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National Oceanic and Atmospheric Administration
National Marine Fisheries Service
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Small Entity Compliance Guide

Reconciliation of State and Federal Commercial Fishing Vessel Permit Programs

On August 3, 2007, the National Marine Fisheries Service (NMFS) published a final rule modifying the vessel permitting and vessel replacement provisions in the Northeast Region in order to reconcile differences between state and Federal fishing permit programs. These modifications intend to prevent fishing effort beyond the level accounted for in the fishery management plans (FMPs) for each fishery in the Northeast and to reinforce efforts undertaken by state fishery management agencies at targeting regulations specifically for vessels that participate exclusively in state waters fisheries. The regulations, summarized below, apply only to a vessel owner whose vessel(s) have been issued Federal limited access permits, except a vessel owner whose vessel(s) has only been issued Federal limited access permit American lobster permit(s). The actual regulatory text may be found under “Hot News” at:
<http://www.nero.noaa.gov/>.

Limited Access Permit Renewal Requirements

Under this rule, a commercial fishing vessel that was issued, or is in possession of, a valid Federal limited access fishing permit at the end of the permit year immediately preceding the current permit year, is prohibited from landing any fish for which the vessel would be authorized under the conditions of the limited access permit(s), unless at least one of the following conditions is met:

- The vessel owner has renewed the Federal limited access permit(s) for the current permit year;
- The vessel owner has voluntarily permanently relinquished the vessel’s Federal limited access permit(s); or
- The vessel has been replaced by another vessel and the permit eligibility has moved to the new vessel or was placed into Confirmation of Permit History (CPH).

In other words, a vessel owner who is eligible to renew his/her vessel’s Federal limited access permit cannot fish for and/or possess any fish for which the vessel would be authorized under the respective limited

access permit, from any waters (including state waters), unless the limited access permit(s) has been renewed or removed from the vessel. All vessel reporting requirements associated with the limited access permits that a vessel owner is eligible to renew remain in effect unless the limited access permit(s) have been relinquished, or transferred to another vessel or CPH. This includes completed fishing vessel trip reports (VTRs) for the entire period that the vessel was issued or eligible to be issued a limited access permit. Since these requirements are a condition of the issuance of a limited access permit, this rule does not apply to an individual until after an individual has applied for or been issued/re-issued a limited access permit on or after September 4, 2007. All limited access permits for which a vessel is eligible must be renewed at the same time.

One-time Vessel Replacement Per Permit Year

Beginning January 1, 2008, vessel owners will only be allowed one transfer, via a vessel replacement, of limited access permits per permit year, unless the vessel being replaced has been rendered inoperable and not repairable, due to unforeseen circumstances. The intent of this measure is to deter vessel owners from moving limited access permits off their primary vessel prior to the start of a permit year and then moving them back onto their primary vessel after the primary vessel has fished part of the permit year in a state waters fishery program. Under this rule, a vessel owner is prohibited from transferring the permits back onto the secondary vessel prior to the start of the following permit year. The permit year for all Northeast limited access permits, except for Atlantic sea scallop and deep-sea red

crab, is May 1 – April 30. The permit year for Atlantic sea scallop and deep-sea red crab is March 1 – February 28. The previous vessel replacement measures were implemented in order to give flexibility to vessel owners to purchase and replace a vessel in a timely manner. This action maintains this flexibility while ensuring that the vessel replacement program is not utilized to circumvent Federal regulations for a period of time.

Frequently Asked Questions (FAQs)

Q1. How do I document that my vessel is no longer operable and non-repairable?

A1. You must provide documentation from an objective third party (e.g., a vessel surveyor, insurance company, United States Coast Guard, or law enforcement agency) that the vessel is no longer operable and non-repairable.

Q2. Are there new deadlines for submitting my permit application created by this rule?

A2. The deadline for renewing a limited access permit has not changed. A limited access permit must be renewed no later than 30 days before the last day of the permit year. However, since all limited access permits, with the exception of American lobster, must be renewed at the same time you must use the last day of the permit year of the earliest expiration date of your limited access permits. For example, the permit year for scallop and deep-sea red crab begins March 1 each year. When you renew a scallop or red-crab permit you must also renew any other limited access permits you may have, even if your other permit(s) don't expire until April 30.

Q3. What is a permit year?

A3. A permit year, which is not to be confused with a fishing year, is the time period for which a permit is valid. The permit year for all Northeast limited access permits, except for Atlantic sea scallop and deep-sea red crab is May 1 – April 30. The permit year for Atlantic sea scallop and deep-sea red crab is March 1 – February 28.

Q4. When will I no longer be able to fish in state waters before renewing my Federal permit?

A4. You will no longer be permitted to fish in state waters before renewing your Federal limited access permit once you apply for, or are issued, a Federal fishing permit on or after September 4, 2007.

Q5. When will I be limited to one vessel replacement per year?

A5. Beginning January 1, 2008, you will only be permitted one vessel replacement per permit year. Thus, between January 1, 2008, and the first day of the 2008 permit year (March 1, or May 1, depending on your permits) you will be allowed only one replacement. After the start of the 2008 permit year you will be allowed one more replacement. If your fishing vessel is determined by NMFS to be inoperable and non-repairable you will be allowed to replace your vessel, regardless of previous replacements.

Q6. Does the vessel replacement restriction apply to the vessel or the permits?

A6. The one-time per year vessel replacement provision applies to the suite, or group, of limited access permits that authorize the vessel to participate in the fishery. Thus, a valid suite of limited access

permits can only be transferred to a replacement vessel one time per year. However, a fishing vessel may replace another fishing vessel more than one time per year, as long as it involves a different suite of permits each time.

Q6. Can I get an open access permit issued before renewing my limited access permit?

A6. A vessel that is eligible for a Federal limited access permit may be issued a Federal open access fishing permit only at the same time, or after, the limited access permits have been either renewed, relinquished, or transferred for that permit year. For example, if a vessel owner eligible for a limited access NE multispecies permit would like to be issued the limited access NE multispecies permit, an open access skate permit, and an open access spiny dogfish permit during a given year, he/she must apply for all three permits at the same time, or renew the limited access NE multispecies permit prior to adding the open access skate and dogfish permits. The open access skate and dogfish permits could be applied for together or separately after the limited access NE multispecies permit was renewed. Failure to renew a limited access permit by the end of the permit year will result in the loss of eligibility to renew the permit in subsequent permit years.