



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

APPENDIX B

Draft Fishing Regulations for the Proposed NWHI Sanctuary

**Prepared Under Section 304(a)(5)
of the National Marine Sanctuaries Act**

April 14, 2005

Amendatory Text Only

Draft Regulations Prepared by the Western Pacific Fishery Management Council Under Section 304(a)(5) of the National Marine Sanctuaries Act

April 14, 2005

The Northwestern Hawaiian Islands (NWHI) fisheries will continue to be managed under the Magnuson-Stevens Fisheries Conservation and Management Act and associated Council process. The following are amendments to 50 CFR Part 660 required to implement the Council's specific recommendation for fishery management around the NWHI.

50 CFR part 660 is proposed to be amended as follows:

PART 660--FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation of part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 660.12, add definitions for "Mau Zone Western Pacific Community Development Program Limited Access Permit", "Northwestern Hawaiian Islands National Marine Sanctuary", "Northwestern Hawaiian Islands Pelagic Troll and Handline Permit", and "Northwestern Hawaiian Islands Western Pacific Community Development Program Permit" to read as follows:

§ 660.12 Definitions.

* * * * *

Mau Zone Western Pacific Community Development Program Limited Access Permit means the permit required for an authorized community to fish for, take, or retain bottomfish management unit species in the Mau Zone bottomfish management subarea described in § 660.69(a)(2)(ii).

* * * * *

Northwestern Hawaiian Islands National Marine Sanctuary is defined in 15 CFR 922.3.

Northwestern Hawaiian Islands Pelagic Troll and Handline Permit means the permit required to use a vessel to fish for Pacific pelagic management unit species using pelagic troll or handline fishing methods shoreward of the outer boundary of the NWHI National Marine Sanctuary.

Northwestern Hawaiian Islands Western Pacific Community Development Program Permit

means the permit required to fish for, take, or retain, for subsistence use only, any coral reef ecosystem management unit species, crustacean management unit species, or precious corals management unit species, shoreward of the outer boundary of the NWHI National Marine Sanctuary.

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3. Amend § 660.13 by revising (f)(1) and the first sentence of paragraph (f)(2) and add new paragraph (n) to read as follows:

§ 660.13 Permits and fees.

* * * * *

(f)(1) PIRO will not charge a fee for a permit issued under subpart D or F or this part.

(2) PIRO will charge a fee for each application for initial issuance, transfer, or renewal of: a Hawaii longline limited access permit, a Mau zone limited access permit, a Ho'omalulu limited access permit, a NWHI pelagic troll or handline fishing permit, or a coral reef ecosystem special permit. * * *

* * * * *

(n) Western Pacific Community Development Program Permits. To qualify for a Western Pacific Community Development Program permit, a community must meet the following eligibility criteria:.

(i) The community must be located in Hawaii;

(ii) The community must consist of community residents descended from aboriginal people indigenous to Hawaii who conducted commercial or subsistence fishing using traditional fishing practices in the waters of Hawaii;

(iii) The community must consist of community residents who reside in their ancestral homeland;

(iv) The community must have knowledge of customary practices relevant to fisheries in Hawaii;

(v) The community must have a traditional dependence on fisheries of Hawaii;

(vi) The community must have experienced or be experiencing economic or other barriers that prevent full participation in Western Pacific fisheries and, in recent years, have not had harvesting, processing, or marketing capability sufficient to support substantial participation in

fisheries in Hawaii;

(vii) The community must develop and submit a Community Development Plan to the Western Pacific Fishery Management Council and the National Marine Fisheries Service; and

(viii) The Community Development Plan must describe how the community organization meets the eligibility criteria listed above as well as:

(A) provide community organization information, including name, charter, bylaws, board members, and a designated community member who would hold and fish under the permit;

(B) describe the community organization's plan for using the permit, including a general description of the vessel and equipment that would be used, including fishing gear, navigational equipment, safety equipment and operating patterns; and

(C) describe the anticipated benefits to the community organization, general public or other entities that may be affected and include a description of how the plan would increase community access, either directly or indirectly, to fishery resources.

(ix) The Regional Administer in coordination with the Western Pacific Fishery Management Council will determine, based on the submitted Community Development Plan, if the community qualifies to be eligible for a Western Pacific Community Development Program permit.

4. Amend § 660.18 by adding paragraphs (c)(1)(iii) and (iv) to read as follows:

§ 660.18 Area Restrictions.

* * * * *

(c) * * *

(1) * * *

(iii) Landward of the 10-fm curve around Nihoa Island, Necker Island, Gardner Pinnacles, Maro Reef, Lisianski Island, Pearl and Hermes Atoll, and Kure Atoll, as depicted on National Ocean Survey Charts Number 19022, 19019, and 19016

(iv) Landward of the 50-fm curve around French Frigate Shoals, Laysan Island, and the northern half of Midway Atoll (North of the straight line drawn between coordinates 28° 15' N, 177° 30' W and 28° 15' N, 177° 10' W) as depicted on National Ocean Survey Charts Number 19022, 19019, and 19016.

* * * * *

5. In § 660.21, redesignate paragraphs (e) through (l) as paragraphs (f) through (m) and add new paragraph (e) to read as follows:

§ 660.21 Permits.

* * * * *

(e) A fishing vessel of the United States must be registered for use with a NWHI pelagic troll and handline fishing permit if that vessel is used to fish for Pacific pelagic management unit species using pelagic handline or trolling fishing methods shoreward of the outer boundary of the NWHI National Marine Sanctuary.

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6. In § 660.22, add new paragraph (ww) to read as follows:

§ 660.22 Prohibitions.

* * * * *

(ww) Use a U.S. vessel to fish for Pacific pelagic management unit species using pelagic handline or trolling methods to fish shoreward of the outer boundary of the NWHI National Marine Sanctuary without a valid NWHI pelagic troll and handline fishing permit registered for use with that vessel in violation of § 660.21(e).

7. Amend § 660.42 by revising paragraph (a) to read as follows:

§ 660.42 Prohibitions.

(a) It is unlawful for any person to fish for, take, or retain any crustacean management unit species in any area shoreward of the outer boundary of the NWHI National Marine Sanctuary, except for a person authorized to fish for subsistence use under a NWHI Western Pacific Community Development Program permit defined in § 660.12 and described in § 660.13(n), until the implementation of an ecosystem fishery management plan(s) developed and implemented under the Magnuson-Stevens Act.

* * * * *

8. In § 660.61, redesignate paragraphs (h) through (k) as (i) through (l); add a new paragraph (h); and revise paragraphs (b)(3), (e), (f), and newly redesignated paragraphs (i) and (k) to read as follows:

§ 660.61 Permits.

* * * * *

(b) * * *

(3) Mau Zone limited access permit. In addition to an application under §660.13(c), each applicant for a Mau Zone permit must also submit a supplementary information sheet provided by the PIRO, which must be signed by the vessel owner or a designee and include the following information:

* * * * *

(e) Ho'omalulu Zone limited access permit renewal. (1) A Ho'omalulu Zone permit will be automatically renewed annually and delivered to the mailing address on record of the permit holder, without application and without fee.

(2) For Ho'omalulu Zone permits that were subject to annual qualifying landings eligibility requirements in calendar years 2000 through 2004 for renewal in calendar years 2001, 2002, 2003, 2004, or 2005, respectively, those requirements are retroactively lifted and the permits are automatically renewed and delivered to the mailing address on record of the permit holder, without application and without fee.

(f) Issuance of new Ho'omalulu Zone limited access permits. The maximum number of Ho'omalulu Zone permits issued at any one time is limited to 7 permits. If there are less than 7 permits issued, the Regional Administrator may issue new Ho'omalulu Zone limited access permits under § 660.13 with eligibility based on the system described in paragraph (g) of this section.

* * * * *

(h) Issuance of new Mau Zone limited access permits. The maximum number of Mau Zone permits issued at any one time is limited to 10 permits, with 2 of the 10 permits reserved for qualifying communities under the Western Pacific Community Development Program. If there are less than 10 permits issued, the Regional Administrator may issue new Mau Zone permits under § 660.13 with eligibility based on the system described in paragraph (i) of this section.

(i) Eligibility for new Mau Zone limited access permits. When the Regional Administrator has determined that new permits may be issued, they shall be issued to applicants based upon eligibility, determined as follows:

(1) Point system. The following system will be used to rank permit applications and will determine the order of issuance for new Mau Zone permits.

