

Fishery Conservation and Management

§ 660.306

the official number from an enforcement vessel or aircraft.

(c) *Commercial passenger vessels.* This section does not apply to vessels carrying fishing parties on a per-capita basis or by charter.

§ 660.306 Prohibitions.

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

(a) *General.* (1) Sell, offer to sell, or purchase any groundfish taken in the course of recreational groundfish fishing.

(2) Retain any prohibited species (defined in § 660.302 and restricted in § 660.370(e)) caught by means of fishing gear authorized under this subpart, unless authorized by part 600 or part 300 of this chapter. Prohibited species must be returned to the sea as soon as practicable with a minimum of injury when caught and brought on board.

(3) Falsify or fail to affix and maintain vessel and gear markings as required by § 660.305 or §§ 660.382 and 660.383.

(4) Fish for groundfish in violation of any terms or conditions attached to an EFP under § 600.745 of this chapter or § 660.350.

(5) Fish for groundfish using gear not authorized in this subpart or in violation of any terms or conditions attached to an EFP under § 660.350 or part 600 of this chapter.

(6) Take and retain, possess, or land more groundfish than specified under §§ 660.370 through 660.373 or §§ 660.381 through 660.385, or under an EFP issued under § 660.350 or part 600 of this chapter.

(7) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, scientific sorting designation, quota, harvest guideline, or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, scientific sorting designation, quota, harvest guideline, or OY applied.

(8) Possess, deploy, haul, or carry on-board a fishing vessel subject to this subpart a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions in §§ 660.382 and 660.383, un-

less such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78).

(9) When requested or required by an authorized officer, refuse to present fishing gear for inspection, refuse to present fish subject to such persons control for inspections; or interfere with a fishing gear or marine animal or plant life inspection.

(10) Take, retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the primary limited entry, fixed gear sablefish season from a vessel authorized under § 660.372(a) to participate in that season, as described at § 660.372(b).

(11) Take and retain, possess, or land groundfish in excess of the landing limit for the open access fishery without having a valid limited entry permit for the vessel affixed with a gear endorsement for the gear used to catch the fish.

(12) Transfer fish to another vessel at sea unless a vessel is participating in the primary whiting fishery as part of the mothership or catcher-processor sectors, as described at § 660.373(a).

(13) Fish with dredge gear (defined in § 660.302) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395.

(14) Fish with beam trawl gear (defined in § 660.302) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395.

(b) *Reporting and recordkeeping.* (1) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, containing all data, and in the exact manner, required by the applicable State law, as specified in § 660.303, provided that person is required to do so by the applicable state law.

(2) Fail to retain on board a vessel from which groundfish is landed, and provide to an authorized officer upon

request, copies of any and all reports of groundfish landings, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(3) Fail to retain on board a vessel from which sablefish caught in the primary sablefish season is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings against the sablefish endorsed permit's tier limit, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the primary sablefish season during which such landings occurred and for 15 days thereafter.

(c) *Limited entry fisheries.* (1) Fish with groundfish trawl gear, or carry groundfish trawl gear on board a vessel that also has groundfish on board, unless the vessel is registered for use with a valid limited entry permit with a trawl gear endorsement, with the following exception.

(i) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California; or

(ii) The vessel is a mothership, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(2) Carry on board a vessel, or deploy, limited entry gear when the limited entry fishery for that gear is closed, except that a vessel may carry on board limited entry groundfish trawl gear as provided in paragraph (c)(1) of this section.

(d) *Black rockfish fisheries.* Have on-board a commercial hook-and-line fishing vessel (other than a vessel operated by persons under § 660.370(c)(1)(ii), more than the amount of the trip limit set for black rockfish by § 660.371 while that vessel is fishing between the U.S.-Canada border and Cape Alava (48°09'30" N. lat.), or between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (46°38'10" N. lat.).

(e) *Fixed gear sablefish fisheries.* (1) Take, retain, possess or land sablefish

under the cumulative limits provided for the primary limited entry, fixed gear sablefish season, described in § 660.372(b), from a vessel that is not registered to a limited entry permit with a sablefish endorsement.

(2) Beginning January 1, 2007, take, retain, possess or land sablefish in the primary sablefish season described at § 660.372(b) unless the owner of the limited entry permit registered for use with that vessel and authorizing the vessel to participate in the primary sablefish season is on board that vessel. Exceptions to this prohibition are provided at § 660.372(b)(4)(i) and (ii).

(3) Beginning January 1, 2007, process sablefish taken at-sea in the limited entry primary sablefish fishery defined at § 660.372(b), from a vessel that does not have a sablefish at-sea processing exemption, defined at § 660.334(e).

