

with which the vessel was registered may be registered for use with a leased or chartered vessel for a period not to exceed 12 months from the date of registration of the leased or chartered vessel. If by the end of that 12-month period the permit holder fails to apply to the PIRO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(j) *Mau Zone limited access permit renewal.* (1) A Mau Zone permit will be eligible for renewal if the vessel for which the permit is registered for use made at least five separate fishing trips with landings of at least 500 lb (227 kg) of bottomfish management unit species per trip during the calendar year. Only one landing of bottomfish management unit species per fishing trip to the Mau Zone will be counted toward the landing requirement.

(2) If the vessel for which the permit is registered for use fails to meet the landing requirement of paragraph (j)(1) of this section, the owner may apply to the Regional Administrator for a waiver of the landing requirement. Grounds for a waiver are limited to captain incapacitation, vessel breakdowns, and the loss of the vessel at sea if the event prevented the vessel from meeting the landing requirement. Unprofitability is not sufficient for waiver of the landing requirement.

(3) Failure of the permit holder to register a vessel for use under the permit does not exempt a permit holder from the requirements specified in this paragraph.

(k) *Appeals of permit actions.* (1) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or a permit holder may appeal the granting, denial, or revocation of his or her permit to the Regional Administrator.

(2) In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action appealed, and the reasons therefore, and must be submitted within 30 days of the appealed action. The appellant may request an informal hearing on the appeal.

(3) The Regional Administrator, in consultation with the Council, will decide the appeal in accordance with the FMP and implementing regulations

and based upon information relative to the application on file at NMFS and the Council, the summary record kept of any hearing, the hearing officer's recommended decision, if any, and any other relevant information.

(4) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. The applicant or permit holder may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. The Regional Administrator's decision on the application is the final administrative decision of the Department of Commerce, and is effective on the date the Administrator signs the decision.

[64 FR 22812, Apr. 28, 1999, as amended at 70 FR 29657, May 24, 2005]

EFFECTIVE DATE NOTE: At 71 FR 53607, Sept. 12, 2006, § 665.61(a)(1) was revised, effective October 12, 2006. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. For the convenience of the user, the added and revised text is set forth as follows:

§ 665.61 Permits.

(a) * * *

(1) The owner of any vessel used to fish for bottomfish management unit species in the Northwestern Hawaiian Islands Subarea or Pacific Remote Island Areas Subarea must have a permit issued under this section and the permit must be registered for use with that vessel.

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§ 665.62 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person to do any of the following:

Fishery Conservation and Management

§ 665.65

(a) Fish for bottomfish or seamount groundfish using gear prohibited under § 665.64.

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Ho'omalulu Zone or Mau Zone without the appropriate permit, registered for use with that vessel, issued under § 665.13.

(c) Serve as primary operator or relief operator on a vessel with a Mau or Ho'omalulu Zone permit without completing a protected species workshop conducted by NMFS, as required by § 665.61.

(d) Fail to notify the USCG at least 24 hours prior to making any landing of bottomfish taken in the Ho'omalulu Zone, as required by § 665.63.

(e) Fish within any protected species study zone in the NWHI without notifying the Regional Administrator of the intent to fish in these zones, as required under § 665.63.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22814, Apr. 28, 1999; 70 FR 29657, May 24, 2005]

EFFECTIVE DATE NOTE: At 71 FR 53607, Sept. 12, 2006, §665.62 was amended by revising paragraph (b) and adding a new paragraph (f), effective Oct. 12, 2006. For the convenience of the user, the added and revised text is set forth as follows:

§ 665.62 Prohibitions.

* * * * *

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Ho'omalulu Zone, the Mau Zone, or the Pacific Remote Island Areas without the appropriate permit registered for use with that vessel issued under § 665.13.

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(f) Falsify or fail to make or file all reports of bottomfish management unit species landings taken in the Pacific Remote Island Areas, containing all data in the exact manner, as specified in § 665.14(a).

§ 665.63 Notification.

(a) The owner or operator of a fishing vessel subject to this subpart must inform the PIRO at least 72 hours (not including weekends and holidays) before leaving port, of his or her intent to fish within the protected species study zones defined in § 665.12. The notice

must include the name of the vessel, name of the operator, intended departure and return date, and a telephone number at which the owner or operator may be contacted during the business day (8 a.m. to 5 p.m.) to indicate whether an observer will be required on the subject fishing trip.

(b) The operator of a fishing vessel that has taken bottomfish in the Ho'omalulu Zone must contact the USCG, by radio or otherwise, at the 14th District, Honolulu, HI; Pacific Area, San Francisco, CA; or 17th District, Juneau, AK, at least 24 hours before landing, and report the port and the approximate date and time at which the bottomfish will be landed.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

§ 665.64 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets.* Fishing for bottomfish and seamount groundfish with bottom trawls and bottom set gillnets is prohibited.

(b) *Possession of gear.* Possession of a bottom trawl and bottom set gillnet by any vessel having a permit under § 665.61 or otherwise established to be fishing for bottomfish or seamount groundfish in the management sub-areas is prohibited.

(c) *Poisons and explosives.* The possession or use of any poisons, explosives, or intoxicating substances for the purpose of harvesting bottomfish and seamount groundfish is prohibited.

§ 665.65 At-sea observer coverage.

(a) All fishing vessels subject to this subpart must carry an observer when directed to do so by the Regional Administrator.

(b) The PIRO will advise the vessel owner or operator of any observer requirement within 72 hours (not including weekends or holidays) of receipt of the notice. If an observer is required, the owner or operator will be informed of the terms and conditions of observer coverage, and the time and place of embarkation of the observer.

(c) All observers must be provided with sleeping, toilet, and eating accommodations at least equal to that provided to a full crew member. A mattress of futon on the floor or a cot is not acceptable in place of a regular