(i) One point will be assigned for each year in which the applicant was owner or captain of a vessel that made qualifying landings of at least 2,500 lb (1,134 kg) of bottomfish management unit species from the main Hawaiian Islands.

(ii) Two points will be assigned for each year in which the applicant was owner or captain of a vessel that made at least five separate fishing trips with qualifying landings of at least 500 lb (227 kg) of bottomfish management unit species from the Northwestern Hawaiian Islands. A maximum of 10 points will be assigned under this paragraph.

(iii) An applicant who has been assigned the maximum number of points under paragraph (i)(1)(ii) of this section will be assigned one point for each year in which he or she was owner or captain of a vessel that made at least five separate trips with qualifying landings of at least 500 lb (227 kg) of bottomfish management unit species each trip from the Northwestern Hawaiian Islands, not including the 5 years for which points were assigned under paragraph (i)(1)(ii) of this section.

(iv) For any one year, points will be assigned under either of the paragraphs (i)(1)(i), (i)(1)(ii), or (i)(1)(iii) of this section.

(2) For the point system described in paragraph (i)(1)(i) of this section, "qualifying landings" means any amount of bottomfish management unit species lawfully harvested from the exclusive economic zone or state waters surrounding the Hawaiian archipelago and offloaded for sale. No points shall be assigned to an owner for any qualifying landings reported to the State of Hawaii more than 1 year after the landing.

(3) More than one Mau Zone permit may be issued to an owner of two or more vessels, provided each of the owner's vessels for which a permit will be registered has made the required qualifying landings for the owner to be assigned at least three eligibility points.

(4) For each of paragraphs (i)(1)(i) through (i)(1)(iii) of this section, the Regional Administrator shall assign points based on the landings of one permitted vessel to only one owner if the vessel did not have multiple owners during the time frame for which qualifying landing were made.

(5) If a vessel had multiple owners (including joint owners, partners, or shareholders of a corporate owner), the Regional Administrator will assign points to a single owner if only one owner submits an application with respect to the landings of that vessel for which qualifying landings were made. If multiple owners submit separate applications with respect to the same landings of the same vessel during the same time frame, then the Regional Administrator shall:

(i) Adhere to any written agreement between the applicants with respect to who among them shall be assigned the aggregate point(s) generated by landings during such time frame(s), or

(ii) If there is no agreement:

(A) Shall issue the applicants a joint permit provided the vessel's landings during such time frames generated at least three points, or

(B) In the event the vessel's landings during such time frame(s) generated less than three points,

shall not assign any points generated by the vessel's landings during such time frame(s).

(6) Order of issuance. New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Administrator through a lottery.

(7) Protected species workshop requirement. Before the Regional Administrator issues a new Mau Zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(8) Vessel ownership requirement. A Mau Zone permit holder who does not own a vessel at the time permits his or her permit is issued must register the permit for use with a vessel owned by the permit holder within 12 months from the date the permit was issued. In the interim, the permit holder may register the permit for use with a leased or chartered vessel. If within 12 months of initial permit issuance, 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.

(9) Notification. The Regional Administrator shall place a notice in the Federal Register and shall use other means to notify prospective applicants of the opportunity to file applications for new Mau Zone limited access permits as well as Mau Zone Western Pacific Community Development Program limited access permits.

(10) Mau Zone Western Pacific Community Development Program Limited Access Permits. PIRO shall use the point system and order of issuance as described in paragraphs (i)(1) and (i)(6) of this section, respectively, to award qualifying communities a Mau Zone Western Pacific Community Development Program limited access permit. To apply for a Mau Zone Western Pacific Community Development Program limited access permit, a community must meet the eligibility criteria and requirements set forth in § 660.13(n) of this part.

* * * * *

(k) Mau Zone limited access permit renewal. (1) A Mau Zone permit will be automatically renewed annually and delivered to the mailing address on record of the permit holder without application and without fee.

(2) For Mau Zone permits that were subject to annual qualifying landings eligibility requirements in calendar years 2000 through 2004 for renewal in calendar years 2001, 2002, 2003, 2004, or 2005, respectively, those requirements are retroactively lifted and the permits are automatically renewed and will be delivered to the mailing address on record of the permit holder, without application and without fee.

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9. In § 660.82, redesignate paragraphs (a) through (c) as (b) through (d) and add a new paragraph (a) to read as follows:

§ 660.82. Prohibitions.

(a) It is unlawful to fish for, take, or retain any precious corals management unit species, in any area shoreward of the outer boundary of the NWHI National Marine Sanctuary, except for a person authorized to fish for subsistence use under a NWHI Western Pacific Community Development Program permit defined in § 660.12 and described in § 660.13(n), until the implementation of an ecosystem fishery management plan(s) developed and implemented under the Magnuson-Stevens Act.

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10. In § 660.603, add a new paragraph (d) to read as follows:

§ 660.603 Prohibitions.

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(d) It is unlawful to fish for, take, or retain any corals reef ecosystem management unit species in any area shoreward of the outer boundary of the NWHI National Marine Sanctuary, except for a person authorized to fish for subsistence use under a NWHI Western Pacific Community Development Program permit defined in § 660.12 and described in § 660.13(n), until the implementation of an archipelagic ecosystem fishery management plan(s) developed and implemented under the Magnuson-Stevens Act.

Section Text & Highlighted Amendments

Draft Regulations Prepared by the Western Pacific Fishery Management Council Under Section 304(a)(5) of the National Marine Sanctuaries Act

April 14, 2005

The Northwestern Hawaiian Islands (NWHI) fisheries will continue to be managed under the Magnuson-Stevens Fisheries Conservation and Management Act and associated Council process. The proposed amendments to 50 CFR 660 are highlighted, and for ease of reading, the entire section is provided. All other sections of 50 CFR 660 remain unchanged.

§ 660.12 Definitions

In addition to the definitions in the Magnuson-Stevens Act, and in §600.10, the terms used in subparts B through F and subpart J of this part have the following meanings:

Basket-style longline gear means a type of longline gear that is divided into units called "baskets" each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The mainline and all branch lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

Bottomfish FMP means the Fishery Management Plan for Bottomfish and Seamount Groundfish of the Western Pacific Region.

Bottomfish management area means the areas designated in §660.69.

Bottomfish management unit species means the following fish:

Common name	Local name	
Scientific name		

Snappers:		
Silver jaw jobfish.....	Lehi (H); palu-	Aphareus
rutilans.		
	gustusilvia (S).	
Gray jobfish.....	Uku (H); asoama	Aprion
virescens.		
	(S).	
Squirreelfish snapper.....	Ehu (H); palu-	Etelis

	malau (S).	
carbunculus.		
Longtail snapper.....	Onaga, ula'Tlula	Etelis
coruscans.	(H); palu-loa (S).	
Blue stripe snapper.....	Ta'ape (H); savane	Lutjanus
kasmira.	(S); funai (G).	
Yellowtail snapper.....	Palu-i' lusama	
Pristipomoides	(S); yellowtail	auricilla.
	kalekale.	
Pink snapper.....	Opakapaka (H);	
Pristipomoides.	palu-'Tlena'lana	
	(S); gadao (G).	
Yelloweye snapper.....	Palusina (S);	
Pristipomoides	yelloweye	
flavipinnis.	opakapaka.	
Snapper.....	Kalekale (H).....	
Pristipomoides		sieboldii.
Snapper.....	Gindai (H,G); palu-	
Pristipomoides	sega (S).	zonatus.
Jacks:		
Giant trevally.....	White ulua (H);	Caranx
ignoblis.	tarakito (G);	
	sapo-anae (S).	
Black jack.....	Black ulua (H);	Caranx
lugubris.	tarakito (G);	
	tafauli (S).	
Thick lipped trevally.....	Pig ulua (H);	
Pseudocaranx	butaguchi (H).	dentex.
Amberjack.....	Kahala (H).....	Seriola
dumerili.		
Groupers:		
Blacktip grouper.....	Fausi (S); gadau	Epinephelus
	(G).	fasciatus.
Sea bass.....	Hapu' lupu'u (H)..	Epinephelus
		quernus.
Lunartail grouper.....	Papa (S).....	Variola
louti.		

Emperor fishes:

Ambon emperor.....	Filoa-gutumumu (S)	Lethrinus
amboinensis.		
Redgill emperor.....	Filoa-pa'lo'omumu	Lethrinus
	(S); mafuti (G).	
rubrioperculatus.		

Notes: G_Guam; H_Hawaii; S_American Samoa.

