

on April 8, 2008 is hereby incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect or obtain a copy at the Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA, or by calling the Docket Facility at (415) 947-4406, or go to <http://www.regulations.gov>, Docket ID No. EPA-R09-RCRA-2008-0354. You may also inspect a copy at the National Archives and Records Administration (NARA). For information on the availability at NARA, call (202) 741-6030 or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). The facility owner and/or operator may operate the facility in accordance with this application, including the following activities more generally described as follows:

(1) The owner and/or operator may install a geosynthetic clay liner as an alternative bottom liner system in Phase VI.

(2) The owner and/or operator may operate Phase VI as a bioreactor by recirculating leachate and landfill gas condensate, and by adding storm water and groundwater, to the below grade portions of Phase VI.

(3) The owner and/or operator may increase the moisture content of the waste mass in Phases IIIB and IVA by recirculating leachate and landfill gas condensate, and by adding storm water and groundwater, to the below grade portions of Phases IIIB and IVA.

(4) The owner and/or operator shall maintain less than a 30-cm depth of leachate on the liner.

(5) The owner and/or operator shall submit reports to the Director of the Waste Management Division at EPA Region 9 as specified in "Research, Development, and Demonstration Permit Application Salt River Landfill," dated September 24, 2007 and amended on April 8, 2008 including an annual report showing whether and to what extent the site is progressing in attaining project goals. The annual report will also include a summary of all monitoring and testing results, as specified in the application.

(6) The owner and/or operator may not operate the facility pursuant to the authority granted by this section if there is any deviation from the terms, conditions, and requirements of this section unless the operation of the facility will continue to conform to the standards set forth in § 258.4 of this chapter and the owner and/or operator has obtained the prior written approval of the Director of the Waste

Management Division at EPA Region 9 or his or her designee to implement corrective measures or otherwise operate the facility subject to such deviation. The Director of the Waste Management Division or designee shall provide an opportunity for the public to comment on any significant deviation prior to providing his or her written approval of the deviation.

(7) Paragraphs (a)(2), (3), (5), (6) and (9) of this section will terminate 36 months after date of publication in the **Federal Register** unless the Director of the Waste Management Division at EPA Region 9 or his or her designee renews this authority in writing. Any such renewal may extend the authority granted under paragraphs (a)(2), (3), (5), (6) and (9) of this section for up to an additional three years, and multiple renewals (up to a total of 12 years) may be provided. The Director of the Waste Management Division or designee shall provide an opportunity for the public to comment on any renewal request prior to providing his or her written approval or disapproval of such request.

(8) In no event will the provisions of paragraphs (a)(2), (3), (5), (6) or (9) of this section remain in effect after 12 years after date of publication in the **Federal Register**. Upon termination of paragraphs (a)(2), (3), (5), (6) and (9) of this section, and except with respect to paragraphs (a)(1) and (4) of this section, the owner and/or operator shall return to compliance with the regulatory requirements which would have been in effect absent the flexibility provided through this site-specific rule.

(9) In seeking any renewal of the authority granted under or other requirements of paragraphs (a)(2), (3), (5) and (6) of this section, the owner and/or operator shall provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements that the Director of the Waste Management Division at EPA Region 9 or his or her designee has determined are necessary for the approval of any renewal and has communicated in writing to the owner and operator.

(10) The owner and/or operator's authority to operate the landfill in accordance with paragraphs (a)(2), (3), (5), (6) and (9) of this section shall terminate if the Director of the Waste Management Division at EPA Region 9 or his or her designee determines that the overall goals of the project are not being attained, including protection of human health or the environment. Any such determination shall be

communicated in writing to the owner and operator.

(b) [Reserved]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 0812311655-9277-02]

RIN 0648-AX44

#### Pacific Halibut Fisheries; Catch Sharing Plan

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. The AA also announces modifications to the Catch Sharing Plan (CSP) for Area 2A (waters off the U.S. West Coast) and implementing regulations for 2009, and announces approval of the Area 2A CSP. These actions are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC) (Councils).

**DATES:** The IPHC's 2009 annual management measure are effective March 4, 2009 except for the measures in section 26 which are effective April 20, 2009. The 2009 management measures are effective until superseded by the 2010 management measures that will be published in the **Federal Register**.

The amendments to §§ 300.61 and 300.64 are effective April 20, 2009.

