

20. It is further ordered, that this proceeding is terminated.

21. For further information on this matter, contact Stephen A. Bailey, Mass Media Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

PART 76—CABLE TELEVISION SERVICE

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 76.403 [Amended]

1. Section 76.403 is amended as follows:

a. The second sentence in Section 76.403 is amended by removing the following:

| | |
|----------------|---|
| Financial unit | "Cable television annual financial report," Form 328. |
|----------------|---|

b. The third sentence in § 76.403 is amended by removing the comma and the phrase "except for the Financial Unit Data, which shall be returned within 90 days after the end of the most recent fiscal year of said financial unit" immediately following the words "by the Commission".

[FR Doc. 83-23769 Filed 6-29-83; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 680

[Docket No. 30728-145]

Foreign Fishing and Western Pacific Precious Corals; Implementation of Fishing Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule implementing the Fishery Management Plan for the Precious Corals Fishery of the Western Pacific Region (FMP). The proposed rule is revised to respond to public comments and to impose standard format requirements. The purpose of this FMP and its implementing regulations is to protect

coral from overexploitation and provide an opportunity for commercial harvesting.

EFFECTIVE DATE: September 29, 1983.

ADDRESS: A regulatory impact review is available from Alan W. Ford, Director, Southwest Region, 300 South Ferry, Terminal Island 90731.

FOR FURTHER INFORMATION CONTACT: Alan W. Ford (Regional Director, Southwest Region), 213-548-2575; Doyle E. Gates (Administrator, Western Pacific Program Office, Southwest Region), 808-955-8831.

SUPPLEMENTARY INFORMATION:

Background

The Western Pacific Fishery Management Council (Council) prepared the FMP for the Precious Corals Fishery in the fishery conservation zone (FCZ) off the coasts of American Samoa, Guam, and Hawaii. The final rules for the domestic and foreign fisheries implement the management measures in the FMP that (1) establish four categories of management areas, (2) establish optimum yields by management-area category, (3) require domestic fishermen to have permits to fish for corals, (4) allow foreign fishing in exploratory areas, and (5) require certain recordkeeping by foreign and domestic fishermen.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), approved the FMP on May 20, 1980. Proposed regulations were published in the *Federal Register* on September 15, 1980 (45 FR 60957). A final environmental impact statement (EIS) was filed with the Environmental Protection Agency (EPA) on January 17, 1980 (45 FR 6472).

The management strategy has not changed from that presented in the proposed regulations. The FMP identifies the problem of managing a resource of unknown dimensions characterized by slow growth, low rates of mortality, and low rates of recruitment. The basic change from the proposed rule is one of format and clarification. The comments received during the review period and NOAA's responses are discussed below. Section 680.8, Vessel identification, was revised to incorporate recent U.S. Coast Guard requirements.

Responses to Public Comments

The State of Hawaii Department of Land and Natural Resources, the U.S. Coast Guard, the Department of Interior, the Hawaii Department of Planning and Economic Development, and the Governor of Guam submitted comments.

Comment: The FMP fails to provide a sound biological basis for management because it allows nonselective gear that is not as efficient as estimated in the FMP. Compounding the problem is incomplete knowledge of stock assessment, age-growth relationships, and recruitment. Implementation of the FMP should be suspended until actual efficiency data are collected for the dredge method of harvesting precious coral.

Response: This comment accurately states the problems of managing the precious coral fishery, but NOAA does not agree with the conclusion. Tangle net dredges are inefficient in the harvest of corals and knowledge of the resource is limited; however, there would be little opportunity to harvest corals or to increase knowledge of the resource without using these dredges.

The Council recognized and considered these problems in preparing the plan and adopted a conservative approach that will protect corals from overexploitation and provide an opportunity for commercial harvesting. Four categories of management areas are established and commercial activity is limited in each area depending upon the knowledge available about an area. One category of coral bed is "refugia," which are set aside to serve as baseline study areas and possible reproductive reserves. No coral harvesting is permitted on refugia beds.

The FMP encourages use of selective gear. When nonselective gear is allowed, the plan reduces the quota to 20 percent of the selective-gear quota for conditional beds. The permit and reporting requirements will provide the information needed to improve management of the coral resources. As information is obtained, determinations of maximum sustainable yield and optimum yield may be refined further and gear restrictions may be modified. Finally, if FMP implementation were suspended, domestic harvesting could proceed with no Federal regulation.

