

Fishery Conservation and Management

§ 660.705

47°22'00" N. lat. 127°41'23" W. long.
46°42'05" N. lat. 128°51'56" W. long.
46°31'47" N. lat. 129°07'39" W. long.

(c) Adjacent waters on the high seas in which persons subject to this subpart may fish.

§ 660.704 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this subpart must display its official 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 official number must be affixed to each vessel subject to this subpart in block Arabic numerals at least 10 inches (25.40 cm) in height for vessels more than 25 ft (7.62 m) but equal to or less than 65 ft (19.81 m) in length; and 18 inches (45.72 cm) in height for vessels longer than 65 ft (19.81 m) in length. Markings must be legible and of a color that contrasts with the background.

§ 660.705 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 HMS in the U.S. EEZ off the Pacific coast without a permit issued under § 660.707 for the use of authorized fishing gear.

(b) Fish with gear in any closed area specified in this subpart that prohibits the use of such gear.

(c) Land HMS at Pacific coast ports without a permit issued under § 600.707 for the use of authorized fishing gear.

(d) Sell HMS without an applicable commercial state fishery license.

(e) When fishing for HMS, fail to return a prohibited species to the sea immediately with a minimum of injury.

(f) Falsify or fail to affix and maintain vessel markings as required by § 660.704.

(g) Fish for HMS in violation of any terms or conditions attached to an exempted fishing permit issued under § 600.745 of this chapter.

(h) When a directed fishery has been closed for a specific species, take and retain, possess, or land that species after the closure date.

(i) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(j) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving HMS, containing all data, and in the exact manner, required by the applicable state law, as specified in § 660.708(b).

(k) Fail to carry aboard a vessel that vessel's permit issued under § 660.707 or exempted fishing permit issued under § 660.718, except if the permit was issued while the vessel was at sea.

(l) Fail to carry a VMS unit as required under § 660.712(d).

(m) 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.

(n) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit.

(o) Fish for, catch, or harvest HMS with longline gear without a VMS unit on board the vessel after installation of the VMS unit by NMFS.

(p) Possess on board a vessel without a VMS unit HMS harvested with longline gear after NMFS has installed the VMS unit on the vessel.

(q) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed west of 150° W. long. and north of the equator (0° lat.) on a vessel registered for use of longline gear in violation of § 660.712(a)(1).

(r) Possess a light stick on board a longline vessel when fishing west of 150° W. long. and north of the equator (0° lat.) in violation of § 660.712(a)(6)

(s) Possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° lat.) in violation of § 660.712(a)(9).

(t) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit.

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(u) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer.

(v) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC.

(w) Fish for HMS with a vessel registered for use of longline gear within closed areas or by use of unapproved gear configurations in violation of § 660.712(a)(2), (a)(3), (a)(7), (a)(8), or (a)(9).

(x) 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 of longline gear and equipped with monofilament main longline, when making deep sets north of 23° N. lat. in violation of § 660.712(c)(1)(i) and (c)(1)(ii).

(y) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use of longline gear north of 23° N. lat. in violation of § 660.712 (c)(1)(iii).

(z) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat., in violation of § 660.712(c)(2) and (c)(3).

(aa) Fail to retain, handle, and discharge fish, fish parts, and spent bait strategically when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat. in violation of § 660.712 (c)(4) through (c)(7).

(bb) 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 § 660.712(c)(8).

(cc) 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 § 660.712(c)(17).

(dd) Own a longline vessel registered for use of longline gear that is engaged in longline fishing for HMS without a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.712(e)(3).

(ee) Fish for HMS on a vessel registered for use of longline gear without

having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.712(e).

(ff) Fail to carry line clippers, dip nets, and wire or bolt cutters on a vessel registered for use as a longline vessel in violation of § 660.712(b).

(gg) Fail to comply with sea turtle handling, resuscitation, and release requirements specified in § 660.712(b)(4) through (7) when operating a vessel.

(hh) Fail to comply with seabird take mitigation or handling techniques required under § 660.712(c)

(ii) Fish for HMS with a vessel registered for use as a longline vessel without being certified by NMFS for completion of an annual protected species workshop as required under § 660.712(e).

(jj) Fail to notify the Regional Administrator at least 24 hours prior to departure on a fishing trip using longline gear as required under § 660.712(f).

(kk) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, direct fishing effort toward the harvest of swordfish or fail to have and use gear in waters west of 150° W. long. in violation of § 660.720.

(ll) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, possess a light stick on board a longline vessel on the high seas of the Pacific Ocean west of 150° W. long. north of the equator in violation of § 660.720 (a)(ii).

(mm) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator in violation of § 660.720 (a)(iii).

(nn) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, fail to employ basket-style longline gear such that the mainline is deployed slack when fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator, in violation of § 660.720 (a)(iv).

(oo) Except when fishing under a western Pacific longline limited entry permit issued under §660.21, when a conventional monofilament longline is deployed by a vessel subject to this section, deploy fewer than 15 branch lines between any two floats, in violation of §660.720 (a)(v). Vessel operators using basket-style longline gear may not set less than 10 branch lines between any 2 floats when fishing in waters west of 150° W. long. north of the equator.

(pp) Except when fishing under a western Pacific longline limited entry permit issued under §660.21, fail to deploy longline gear such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface, in violation of §660.720 (a)(vi).

§ 660.706 Pacific Coast Treaty Indian rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest HMS in their usual and accustomed (u&a) fishing areas in U.S. waters.

(b) Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.

(c) NMFS recognizes the following areas as marine u&a fishing grounds of the four Washington coastal tribes. The Makah u&a grounds were adjudicated in *U.S. v. Washington*, 626 F.Supp. 1405, 1466 (W.D. Wash. 1985), affirmed 730 F.2d 1314 (9th Cir. 1984). The u&a grounds of the Quileute, Hoh, and Quinault tribes have been recognized administratively by NMFS (*See, e.g.*, 64 FR 24087 (May 5, 1999) (u&a grounds for groundfish); 50 CFR 300.64(i) (u&a grounds for halibut)). The u&a grounds recognized by NMFS may be revised as ordered by a Federal court.

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented by the Secretary of Commerce, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations that will apply specifically to the tribal fisheries. An

allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS Northwest Regional Administrator, at least 120 days prior to the time the allocation is desired to be effective, and will be subject to public review through the Council process. The Secretary of Commerce recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary of Commerce will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

(e) *Identification.* A valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, is prima facie evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.

(f) Fishing (on a tribal allocation or under a Federal regulation applicable to tribal fisheries) by a member of a Pacific Coast treaty Indian tribe within that tribe's u&a fishing area is not subject to provisions of the HMS regulations applicable to non-treaty fisheries.

(g) Any member of a Pacific Coast treaty Indian tribe must comply with any applicable Federal and tribal laws and regulations, when participating in a tribal HMS fishery implemented under paragraph (d) of this section.

(h) Fishing by a member of a Pacific Coast treaty Indian tribe outside that tribe's u&a fishing area, or for a species of HMS not covered by a treaty allocation or applicable Federal regulation, is subject to the HMS regulations applicable to non-treaty fisheries.

§ 660.707 Permits.

(a) *General.* This section applies to vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington.

(1) A commercial fishing vessel of the United States must be registered for use under a HMS permit that authorizes the use of specific gear, and a recreational charter vessel must be registered for use under a HMS permit if that vessel is used: