

determining eligibility based on permit or application history. An owner of a currently permitted vessel who believes he/she meets the permit or application history criterion based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership. An owner will not be issued initial charter vessel/headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish under the moratorium in excess of the number of federally permitted charter vessels and/or headboats that he/she owned simultaneously at some time during the period March 29, 2000 through March 29, 2001.

(5) *Application requirements and procedures*—(i) *General*. An applicant who desires a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish must submit an application for such permit to the RA postmarked or hand-delivered not later than September 15, 2003. Application forms are available from the RA. The information requested on the application form varies according to the eligibility criterion that the application is based upon as indicated in paragraphs (r)(5)(ii), (r)(5)(iii), and (r)(5)(iv) of this section; however, all applicants must provide a copy of the applicable, valid USCG Operator of Uninspected Passenger Vessel license or Masters license and valid USCG Certificate of Inspection. Failure to apply in a timely manner will preclude permit issuance even when the applicant meets the eligibility criteria for such permit.

(ii) *Application based on the prior permit/application history criterion*. On or about June 16, 2003, the RA will mail an application for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish to each owner of a vessel who, according to NMFS' permit records, is eligible based on the permit or application history criterion in paragraph (r)(2)(i) of this section. Information requested on the application is consistent with the standard information required in paragraph (b)(3)(ii) of this section. The RA will also mail each such owner a notice that his/her existing charter vessel/headboat permit(s) for coastal migratory pelagic fish and/or Gulf reef fish will expire November 13, 2003, and that the new permit(s) required under this moratorium will be required as of that date. A vessel owner who believes he/she qualifies for a charter vessel/

headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on permit or application history, but who does not receive an application from the RA, must request an application from the RA and provide documentation of eligibility. The RA will mail applications and notifications to vessel owner addresses as indicated in NMFS' permit records.

(iii) *Application based on a charter vessel/headboat under construction prior to March 29, 2001*. A person who intends to obtain a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on the vessel-under-construction eligibility criterion in paragraph (r)(2)(ii) of this section must obtain an application from the RA. Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and the documentation of construction and associated costs as specified in paragraph (r)(2)(ii) of this section.

(iv) *Application based on historical captain status*. A person who intends to obtain a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on historical captain status must obtain an application from the RA. Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and documentation of the criteria specified in paragraphs (r)(2)(iii)(A) and (B) of this section. Such documentation includes income tax records pertinent to verifying earned income; a copy of the applicable USCG license and/or Certificate of Inspection; and a notarized affidavit signed by a vessel owner certifying the period the applicant served as captain of a charter vessel or headboat permitted for Gulf reef fish and/or coastal migratory pelagic fish, whether the charter vessel or headboat was permitted for Gulf reef fish or coastal migratory pelagic fish or both, and whether the charter vessel or headboat was uninspected (i.e., 6-pack) or had a USCG Certificate of Inspection.

(v) *Incomplete applications*. If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 20 days of the date of the RA's notification, the application will be considered abandoned.

(6) *Issuance of initial permits*. If a complete application is submitted in a timely manner and the applicable eligibility requirements specified in

paragraph (r)(2) of this section are met, the RA will issue a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish or a letter of eligibility for such fisheries, as appropriate, and mail it to the applicant not later than November 3, 2003.

(7) *Notification of ineligibility*. If the applicant does not meet the applicable eligibility requirements of paragraph (r)(2) of this section, the RA will notify the applicant, in writing, of such determination and the reasons for it not later than October 14, 2003.

(8) *Appeal process*. (i) An applicant may request an appeal of the RA's determination regarding initial permit eligibility, as specified in paragraph (r)(2) of this section, by submitting a written request for reconsideration to the RA with copies of the appropriate records for establishing eligibility. Such request must be postmarked or hand-delivered within 45 days after the date of the RA's notification of ineligibility and may include a request for an oral hearing. If an oral hearing is granted, the RA will notify the applicant of the place and date of the hearing and will provide the applicant a maximum of 45 days prior to the hearing to provide information in support of the appeal.

(ii) A request for an appeal constitutes the appellant's authorization under section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.) for the RA to make available to the appellate officer(s) such confidential records as are pertinent to the appeal.

(iii) The RA may independently review the appeal or may appoint one or more appellate officers to review the appeal and make independent recommendations to the RA. The RA will make the final determination regarding granting or denying the appeal.

(iv) The RA and appellate officer(s) are empowered only to deliberate whether the eligibility criteria in paragraph (r)(2) of this section were applied correctly. Hardship or other factors will not be considered in determining eligibility.

(v) The RA will notify the applicant of the decision regarding the appeal within 45 days after receipt of the request for appeal or within 45 days after the conclusion of the oral hearing, if applicable. The RA's decision will constitute the final administrative action by NMFS.

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