Carapace length means a measurement in a straight line from the ridge between the two largest spines above the eyes, back to the rear edge of the carapace of a spiny lobster (see Figure 1 of this part).

Circle hook means a fishing hook with the point turned perpendicularly back towards the shank.

Commercial fishing, as used in subpart D of this part, means fishing with the intent to sell all or part of the catch of lobsters. All lobster fishing in Crustaceans Permit Area 1 is considered commercial fishing.

Commonwealth of the Northern Mariana Islands (CNMI) means Northern Mariana Islands.

CNMI offshore area means the portion of the U.S. EEZ around the CNMI extending seaward from a line drawn 3 nautical miles from the baseline around the CNMI from which the territorial sea is measured, to the outer boundary of the U.S. EEZ, which to the south means those points which are equidistant between Guam and the island of Rota in the CNMI.

Council means the Western Pacific Fishery Management Council.

Coral reef ecosystem management unit species (Coral reef ecosystem MUS) means all of the Currently Harvested Coral Reef Taxa listed in Table 3 and Potentially Harvested Coral Reef Taxa listed Table 4 of this part and which spend the majority of their non-pelagic (post-settlement) life stages within waters less than or equal to 50 fathoms in total depth.

Coral reef ecosystem regulatory area means the U.S. EEZ waters around American Samoa, Guam, Hawaii, CNMI and the PRIA except for the portion of EEZ waters 0–3 miles around the CNMI, and EEZ waters around the NWHI west of 160°50'W. long.

Crustaceans FMP means the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region.

Crustaceans management area means the combined portions of the EEZ encompassed by Crustaceans Permit Areas 1, 2, and 3.

Crustaceans management unit species means spiny lobster (*Panulirus marginatus* or *Panulirus penicillatus*), slipper lobster (family *Scyllaridae*), and Kona crab (*Ranina ranina*).

Crustaceans Permit Area 1 (Permit Area 1) means the EEZ off the Northwestern Hawaiian Islands.

Crustaceans Permit Area 2 (Permit Area 2) means the EEZ off the main Hawaiian Islands.

Crustaceans Permit Area 3 (Permit Area 3) means the EEZ of the Territory of Guam and the EEZ of the Territory of American Samoa.

Crustaceans Permit Area 1 VMS Subarea means an area within the EEZ off the NWHI 50 nm from the center geographical positions of the islands and reefs in the NWHI as follows: Nihoa Island 23°05' N. lat., 161°55' W. long.; Necker Island 23°35' N. lat., 164°40' W. long.; French Frigate Shoals 23°45' N. lat., 166°15' W. long.; Garner Pinnacles 25°00' N. lat., 168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N. lat., 171°45' W. long.; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Islands 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. The remainder of the VMS subarea is delimited by parallel lines tangent to and connecting the 50-nm areas around the following: from Nihoa Island to Necker Island; from French Frigate Shoals to Gardner Pinnacles; from Gardner Pinnacles to Maro Reef; from Laysan Island to Lisianski Island; and from Lisianski Island to Pearl and Hermes Reef.

Crustaceans receiving vessel means a vessel of the United States to which lobster taken in Permit Area 1 are transferred from another vessel.

Currently harvested coral reef taxa (CHCRT) means coral reef associated species, families, or subfamilies, as described in Table 3 of this part, that have annual landings greater than 454.54 kg (1,000 lb) as reported on individual state, commonwealth, or territory catch reports or through creel surveys. Fisheries and research data from many of these species have been analyzed by regional management agencies.

Dead coral means any precious coral that no longer has any live coral polyps or tissue.

Deep-set or Deep-setting means the deployment of, or deploying, respectively, longline gear in a manner consistent with all the following criteria: with all float lines at least 20 meters in length; with a minimum of 15 branch lines between any two floats (except basket-style longline gear which may have as few as 10 branch lines between any two floats); without the use of light sticks; and resulting in the possession or landing of no more than 10 swordfish (*Xiphias gladius*) at any time during a given trip. As used in this definition "float line" means a line used to suspend the main longline beneath a float and "light stick" means any type of light emitting device, including any fluorescent "glow bead", chemical, or electrically powered light that is affixed underwater to the longline gear.

EFP means an experimental fishing permit.

First level buyer means:

(1) The first person who purchases, with the intention to resell, management unit species, or portions thereof, that were harvested by a vessel that holds a permit or is otherwise regulated under subpart D of this part; or

(2) A person who provides recordkeeping, purchase, or sales assistance in the first transaction involving management unit species (such as the services provided by a wholesale auction facility).

Fish dealer means any person who:

(1) Obtains, with the intention to resell, Pacific pelagic management unit species, or portions thereof, that were harvested or received by a vessel that holds a permit or is otherwise regulated under subpart E of this part; or

(2) Provides recordkeeping, purchase, or sales assistance in obtaining or selling such management unit species (such as the services provided by a wholesale auction facility).

Fisheries Management Division (FMD) means the Chief, Fisheries Management Division, Southwest Regional Office, NMFS, or a designee. See Table 1 to §600.502 for the address of the Regional Office.

Fishing gear, as used in subpart D of this part, includes:

(1) *Bottom trawl*, which means a trawl in which the otter boards or the footrope of the net are in contact with the sea bed.

(2) *Gillnet*, (see §600.10).

(3) *Hook-and-line*, which means one or more hooks attached to one or more lines.

(4) *Set net*, which means a stationary, buoyed, and anchored gill net.

(5) *Trawl*, (see §600.10).

Fishing trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel lands fish.

Fishing year means the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31.

Harvest guideline means a specified numerical harvest objective.

Hawaii longline limited access permit means the permit required by §660.21 to use a vessel to fish for Pacific pelagic management unit species with longline gear in the EEZ around Hawaii or to land or transship longline-caught Pacific pelagic management unit species shoreward of the outer boundary of the EEZ around Hawaii.

Hookah breather means a tethered underwater breathing device that pumps air from the surface through one or more hoses to divers at depth.

Incidental catch or *incidental species* means species caught while fishing for the primary purpose of catching a different species.

Interested parties means the State of Hawaii Department of Land and Natural Resources, the Council, holders of permits issued under subpart D of this part, and any person who has notified the Regional Administrator of his or her interest in the procedures and decisions described in §§660.51 and 660.52, and who has specifically requested to be considered an “interested party.”

Land or landing means offloading fish from a fishing vessel, arriving in port to begin offloading fish, or causing fish to be offloaded from a fishing vessel.

Large vessel means, as used in §§ 660.22, 660.37, and 660.38, any vessel greater than 50 ft (15.2 m) in length overall.

Length overall (LOA) or length of a vessel means, as used in §§ 660.21(i) and 660.22, the horizontal distance, rounded to the nearest foot (with any 0.5 foot or 0.15 meter fraction rounded upward), between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments (see Figure 2 to this part). “Stem” is the foremost part of the vessel, consisting of a section of timber or fiberglass, or cast forged or rolled metal, to which the sides of the vessel are united at the fore end, with the lower end united to the keel, and with the bowsprit, if one is present, resting on the upper end. “Stern” is the aftermost part of the vessel.

Live coral means any precious coral that has live coral polyps or tissue.

Live rock means any natural, hard substrate, including dead coral or rock, to which is attached, or which supports, any living marine life-form associated with coral reefs.

Lobster closed area means an area of the EEZ that is closed to fishing for lobster.

Lobster grounds refers, singularly or collectively, to the following four areas in Crustaceans Permit Area 1 that shall be used to manage the lobster fishery:

(1) *Necker Island Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 24°00' N. lat., 165°00' W. long.; 24°00' N. lat., 164°00' W. long.; 23°00' N. lat., 164°00' W. long.; and 23°00' N. lat., 165°00' W. long.

(2) *Gardner Pinnacles Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 25°20' N. lat., 168°20' W. long.; 25°20' N. lat., 167°40' W. long.; 24°20' N. lat., 167°40' W. long.; and 24°20' N. lat., 168°20' W. long.

(3) *Maro Reef Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 25°40' N. lat., 171°00' W. long.; 25°40' N. lat., 170°20' W. long.; 25°00' N. lat., 170°20' W. long.; and 25°00' N. lat., 171°00' W. long.

(4) *General NWHI Lobster Grounds*—all waters within Crustaceans Permit Area 1 except for the Necker Island, Gardner Pinnacles, and Maro Reef Lobster Grounds.

Longline fishing prohibited area means the portions of the EEZ in which longline fishing is prohibited as specified in §660.26.

Longline fishing vessel means a vessel that has longline gear on board the vessel.