**ADDRESSES:** Additional requests for information regarding this action may be obtained by contacting: the International Pacific Halibut Commission, P.O. Box 95009, Seattle, WA 98145-2009; or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; or Sustainable Fisheries Division, NMFS Northwest Region, 7600

Sand Point Way, NE, Seattle, WA 98115. This final rule also is accessible via the Internet at the Government Printing Office's website at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For waters off Alaska, Peggy Murphy, 907-586-8743, e-mail at [peggy.murphy@noaa.gov](mailto:peggy.murphy@noaa.gov); or, for waters off the U.S. West Coast, Sarah Williams, 206-526-4646, email at [sarah.williams@noaa.gov](mailto:sarah.williams@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The IPHC has promulgated regulations governing the Pacific halibut fishery in 2009 under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979). The IPHC regulations have been accepted by the Secretary of State of the United States as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773-773k.

The Halibut Act provides the Secretary with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. The Regional Fishery Management Councils may develop and the Secretary may implement regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with approved IPHC regulations. The NPFMC has exercised this authority most notably in developing a suite of halibut management programs that correspond to the three fisheries that harvest halibut in Alaska - the subsistence, commercial, and sport fisheries. Subsistence and sport halibut fishery management measures are codified at 50 CFR 300.65. Commercial halibut fisheries operate within the Individual Fishing Quota (IFQ) Program and Community Development Quota (CDQ) Program (50 CFR part 679) and through area-specific catch sharing plans. Regulations for sport fisheries for halibut including a CSP also are being developed pursuant to the NPFMC authority under the Halibut Act. The PFMC also exercises this authority in its annual development of a CSP among sectors of the halibut fisheries in IPHC Area 2A. This CSP encompasses fisheries in Washington, Oregon, and California and applies to groups within treaty Indian, non-Indian commercial and non-Indian sport

fisheries. A group may include tribal commercial and tribal ceremonial and subsistence fisheries.

The structure of each Council's CSP affects how each plan is promulgated. The Secretary implemented the Area 2A CSP recommended by the PFMC in 1995. Each year between 1995 and the present, the PFMC has adopted minor revisions to the plan to account for needs of the fisheries. These revisions are implemented in regulations for the Area 2A CSP through annual rule making and annual IPHC review and recommendation of management measures for Secretarial review. The Area 2A CSP regulations are part of the IPHC annual management measures and are superseded each year by new implementing regulations.

The NPFMC implemented a CSP among commercial IFQ and CDQ halibut fisheries in IPHC Areas 4C, 4D and 4E (Area 4) through rule making and the Secretary approved the plan on March 20, 1996 (61 FR 11337). The Area 4 CSP regulations were codified in the Code of Federal Regulations (50 CFR 300.65) and amended through rule making on March 17, 1998 (63 FR 13000). New annual regulations pertaining to the Area 4 CSP also may be implemented through IPHC review and recommendation for Secretarial review.

Publication of this final rule announces that the U.S. government has accepted the annual management measures recommended by the IPHC, implements regulations supporting annual management measures recommended by IPHC, and implements the Area 2A CSP. The proposed rule for the Area 2A CSP was published on January 14, 2009 (74 FR 2032).

The NPFMC is developing a regulatory program to manage the guided sport fishery for halibut in Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). Work on this program has focused on a proposed rule for a limited access system for vessels in the guided sport fishery for halibut. The NPFMC also recommended regulations for a CSP to apportion halibut between the commercial and guided sport fisheries and to provide for lease of commercial halibut IFQ to charter vessel operators. A final rule is being prepared for the Area 2C guided sport fishery for halibut to impose a daily bag limit of one halibut for each charter vessel angler, prevent charter vessel guides, operators and crew from harvesting halibut, and restrict the number of lines used to fish for halibut on a charter vessel and add certain recordkeeping and reporting requirements. This action is being taken because a similar rule

NMFS published May 28, 2008 (73 FR 30504) was withdrawn on September 11, 2008 (73 FR 52795). NMFS proposed a separate rule making on December 22, 2008 to implement this action (73 FR 78276) in Area 2C. The proposed rule would reduce sport fishing mortality of halibut in the Area 2C charter vessel fishery giving effect to the NPFMC's intent to keep the harvest of charter vessel anglers close to the Council's Guideline Harvest Level (GHL). NMFS provides annual notice of the GHL for Areas 2C and 3A to meet regulatory requirements and inform the public. Notice was published this year on February 24, 2009 (74 FR 8232).

