

§ 660.44 Lobster size and condition restrictions—Permit Area 2.

(a) Only spiny lobsters with a carapace length of 8.26 cm or greater may be retained (see Figure 3 of this subpart).

(b) Any lobster with a punctured or mutilated body, or a separated carapace and tail, may not be retained.

(c) A female lobster of any size may not be retained if it is carrying eggs externally. Eggs may not be removed from female lobsters.

§ 660.45 Closed seasons.

(a) Lobster fishing is prohibited in Permit Area 1 during the months of January through June, inclusive.

(b) Lobster fishing is prohibited in Permit Area 2 during the months of May, June, July, and August.

[61 FR 34572, July 2, 1996, as amended at 63 FR 20540, Apr. 27, 1998]

§ 660.46 Closed areas.

All lobster fishing is prohibited:

(a) Within 20 nm of Laysan Island.

(b) Within the EEZ landward of the 10-fathom curve as depicted on National Ocean Survey Charts, Numbers 19022, 19019, and 19016.

§ 660.47 Gear identification.

In Permit Area 1, the vessel's official number must be marked legibly on all traps and floats maintained on board the vessel or in the water by that vessel.

§ 660.48 Gear restrictions.

(a) *Permit Area 1.* (1) Lobsters may be taken only with lobster traps or by hand. Lobsters may not be taken by means of poisons, drugs, other chemicals, spears, nets, hook, or explosives.

(2) The smallest opening of an entry way of any lobster trap may not allow any sphere or cylinder greater than 6.5 inches (16.5 cm) in diameter to pass from outside the trap to inside the trap.

(3) Each lobster trap must have a minimum of two escape vent panels that meet the following requirements:

(i) Panels must have at least four unobstructed circular holes no smaller than 67 mm in diameter, with centers at least 82 mm apart.

(ii) The lowest part of any opening in an escape vent panel must not be more than 85 mm above the floor of the trap.

(iii) Panels must be placed opposite one another in each trap.

(4) A vessel fishing for or in possession of lobster in any permit area may not have on board the vessel any trap that does not meet the requirements of paragraphs (a)(1), (2), and (3) of this section.

(5) A maximum of 1,200 traps per vessel may be maintained on board or in the water, provided that no more than 1,100 assembled traps are maintained on board or in the water. If more than 1,100 traps are maintained, the unassembled traps may be carried as spares only, in order to replace assembled traps that may be lost or become unusable.

(6) Traps shall not be left unattended in any permit area, except in the event of an emergency, in which case the vessel operator must notify the NMFS Law Enforcement Office of the emergency that necessitated leaving the traps on the grounds, and the location and number of the traps, within 24 hours after the vessel reaches port.

(7) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit certified by the NMFS may enter Crustaceans Permit Area 1 with lobster traps on board on or after June 25, but must remain outside the Crustaceans Permit Area 1 VMS Subarea until the NWHI lobster season opens on July 1.

(8) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit certified by the NMFS may transit the Crustaceans Permit Area 1, including the Crustaceans Permit Area 1 VMS Subarea, with lobster traps on board for the purpose of returning to port following the closure date, as specified in § 660.50, providing the vessel does not stop and is making steady progress back to port as determined by NMFS.

(9) The operator of a permitted vessel must notify the Regional Administrator or an authorized officer no later than June 15 of each year if the vessel will use a VMS unit in the fishery and allow for inspection and certification of the unit.

(b) *Permit Area 2.* Lobsters may be taken only with lobster traps or by hand. Lobsters may not be taken by means of poisons, drugs, other chemicals, spears, nets, hooks, or explosives.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35450, July 1, 1997; 63 FR 20540, Apr. 27, 1998]

EFFECTIVE DATE NOTE: At 63 FR 40379, July 29, 1998, §660.48 was amended by suspending paragraph (a)(7) and by adding paragraph (a)(10), effective July 23, 1998, through Dec. 31, 1998. For the convenience of the user, the added text is set forth as follows:

§ 660.48 Gear restrictions.

(a) * * *

(10) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit certified by NMFS may transit the Crustaceans Permit Area 1, including the Crustaceans Permit Area 1 VMS Subarea, with lobster traps on board for the purpose of moving to another lobster grounds or returning to port following the closure date, as specified in §660.50, providing the vessel does not stop or fish and is making steady progress to another lobster grounds or back to port as determined by NMFS.

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§ 660.49 At-sea observer coverage.

All fishing vessels subject to this subpart and subpart B of this part must carry an observer when requested to do so by the Regional Director.

§ 660.50 Harvest limitation program.

(a) *General.* A harvest guideline for Permit Area 1 will be set annually for the calendar year and shall:

(1) Apply to the total catch of spiny and slipper lobsters.

(2) Be expressed in terms of numbers of lobsters.

(b) *Harvest guideline.* (1) The Regional Director shall use information from daily lobster catch reports and lobster sales reports from previous years, and may use information from research sampling and other sources, to establish the annual harvest guideline in accordance with the FMP.

(2) NMFS shall publish a document indicating the annual harvest guideline in the FEDERAL REGISTER by February

28 of each year and shall use other means to notify permit holders of the harvest guideline for the year.

(3) The Regional Director shall determine, on the basis of the information reported to NMFS during the open season by the operator of each vessel fishing, when the harvest guideline will be reached. Notice of this determination, with a specification of the closure date after which fishing for lobster or further landings of lobster taken in Permit Area 1 will be prohibited, will be provided to each permit holder and operator of each permitted vessel or announced in the FEDERAL REGISTER. At least 5 days advance notice of the effective date of the prohibition on landings will be given.

(4) Each permit holder and operator of each permitted vessel will be provided the following information, which will also be published in the FEDERAL REGISTER:

(i) Determination of when the harvest guideline will be reached;

(ii) Closure date after which the possession of lobster traps in Crustaceans Permit Area 1 VMS Subarea is prohibited by permitted vessels carrying VMS units;

(iii) Closure date after which the possession of lobster traps in Crustaceans Permit Area 1 is prohibited by permitted vessels without VMS units; and

(iv) Specification when further landings of lobster taken by permitted vessels without VMS units will be prohibited.

(c) *Monitoring and adjustment.* The operator of each vessel fishing during the open season shall report lobster catch (by species) and effort (number of trap hauls) data while at sea to NMFS in Honolulu. The Regional Director shall notify permit holders of the reporting method, schedule, and logistics at least 30 days prior to the opening of the fishing season.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35450, July 1, 1997; 63 FR 20541, Apr. 27, 1998]

EFFECTIVE DATE NOTE: At 63 FR 40379, July 29, 1998, §660.50 was amended by suspending paragraph (b)(4) and by adding paragraphs (b)(5) through (b)(8), effective July 23, 1998, through Dec. 31, 1998. For the convenience of the user, the added text follows: