the commission to obtain copies of landings data from the National Marine Fisheries Service.
- G. To be eligible for a Restricted Summer Flounder Endorsement License (RSFEL), a person must be a legal Virginia Commercial Hook-and-Line Licensee and own a vessel issued a valid federal summer flounder moratorium permit. The person shall complete an application, for the RSFEL, by providing, to the commission, a notarized and signed statement of his name, address, telephone number, boat or vessel name, and its registration or documentation number, as well as a copy of that vessel's federal summer flounder moratorium permit.
- H. Effective February 24, 2004, any vessel eligible for a Summer Flounder Endorsement License shall be considered a baseline vessel, and that vessel's total length and gross tonnage shall be used to determine eligibility for all future transfers of that Summer Flounder Endorsement License. A Summer Flounder Endorsement License may be transferred from one vessel to another vessel that is entering the Summer Flounder fishery, provided the vessel receiving the Summer Flounder Endorsement License does not exceed, by more than 10%, the total length and gross tonnage of the baseline vessel that held that Summer Flounder Endorsement License on February 24, 2004.

4VAC20-920-45. SUMMER FLOUNDER ENDORSEMENT LICENSE AND HARDSHIP EXCEPTION.

Any licensed fisherman who provides to the commissioner an opinion and supporting documentation from an attending physician of an existing medical condition, proof of active military service, documentation that indicates substantial vessel damage or other significant extenuating circumstances that prevented him from satisfying the eligibility criteria described in 4VAC 20-920-40 F and can provide documentation of having landed at least 500 pounds of summer flounder during any one year of the 1990-1992 period may be authorized for an exception to the requirements to be eligible for a summer flounder endorsement license as described in 4VAC20-920-40 F.

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4 VAC 20-920-50. PENALTY.

- A. As set forth in §28.2-228.1 of the Code of Virginia, the following shall constitute Class 3 misdemeanors: (i) landing seafood without the license required by this chapter and (ii) failure to produce or have available for inspection the license required by this chapter when requested by any officer. Failure to produce the license is prima facie evidence that the person is landing seafood without a license.
- B. Any person found guilty of violating any of the seafood laws or regulations of Virginia may have his Seafood Landing License and Summer Flounder Endorsement License revoked upon review by the commission as provided for in §28.2-232 of the Code of Virginia.

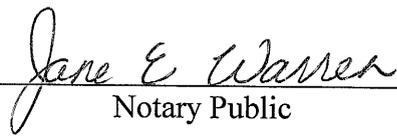
This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on November 23, 2010.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: 
Steven G. Bowman
Commissioner

Subscribed and sworn to before me this 29th day of November, 2010.

JANE E. WARREN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7191792
My Commission Expires 3-31-2012


Notary Public