Comment: Section 680.6 of the proposed regulations for domestic fishermen does not require that logbooks be completed within a specific time period, which may hinder enforcement.

Response: The final regulations require that logbooks be completed by midnight of the day following the day in which the coral was taken.

Comment: The FMP includes black corals in the management unit, but the proposed rules exclude black coral from the definition of precious corals.

Response: The final regulations include black corals, which are found

principally in State waters. The only regulation for domestic fishermen is that they must report their catches of black coral. Black coral is a prohibited species for foreign fishermen.

Comment: The Coast Guard noted that the weights of coral logged in the daily cumulative catch log required by § 611.9(d) of the foreign fishing regulations will be wet weights, because it takes 24 hours to air-dry coral while the log must be completed within 12 hours of the end of the day. The relationship of wet to dry coral is unknown; therefore, the Coast Guard suggested that foreign vessels engaged in the coral fishery be exempted from the requirements of § 611.82(j) and that the regulations be revised to require the updating of logs within 24 hours of the end of a fishing day rather than "on a timely basis."

Response: The final rule adopts the suggestion.

Comment: The plan is an infringement of the State of Hawaii's jurisdiction over its archipelagic waters and may be inconsistent with Hawaii's coastal zone management program.

Response: NOAA determined that the FMP is consistent with the Hawaii Coastal Zone Management Plan and so informed the State on August 20, 1982. NOAA presumes State agency agreement because the State did not provide a response within the 45-day review period provided in the NOAA regulations implementing the Coastal Zone Management Act (CZMA) (15 CFR 930.41(a)). The Federal government does not recognize the State's claim of archipelagic jurisdiction. In approving the Hawaii Coastal Zone Management Program, the Assistant Administrator for the CZMA specifically found that the seaward portion of the State's coastal zone is the three-mile territorial sea. Furthermore, Hawaii's Precious Corals Regulation 41, which was in effect at the time of the approval of the Hawaii Coastal Zone Management Program, was not and has not been included in Hawaii's Coastal Zone Management Program; therefore the FMP need not be consistent with Regulation 41.

Comment: The Government of Guam recognized that information on the precious corals resource around Guam and the remaining Mariana Islands is very limited; the Governor recommended a stock assessment survey for the area.

Response: Since receipt of the Governor's letter, a resource assessment investigation of the Mariana Archipelago (RAIOMA) has been initiated by the National Marine Fisheries Service, Southwest Fisheries Center, out of the Honolulu laboratory.

Bathymetric surveys may locate potential corals habitat where test fishing may be conducted. Although other resources have a higher priority during the RAIOMA cruise, some promising areas may be targeted during the survey.

Classification

The Assistant Administrator has determined that the FMP and the implementing regulations comply with the national standards, other provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and other applicable laws.

The National Marine Fisheries Service prepared a regulatory impact review (RIR) which concludes that these regulations do not constitute a major rule under Executive Order 12291.

A final EIS was filed with the EPA on January 17, 1980, (45 FR 6472).

Logbooks and permits to fish for precious coral are required by these regulations. Under the Paperwork Reduction Act, the foreign reporting aspects of this rule (50 CFR Part 611) can be merged with existing Office of Management and Budget (OMB) collection number 0648-0075 (foreign fishing vessel reports); domestic permits (50 CFR 680.4) can be merged with OMB 0648-0097 (Federal fisheries permits); and domestic reporting (50 CFR 680.5) can be merged with OMB 0648-0016. No respondents to any of these requirements are expected at the present time. This action has been submitted to OMB for review.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 680

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: August 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 611 is amended and a new Part 680 is added as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.9, paragraph (d)(1) is revised to read as follows:

§ 611.9 Reports and recordkeeping.

(d) *Daily cumulative log.* (1) The operator of each foreign fishing vessel, except as otherwise provided in § 611.82(i) and § 611.90(e)(2), must maintain a daily cumulative catch log in English. This log must have recorded on a daily and a cumulative basis the round weight of all catches of all allocated species during the permit period. The operator must maintain the log aboard the vessel during the duration of the permit period. Information for each fishing area must be maintained on a separate page of the log.