(f) *Pacific whiting fisheries.* (1) Process whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless:

(i) The fish are received from a member of a Pacific Coast treaty Indian tribe fishing under §§ 660.324 or 660.385;

(ii) The fish are processed by a waste-processing vessel according to § 660.373(i); or

(iii) The vessel is completing processing of whiting taken on board during that vessel's primary season.

(2) During times or in areas where at-sea processing is prohibited, take and retain or receive whiting, except as cargo or fish waste, on a vessel in the fishery management area that already has processed whiting on board. An exception to this prohibition is provided if the fish are received within the tribal U&A from a member of a Pacific Coast treaty Indian tribe fishing under §§ 660.324 or 660.385.

(3) Participate in the mothership or shore-based sector as a catcher vessel that does not process fish, if that vessel operates in the same calendar year as a catcher/processor in the whiting fishery, according to § 660.373(h)(2).

(4) Operate as a waste-processing vessel within 48 hours of a primary season for whiting in which that vessel operates as a catcher/processor or mothership, according to § 660.373(i).

(5) Fail to keep the trawl doors on board the vessel and attached to the trawls on a vessel used to fish for whiting, when taking and retention is prohibited under § 660.373(f).

(6) Fish for or land whiting, or process whiting at sea, while participating in a specific sector (as defined at § 660.373(a)), from May 14, 2007 and through November 13, 2007 with a vessel that has no history of participation within that specific sector of the whiting fishery in the period after December 31, 1996, and prior to January 1, 2007, as specified in § 660.373(j).

(g) *Limited entry permits.* (1) If a limited entry permit is registered for use with a vessel, fail to carry that permit onboard the vessel registered for use with the permit. A photocopy of the permit may not substitute for the original permit itself.

(2) Make a false statement on an application for issuance, renewal, transfer, vessel registration, replacement of a limited entry permit, or a declaration of ownership interest in a limited entry permit.

(h) *Fishing in conservation areas.* (1) Fish in a conservation area with: any trawl gear, including non-trawl gear used to take pink shrimp, ridgeback prawns, and south of Pt. Arena, CA, California halibut and sea cucumber; with trawl gear from a tribal vessel; or with any gear from a vessel registered to a groundfish limited entry permit. An exception to this prohibition is provided if the vessel owner or operator has a valid declaration confirmation code or receipt for fishing in a conservation area, as specified at § 660.303(d)(5).

(2) Operate any vessel registered to a limited entry permit with a trawl endorsement and trawl gear on board in any Trawl Rockfish Conservation Area, Cowcod Conservation Area, or Essential Fish Habitat Conservation Area. Exceptions to this prohibition are provided if: the vessel is in continuous transit, with all groundfish trawl gear stowed in accordance with § 660.381(d)(4), or if the vessel operation is otherwise authorized in the groundfish management measures published at § 660.381(d)(4).

(3) Operate any vessel registered to a limited entry permit with a longline or

trap (pot) endorsement and longline and/or trap gear onboard in a Nontrawl Rockfish Conservation Area or a Cowcod Conservation Area (as defined at § 660.302), except for purposes of continuous transiting, or except as authorized in the annual or biennial groundfish management measures published in the FEDERAL REGISTER.

(4) Fish with bottom trawl gear (defined in § 660.302) anywhere within EFH within the EEZ seaward of a line approximating the 700-fm (1280-m) depth contour, as defined in § 660.396. For the purposes of regulation, EFH seaward of 700-fm (1280-m) within the EEZ is described at 660.395.

(5) Fish with bottom trawl gear (defined in § 660.302) with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395.

(6) Fish with bottom trawl gear (defined in § 660.302) with a footrope diameter greater than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ shoreward of a line approximating the 100-fm (183-m) depth contour (defined in § 660.393).

(7) Fish with bottom trawl gear (as defined in § 660.302), within the EEZ in the following areas (defined in § 660.397 and § 660.398): Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(8) Fish with bottom trawl gear (as defined in § 660.302), other than demersal seine, unless otherwise specified in this section or section 660.381, within the EEZ in the following areas (defined in § 660.399): Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port

§ 660.306

50 CFR Ch. VI (10–1–07 Edition)

San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(9) Fish with bottom contact gear (as defined in § 660.302) within the EEZ in the following areas (defined in § 660.398 and § 660.399): Thompson Seamount, President Jackson Seamount, Cordell Bank (50-fm (91-m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara.

(10) Fish with bottom contact gear (as defined in § 660.302), or any other gear that is deployed deeper than 500-fm (914-m), within the Davidson Seamount area (defined in § 660.395).

(i) *Groundfish observer program.* (1) Forcibly assault, resist, oppose, impede, intimidate, harass, sexually harass, bribe, or interfere with an observer.

