

Regional Administrator, the appeal must be in writing, must state the action(s) appealed, and the reasons therefor, and must be submitted within 30 days of the action(s) by the Regional Administrator. 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 for qualifying for, or renewing, limited access permits. In making such decision, the Administrator will review relevant portions of the Western Pacific Pelagic FEP, to the extent such review would clarify the criteria in this part. Such decision will be 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 (o)(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 and/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 rec-

ommended 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 purposes of the Administrative Procedure Act.

(4) In the case of a timely appeal from an American Samoa longline limited access permit initial permit decision, the Regional Administrator will issue the appellant a temporary American Samoa longline limited access permit. A temporary permit will expire 20 days after the Regional Administrator's final decision on the appeal. In no event will a temporary permit be effective for longer than 60 days.

(5) With the exception of temporary permits issued under paragraph (o)(4) of this section, the Regional Administrator, for good cause, may extend any time limit prescribed in this section for a period not to exceed 30 days, either upon his/her own motion or upon written request from the appellant stating the reason(s) therefor.

§ 665.802 Prohibitions.

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

(a) Falsify or fail to make and/or file all reports of western Pacific pelagic MUS landings, containing all data and in the exact manner, as required by applicable state law or regulation, as specified in § 665.14(a), provided that the person is required to do so by applicable state law or regulation.

(b) Use a vessel without a valid permit issued under the High Seas Fishing Compliance Act to fish for western Pacific pelagic MUS using longline gear, on the high seas, in violation of §§ 665.801(a), and 300.15 of this title.

(c) Use a vessel in the EEZ around the Hawaiian Archipelago without a valid Hawaii longline limited access permit registered for use with that vessel, to fish for western Pacific pelagic MUS using longline gear, in violation of § 665.801(b)(1).

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(d) Use a vessel shoreward of the outer boundary of the EEZ around the Hawaiian Archipelago without a valid Hawaii longline limited access permit registered for use with that vessel, to land or transship western Pacific pelagic MUS that were harvested with longline gear, in violation of § 665.801(b)(2).

(e) Use a vessel in the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to fish for western Pacific pelagic MUS using longline gear, in violation of § 665.801(c)(1).

(f) Use a vessel shoreward of the outer boundary of the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to land western Pacific pelagic MUS that were caught with longline gear within the EEZ around American Samoa, in violation of § 665.801(c)(2).

(g) Use a vessel within the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to transship western Pacific pelagic MUS that were caught with longline gear, in violation of § 665.801(c)(3).

(h) Use a vessel in the EEZ around Guam, CNMI, or PRIA (with the exception of Midway Atoll) without either a valid Western Pacific general longline permit, American Samoa longline limited access permit or a Hawaii longline limited access permit registered for use with that vessel, to fish for western Pacific pelagic MUS using longline gear, in violation of § 665.801(d)(1).

(i) Use a vessel shoreward of the outer boundary of the EEZ around Guam, CNMI, or PRIA (with the exception of Midway Atoll) without either a valid Western Pacific general longline permit, American Samoa longline limited access permit or a Hawaii longline limited access permit registered for use with that vessel, to land or transship western Pacific pelagic MUS that were harvested using longline gear, in violation of § 665.801(d)(2).

(j) Use a vessel shoreward of the outer boundary of the EEZ around American Samoa, CNMI, Guam, Hawaii, or PRIA, to land or transship

western Pacific pelagic MUS caught by other vessels using longline gear, without a valid receiving vessel permit registered for use with that vessel, in violation of § 665.801(e).

(k) Use a vessel in the EEZ around the PRIA employing handline or trolling methods to fish for western Pacific pelagic MUS without a valid PRIA pelagic troll and handline fishing permit registered for use for that vessel, in violation of § 665.801(f).

(l) Fish in the fishery after failing to comply with the notification requirements in § 665.803.

(m) Fail to comply with notification requirements set forth in § 665.803 or in any EFP issued under § 665.17.

(n) Fail to comply with a term or condition governing longline gear configuration in § 665.813(k) if using a vessel longer than 40 ft (12.2 m) registered for use with any valid longline permit issued pursuant to § 665.801 to fish for western Pacific pelagic MUS using longline gear south of the Equator (0° lat.).

(o)–(u) [*Reserved*]

(v) Use longline gear to fish within a longline fishing prohibited area in violation of § 665.806, except as allowed pursuant to an exemption issued under §§ 665.17 or 665.807.

(w) Fish for western Pacific pelagic MUS with longline gear within the protected species zone, in violation of § 665.806(b).

(x) Fail to comply with a term or condition governing the observer program established in § 665.808, if using a vessel registered for use with a Hawaii longline limited access permit, or a vessel registered for use with a size Class B, C or D American Samoa longline limited access permit, to fish for western Pacific pelagic MUS using longline gear.

(y) Fail to comply with other terms and conditions that the Regional Administrator imposes by written notice to either the permit holder or the designated agent of the permit holder to facilitate the details of observer placement.

(z) Fail to fish in accordance with the seabird take mitigation techniques set forth at §§ 665.815(a)(1) or 665.815(a)(2) when operating a vessel registered for

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use under a Hawaii longline limited access permit.