3. A new § 611.82 is added to read as follows:

§ 611.82 Precious coral fishery.

(a) *Purpose.* This section regulates foreign fishing under a Governing International Fishery Agreement for precious corals within the fishery conservation zone (FCZ) seaward of Hawaii, Guam, and American Samoa.

(b) *Definitions.* For purposes of this section, the following terms are defined:

(1) *Exploratory area* means the following permit areas in the FCZ outside the closed areas listed in § 611.82(g).

(i) Permit Area X-P-H. All coral beds seaward of the State of Hawaii.

(ii) Permit Area X-P-AS. All coral beds seaward of American Samoa.

(iii) Permit Area X-P-G. All coral beds seaward of Guam.

(2) *Precious Coral* means any of the following species of coral:

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 laevis

Gold coral *Gerardia* sp.

Gold coral *Callogorgia gilberti*

Gold coral *Narella* sp.

Gold coral *Calyptrophora* sp.

Bamboo coral *Lepidisis olapa*

Bamboo coral *Acanella* sp.

Black coral *Antipathes dichotoma*

Black coral *Antipathes grandis*

Black coral *Antipathes ulex*

(3) *Regional Director* means the Southwest Regional Director, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731.

(4) *Selective gear* means gear that can be used to harvest coral selectively by differentiating as to type, size, quality, or other characteristics.

(c) *Authorized fishery.* (1) *Allocations.* Foreign vessels may engage in fishing only in accordance with applicable national allocations.

(2) **TALFF and reserve.** The total allowable levels of foreign fishing (TALFF), joint venture processing (JVP), the amounts of coral set aside as reserves, the estimated domestic annual harvest (DAH), and domestic annual processing (DAP) in exploratory areas are published in the **Federal Register** prior to the beginning of each fishing year. Current TALFF and JVP amounts are available from the Regional Director.

(3) **Determination of TALFF and reserves.** The quotas for each of the three exploratory areas (set forth in Table 1 to 50 CFR Part 680) will be held in reserve for harvest by vessels of the United States in the following manner:

(i) At the start of the fishing year (July 1), the reserve for each exploratory area will equal the quota minus the estimated domestic annual harvest for that year.

(ii) As soon as practicable after December 31 each year, the Regional Director will determine the amount harvested by vessels of the United States between July 1 and December 31 of that year.

(4) **Release of reserves.** The Secretary will release to TALFF for each exploratory area an amount of coral equal to the quota minus two times the amount harvested by vessels of the United States in that July 1–December 31 period.

(5) The Secretary will publish in the **Federal Register** a notice of the Regional Director's determination and a summary of the information on which it is based as soon as practicable after the determination is made.

(d) **Open season.** Foreign fishing authorized under this section may be conducted from the time that the reserve is released to TALFF until the national allocation has been reached. This fishery will be closed in accordance with § 611.15.

(e) **Prohibited species.** All species of fish over which the United States exercises fishery management authority and for which there is no applicable national allocation are prohibited species and will be treated in accordance with § 611.13. All black corals are prohibited species.

(f) **Open area.** Foreign vessels may engage in fishing for precious coral in the three exploratory areas in the FCZ seaward of Hawaii, Guam, and American Samoa, but not in those coral beds designated in § 611.82(g).

(g) **Closed areas.** The following precious coral beds are closed to all foreign fishing:

Coral Bed—Midpoint

(1) Ke-ahole Point, Hawaii, 19°46.0' N. latitude, 156°06.0' W. longitude;

(2) Makapuu, Oahu, Hawaii, 21°18.0' N. latitude, 157°35.5' W. longitude;

(3) Kaena Point, Oahu, Hawaii 21°35.4' N. latitude, 158°22.9' W. longitude;

(4) WestPac Bed, 23°18.0' N. latitude, 162°35.0' W. longitude;

(5) Brooks Banks, 24°06.0' N. latitude, 166°48.0' W. longitude; and

(6) 180 Fathom Bank, N.W. of Kure, 28°50.2' N. latitude, 178°53.4' W. longitude.

Each coral bed includes the area within two nautical miles of the midpoint.

(h) **Gear restrictions.** (1) No foreign vessel fishing for coral may use gear other than:

- (i) Dredges with tangle nets; or
- (ii) Selective gear.

