

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

(c) The NMFS recognizes the areas set forth below 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 recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary 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 usual and accustomed 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) above.

(h) Fishing by a member of a Pacific Coast treaty Indian tribe outside that

tribe's usual and accustomed 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 fishing for HMS off, or landing HMS in, the States of California, Oregon, and Washington.

(1) By January 1, 2005, a commercial fishing vessel or a recreational charter vessel of the United States must be registered for use under a HMS permit if that vessel is used:

- (i) To engage in commercial fishing for HMS in the U.S. EEZ off the States of California, Oregon, and Washington;
- (ii) To carry passengers for hire on a trip to engage in recreational fishing; or
- (iii) To land or transship HMS shoreward of the outer boundary of the U.S. EEZ off the States of California, Oregon, and Washington.

(2) The permit must be on board the vessel and available for inspection by an authorized officer, except that if the permit was issued while the vessel was at sea, this requirement applies only to any subsequent trip.

(3) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(4) A permit is valid only for the gear type for which an endorsement has been issued for that permit.

(5) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) an HMS permit with an endorsement for use of gear for commercial fishing.

(b) *Application*. (1) Following publication of the final rule implementing the FMP, NMFS will issue permits to the owners of those vessels on a list of vessels obtained from owners previously applying for a permit under the authority of the High Seas Fishing Compliance Act (HSFCA), the Tuna Conventions Act of 1950, and § 660.21(a) of this part.

(2) All permits issued by NMFS in accordance with paragraph (b)(1) of this section will be issued by [date 60 days following effective date of final rule] and for commercial fishing vessels will authorize the use of specific fishing gear.

(3) Beginning on [date 60 days following effective date of final rule], any vessel owner who has not received an HMS permit but who wishes to have such a permit may apply to the SFD for a permit to fish for HMS off the coasts of California, Oregon, and Washington

by obtaining a Southwest Region Federal Fisheries application form from the SFD and submitting a completed application. A completed application is one that contains all the necessary information and signatures required. A copy of the application may be obtained at <http://swr.nmfs.noaa.gov/permits.htm>.

(4) A minimum of 15 business days should be allowed for SFD to process a permit application. If an incomplete or improperly completed application is filed, the applicant will be sent a notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(5) Permits issued under this subpart will remain valid for 5 years unless revoked or suspended.

(6) SFD will issue replacement permits without charge to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(7) Any permit that has been altered, erased, or mutilated is invalid.

(c) *Display*. A permit issued under this subpart is required to land HMS in any port of California, Oregon and Washington. Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing HMS taken when fishing under the permit. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

(d) *Sanctions*. Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.

#### **§ 660.708 Reporting and recordkeeping.**

(a) *Logbooks*. The operator of any commercial fishing vessel and any recreational charter vessel fishing for HMS in the management area must maintain on board the vessel an accurate and complete record of catch, effort, and other data on logbook report forms provided by the Regional Administrator, or by a state agency that has entered into an agreement with the Regional Administrator. All information specified on the form(s) must be recorded on the forms within 24 hours after the completion of each fishing day. The original logbook form for each day of the fishing trip must be submitted to either the Regional Administrator or the appropriate state management agency within 30 days of each landing or transshipment of HMS. Each form must be signed and dated by the fishing vessel operator.