Longline gear means a type of fishing gear consisting of a main line that exceeds 1 nm in length, is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached; except that, within the protected species zone, longline gear means a type of fishing gear consisting of a main line of any length that is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached.

Longline general permit means the permit required by §660.21 to use a vessel to fish for Pacific pelagic management unit species in the fishery management area, excluding the EEZ around Hawaii, or to land or transship longline-caught fish shoreward of the outer boundary of the fishery management area, excluding the waters shoreward of the EEZ around Hawaii.

Low use marine protected area (MPA) means an area of the U.S. EEZ where fishing operations have specific restrictions in order to protect the coral reef ecosystem, as specified under area restrictions.

Main Hawaiian Islands means the islands of the Hawaiian Islands Archipelago lying to the east of 161° W. long.

Mau Zone Western Pacific Community Development Program Limited Access Permit means the permit required for an authorized community to fish for, take, or retain bottomfish management unit species in the Mau Zone bottomfish management subarea described in § 660.69(a)(2)(ii).

Non-precious coral means any species of coral other than those listed under the definition for precious coral in this section.

Non-selective gear means any gear used for harvesting corals that cannot discriminate or differentiate between types, size, quality, or characteristics of living or dead corals.

Northwestern Hawaiian Islands (NWHI) means the islands of the Hawaiian Islands Archipelago lying to the west of 161° W. long.

Northwestern Hawaiian Islands National Marine Sanctuary is defined in 15 CFR 922.3.

Northwestern Hawaiian Islands Pelagic Troll and Handline Permit means the permit required to use a vessel to fish for Pacific pelagic management unit species using pelagic troll or handline fishing methods shoreward of the outer boundary of the NWHI National Marine Sanctuary.

Northwestern Hawaiian Islands Western Pacific Community Development Program Permit means the permit required to fish for, take, or retain, for subsistence use only, any coral reef ecosystem management unit species, crustacean management unit species, or precious corals management unit species, shoreward of the outer boundary of the NWHI National Marine Sanctuary.

No-take MPA means an area of the U.S. EEZ that is closed to fishing for or harvesting of management unit species, precious corals and seamount groundfish, as defined in this section.

Offloading means removing management unit species from a vessel.

Offset circle hook means a circle hook in which the barbed end of the hook is displaced

relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side.

Owner, as used in subparts C and D of this part and §660.61(i) through (m), means a person who is identified as the current owner of the vessel as described in the Certificate of Documentation (Form CG-1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state, a territory, or the USCG for an undocumented vessel. As used in subpart F of this part and §660.61(c) through (h), the definition of “owner” in §600.10 of this chapter continues to apply.

Pacific Islands Area Office means the Pacific Islands Area Office, (PIAO) Southwest Region, NMFS, located in Honolulu, Hawaii. The address and phone number may be obtained from the Regional Administrator, whose address is in Table 1 to §600.502 of this chapter.

Pacific Pelagic Management Unit Species means the following fish:

name	Common name	Scientific
Mahimahi (dolphinfish).....		Coryphaena spp.
Indo-Pacific blue marlin.....		Makaira mazara
Black marlin.....		M. indica
Striped marlin.....		Tetrapturus audax
Shortbill spearfish.....		T. angustirostris
Swordfish.....		Xiphias gladius
Sailfish.....		Istiophorus
platypterus		
Pelagic thresher shark.....		Alapias pelagicus
Bigeye thresher shark.....		Alopias
Common thresher shark.....		Alopias vulpinus
Silky shark.....		Carcharhinus
falciformis		
Oceanic whitetip shark.....		Carcharhinus
longimanus		
Blue shark.....		Prionace glauca
Shortfin mako shark.....		Isurus oxyrinchus
Longfin mako shark.....		Isurus paucus
Salmon shark.....		Lamna ditropis
Albacore.....		Thunnus alalunga
Bigeye tuna.....		T. obesus
Yellowfin tuna.....		T. albacore
Northern bluefin tuna.....		T. thynnus
Skipjack tuna.....		Katsuwonus pelamis
Kawakawa.....		Euthynnus affinis

Wahoo.....	Acanthocybium
solandri	
Moonfish.....	Lampris spp.
Oilfish family.....	Gempylidae
Pomfret.....	family Bramidae
Other tuna relatives.....	Auxis spp., Scomber
spp.;	
	Allothunus spp.

Pacific remote island areas (PRIA, or U.S. island possessions in the Pacific Ocean) means Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, Wake Island, and Midway Atoll.

Pelagic handline fishing means fishing for pelagic management unit species from a stationary or drifting vessel using hook and line gear other than longline gear.

Pelagic troll fishing (trolling) means fishing for pelagic management unit species from a moving vessel using hook and line gear.

Pelagics FMP means the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region.

Potentially harvested coral reef taxa (PHCRT) means coral reef associated species, families, or subfamilies, as listed in Table 4 of this part, for which little or no information is available beyond general taxonomic and distribution descriptions. These species have either not been caught in the past or have been harvested annually in amounts less than 454.54 kg (1,000 lb). Coral reef ecosystem management unit species that are not listed as management unit species, precious corals, seamount groundfish, as defined in this section, or listed as CHCRT in Table 3 of this part.

Precious coral means any coral of the genus *Corallium* in addition to the following species of corals:

name	Common name	Scientific
Pink coral (also known as red coral).....		Corallium secundum.
Pink coral (also known as red coral).....		Corallium regale.
Pink coral (also known as red coral).....		Corallium laauense.
Gold coral.....		Gerardia spp.
Gold coral.....		Callogorgia gilberti.

Gold coral.....	Narella spp.
Gold coral.....	Calyptrophora spp.
Bamboo coral.....	Lepidisis olapa.
Bamboo coral.....	Acanella spp.
Black coral.....	Antipathes dichotoma.
Black coral.....	Antipathes grandis.
Black coral.....	Antipathes ulex.
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Precious coral permit area means the area encompassing the precious coral beds in the management area. Each bed is designated by a permit area code and assigned to one of the following four categories:

- (1) *Established beds.* Makapuu (Oahu), Permit Area E-B-1, includes the area within a radius of 2.0 nm of a point at 21°18.0' N. lat., 157°32.5' W. long.
- (2) *Conditional beds.* (i) Keahole Point (Hawaii), Permit Area C-B-1, includes the area within a radius of 0.5 nm of a point at 19°46.0' N. lat., 156°06.0' W. long.
(ii) Kaena Point (Oahu), Permit Area C-B-2, includes the area within a radius of 0.5 nm of a point at 21°35.4' N. lat., 158°22.9' W. long.
(iii) Brooks Bank, Permit Area C-B-3, includes the area within a radius of 2.0 nm of a point at 24°06.0' N. lat., 166°48.0' W. long.
(iv) 180 Fathom Bank, Permit Area C-B-4, N.W. of Kure Atoll, includes the area within a radius of 2.0 nm of a point at 28°50.2' N. lat., 178°53.4' W. long.
- (3) *Refugia.* Westpac Bed, Permit Area R-1, includes the area within a radius of 2.0 nm of a point at 23°18' N. lat., 162°35' W. long.
- (4) *Exploratory areas.* (1) Permit Area X-P-H includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of the State of Hawaii.
(ii) Permit Area X-P-AS includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of American Samoa.
(iii) Permit Area X-P-G includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of Guam.
(iv) Permit Area X-P-PI includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of the U.S. Pacific Island possessions.

Protected species means an animal protected under the MMPA, listed under the ESA, or subject to the Migratory Bird Treaty Act, as amended.

Protected species study zones means the waters within a specified distance, designated by

the Regional Administrator pursuant to §660.66, around the following islands of the NWHI and as measured from the following coordinates: Nihoa Island 23°05' N. lat., 161°55' W. long.; Necker Island 23°35' N. lat., 164°40' W. long.; French Frigate Shoals 23°45' N. lat., 166°15' W. long.; Gardner Pinnacles 25°00' N. lat., 168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N. lat., 171°45' W. long.; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Island 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. The protected species study zones encompasses waters within 50 nm of the geographical coordinates listed above.

Protected species zone means an area, designated under §660.26, measured from the center geographical positions of certain islands and reefs in the NWHI, as follows: Nihoa Island 23°05' N. lat., 161°55' W. long.; Necker Island 23°35' N. lat., 164°40' W. long.; French Frigate Shoals 23°45' N. lat., 166°15' W. long.; Gardner Pinnacles 25°00' N. lat., 168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N. lat., 171°45' W. long.; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Islands 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. Where the areas are not contiguous, parallel lines drawn tangent to and connecting those semi-circles of the 50-nm areas that lie between Nihoa Island and Necker Island, French Frigate Shoals and Gardner Pinnacles, Gardner Pinnacles and Maro Reef, and Lisianski Island and Pearl and Hermes Reef, shall delimit the remainder of the protected species zone.