(2) A foreign vessel may use only selective gear to harvest coral from the FCZ of the main Hawaiian Islands, i.e., south and east of a line midway between Niihau and Nihoa Islands.

(i) **Collection, maintenance and reporting of data.** In addition to the requirements of § 611.9, each foreign fishing vessel must collect, maintain, or report on a timely basis accurate data relating to fishing operations as specified in this section. The requirement of § 611.9(d) that each vessel maintain a daily cumulative catch log is waived for vessels fishing for coral under this section. In lieu of that log, vessels must enter into the logbook provided to the vessel by the National Marine Fisheries Service by midnight of the day following the day on which the coral was taken, the information specified in paragraphs (i)(1)(i) through (1)(x) of this section. All submissions required by this section must be sent to the Regional Director, or, in the case of logbook data, must be hand delivered to the National Marine Fisheries Service observer (if an observer is on board the vessel) upon request. The following log and reports are required:

(1) Whenever a permitted vessel lands coral harvested under a permit, the permittee must within 72 hours mail to the Regional Director a copy of the log with complete harvest information for the coral sold or delivered including:

- (i) Name of vessel;
- (ii) Call sign of vessel;
- (iii) Permit number of vessel;
- (iv) Area fished by statistical area;
- (v) Average depth of water where the coral was harvested;
- (vi) Weight of coral harvested by species, to the nearest tenth of a kilogram (landed weight, air dried for at least 24 hours);
- (vii) Fishing effort in hours where the coral was harvested;
- (viii) Dates of harvest;
- (ix) Method of harvest;

(x) Observations that may be made about the habitat (current, bottom type, bottom topography, bottom slope);

(xi) Amount of coral sold by species;

(xii) Sale price;

(xiii) Date of sale; and

(xiv) Name(s) and address(es) of buyer(s).

(2) For any coral that is not sold within 72 hours of landing the permittee shall mail to the Regional Director within 72 hours of its sale the information specified in paragraphs (i)(1)(xi) through (i)(1)(xiv) of this section.

(3) **Annual report.** Each nation whose vessels engage in the precious coral fishery must submit by November 30 of the following fishing year annual catch and effort statistics as follows: (i) Catch in kilogram by gear type by month by area to the nearest one-half degree (0.5°) latitude and by one degree (1°) longitude, by the following species groupings: pink (red), gold, bamboo, other precious coral, and non-precious coral; and (ii) effort, in hours fished by month by area to the nearest one-half degree (0.5°) latitude and one degree (1°) longitude.

(OMB control number: 0648-0075)

4. A new Part 680 is added to read as follows:

PART 680—WESTERN PACIFIC PRECIOUS CORALS

Subpart A—General Provisions

Sec.

- 680.1 Purpose and scope.
- 680.2 Definitions.
- 680.3 Relation to other laws.
- 680.4 Permits.
- 680.5 Recordkeeping and reporting.
- 680.6 Vessel identification.
- 680.7 Prohibitions.
- 680.8 Facilitation of enforcement.
- 680.9 Penalties.

Subpart B—Management Measures

- 680.20 Seasons.
- 680.21 Quotas.
- 680.22 Closures.
- 680.23 Size restrictions.
- 680.24 Area restrictions.
- 680.25 Gear restrictions.
- 680.26 Test fisheries (Reserved).

Authority: 16 U.S.C. 1601 *et seq.*

Subpart A—General Provisions

§ 680.1 Purpose and scope.

(a) The purpose of this part is to implement the Precious Coral Fishery Management Plan developed by the Western Pacific Fishery Management Council under the Magnuson Fishery Conservation and Management Act. (Magnuson Act).

(b) These regulations govern fishing for precious coral by fishing vessels of the United States within the fishery conservation zone seaward of Hawaii, Guam, and American Samoa.

(c) For regulations governing fishing for precious coral by foreign vessels, see 50 CFR 611.82.

§ 680.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Assistant Administrator means the Assistant Administrator for Fisheries, NOAA, or a designee.

Authorized officer means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Dead coral means any precious coral that contains holes from borers or is discolored or encrusted at the time of removal from the seabed.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal states to a line each point of which is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means—

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish;

(d) Any operations at sea in support of or in preparation of any activity described in paragraphs (a) through (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or a type which is normally used for fishing or for assisting or supporting a vessel engaged in fishing.