(2) Interfere with or bias the sampling procedure employed by an observer, including either mechanically or physically sorting or discarding catch before sampling.

(3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(4) Harass an observer by conduct that:

(i) Has sexual connotations,

(ii) Has the purpose or effect of interfering with the observer's work performance, and/or

(iii) Otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(5) Fish for, land, or process fish without observer coverage when a vessel is required to carry an observer under § 660.314(c).

(6) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

(7) Fail to provide departure or cease fishing reports specified at § 660.312(c)(2).

(8) Fail to meet the vessel responsibilities specified at § 660.312(d).

(j) *Vessel monitoring systems.* (1) Use any vessel registered to a limited entry permit to operate in State or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California, unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with the requirements described at § 660.312.

(2) Fail to install, activate, repair or replace a mobile transceiver unit prior to leaving port as specified at § 660.312.

(3) Fail to operate and maintain a mobile transceiver unit on board the vessel at all times as specified at § 660.312.

(4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel as specified at § 660.312.

(5) Fail to contact NMFS OLE or follow NMFS OLE instructions when automatic position reporting has been interrupted as specified at § 660.312.

(6) Register a VMS transceiver unit registered to more than one vessel at the same time.

[69 FR 42348, July 15, 2004, as amended at 69 FR 77029, Dec. 23, 2004; 70 FR 16148, Mar. 30, 2005; 71 FR 10620, Mar. 2, 2006; 71 FR 27415, May 11, 2006; 71 FR 66139, Nov. 13, 2006; 71 FR 78653, Dec. 29, 2006]

EFFECTIVE DATE NOTE: At 72 FR 27764, May 17, 2007, § 660.306 was amended by adding paragraph (f)(6), effective May 14, 2007, through November 13, 2007.

Fishery Conservation and Management

§ 660.312

EFFECTIVE DATE NOTE: At 72 FR 50910, Sept. 5, 2007, §660.306 was amended by redesignating paragraph (f)(6) as (f)(7), and paragraph(b)(4) and a new (f)(6) were added, effective Oct. 5, 2007. For the convenience of the user, the added text is set forth as follows:

§ 660.306 Prohibitions.

* * * * *

(b) * * *

(4) Fail to comply with all requirements at §660.303 (d); including failure to submit information, submission of inaccurate information, or intentionally submitting false information on any report required at §660.303 (d) when participating in the Pacific whiting shoreside fishery.

* * * * *

(f) * * *

(6) *Pacific whiting shoreside first receivers.*

(i) [Reserved]

(ii) Fail to sort fish received from a Pacific whiting shoreside vessel prior to first weighing after offloading as specified at §660.370 (h)(6)(iii) for the Pacific whiting fishery.

(iii) Process, sell, or discard any groundfish received from a Pacific whiting shoreside vessel that has not been weighed on a scale that is in compliance with requirements at §660.373 (j)(1)(i) and accounted for on an electronic fish ticket with the identification number for the Pacific whiting shoreside vessel that delivered the fish.

(iv) Fail to weigh fish landed from a Pacific whiting shoreside vessel prior to transporting any fish from that landing away from the point of landing.

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§ 660.312 Vessel Monitoring System (VMS) requirements.

(a) *What is a VMS?* A VMS consists of a NMFS OLE type-approved mobile transceiver unit that automatically determines the vessel's position and transmits it to a NMFS OLE type-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS OLE.

(b) *Who is required to have VMS?* A vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes in state or Federal water seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California is required to install a NMFS OLE type-approved mobile transceiver

unit and to arrange for an NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE, prior to fishing.

(c) *How are mobile transceiver units and communications service providers approved by NMFS OLE?* (1) NMFS OLE will publish type-approval specifications for VMS components in the FEDERAL REGISTER or notify the public through other appropriate media.

(2) Mobile transceiver unit manufacturers or communication service providers will submit products or services to NMFS OLE for evaluation based on the published specifications.

(3) NMFS OLE may publish a list of NMFS OLE type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the FEDERAL REGISTER or notify the public through other appropriate media. As necessary, NMFS OLE may publish amendments to the list of type-approved mobile transceiver units and communication service providers in the FEDERAL REGISTER or through other appropriate media. A list of VMS transceivers that have been type-approved by NMFS OLE may be mailed to the permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS, as required at 660.335(a)(2).

(d) *What are the vessel owner's responsibilities?* If you are a vessel owner that must participate in the VMS program, you or the vessel operator must:

(1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may get a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115-6349, phone: (206) 526-6133.

(2) Activate the mobile transceiver unit, submit an activation report, and receive confirmation from NMFS OLE that the VMS transmissions are being