Receiving vessel permit means a permit required by §660.21(c) for a receiving vessel to transship or land Pacific pelagic management unit species taken by other vessels using longline gear.

Regional Administrator means Director, Pacific Islands Region, NMFS (see Table 1 of §600.502 for address).

Seamount groundfish means the following species:

name	Common name	Scientific
Armorhead..... richardsoni.		Pentaceros
Alfonsin.....		Beryx splendens.
Raftfish..... japonica.		Hyperoglyphe

Selective gear means any gear used for harvesting corals that can discriminate or differentiate between type, size, quality, or characteristics of living or dead corals.

Shallow-set or Shallow-setting means the deployment of, or deploying, respectively, longline gear in a manner that does not meet the definition of deep-set or deep-setting as defined in this section.

Shallow-set certificate means an original paper certificate that is issued by NMFS and valid for one shallow-set of longline gear (more than one nautical mile of deployed longline gear is a complete set) for sets that start during the period of validity indicated on the certificate.

Special Agent-In-Charge (SAC) means the Special Agent-In-Charge, NMFS, Office of Enforcement, Southwest Region, or a designee of the Special Agent-In-Charge.

Special permit means a permit issued to allow fishing for coral reef ecosystem management unit species in low-use MPAs or to fish for any PHCRT.

Transship means offloading or otherwise transferring management unit species or products thereof to a receiving vessel.

Trap means a box-like device used for catching and holding lobsters.

U.S. harvested corals means coral caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan has been implemented under the Magnuson Act.

Vessel monitoring system unit (VMS unit) means the hardware and software owned by NMFS, installed on vessels by NMFS, and required by subpart C of this part to track and transmit the positions of longline vessels or the hardware and software used by vessels to track and transmit the positions of vessels permitted under subpart D of this part to fish in Crustaceans Permit Area 1.

§ 660.13 Permits and Fees.

(a) *Applicability.* The requirements for permits for specific Western Pacific fisheries are set forth in subparts C, D, E, F and J of this part.

(b) *Validity.* Each permit is valid for fishing only in the specific fishery management areas identified on the permit.

(c) *Application.* (1) A Pacific Island Region Federal fisheries permit application form may be obtained from the Pacific Island Region Office (PIRO) to apply for a permit or permits to operate in any of the fisheries regulated under subparts C, D, E, F, and J of this part. In no case shall the Pacific Area Office accept an application that is not on the Southwest Region Federal Fisheries application form. A completed application is one that contains all the necessary information, attachments, certifications, signatures, and fees required.

(2) A minimum of 15 days should be allowed for processing a permit application for fisheries under subparts C, D, E, and F of this part. A minimum of 60 days should be allowed for processing a permit application for fisheries under subpart J of this part. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Change in application information.* A minimum of 10 days should be given for the Pacific Area Office to record any change in information from the permit application submitted under paragraph (c) of this section. Failure to report such changes may result in invalidation of the permit.

(e) *Issuance.* (1) After receiving a complete application, the Regional Administrator will issue a permit to an applicant who is eligible under §§660.21, 660.41, 660.61, and 660.81.

(2) After receiving a complete application, the Regional Administrator may issue a special permit in accordance with §660.601(d)(3).

(f)(1) PIRO will not charge a fee for a permit issued under subpart D or F or this part.

(2) PIRO will charge a fee for each application for initial issuance, transfer, or renewal of: a Hawaii longline limited access permit, a Mau zone limited access permit, a Ho'omalulu limited access permit, a NWHI pelagic troll or handline fishing permit, or a coral reef ecosystem special permit

(g) *Expiration.* (1) Permits issued under subparts C, D, E, F, and J of this part are valid for the period specified on the permit unless transferred, revoked, suspended, or modified under 15 CFR part 904.

(2) Permits issued under subpart E of this part expire at 2400 local time on December 31.

(h) *Replacement.* Replacement permits may be issued, without charge, to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(i) *Transfer.* An application for a permit transfer under §§660.21(h), 660.41(e), or 660.61(e), or for registration of a permit for use with a replacement vessel under §660.61(k), must be submitted to the PIAO as described in paragraph (c) of this section.

(j) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(k) *Display.* Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing management unit species shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

(l) *Sanctions.* Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.

(m) *Permit appeals.* Procedures for appeals of permit and administrative actions are specified in the relevant subparts of this part.

(n) Western Pacific Community Development Program Permits. To qualify for a Western Pacific Community Development Program permit, a community must meet the following eligibility criteria:

(i) The community must be located in Hawaii;

(ii) The community must consist of community residents descended from aboriginal people indigenous to Hawaii who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Hawaiian Archipelago;

(iii) The community must consist of community residents who reside in their ancestral homeland;

(iv) The community must have knowledge of customary practices relevant to fisheries in Hawaii;

(v) The community must have a traditional dependence on fisheries of Hawaii;

(vi) The community must have experienced or be experiencing economic or other barriers that prevent full participation in Western Pacific fisheries and, in recent years, have not had harvesting, processing, or marketing capability sufficient to support substantial participation in fisheries in Hawaii;

(vii) The community must develop and submit a Community Development Plan to the Western Pacific Fishery Management Council and the National Marine Fisheries Service; and

(viii) The Community Development Plan must describe how the community organization meets the eligibility criteria listed above as well as:

(A) provide community organization information, including name, charter, bylaws, board members, and a designated community member who would hold and fish under the permit;

(B) describe the community organization's plan for using the permit, including a general description of the vessel and equipment that would be used, including fishing gear, navigational equipment, safety equipment and operating patterns; and

(C) describe the anticipated benefits to the community organization, general public or other entities that may be affected and include a description of how the plan would increase community access, either directly or indirectly, to fishery resources.

(ix) The Regional Administer in coordination with the Western Pacific Fishery Management Council will determine, based on the submitted Community Development Plan, if the community qualifies to be eligible for a Western Pacific Community Development Program permit.

§ 660.18 Area Restrictions.

(a) Fishing is prohibited in all no-take MPAs designated in this section.

1. (b) Anchoring by all fishing vessels over 50 ft (15.25 m) LOA is prohibited in the U.S. EEZ seaward of the Territory of Guam west of 144°30' E. long. except in the event of an emergency caused by ocean conditions or by a vessel malfunction that can be documented.

(c) *MPAs*—(1) *No-take MPAs*. The following U.S. EEZ waters are no-take MPAs:

(i) Landward of the 50-fathom (fm) (91.5-m) curve at Jarvis, Howland, and Baker Islands, and Kingman Reef; as depicted on National Ocean Survey Chart Numbers 83116 and 83153;

(ii) Landward of the 50-fm (91.5-m) curve around Rose Atoll, as depicted on National Ocean Survey Chart Number 83484.

(iii) Landward of the 10-fm curve around Nihoa Island, Necker Island, Gardner Pinnacles, Maro Reef, Lisianski Island, Pearl and Hermes Atoll, and Kure Atoll, as depicted on National Ocean Survey Charts Number 19022, 19019, and 19016

(iv) Landward of the 50-fm curve around French Frigate Shoals, Laysan Island, and the northern half of Midway Atoll (North of the straight line drawn between coordinates 28° 15' N, 177° 30' W and 28° 15' N, 177° 10' W) as depicted on National Ocean Survey Charts Number 19022, 19019, and 19016.

(2) *Low-use MPAs*. The following U.S. EEZ waters in the Western Pacific Region are low-use MPAs:

(i) All waters between the shoreline and the 50-fm (91.5-m) curve around Johnston Atoll, Palmyra Atoll, and Wake Island as depicted on National Ocean Survey Chart Numbers 83637, 83157 and 81664.

§ 660.21 Permits.

(a) A fishing vessel of the United States must be registered for use under a Hawaii longline limited access permit or a longline general permit if that vessel is used:

(1) To fish for Pacific pelagic management unit species using longline gear in the EEZ around American Samoa, Guam, the Northern Mariana Islands, or other U.S. island possessions in the Pacific Ocean; or

(2) To land or transship, shoreward of the outer boundary of the EEZ around American Samoa, Guam, the Northern Mariana Islands, or other U.S. island possessions in the Pacific Ocean, Pacific pelagic management unit species that were harvested with longline gear.

