

## Int'l. Fishing and Related Activities

## § 300.63

photocopying, and to gather any other information relating to fisheries in the Licensing Area without interfering unduly with the lawful operation of the vessel.

### Subpart E—Pacific Halibut Fisheries

AUTHORITY: 16 U.S.C. 773–773k.

#### § 300.60 Purpose and scope.

This subpart implements the North Pacific Halibut Act of 1982 (Act) and is intended to supplement, not conflict with, the annual fishery management measures adopted by the International Pacific Halibut Commission (Commission) under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention).

#### § 300.61 Definitions.

In addition to the terms defined in § 300.2 and those in the Act and the Convention, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Convention, the definition in this section shall apply.

*Area 2A* includes all waters off the States of California, Oregon, and Washington.

*Commercial fishing* means fishing, the resulting catch of which either is, or is intended to be, sold or bartered.

*Person* includes an individual, corporation, firm, or association.

*Subarea 2A-1* includes all U.S. waters off the coast of Washington that are north of 46°53'18" N. lat. and east of 125°44'00" W. long., and all inland marine waters of Washington.

*Treaty Indian tribes* means the Hoh, Jamestown S'Klallam, Lower Elwha S'Klallam, Lummi, Makah, Port Gamble S'Klallam, Quileute, Quinault, Skokomish, Suquamish, Swinomish, and Tulalip tribes.

#### § 300.62 Annual management measures.

Annual management measures may be added and modified through adoption by the Commission and publication in the FEDERAL REGISTER by the Assistant Administrator, with imme-

diately regulatory effect. Such measures may include, *inter alia*, provisions governing: Licensing of vessels, inseason actions, regulatory areas, fishing periods, closed periods, closed areas, catch limits (quotas), fishing period limits, size limits, careful release of halibut, vessel clearances, logs, receipt and possession of halibut, fishing gear, retention of tagged halibut, supervision of unloading and weighing, and sport fishing for halibut. The Assistant Administrator will publish the Commission's regulations setting forth annual management measures in the FEDERAL REGISTER by March 15 each year. Annual management measures may be adjusted inseason by the Commission.

#### § 300.63 Catch sharing plans and domestic management measures.

Catch sharing plans (CSP) may be developed by the appropriate regional fishery management council, and approved by NMFS, for portions of the fishery. Any approved catch sharing plan may be obtained from the Director, Northwest Region, or the Director, Alaska Region.

(a) The catch sharing plan for area 2A provides a framework that shall be applied to the annual Area 2A total allowable catch (TAC) adopted by the Commission, and shall be implemented through domestic and Commission regulations, which will be published in the FEDERAL REGISTER each year before March 15. The Area 2A CSP allocates halibut among the treaty Indian fishery, segments of the non-Indian commercial fishery, and segments of the recreational fishery.

(1) Each year, before January 1, NMFS will publish a proposal to govern the recreational fishery under the CSP for the following year and will seek public comment. The comment period will extend until after the Commission's annual meeting, so the public will have the opportunity to consider the final area 2A total allowable catch (TAC) before submitting comments. After the Commission's annual meeting and review of public comments, NMFS will publish in the FEDERAL REGISTER the final rule governing sport fishing in area 2A. Annual management measures may be adjusted inseason by NMFS.

§ 300.64

50 CFR Ch. III (10-1-98 Edition)

(2) A portion of the commercial TAC is allocated as incidental catch in the salmon troll fishery in Area 2A. Each year the landing restrictions necessary to keep the fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the FEDERAL REGISTER along with the annual salmon management measures.

(3) The commercial longline fishery in area 2A is governed by the annual management measures published pursuant to §§ 300.62 and 300.63.

(4) The treaty Indian fishery is governed by § 300.64 and tribal regulations. The annual quota for the fishery will be announced with the Commission regulations under § 300.62.

(b) The catch sharing plan for area 4 allocates the annual TAC among Areas 4C, 4D, and 4E, and will be implemented by the Commission in annual management measures published pursuant to § 300.62.

(c) (Applicable through December 31, 1999). A person may retain halibut taken with setline gear in Area 4E that are smaller than the size limit specified in the annual management measures published pursuant to § 300.62, provided that no person may sell or barter such halibut.

[61 FR 35550, July 5, 1996, as amended at 63 FR 13009, Mar. 17, 1998; 63 FR 24752, May 5, 1998]

**§ 300.64 Fishing by U.S. treaty Indian tribes.**

(a) Halibut fishing in subarea 2A-1 by members of U.S. treaty Indian tribes located in the State of Washington is governed by this section.

(b) Commercial fishing for halibut by treaty Indians is permitted only in subarea 2A-1 with hook-and-line gear in conformance with the season and quota established annually by the Commission.

(c) Commercial fishing periods and management measures to implement paragraph (b) of this section will be established by treaty Indian tribal regulations.

(d) Commercial fishing for halibut by treaty Indians shall comply with the Commission's management measures governing size limits, careful release of halibut, logs, and fishing gear (published pursuant to § 300.62), except that the 72-hour fishing restriction preceding the opening of a halibut fishing period shall not apply to treaty Indian fishing.

(e) Ceremonial and subsistence fishing for halibut by treaty Indians in subarea 2A-1 is permitted with hook-and-line gear from January 1 to December 31.

(f) No size or bag limits shall apply to the ceremonial and subsistence fishery, except that when commercial halibut fishing is prohibited pursuant to paragraph (b) of this section, treaty Indians may take and retain not more than two halibut per person per day.

(g) Halibut taken for ceremonial and subsistence purposes shall not be offered for sale or sold.

(h) Any member of a U.S. treaty Indian tribe who is engaged in commercial or ceremonial and subsistence fishing under this section must have on his or her person a valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, and must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in *United States v. Washington* 384 F. Supp. 312 (W.D. Wash., 1974).

(i) The following table sets forth the fishing areas of each of the 12 treaty Indian tribes fishing pursuant to this section. Within subarea 2A-1, boundaries of a tribe's fishing area may be revised as ordered by a Federal Court.

Tribe	Boundaries
HOH .....	Between 47°54'18" N. lat. (Quillayute River) and 47°21'00" N. lat. (Quinault River), and east of 125°44'00" W. long.
JAMESTOWN S'KLALLAM .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown S'Klallam Tribe may fish under rights secured by treaties with the United States.