

**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.**

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(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

**§ 665.66**

**50 CFR Ch. VI (10–1–06 Edition)**

bunk. Meal and other gallery privileges must be the same for the observer as for other crew members.

(d) Female observers on a vessel with an all-male crew must be accommodated either in a single-person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing of common facilities must be established and approved by the Regional Administrator prior to the vessel's departure from port.

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

**§ 665.66 Protected species conservation.**

The Regional Administrator may change the size of the protected species study zones defined in § 665.12 of this subpart:

(a) If the Regional Administrator determines that a change in the size of the study zones would not result in fishing for bottomfish in the NWHI that would adversely affect any species listed as threatened or endangered under the ESA.

(b) After consulting with the Council.

(c) Through notification in the FEDERAL REGISTER published at least 30 days prior to the effective date or through actual notice to the permit holders.

**§ 665.67 Framework for regulatory adjustments.**

(a) *Annual reports.* By June 30 of each year, a Council-appointed bottomfish monitoring team will prepare an annual report on the fishery by area covering the following topics:

(1) Fishery performance data.

(2) Summary of recent research and survey results.

(3) Habitat conditions and recent alterations.

(4) Enforcement activities and problems.

(5) Administrative actions (e.g., data collection and reporting, permits).

(6) State and territorial management actions.

(7) Assessment of need for Council action (including biological, economic, social, enforcement, administrative, and state/Federal needs, problems, and trends). Indications of potential problems warranting further investigation may be signaled by the following indicator criteria:

(i) Mean size of the catch of any species in any area is a pre-reproductive size.

(ii) Ratio of fishing mortality to natural mortality for any species.

(iii) Harvest capacity of the existing fleet and/or annual landings exceed best estimate of MSY in any area.

(iv) Significant decline (50 percent or more) in bottomfish catch per unit of effort from baseline levels.

(v) Substantial decline in ex-vessel revenue relative to baseline levels.

(vi) Significant shift in the relative proportions of gear in any one area.

(vii) Significant change in the frozen/fresh components of the bottomfish catch.

(viii) Entry/exit of fishermen in any area.

(ix) Per-trip costs for bottomfishing exceed per-trip revenues for a significant percentage of trips.

(x) Significant decline or increase in total bottomfish landings in any area.

(xi) Change in species composition of the bottomfish catch in any area.

(xii) Research results.

(xiii) Habitat degradation or environmental problems.

(xiv) Reported interactions between bottomfishing operations and protected species in the NWHI.

(8) Recommendations for Council action.

(9) Estimated impacts of recommended action.

(b) *Recommendation of management action.* (1) The team may present management recommendations to the Council at any time. Recommendations may cover actions suggested for Federal regulations, state/territorial action, enforcement or administrative elements, and research and data collection. Recommendations will include an assessment of urgency and the effects of not taking action.