(b) A fishing vessel of the United States must be registered for use under a Hawaii longline limited access permit if that vessel is used:

(1) To fish for Pacific pelagic management unit species using longline gear in the EEZ around Hawaii; or

(2) To land or transship, shoreward of the outer boundary of the EEZ around Hawaii, Pacific pelagic management unit species that were harvested with longline gear.

(c) A receiving vessel must be registered for use with a receiving vessel permit if that vessel is used to land or transship, shoreward of the outer boundary of the fishery management area, Pacific pelagic management unit species that were harvested with longline gear.

(d) A fishing vessel of the United States must be registered for use with a PRIA pelagic troll and handline fishing permit if that vessel is used to fish for Pacific pelagic management unit species using pelagic handline or trolling fishing methods in the U.S. EEZ around the PRIA.

(e) A fishing vessel of the United States must be registered for use with a NWHI pelagic troll and handline fishing permit if that vessel is used to fish for Pacific pelagic management unit species using pelagic handline or trolling fishing methods shoreward of the outer boundary of the NWHI National Marine Sanctuary.

(f) Any required permit must be on board the vessel and available for inspection by an authorized agent, except that if the permit was issued while the vessel was at sea, this requirement applies only to any subsequent trip.

(g) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(h) An application for a permit required under this section will be submitted to the Pacific Area Office as described in §660.13.

(i) General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, and sanctions for permits issued under this section, as applicable, are contained in §660.13.

(j) A limited access permit may be transferred as follows:

(1) The owner of a Hawaii longline limited access permit may apply to transfer the permit:

(i) To a different person for registration for use with the same or another vessel; or

(ii) For registration for use with another U.S. vessel under the same ownership.

(2) An application for a permit transfer will be submitted to the Pacific Area Office as described in §660.13(c).

(k) A Hawaii longline limited access permit will not be registered for use with a vessel that has a LOA greater than 101 ft (30.8 m).

(l) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) a Hawaii longline limited access permit.

(m) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or any permit owner may appeal to the Regional Administrator the granting, denial, conditioning, suspension, or transfer of a permit or requested permit under this section. To be considered by the Regional Administrator, the appeal will be in writing, will state the action(s) appealed, and the reasons therefor, and will be submitted within 30 days of the action(s) by the FMD. The appellant may request an informal hearing on the appeal.

(1) Upon receipt of an appeal authorized by this section, the Regional Administrator may request additional information. Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the criteria set out in this part and in the fishery management plans prepared by the Council, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information available; the summary record kept of any hearing and the hearing officer's recommended decision, if any, as provided in paragraph (1)(3) of this section; and such other considerations as deemed appropriate. The Regional Administrator will notify the appellant of the decision and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(2) 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. Such a hearing normally shall be held no later than 30 days following receipt of the appeal, unless the hearing officer extends the time. The appellant and, at the discretion of the hearing officer, other interested persons, 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.

(3) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify the appellant, and interested persons, if any, of the decision, and the reason(s) therefor, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action shall constitute final Agency action for the purposes of the APA.

(4) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his/her own motion or upon written request from the appellant stating the reason(s) therefor.

§ 660.22 Prohibitions.

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

- (a) Fish for Pacific pelagic management unit species using gear prohibited under §660.30 or not permitted by an EFP issued under §660.17.
- (b) Falsify or fail to make and/or file all reports of Pacific pelagic management unit species landings, containing all data and in the exact manner, as required by applicable state law or regulation, as specified in §660.3, provided that the person is required to do so by applicable state law or regulation.
- (c) Use a longline vessel without a valid longline general permit or a Hawaii longline limited access permit registered for use with that vessel, to fish for Pacific pelagic management unit species in the EEZ around American Samoa, Guam, the Northern Mariana Islands, or U.S. island possessions in the Pacific Ocean.
- (d) Use a longline fishing vessel without a valid Hawaii longline limited access permit registered for use with that vessel to fish for Pacific pelagic management unit species in the EEZ around Hawaii.
- (e) Use a receiving vessel without a valid receiving vessel permit registered for use with that vessel to land or transship, shoreward of the outer boundary of the fishery management area, Pacific pelagic management unit species harvested with longline gear.
- (f) Transfer a permit in violation of §660.21(h).
- (g) Fish for Pacific pelagic management unit species with longline gear within the protected species zone in the NWHI.
- (h) Fail to notify the NMFS Southwest Enforcement Office of intent to enter or depart the protected species zone, as required under §660.23(b).
- (i) Fish with longline gear within a longline fishing prohibited area, except as allowed pursuant to an exemption issued under §660.17 or §660.27.
- (j) Fail to comply with notification requirements set forth in §660.23 or in any EFP issued under §660.17.
- (k) Fail to comply with a term or condition governing the observer program established in §660.28.
- (l) Fail to comply with other terms and conditions that the Regional Director imposes by written notice to either the permit holder or the designated agent of the permit holder to facilitate the details of observer placement.

- (m) Fish in the fishery after failing to comply with the notification requirements in §660.23.
- (n) Use a U.S. vessel that has longline gear on board and that does not have a valid Hawaii longline limited access permit registered for use with that vessel or a valid longline general permit registered for use with that vessel to land or transship Pacific pelagic management unit species shoreward of the outer boundary of the EEZ around American Samoa, Guam, the Northern Mariana Islands, or U.S. island possessions in the Pacific Ocean.
- (o) Use a U.S. vessel that has longline gear on board and that does not have a valid Hawaii longline limited access permit registered for use with that vessel to land or transship Pacific pelagic management unit species shoreward of the outer boundary of the EEZ around Hawaii.
- (p) Enter the EEZ around Hawaii with longline gear that is not stowed or secured in accordance with §660.29, if operating a U.S. vessel without a valid Hawaii longline limited access permit registered for use with that vessel.
- (q) Enter the EEZ around American Samoa, Guam, the Northern Mariana Islands, or U.S. island possessions in the Pacific Ocean with longline gear that is not stowed or secured in accordance with §660.29, if operating a U.S. vessel without a valid Hawaii longline limited access permit registered for use with that vessel or a longline general permit registered for use with that vessel.
- (r) Fail to carry a VMS unit as required under §660.25.
- (s) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same; or to move or remove a VMS unit without the prior permission of the SAC.
- (t) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit.
- (u) Fish for, catch, or harvest Pacific pelagic management unit species with longline gear without a VMS unit on board the vessel after installation of the VMS unit by NMFS.
- (v) Possess on board a vessel without a VMS unit Pacific pelagic management unit species harvested with longline gear after NMFS has installed the VMS unit on the vessel.
- (w) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit.
- (x) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer.
- (y) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC.
- (z) Fail to use a line setting machine or line shooter, with weighted branch lines, to set the main longline when operating a vessel that is registered for use under a Hawaii longline limited access

permit and equipped with monofilament main longline, when making deep sets north of 23° N. lat., in violation of §660.35 (a)(1) and (a)(2).

(aa) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use under a Hawaii longline limited access north of 23° N. lat., in violation of §660.35 (a)(3).

(bb) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use under a Hawaii longline limited access permit that is fishing north of 23° N. lat., in violation of §660.35 (a)(4), (a)(5), and (a)(6).

(cc) Fail to retain, handle, and discharge fish, fish parts, and spent bait, strategically when operating a vessel registered for use under a Hawaii longline limited access permit that is fishing north of 23° N. lat., in violation of §660.35 (a)(7) through (a)(9).

(dd) Fail to handle short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of §660.35 (b).

(ee) Fail to handle seabirds other than short-tailed albatross that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of §660.35 (c).

(ff) Own or operate a vessel that is registered for use under a Hawaii longline limited access permit and engaged in longline fishing for Pacific pelagic management unit species and fail to be certified for completion of a NMFS protected species workshop in violation of §660.34(a).

(gg) Operate a vessel registered for use under a Hawaii longline limited access permit while engaged in longline fishing without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of §660.34(d).

(hh) From a vessel registered for use under a Hawaii longline limited access permit, make any longline set not of the type (shallow-setting or deep-setting) indicated in the notification to the Regional Administrator pursuant to §660.23(a), in violation of §660.33(h).

(ii) Fail to carry, or fail to use, a line clipper, dip net, or dehookers on a vessel registered for use under a Hawaii longline limited access permit in violation of §660.32(a).

(jj) Engage in shallow-setting without a valid shallow-set certificate for each shallow-set made in violation of §660.33(c).