Land or Landing means bringing fish to shore or off-loading fish from a vessel.

Live coral means any precious coral that is free of holes from borers, and has

no discoloration or encrustation on the skeleton at the time of removal from the seabed.

Magnuson Act means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

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

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.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means—

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the designation, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Management area means the FCZ of the United States seaward of the State of Hawaii; the Territory of Guam, and the Territory of American Samoa.

Permit area is used to describe each precious coral bed in the management area. Each bed is designated by a permit area code and assigned to one of the following four categories:

(a) *Established beds.*

Makapuu (Oahu), Permit Area E-B-1, includes the area within a radius of 2.0 nautical miles of a point at 21°18.0' N. latitude, 157°35.5' W. longitude.

(b) *Conditional beds.* (1) *Ke-ahole Point (Hawaii), Permit Area C-B-1*, includes the area within a radius of 0.5 nautical miles of a point at 19°46.0' N. latitude, 156°06.0' W. longitude.

(2) *Kaena Point (Oahu), Permit Area C-B-2*, includes the area within a radius of 0.5 nautical miles of a point at 21°35.4' N latitude, 158°22.9' W. longitude.

(3) *Brooks Bank, Permit Area C-B-3*, includes the area within a radius of 2.0 nautical miles of a point at 24°06.0' N. Latitude, 166°48.0' W. longitude.

(4) *180 Fathom Bank, Permit Area C-B-4*, N.W. of Kure Atoll, includes the area within a radius of 2.0 nautical miles of a point at 28°50.2' N. latitude, 178°53.4' W. longitude.

(c) *Refugia.* *Westpac Bed, Permit Area R-1*, includes the area within a radius of 2.0 nautical miles of a point at

23°18.0' N. latitude, 162°35.0' W. longitude.

(d) *Exploratory areas.* (1) *Permit Area X-P-H* includes all coral beds, other than established beds, conditional beds, or refugia, in the FCZ seaward of the State of Hawaii.

(2) *Permit Area X-P-AS* includes all coral beds, other than established beds, conditional beds, or refugia, in the FCZ seaward of American Samoa.

(3) *Permit Area X-P-G* includes all coral beds, other than established beds, conditional beds, or refugia, in the FCZ seaward of Guam.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government, or any entity of any such government.

Precious coral means any of the following species of corals:

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 sp.*

Gold coral, *Callogorgia gilberti*

Gold coral, *Narella sp.*

Gold coral, *Calyptrophora sp.*

Bamboo coral, *Lepidisis olapa*

Bamboo coral, *Acanella sp.*

Black coral, *Antipathes dichotoma*

Black coral, *Antipathes grandis*

Black coral, *Antipathes ulex*

Regional Director means the Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731, or a designee.

Secretary means the Secretary of Commerce or a designee.

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.

State means the State of Hawaii, the Territory of Guam, and the Territory of American Samoa.

U.S. fish processors means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

U.S.-harvested coral 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 of the United States means—

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than 5 net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

§ 680.3 Relation to other laws.

This part recognizes that any State law pertaining to vessels registered under the laws of that State, including any State landing laws, which is consistent with the Precious Coral Management Plan, will continue to have force and effect respecting fishing activities addressed herein.

§ 680.4 Permits

(a) *General.* (1) Any vessel of the United States fishing for, taking, or retaining precious coral in the management area must have a permit issued under this section.

(2) Each permit will be valid for fishing only in the permit area specified in the permit. Permit areas are described in § 680.2.

(3) No more than one permit will be valid for any one vessel at any one time.

(4) No more than one permit will be valid for any one person at any one time.

(5) The holder of a valid permit to fish one permit area may obtain a permit to fish another permit area only upon surrendering to the Regional Director any current permit issued under this section.

(b) *Applications.* (1) An application for a permit under this section must be submitted to the Regional Director by the vessel owner or operator at least 60 days prior to the date on which the applicant desires to have the permit made effective.