Pursuant to regulations at 50 CFR 300.62, the approved IPHC regulations setting forth the 2009 IPHC annual management measures are published in the **Federal Register** to provide notice of their immediate regulatory effect, and to inform persons subject to the regulations of the restrictions and requirements. The 2009 management measures became effective on March 4, 2009 and will stay in effect until superseded by the 2010 management measures, which NMFS will publish in the **Federal Register**. As noted, NMFS anticipates implementing more restrictive regulations for the Area 2C guided sport fishery for halibut and participants in that fishery are advised to check the current federal regulations and check with IPHC prior to fishing.

The IPHC held its annual meeting in Vancouver, British Columbia, January 12-16, 2009, and adopted regulations for 2009. The substantive changes to the previous IPHC regulations (73 FR 12280, March 7, 2008) include:

1. New halibut catch limits in all regulatory areas;
2. New commercial halibut fishery opening dates;
3. Revisions of regulations regarding possession of Area 4 halibut on a vessel with a Vessel Monitoring System (VMS);
4. Exemption of possession limits for transport of sport caught halibut and clarification of possession limit language.
5. Revision of regulations in paragraph 19, governing fishing 72-hours prior to any commercial opening in Area 2A to clarify the regulations intent; and
6. Adopt the revised CSP and 2009 recreational management measures for Area 2A.

Other changes to the IPHC regulations include: clarifying the interpretation of commercial fishing in paragraph 3 as fishing with the intent to sell or barter the catch and adding sport fishing to the list of activities that do not constitute "commercial fishing"; adding the word

commercial to references for the directed fishery to clarify the regulations in paragraphs 8 and 19; and adding the word “pieces” to reference side specific parts of a cut up halibut in paragraph 28.

#### **Catch Limits**

The IPHC recommended to the governments of Canada and the United States catch limits for 2009 totaling 54,080,000 pounds (24,530 mt), a 10.4 percent reduction from the 2008 catch limit. The decline in the catch limit is attributed to the exceptionally strong 1987 and 1988 year classes passing out of the fishery. Recruitment of the 1994 and 1995 year classes is above average and the 1999 and 2000 year classes are estimated to be above average but several years away from making major contributions to the exploitable biomass of the stock.

The IPHC staff reported on the 2008 assessment of the Pacific halibut stock that estimated coastwide biomass, with apportionment to regulatory biomass, based on the data from the annual Commission assessment survey. The total of the IPHC staff catch limit recommendations was accepted, but there were differences from staff recommendations and the limits adopted by IPHC for most areas.

The IPHC recommended a 20 percent harvest rate for Areas 2A through Area 3B and a harvest rate of 15 percent for Areas 4B and 4CDE. Because of concerns over continued decline in catch rates in Area 4A, an analysis of productivity was conducted for this area during 2008. The analysis recommended a reduction of the harvest rate to 15 percent for Area 4A, similar to that for the other areas of the Bering Seas (Areas 4B and 4CDE). Catch limits adopted by the IPHC for 2009 were lower for most regulatory areas except: Area 3B where IPHC with advice from its advisory bodies, recommended a catch limit the same as that in 2008; and Area 4B where the recommended catch limit increased slightly in 2009.

#### **Commercial Halibut Fishery Opening Dates**

The opening date for the tribal commercial fishery in Area 2A and for the commercial halibut fisheries in Areas 2B through 4E is March 21, 2009. The date takes into account a number of factors including, tides, timing of halibut migration and spawning, marketing for seasonal holidays, and interest in getting product in to the processing plants before the herring season opens. The close of the commercial halibut fishery is November 15, 2009.

In the Area 2A directed fishery, each fishing period shall begin at 0800 hours and terminate at 1800 hours local time on June 24, July 8, July 22, August 5, August 19, September 2, September 16 and September 30, unless the Commission specifies otherwise. These 10-hour openings will occur until the quota is taken and the fishery is closed.

#### **Harvest in Multiple Areas of Area 4**

New provisions for Fishing Multiple Regulatory Areas, paragraph 18, subparagraph (3)(a) and (b) allow possession of halibut on board a vessel that have been caught in more than one of the IPHC regulatory Areas 4A, 4B, 4C, or 4D when a NMFS certified observer is on board; or when the operator of the vessel has an operational VMS on board actively transmitting in all regulatory areas fished and the operator abides by specific halibut retention provisions.