(kk) Fail to attach a valid shallow-set certificate for each shallow-set to the original logbook form submitted to the Regional Administrator under §660.14, in violation of §660.33(c).

(ll) Fail to comply with the sea turtle handling, resuscitation, and release requirements when operating a vessel registered for use under a Hawaii longline limited access permit in violation of §660.32(b).

(mm) Fail to begin the deployment of longline gear at least one hour after local sunset or fail to complete the deployment of longline gear before local sunrise from a vessel registered for use under a Hawaii limited access longline permit while shallow-setting north of 23° N. lat. in violation of §660.35(a)(10).

(nn) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit north of the equator (0° lat.) with hooks other than offset circle hooks sized 18/0 or larger, with 10° offset, in violation of §660.33(f).

(oo) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit north of the equator (0° lat.) with bait other than mackerel-type bait in violation of §660.33(g).

(pp) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit after the shallow-set component of the longline fishery has been closed pursuant to §660.33(b)(3)(ii), in violation of §660.33(i).

(qq) Have float lines less than 20 meters in length on board a vessel registered for use under a Hawaii longline limited access permit at any time during a trip for which notification to NMFS under §660.23(a) indicated that deep-setting would be done, in violation of §660.33(d).

(rr) Have light sticks on board a vessel registered for use under a Hawaii longline limited access permit at any time during a trip for which notification to NMFS under §660.23(a) indicated that deep-setting would be done, in violation of §660.33(d).

(ss) Transfer a shallow-set certificate to a person other than a holder of a Hawaii longline limited access permit in violation of §660.33(e).

(tt) Land or possess more than 10 swordfish on board a vessel registered for use under a Hawaii longline limited access permit on a fishing trip for which the permit holder notified NMFS under §660.23(a) that the vessel would conduct a deep-setting trip, in violation of §660.33(j).

(uu) Use a large vessel to fish for Pacific pelagic management unit species within an American Samoa large vessel prohibited area except as allowed pursuant to an exemption issued under § 660.38.

(vv) Use a U.S. vessel employing pelagic handline or trolling methods to fish in the U.S. EEZ around the PRIA without a valid PRIA pelagic troll and handline fishing permit registered for use with that vessel.

(ww) Use a U.S. vessel to fish for Pacific pelagic management unit species using pelagic handline or trolling methods to fish shoreward of the outer boundary of the NWHI National Marine Sanctuary without a valid NWHI pelagic troll and handline fishing permit registered for use with that vessel in violation of § 660.21(e).

§ 660.42 Prohibitions.

(a) It is unlawful for any person to fish for, take, or retain any crustacean management unit species in any area shoreward of the outer boundary of the NWHI National Marine Sanctuary, except for a person authorized to fish for subsistence use under a NWHI Western Pacific Community Development Program permit defined in § 660.12 and described in § 660.13(n), until the implementation of an ecosystem fishery management plan(s) developed and implemented under the Magnuson-Stevens Act.

(b) In Permit Area 2, it is unlawful for any person to—

(1) Fish for, take, or retain lobsters—

(i) By methods other than lobster traps or by hand, as specified in §660.48; or

(ii) During a closed season, as specified in §660.45(b).

(2) Retain or possess on a fishing vessel any lobster taken in Permit Area 2 that is less than the minimum size specified in §660.44.

(3) Possess on a fishing vessel any lobster or lobster part taken in Permit Area 2 in a condition where the lobster is not whole and undamaged as specified in §660.44.

(4) Retain or possess on a fishing vessel, or remove the eggs from, any egg-bearing lobster, as specified in §660.44.

(5) Possess on a fishing vessel that has a permit for Permit Area 2 issued under this subpart any lobster trap in Permit Area 2 when fishing for lobster in the main Hawaiian Islands is prohibited during the months of May, June, July, and August.

§ 660.61 Permits.

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

(2) The PIAO will not register a single vessel for use with a Ho'omalau Zone permit and a Mau Zone permit at the same time.

(3) Mau Zone permits issued before June 14, 1999 become invalid June 14, 1999, except that a permit issued to a person who submitted a timely application under paragraph (i) of this section is valid until the permit holder either receives a Mau Zone limited entry permit or until final agency action is taken on the permit holder's application. The Ho'omalau Zone and the Mau Zone limited entry systems described in this section are subject to abolition, modification, or additional effort limitation programs.

(b) Submission. (1) An application for a permit required under this section must be submitted to the PIAO as described in §660.13. (2) Ho'omalau Zone limited access permit. In addition to an

application under §660.13(c), each applicant for a Ho'omalū Zone permit must also submit a supplementary information sheet provided by the PIAO, which must be signed by the vessel owner or a designee and include the following information:

- (i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;
- (ii) A copy of landings receipts or other documentation, with a certification from a state or Federal agency that this information is accurate, to demonstrate participation in the NWHI bottomfish fishery; and
- (iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentages of ownership of the partnership or corporation.

(3) Mau Zone limited access permit. In addition to an application under §660.13(c), each applicant for a Mau Zone permit must also submit a supplementary information sheet provided by the PIRO, which must be signed by the vessel owner or a designee and include the following information:

- (i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;
- (ii) Copy of State of Hawaii catch report(s) to demonstrate that the permitted vessel had made qualifying landings of bottomfish from the Mau Zone; and
- (iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentage of ownership of the partnership or corporation.

(c) Sale or transfer of Ho'omalū limited access permits to new vessel owners. (1) A Ho'omalū zone permit may not be sold or otherwise transferred to a new owner.

(2) A Ho'omalū zone permit or permits may be held by a partnership or corporation. If 50 percent or more of the ownership of the vessel passes to persons other than those listed in the original application, the permit will lapse and must be surrendered to the Regional Administrator.

(d) Transfer of Ho'omalū Zone limited access permits to replacement vessels. (1) Upon application by the owner of a permitted vessel, the Regional Administrator will transfer that owner's permit to a replacement vessel owned by that owner, provided that the replacement vessel does not exceed 60 ft (18.3 m) in length. The replacement vessel must be put into service no later than 12 months after the owner applies for the transfer, or the transfer shall be void.

(2) An owner of a permitted vessel may apply to the Regional Administrator for transfer of that owner's permit to a replacement vessel greater than 60 ft (18.3 m) in length. The Regional Administrator may transfer the permit upon determining, after consultation with the Council and considering the objectives of the limited access program, that the replacement vessel has catching

power that is comparable to the rest of the vessels holding permits for the fishery, or has catching power that does not exceed that of the original vessel, and that the transfer is not inconsistent with the objectives of the program. The Regional Administrator shall consider vessel length, range, hold capacity, gear limitations, and other appropriate factors in making determinations of catching power equivalency and comparability of the catching power of vessels in the fishery.

(e) Ho'omalu Zone limited access permit renewal. (1) A Ho'omalu Zone permit will be automatically renewed annually and delivered to the mailing address on record of the permit holder, without application and without fee.

(2) For Ho'omalu Zone permits that were subject to annual qualifying landings eligibility requirements in calendar years 2000 through 2004 for renewal in calendar years 2001, 2002, 2003, 2004, or 2005, respectively, those requirements are retroactively lifted and the permits will be automatically renewed and delivered to the mailing address on record of the permit holder, without application and without fee.

(f) Issuance of new Ho'omalu Zone limited access permits. The maximum number of Ho'omalu Zone permits issued at any one time is limited to 7 permits. If there are less than 7 permits issued, the Regional Administrator may issue new Ho'omalu Zone limited access permits under § 660.13 with eligibility based on the system described in paragraph (g) of this section.

(g) Eligibility for new Ho'omalu Zone limited access permits. When the Regional Administrator has determined that new permits may be issued, they shall be issued to applicants based upon eligibility, determined as follows:

(1) Point system. (i) Two points will be assigned for each year in which the applicant was owner or captain of a vessel that made three or more of any of the following types of landings in the NWHI:

(A) Any amount of bottomfish management unit species, regardless of weight, if made on or before August 7, 1985;

(B) At least 2,500 lb (1,134 kg) of bottomfish management unit species, if made after August 7, 1985; or

(C) At least 2,500 lb (1,134 kg) of any fish lawfully harvested from the NWHI, of which at least 50 percent by weight was bottomfish, if made after August 7, 1985.

(ii) One point will be assigned for each year in which the applicant was owner or captain of a vessel that landed at least 6,000 lb (2,722 kg) of bottomfish from the main Hawaiian Islands.

(iii) For any one year, points will be assigned under either paragraph (g)(1)(i) or (g)(1)(ii) of this section, but not under both paragraphs.