(2) Each applicant must supply the following information to the Regional Director when applying for a permit. Each application must be signed by the vessel owner or operator and contain the following information:

- (i) The applicant's name, mailing address, and telephone number;
- (ii) The owner's name, mailing address, and telephone number;
- (iii) The operator's name, mailing address, and telephone number;
- (iv) The name of the vessel;
- (v) The vessel's U.S. Coast Guard documentation number or State license number;
- (vi) The radio call sign of the vessel;
- (vii) The home port of the vessel;
- (viii) The engine horsepower of the vessel;

(ix) The approximate fish-hold capacity of the vessel;

(x) The type and quality of fishing gear used by the vessel;

(xi) The permit area in which the applicant proposes to fish;

(xii) Whether the application is for a new permit or a renewal; and

(xiii) The number and expiration date of any prior permit for the vessel issued under this section.

(c) *Fees.* No fee is required for a permit under this section.

(d) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director ten days prior to the effective date of the change.

(e) *Issuance.* (1) Within 60 days after receipt of a properly completed application the Regional Director will determine whether to issue a permit.

(2) If an incomplete or improperly completed permit application is filed, the Regional Director will notify the applicant in writing of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* Permits issued under this section expire on June 30 following the effective date of the permit.

(g) *Renewal.* An application for a renewal of a permit must be submitted to the Regional Director in the same manner as described in paragraph (b) of this section.

(h) *Alteration.* Any permit which has been substantially altered, erased, or mutilated is invalid.

(i) *Replacement.* Permits may be issued to replace lost or mutilated permits. An application for a replacement permit will not be considered a new application.

(j) *Transfer.* Permits issued under this section are not transferable or assignable to other persons. A permit is valid only for the vessel for which it is issued.

(k) *Display.* Any permit issued under this section must be on board the vessel at all times while the vessel is fishing for coral in the FCZ. Any permit issued under this section must be displayed for inspection upon request of any authorized officer.

(l) *Sanctions.* Subpart D of 50 CFR Part 621 (Civil Procedures) governs the imposition of sanctions against a permit issued under this section. As specified in that subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or this

part, or if a civil penalty or criminal fine imposed under the Magnuson Act and pertaining to such a vessel is not paid.

(OMB control number: 0648-0097)

§ 680.5 Recordkeeping and reporting.

(a) *Logbook.* The operator of any fishing vessel fishing for precious coral subject to this part must—

(1) Maintain on board the fishing vessel, while fishing for precious coral, an accurate and complete fishing logbook in the required format supplied by the Regional Director, recording all information specified in paragraph (b) of this section with all information entered by midnight of the day following the day on which the coral was taken;

(2) Make the fishing logbook available for inspection by an authorized officer or any employee of the National Marine Fisheries Service designated by the Regional Director to make such inspection;

(3) Keep the fishing logbook one year after the date of the last entry in the logbook; and

(4) Within 72 hours of each landing of precious coral, submit to the Regional Director a copy of the log sheet(s) pertaining to that precious coral.

(b) *Information.* Fishing logbooks must contain the following information for all precious coral taken under this part:

(1) *Vessel information.*

- (i) Name of vessel;
- (ii) Call sign of vessel; and
- (iii) Permit number of vessel.

(2) *Fishing information.*

- (i) Date of harvest;
- (ii) Fishing effort in hours;
- (iii) Method of harvest;
- (iv) Area fished;
- (v) Depth of water;
- (vi) Weight of coral harvested, by

species, to the nearest tenth of a kilogram (landed weight, air dried for at least 24 hours); and

(vii) Observations that may be made about the habitat (current, bottom type, bottom topography, bottom slope, proximity to land, etc.).

(3) *Sale information.*

- (i) Amount of coral sold (by species);
- (ii) Sale price;
- (iii) Date of sale;
- (iv) Name(s) and address(es) of buyer(s); and

(4) Any other information specified in the permit.

(OMB control number: 0648-0016)

§ 680.6 Vessel identification.

(a) *Permit number.* Each fishing vessel subject to this part must display its permit number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so

as to be visible from enforcement vessels and aircraft.

(b) *Numerals.* The permit number must be affixed to each vessel subject to this part in block Arabic numerals at least 14 inches in height for fishing vessels of 65 feet in length or longer and at least ten inches in height for all other vessels. Markings must be legible and of a color that contrasts with the background.

(c) *Duties of operator.* The operator of each fishing vessel subject to this part must—

(1) Keep the displayed permit number legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging or its fishing gear obstructs the view of the permit number from an enforcement vessel or aircraft.

