



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

January 24, 2006

New Vessel Ownership Requirements for Vessel Replacements

Dear Permit Holder:

This letter is to inform you that on February 22, 2006, the National Marine Fisheries Service Northeast Region (NMFS-NER) will implement new guidelines regarding vessel replacements. NMFS has determined that to more closely conform to existing regulations, the changes described below will be made to the application requirements for vessel replacements. Any vessel permit application received on or after February 22, 2006, will be held to these requirements.

New ownership requirements

- A vessel's ownership documents must indicate that the permit applicant is the full owner of a qualifying vessel or Confirmation of Permit History (CPH) and the replacement vessel.
- Vessel ownership will be determined solely by an issued and valid (unexpired) US Coast Guard documentation or state registration.
- NMFS will no longer accept a bill of sale or an application for Coast Guard documentation or state registration as proof of vessel ownership.
- NMFS will no longer accept a bill of sale to transfer an ownership interest in the qualifying or replacement vessel to another owner or legal entity.

Explanation of requirements

When applying for a vessel replacement, the qualifying vessel or permit(s) being held in CPH must be under the same ownership as the replacement vessel. Thus, any permit application that seeks to transfer an active limited access permit or CPH to another vessel must reflect that the owner of the qualifying vessel or CPH wholly owns the replacement vessel named on the permit application. Vessel replacements based on documentation indicating that a permit applicant is not the full owner of a qualifying vessel or CPH and the replacement vessel are inconsistent with the regulatory prohibition on permit transfers to another person or legal entity.



Parent/Sibling corporations

NMFS will not accept applications if the qualifying and replacement vessels are under the sole ownership and control of the same individual, but are owned by different corporations. The same is true in cases where one vessel is under the ownership of one individual, while the other vessel is owned by a corporation (even if the corporation is under the sole ownership and control of the same individual). Both are separate legal entities. Therefore, a permit issued to a vessel owned by the individual cannot be transferred to a vessel owned by a company of which they are the sole shareholder because it would constitute a transfer of the permit to another legal entity.

Co-ownership

In the case of vessels with multiple owners (either multiple corporations or individuals), the qualifying vessel or CPH must be under identical ownership as the replacement vessel. That is, individuals or corporations that are co-owners of the qualifying vessel or CPH must also be identical co-owners of the replacement vessel. Identical ownership interest must be reflected in the vessels' documentation or registration.

Stockholder certificates

In the case of corporations, including Limited Liability Corporations (LLCs), a stockholder certificate, showing that an individual is a shareholder in the organization owning the vessel, is not sufficient evidence to prove that the individual or corporation has ownership rights to the corporation's assets (i.e., the vessel and its permits).

Failure to comply with these requirements will result in your application being returned to you without being processed. If you have any questions concerning these guidelines, please contact Permits Operations at (978) 281-9370 or a Fishery Management Specialist at (978) 281-9315, and they will be able to assist you.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is written in a cursive style with a large, looped initial "P".

Patricia A. Kurkul
Regional Administrator