(iv) Before the Regional Administrator issues an Ho'omalu zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) Restrictions. An applicant must own at least a 25-percent share in the vessel that the permit would cover, and only one permit will be assigned to any vessel.

(3) Order of issuance. New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Administrator through a lottery.

(4) Notification. The Regional Administrator shall place a notice in the Federal Register and shall use other means to notify prospective applicants of the opportunity to file applications for new permits under this program.

(h) Issuance of new Mau Zone limited access permits. The maximum number of Mau Zone permits issued at any one time is limited to 10 permits, with 2 of the 10 permits reserved only for qualifying communities under the Western Pacific Community Development Program. If there are less than 10 permits issued, the Regional Administrator may issue new Mau Zone permits under § 660.13 with eligibility based on the system described in paragraph (i) of this section.

(i) (i) Eligibility for new Mau Zone limited access permits. When the Regional Administrator has determined that new permits may be issued, they shall be issued to applicants based upon eligibility, determined as follows:

(1) Point system. The following system will be used to rank permit applications and will determine the order of issuance for new Mau Zone permits.

(i) One point will be assigned for each year in which the applicant was owner or captain of a vessel that made qualifying landings of at least 2,500 lb (1,134 kg) of bottomfish management unit species from the main Hawaiian Islands.

(ii) Two points will be assigned for each year in which the applicant was owner or captain of a vessel that made at least five separate fishing trips with qualifying landings of at least 500 lb (227 kg) of bottomfish management unit species from the Northwestern Hawaiian Islands. A maximum of 10 points will be assigned under this paragraph.

(iii) An applicant who has been assigned the maximum number of points under paragraph (i)(1)(ii) of this section will be assigned one point for each year in which he or she was owner or captain of a vessel that made at least five separate trips with qualifying landings of at least 500 lb (227 kg) of bottomfish management unit species each trip from the Northwestern Hawaiian Islands, not including the 5 years for which points were assigned under paragraph (i)(1)(ii) of this section.

(iv) For any one year, points will be assigned under either of the paragraphs (i)(1)(i), (i)(1)(ii), or (i)(1)(iii) of this section.

(2) For the point system described in paragraph (i)(1)(i) of this section, "qualifying landings" means any amount of bottomfish management unit species lawfully harvested from the exclusive economic zone or state waters surrounding the Hawaiian archipelago and offloaded for sale. No points shall be assigned to an owner for any qualifying landings submitted to the State of Hawaii on certified catch reports for more than 1 year after the landing.

(3) More than one Mau Zone permit may be issued to an owner of two or more vessels, provided each of the owner's vessels for which a permit will be registered has made the required qualifying landings for the owner to be assigned at least three eligibility points.

(4) For each of paragraphs (i)(1)(i) through (i)(1)(iii) of this section, the Regional Administrator shall assign points based on the landings of one permitted vessel to only one owner if the vessel did not have multiple owners during the time frame for which qualifying landing were made.

(5) If a vessel had multiple owners (including joint owners, partners, or shareholders of a corporate owner), the Regional Administrator will assign points to a single owner if only one owner submits an application with respect to the landings of that vessel for which qualifying landings were made. If multiple owners submit separate applications with respect to the same landings of the same vessel during the same time frame, then the Regional Administrator shall:

(i) Adhere to any written agreement between the applicants with respect to who among them shall be assigned the aggregate point(s) generated by landings during such time frame(s), or

(ii) If there is no agreement:

(A) Shall issue the applicants a joint permit provided the vessel's landings during such time frames generated at least three points, or

(B) In the event the vessel's landings during such time frame(s) generated less than three points, shall not assign any points generated by the vessel's landings during such time frame(s).

(6) Order of issuance. New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Administrator through a lottery.

(7) Protected species workshop requirement. Before the Regional Administrator issues a new Mau Zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(8) Vessel ownership requirement. A Mau Zone permit holder who does not own a vessel at the time permits his or her permit is issued must register the permit for use with a vessel owned by the permit holder within 12 months from the date the permit was issued. In the interim, the permit holder may register the permit for use with a leased or chartered vessel. If within 12 months of initial permit issuance, 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.

(9) Notification. The Regional Administrator shall place a notice in the Federal Register and shall use other means to notify prospective applicants of the opportunity to file applications for new Mau Zone limited access permits as well as. Mau Zone Western Pacific Community Development Program permits.

(10) Mau Zone Western Pacific Community Development Program Limited Access Permits. PIRO shall use the point system and order of issuance as described in paragraphs (i)(1) and (i)(6) of this section, respectively, to award qualifying communities a Mau Zone Western Pacific Community Development Program limited access permit. To qualify for a Mau Zone Western

Pacific Community Development Program limited access permit, a community must meet the eligibility criteria and requirements set forth in § 660.13(n) of this part.

(j) Ownership requirements and registration of Mau Zone limited access permits for use with other vessels. (1) A Mau Zone permit may be held by an individual, partnership, or corporation. No more than 49 percent of the underlying ownership interest in a Mau Zone permit may be sold, leased, chartered, or otherwise transferred to another person or entity. If more than 49 percent of the underlying ownership of the permit passes to persons or entities other than those listed in the original permit application supplemental information sheet, then the permit expires and must be surrendered to the PIAO.

(2) A Mau Zone permit holder may apply under §660.13 to the PIAO to register the permit for use with another vessel if that vessel is owned by the permit holder, and is no longer than 60 ft (18.3 m).

(3) If a Mau Zone permit holder sells the vessel, for which the permit is registered for use, the permit holder must within 12 months of the date of sale apply to the PIAO to register the permit for use with a vessel owned by the permit holder. If the permit holder has not applied to register a replacement vessel within 12 months, then the permit expires.

(4) If a permitted vessel owned by the permit holder is sold or becomes unseaworthy, the Mau Zone permit 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 PIAO 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.

§ 660.82 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter and in §660.15, it is unlawful for any person to:

(a) It is unlawful to fish for, take, or retain any species of precious corals, in any area shoreward of the outer boundary of the NWHI National Marine Sanctuary, except for a person authorized to fish for subsistence use under a NWHI Western Pacific Community Development Program permit defined in § 660.12 and described in § 660.13(n), until the implementation of an ecosystem fishery management plan(s) developed and implemented under the Magnuson-Stevens Act.

(b) Fish for, take, or retain any species of precious coral in any precious coral permit area:

(1) By means of gear or methods prohibited by §660.88.

(2) In refugia specified in §660.12.

(3) In a bed for which the quota specified in §660.84 has been attained.

(4) In violation of any permit issued under §660.13 or §660.17.

(c) Take and retain, possess, or land any live pink coral or live black coral from any precious coral permit area that is less than the minimum height specified in §660.86 unless:

(1) A valid EFP was issued under §660.17 for the vessel and the vessel was operating under the terms of the permit; or

(2) The coral originated outside coral beds listed in this paragraph, and this can be demonstrated through receipts of purchase, invoices, or other documentation.

§ 660.603 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter and §660.15 of this part, it is unlawful for any person to do any of the following:

(a) Fish for, take, retain, possess or land any coral reef ecosystem MUS in any low-use MPA as defined in §660.18(c)(1) and (c)(2) unless:

(1) A valid permit has been issued for the hand harvester or the fishing vessel operator that specifies the applicable area of harvest;

(2) A permit is not required, as outlined in §600.602 of this chapter;

(3) The coral reef ecosystem MUS possessed on board the vessel originated outside the regulatory area and this can be demonstrated through receipts of purchase, invoices, fishing logbooks or other documentation.

(b) Fish for, take, or retain any coral reef ecosystem MUS species:

(1) That is determined overfished with subsequent rulemaking by the Regional Administrator.

(2) By means of gear or methods prohibited under §660.604.

(3) In a low-use MPA without a valid special permit.

(4) In violation of any permit issued under §660.13 or §660.601.

(c) Fish for, take, or retain any wild live rock or live hard coral except under a valid special permit for scientific research, aquaculture seed stock collection or traditional and ceremonial purposes by indigenous people.

(d) It is unlawful to fish for, take, or retain any corals reef ecosystem management unit species, in any area shoreward of the outer boundary of the NWHI National Marine Sanctuary, except for a person authorized to fish for subsistence use under a NWHI Western Pacific Community Development Program permit defined in § 660.12 and described in § 660.13(n), until the implementation of an archipelagic ecosystem fishery management plan(s) developed and implemented under the Magnuson-Stevens Act.