§ 680.7 Prohibitions.

(a) It is unlawful for any person to—

(1) Use any vessel to fish for, take, or retain precious coral in the management area unless a permit has been issued for that vessel and area as specified in § 680.4 and that permit is on board the vessel;

(2) Fish for, take, or retain any species of precious coral in the management area:

(i) By means of gear or methods prohibited by § 680.25;

(ii) In refugia specified in § 680.24;

(iii) In a bed for which the quota specified in § 680.21 has been attained; or

(iv) In violation of any permit issued under § 680.4;

(3) Take and retain or possess on fishing vessels any pink coral from the Makapuu Bed (Permit Area E-B-1), Keahole Point Bed (Permit Area C-B-1), or Kaena Point Bed (Permit Area C-B-2) which is less than the minimum height specified in § 680.23.

(4) Falsify or fail to make, keep, maintain, or submit any logbook or other record or report required by § 680.5;

(5) Fail to affix and maintain vessel markings, as required by § 680.6;

(6) Fail to comply immediately with enforcement and boarding procedures specified in § 680.8;

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any species of precious coral which was taken in violation of the Magnuson Act, this part, or any regulation issued under the Magnuson Act;

(8) Refuse to allow an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other

regulations issued under the Magnuson Act;

(9) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (e) of this section;

(10) Resist a lawful arrest for any act prohibited by this part;

(11) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person by an authorized officer, knowing that such other person has committed any act prohibited by this part; or,

(12) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested coral to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under § 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested coral of the species concerned;

(13) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

(b) It is a rebuttable presumption that any precious coral found on board a fishing vessel in the management area was caught and retained in violation of this part. The presumption can be rebutted by showing that—

(1) A valid permit was issued for the vessel, which was operating under the terms of the permit; or

(2) The coral originated outside the management area through receipts of purchase, invoices, or other documentation.

§ 680.8 Facilitation of enforcement.

(a) *General.* The operator of any fishing vessel subject to these regulations shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of the fishing vessel shall be alert for signals conveying enforcement instructions. The VHF-FM radiotelephone is the normal method of communicating between vessels. Listen to the VHF-FM channel 16 (emergency channel) for instructions to shift to another VHF-FM channel and receive boarding instructions. Visual methods or loudhailer may be used if the radio does not work. The following signals extracted from U.S. Hydrographic Office

publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

(1) "L" meaning "You should stop your vessel instantly."

(2) "SQ3" meaning "You should stop and heave-to; I am going to board you."

(3) "AA AA AA etc." meaning "Call for unknown station or general call." The operator should respond by identifying his vessel by radio, visual signals or illuminating his official number.

(4) "RY-CY" meaning "You should proceed at slow speed. A boat is coming to you."

(c) *Boarding.* The operator of a vessel signaled to stop or heave-to for boarding shall—

(1) Stop immediately and lay to or maneuver in such a way as to allow the boarding party to come aboard; and

(2) Take such other actions as necessary to ensure the safety of the boarding party.

§ 680.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Part 620 (Citations) and 15 CFR Part 904 (Civil Procedures) and other applicable law.

Subpart B—Management Measures

§ 680.20 Seasons.

The fishing year for precious coral begins on July 1 and ends on June 30 the following year, except at the Makapuu Bed, which has a two-year fishing period that begins July 1 and ends June 30 two years later.

§ 680.21 Quotas.

(a) The quotas limiting the amount of precious coral that may be taken in the management area during the fishing year are listed in Table 1 of this section. Only live coral is counted toward the quota. The accounting period for all quotas begins July 1, 1983.

TABLE 1.—QUOTAS FOR PERMIT AREAS

| Name of coral bed | Type of bed | Harvest quota * | Number of years | Gear restrictions * |
|-------------------|-------------|----------------------|-----------------|---------------------|
| Makapuu | Established | Pink coral—2,000 kg. | 2 | S |
| | | Gold coral—600 kg. | 2 | S |
| | | Bamboo coral—600 kg. | 2 | S |
| Keahole Point | Conditional | Pink coral—67 kg. | 1 | S |

