

§ 660.22

50 CFR Ch. VI (10-1-02 Edition)

officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend, in writing, a decision to the Regional Director.

(3) The Regional Director may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Director 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 Director'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 Director for good cause, either upon his/her own motion or upon written request from the appellant stating the reason(s) therefor.

(1) Applications for the re-registration of any vessel that was de-registered from a Hawaii longline limited access permit after March 29, 2001, must be received at PIAO or post-marked between September 15 and October 15.

[61 FR 34572, July 2, 1996, as amended at 67 FR 40235, June 12, 2002]

EFFECTIVE DATE NOTE: At 67 FR 56502, Sept. 4, 2002, § 660.21 was amended by redesignating paragraph (l) as paragraph (n), and paragraphs (d) through (k) as paragraphs (e) through (l) respectively; newly redesignated paragraph (l)(1) was revised; and paragraphs (d) and (m) were added, effective Oct. 4, 2002. For the convenience of the user the revised text follows:

§ 660.21 Permits.

* * * * *

(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.

* * * * *

(1) * * *

(1) Upon receipt of an appeal authorized by this section, the Regional Administrator may request additional information. Upon receipt of sufficient information, the Re-

gional 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.

* * * * *

(m) Except during October, NMFS will not register with a Hawaii longline limited access permit any vessel that is de-registered from a Hawaii longline limited access permit after March 29, 2001.

§ 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. possessions in the Pacific Ocean area.

(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

Fishery Conservation and Management

§ 660.22

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 § 660.17.

(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. possessions in the Pacific Ocean area.

(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. possessions in the Pacific Ocean area 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).

§ 660.22

50 CFR Ch. VI (10–1–02 Edition)

(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 a longline vessel registered for use under a Hawaii longline limited access permit that is engaged in longline fishing for Pacific pelagic management unit species, without a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.36 (a).

(gg) Fish for Pacific pelagic management unit species on a vessel registered for use under a Hawaii limited access longline permit without having on-board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.36 (d).

(hh)-(ii) [Reserved]

(jj) Fail to carry line clippers, dip nets, and wire or bolt cutters on a vessel registered for use under a Hawaii longline limited access permit or a longline general permit that has a freeboard of more than 3 ft (0.9 m) in violation of § 660.32(a).

(kk) Fail to carry line clippers and wire or bolt cutters on a vessel fishing with hooks for Pacific pelagic management unit species within EEZ waters around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or

Howland Islands that has a freeboard more than 3 ft (0.9 m) in violation of § 660.32(a)(2).

(ll) Fail to carry line clippers and wire or bolt cutters on a vessel registered for use under a Hawaii longline limited access permit or a longline general permit or on a vessel fishing with hooks for Pacific pelagic management unit species within EEZ waters around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands, that has a freeboard of less than 3 ft (0.9 m) in violation of § 660.32(a)(3).

(mm) 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 or a longline general permit, or fishing with hooks for Pacific pelagic management unit species within EEZ waters around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands in violation of § 660.32(b).

(nn) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed north of the equator on a vessel registered for use under a Hawaii longline limited access permit or a longline general permit in violation of § 660.33(a).

(oo) Fish for Pacific pelagic management unit species with a vessel registered for use under a Hawaii longline limited access permit or a longline general permit within closed areas or by use of unapproved gear configurations in violation of § 660.33(b), (c), (g), or (h).

(pp) Use a receiving vessel registered for use under a receiving vessel permit to receive, land, or tranship from another vessel, Pacific pelagic management unit species harvested from closed areas with longline gear in violation of § 660.33(d).

(qq) Land or tranship shoreward of the outer boundary of the EEZ around Hawaii, American Samoa, Guam, the

Fishery Conservation and Management

§ 660.24

Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands, Pacific pelagic management unit species that were harvested from closed areas with longline gear in violation of § 660.33(e).

(rr) Possess a light stick on board a vessel registered for use under either a Hawaii longline limited access permit or a longline general permit, on fishing trips that include any fishing north of the equator (0° lat.) in violation of § 660.33(f).

(ss) Possess or land more than 10 swordfish on board a vessel registered for use under either a Hawaii longline limited access permit or a longline general permit, from a fishing trip where any part of the trip included fishing north of the equator (0° lat.) in violation of § 660.33(h).

(tt) Operate a vessel registered for use under a Hawaii longline limited access permit or a longline general permit to fish for Pacific pelagic management unit species without having on-board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.36(c).

(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.

[61 FR 34572, July 2, 1996, as amended at 65 FR 16347, Mar. 28, 2000; 67 FR 4371, Jan. 30, 2002; 67 FR 34412, May 14, 2002; 67 FR 40235 June 12, 2002]

EFFECTIVE DATE NOTE: At 67 FR 56502, Sept. 4, 2002, § 660.22 was amended by revising the phrase "U.S. possessions in the Pacific Ocean area" to read "U.S. island possessions in the Pacific Ocean" each place that it appears; paragraph (i) was revised; and new paragraph (vv) was added, effective Oct. 4, 2002. For the convenience of the user, the revised text follows:

§ 660.22 Prohibitions.

* * * * *

(i) Fish with longline gear within a longline fishing prohibited area, except as al-

lowed pursuant to an exemption issued under § 660.17 or § 660.27.

* * * * *

(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.

§ 660.23 Notifications.

(a) The permit holder for a fishing vessel subject to the requirements of this subpart, or an agent designated by the permit holder, shall provide a notice to the Regional Director at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in the EEZ around Hawaii. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Director is otherwise notified by the permit holder. The notice must be provided to the office or telephone number designated by the Regional Director. The notice must provide the official number of the vessel, the name of the vessel, the intended departure date, time, and location, the name of the operator of the vessel, and the name and telephone number of the agent designated by the permit holder to be available between 8:00 a.m. to 5 p.m. (Hawaii time) on weekdays for NMFS to contact to arrange observer placement.

(b) The operator of any vessel subject to the requirements of this subpart who does not have on board a VMS unit while transiting the protected species zone as defined in § 660.12, must notify the NMFS Southwest Enforcement Office (see part 600 for address of Regional Director) immediately upon entering and immediately upon departing the protected species zone. The notification must include the name of the vessel, name of the operator, date and time (GMT) of access or exit from the protected species zone, and location by latitude and longitude to the nearest minute.

§ 660.24 Gear identification.

(a) *Identification.* The operator of each permitted vessel in the fishery management area must ensure that the