The regulation also clarifies the specific provisions for retaining halibut from multiple Areas in Area 4. The word “cumulatively” was added to describe the amount of IFQ available for fishing in a single Area in Area 4 from the IFQ permit holders on board the vessel. The method for separating each halibut caught in one regulatory area from each halibut caught in a different regulatory area also was updated to indicate halibut could be separated in more than one hold.

#### **Halibut Transport**

The regulation of sport halibut possession limits in Alaska in paragraph 28(2) is revised to better accommodate flexibility needed by anglers to keep lawfully harvested fish while not undermining NMFS’s ability to monitor compliance with IPHC daily bag limits. To enforce the daily bag limit, the number of halibut in a person’s possession must not exceed two daily bag limits. This possession limit created a problem for anglers who fish from remote lodges or camps for three or more days and who use vessels to transport their total halibut harvest to a central port. To accommodate vessels used for such transportation, the revision of paragraph 28 (2) exempts persons from the possession limit if the vessel they are using does not contain sport fishing gear, fishing rods, hand lines, or gaffs. The restriction on gear is necessary to distinguish a vessel fishing for halibut from a vessel transporting halibut because both vessels would be considered a “fishing vessel” as that term is defined in the Halibut Act at section 773(f). Further, revising the term “fishing vessel” in paragraph 28(2) to read more simply “vessel” will allow

more precise enforcement of the possession limit.

#### **Area 2A Pre-fishing Period Requirements**

The change would add a requirement that vessels and skippers fishing before the 72-hours immediately prior to the opening would have to offload their catch or be subject to a hold inspection before taking part in the halibut fishery. Without this change, persons or vessels using setline gear to fish for any species of fish during the 72-hour period immediately before the halibut fishing period could not participate in the halibut fishery at all. The change would allow enforcement officers to determine whether the person or vessel in question commenced halibut fishing prior to the opening of the fishery, and allows for more flexibility with respect to participation in both non-halibut and halibut fisheries.

#### **Change to Federal Regulations**

Addition of the Nooksack Tribe and their fishing areas to the definition of “Treaty Indian tribes” at § 300.61.

To recognize the treaty rights of the Nooksack tribe, the definition of treaty Indian tribes will now include this tribe, in addition their fishing area will be added to the tribal fishing areas listed at § 300.64.

#### **Catch Sharing Plan (CSP) and 2009 Recreational Management Measures for Area 2A**

For 2009 and beyond, PFMC recommended changes to the Federal Regulations and the CSP to modify the Pacific halibut fisheries in Area 2A to:

1. Remove the provision that divides the Washington North Coast subarea quota between May and June;
2. Change the Washington North Coast subarea to a 2-day per week fishery, Thursday and Saturday, from a 3-day per week fishery;
3. Change the June re-opening date in the Washington North Coast subarea to the first Thursday in June, from the status-quo of the first Tuesday and Thursday after June 16;
4. Clarify that the nearshore set-aside in the Washington South Coast subarea is 10 percent of the subquota, or 2,000 pounds, whichever is less, rather than a straight 10 percent of the subquota;
5. Set the Washington South Coast subarea to open the first Sunday in May and continue to be open on Sundays and Tuesdays in May, except that beginning on the third week in May the fishery would be open on Sunday only until the quota for the primary season is reached. Under status-quo the fishery was open 2 days a week until the quota was achieved;
6. Set the nearshore fishery in

the Washington South Coast subarea as a 4-day per week fishery, open Thursday, Friday, Saturday and Sunday, during and after the primary season. Under status-quo the nearshore fishery was open only after the primary fishery was closed, leaving a large amount of unfished quota, in 2008 only 158 pounds out of the 4,460 pound quota was caught; 7. Specify that in addition to the South Coast YRCA, recreational fishing for groundfish and halibut will be prohibited in the newly created Westport Offshore YRCA; 8. Change the Columbia River subarea spring fishery to a 3-day per week fishery, open Thursday, Friday and Saturday, until 70 percent of the subarea allocation is taken or until the third Sunday in July, whichever is earlier. Under status-quo this was a 7-day per week fishery; 9. Specify that in the Oregon Central Coast subarea Pacific cod may be retained with a halibut on the vessel during the all-depth openings. Under status-quo Pacific cod retention was not allowed. The change is intended to make retention consistent in the areas north and south of Cape Falcon and Pacific cod are rarely encountered south of Cape Falcon; 10. Add the Nooksack tribe to the definition of "Treaty Indian tribes" in the federal regulations; 11. Add the Nooksack tribal fishing area boundaries to the federal regulations. NMFS published a proposed rule to implement the PFMC's recommended changes to the Federal Regulations and the CSP, and to implement the 2009 Area 2A sport fishing season regulations on January 14, 2009 (74 FR 2032).