TABLE 1.—QUOTAS FOR PERMIT AREAS—
Continued

| Name of coral bed | Type of bed | Harvest quota * | Number of years | Gear restrictions # |
|------------------------------|---------------|---|-----------------|---------------------|
| Kaena Point | Conditional | Gold coral—20 kg. | 1 | S |
| | | Bamboo coral—17 kg. | 1 | S |
| | | Pink coral—67 kg. | 1 | S |
| | | Gold coral—20 kg. | 1 | S |
| Brooks Bank * | Conditional | Bamboo coral—17 kg. | 1 | S |
| | | Pink coral—17 kg. | 1 | N |
| | | Gold coral—133 kg. | 1 | N |
| | | Bamboo coral—111 kg. | 1 | N |
| 180 Fathom Bank * | Conditional | Pink coral—222 kg. | 1 | N |
| | | Gold coral—67 kg. | 1 | N |
| | | Bamboo coral—56 kg. | 1 | N |
| | | Zero (0 kg). | 1 | N |
| Westpac Bed | Refugia | Zero (0 kg). | 1 | N |
| Hawaii, American Samoa, Guam | Exploratory * | 1,000 kg (all species combined except black corals) per area. | 1 | N |

* There are no restrictions under this part on the harvest of black corals, except the data submission requirements (§ 680.5). State regulations on black coral harvesting are not superseded by this part.

Only 1/2 the indicated amount is allowed if nonselective gear is used, that is the nonselective harvest will be multiplied by 5 and counted against the quota. If both selective and nonselective methods are used, the bed will be closed when $S + 5N = Q$, where S=selective harvest amount, N=nonselective harvest amount and Q=total harvest quota, for any single species on that bed.

* Only selective gear may be used in the FCZ seaward of the main Hawaiian Islands; i.e., south and east of a line midway between Nihoa and Niihau Islands. Nonselective gear or selective gear may be used in all other portions of exploratory areas.

S=Selective gear only; N=Nonselective or selective gear.

*No authorized fishing for coral.

(b) *Conditional bed closure.* A conditional bed will be closed to all nonselective coral harvesting after the quota for one species of coral has been taken.

(c) *Reserves and reserve release.* The quotas for exploratory areas will be held in reserve for harvest by vessels of the United States in the following manner:

(1) At the start of the fishing year, the reserve for each of the three exploratory areas will equal the quota minus the estimated domestic annual harvest for that year.

(2) As soon as practicable after December 31 each year, the Regional Director will determine the amount harvested by vessels of the United States between July 1 and December 31 of that year.

(3) The Secretary will release to TALFF an amount of precious coral for each exploratory area equal to the quota minus two times the amount harvested by vessels of the United States in that July 1–December 31 period.

(4) The Secretary will publish in the *Federal Register* a notice of the Regional Director's determination and a summary of the information on which it is based as soon as practicable after the determination is made.

§ 680.22 Closures.

(a) *Determinations of closure and field orders.* If the Regional Director determines that the harvest quota for any coral bed will be reached prior to the end of the fishing year, or of the two-

year fishing period at Makapuu bed, the Secretary will issue a field order closing the bed involved by publication of a notice in the *Federal Register*, and through appropriate news media. Such field order must indicate the reason for the closure, the bed being closed, and the effective date of the closure.

(b) A closure is also effective for a permit holder upon the permit holder's actual harvest of the applicable quota.

§ 680.23 Size restrictions.

Pink coral harvested from the Makapuu bed (E-B-1), the Keahole Point bed (C-B-1), and the Kaena Point bed (C-B-2), must have attained a minimum height of ten inches. There are no size limits for precious coral from other beds or other species.

§ 680.24 Area restrictions.

Fishing for coral on the WestPac bed is not allowed. The specific area closed to fishing is all waters within a 2 nautical mile radius of the midpoint of 23° 18.0' N. latitude; 162° 35.0' W. longitude.

§ 680.25 Gear restrictions.

(a) *Selective gear.* Only selective gear may be used to harvest coral from the FCZ of the main Hawaiian Islands, i.e., south and east of a line midway between Nihoa and Nihoa Islands.

(b) *Selective or non-selective gear.* Either selective or non-selective gear may be used to harvest coral from Brooks Bank, 180 Fathom Bank, and from exploratory areas other than the FCZ off the main Hawaiian Islands.

§ 680.26 Test fisheries. [Reserved]

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