(aa)–(bb) [*Reserved*]

(cc) Own or operate a vessel registered for use under any longline permit issued under § 665.801 while engaged in longline fishing for western Pacific pelagic MUS and fail to be certified for completion of a NMFS protected species workshop, in violation of § 665.814(a).

(dd) Own or operate a vessel registered for use under any longline permit issued under § 665.801 while engaged in longline fishing for western Pacific pelagic MUS without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof, in violation of § 665.814(d).

(ee) Possess 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 § 665.803(a) indicated that deep-setting would be done, in violation of § 665.813(d).

(ff) Fail to carry, or fail to use, a line clipper, dip net, or dehooker on a vessel registered for use under any longline permit issued under § 665.801, in violation of § 665.812.

(gg)–(hh) [*Reserved*]

(ii) When operating a vessel registered for use under any longline limited access permit issued under § 665.801, fail to comply with the sea turtle handling, resuscitation, and release requirements, in violation of § 665.812(b).

(jj) Engage in shallow-setting from a vessel registered for use under any longline permit issued under § 665.801 north of the Equator (0° lat.) with hooks other than circle hooks sized 18/0 or larger with an offset not to exceed 10 degrees, in violation of § 665.813(f).

(kk) Engage in shallow-setting from a vessel registered for use under any longline permit issued under § 665.801 north of the Equator (0° lat.) with bait other than mackerel-type bait, in violation of § 665.813(g).

(ll) [*Reserved*]

(mm) 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 § 665.815(a)(1) or (a)(2).

(nn) 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 § 665.815(a)(2)(v).

(oo) 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 § 665.815(a)(2)(vi) through (viii).

(pp) 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 § 665.815(a)(2)(i) through (iv).

(qq) Fail to begin the deployment of longline gear at least 1 hour after local sunset or fail to complete the setting process before local sunrise from a vessel registered for use under a Hawaii longline limited access permit while shallow-setting north of 23° N. lat., in violation of § 665.815(a)(4).

(rr) 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 § 665.815(b).

(ss) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit after the shallow-set longline fishery has been closed pursuant to § 665.813(b), in violation of § 665.813(i).

(tt) Fail to immediately retrieve longline fishing gear upon receipt of actual notice that the shallow-set longline fishery has been closed pursuant to § 665.813(b), in violation of § 665.813(i).

(uu)–(vv) [*Reserved*]

(ww) Fail to handle seabirds other than 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 § 665.815(c).

(xx) Use a large vessel to fish for western Pacific Pelagic MUS within an

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American Samoa large vessel prohibited area in violation of § 665.806, except as allowed pursuant to an exemption issued under §§ 665.17 or 665.818.

(yy) Fish for western Pacific pelagic MUS using gear prohibited under § 665.810 or not permitted by an EFP issued under § 665.17.

(zz) Use a vessel that is greater than 50 ft (15.4 m) LOA to squid jig fish in EEZ waters around American Samoa, CNMI, Guam, Hawaii, or PRIA, without a Western Pacific squid jig fishing permit registered for use with that vessel, in violation of § 665.801(g).

[75 FR 2205, Jan. 14, 2010, as amended at 76 FR 37288, June 27, 2011; 76 FR 52889, Aug. 24, 2011; 77 FR 60649, Oct. 4, 2012]

§ 665.803 Notifications.

(a) The permit holder, or designated agent, for any vessel registered for use under a Hawaii longline limited access permit, or for any vessel greater than 40 ft (12.2 m) LOA that is registered for use under an American Samoa longline limited access permit, shall provide a notice to the Regional Administrator 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 the Hawaiian Archipelago or American Samoa. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder. The permit holder or designated agent for a vessel registered for use under Hawaii longline limited access permits must also provide notification of the trip type (either deep-setting or shallow-setting).

(b) The permit holder, or designated agent, for any vessel registered for use under a Western Pacific squid jig fishing permit that is greater than 50 ft (15.4 m) LOA, shall provide a notice to the Regional Administrator 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 western Pacific EEZ waters. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder.

(c) For purposes of this section, the notice must be provided to the office or telephone number designated by the Regional Administrator. 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 permit holder or designated agent to be available between 8 a.m. and 5 p.m. (local time) on weekdays for NMFS to contact to arrange observer placement.

(d) 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 § 665.806, must notify the NMFS Special-Agent-In-Charge 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.

(e) The permit holder for any American Samoa longline limited access permit, or an agent designated by the permit holder, must notify the Regional Administrator in writing within 30 days of any change to the permit holder's contact information or any change to the vessel documentation associated with a permit registered to an American Samoa longline limited access permit. Complete changes in the ownership of the vessel registered to an American Samoa longline limited access permit must also be reported to PIRO in writing within 30 days of the change. Failure to report such changes may result in a delay in processing an application, permit holders failing to receive important notifications, or sanctions pursuant to the Magnuson-Stevens Act at 16 U.S.C. 1858(g) or 15 CFR part 904, subpart D.

§ 665.804 Gear identification.

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