This final rule implements the Annual Management Measures for the 2009 Pacific Halibut Fisheries and changes to the Area 2A Catch Sharing Plan and Federal Regulations, and Approves the Catch Sharing Plan for Area 2A. The halibut management measures for 2009 became effective March 4, 2009 and stay in effect until superseded by the 2010 halibut management measures, which will be published in the **Federal Register**.

#### Comments and Responses

NMFS accepted comments through February 1, 2009, on the proposed rule to implement the 2009 Area 2A CSP and received one letter of comment apiece from Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW).

*Comment 1:* The WDFW held a public meeting on February 2, 2009, to review the results of the 2008 Puget Sound halibut fishery, and to develop season dates for the 2009 sport halibut fishery. Based on the 2009 Area 2A total

allowable catch of 950,000 pounds (430.9 mt,) the halibut quota for the Puget Sound sport fishery is 57,393 lb (26.03 mt.) Applying WDFW's Fishing Equivalent Day (FED) method for estimating the Puget Sound fishery's season length, and applying the highest catch per FED in the past five years, there are 52 FEDs available in 2009. WDFW recommends that the regions within the Puget Sound sport halibut fishery will be open 5 days a week (Thursday through Monday) as follows: Eastern Region to be open April 23 through June 5, 2009; and Western Region to be open May 21 through July 3, 2009.

*Response:* NMFS agrees with WDFW's recommended Puget Sound season dates and has implemented them via this final rule.

*Comment 2:* ODFW held a public meeting on January 22, 2009, to gather comments on the open dates for the recreational all-depth fishery in Oregon's Central Coast sub-area. Since 2004, the number of open fishing days that could be accommodated in the Spring fishery has been roughly constant. The catch limit for this sub-area's Spring season will be 124,261 lb (56.3 mt) in 2009, based on the IPHC's 2009 TAC for Area 2A. Given the relatively constant effort pattern in recent years, and the reduced quota level in 2009 from more similar levels in 2008 and 2007, ODFW recommends setting a Central Coast all-depth fishery of 12 days, with 11 additional back-up dates, in case the sub-area's Spring quota is not taken in the initial 12 days. ODFW recommends the following days for the Spring fishery, within this sub-area's parameters for a Thursday-Saturday season and with weeks of adverse tidal conditions skipped (except for the opening weekend): regular open days of May 14–16, May 21–23, May 28–30, June 4–6; back-up open days of June 18–20, July 2–4, July 16–18, and July 30–31. For the Summer fishery in this sub-area, ODFW recommended following the CSP's parameters of opening the first Friday in August, with open days to occur every other Friday-Sunday, unless modified in-season within the parameters of the CSP. Under the CSP, the 2009 summer all-depth fishery in Oregon's Central Coast sub-area would occur: August 7–9, August 21–23, September 4–6, September 18–20, October 2–4, October 16–18, and October 30–31.

*Response:* NMFS agrees with ODFW's recommended Central Coast season dates and has implemented them via this final rule.

#### Changes from the Proposed Rule

On January 14, 2009, NMFS published a proposed rule on changes to the CSP and recreational management measures for Area 2A (74 FR 2032). The final catch limits and total allowable catch numbers were not available until January 16, 2009, which was after the publication of the proposed rule. The proposed rule, therefore, was issued based on the preliminary estimate of the 2A TAC of 860,000 pounds. The final 2A TAC is 950,000 pounds which is higher than the preliminary estimate for 2009, but lower than the 2008 2A TAC of 1,220,000 pounds. Most of the changes in this final rule are updates to subarea catch limits based on the final TAC. There are no other substantive changes from the proposed rule.

#### Annual Halibut Management Measures

The annual management measures that follow for the 2009 Pacific halibut fishery are those recommended by the IPHC and accepted by the Secretary of State, with concurrence of the Secretary of Commerce. The sport fishing regulations for Area 2A, included in paragraph 26, are consistent with the measures adopted by the Commission and approved by the Secretary of State, but were developed by the Pacific Fishery Management Council and promulgated by the United States under the Halibut Act.

##### 1. Short Title

These regulations may be cited as the Pacific Halibut Fishery Regulations.

##### 2. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from, the maritime area as defined in Section 3.

(2) Sections 3 to 6 apply generally to all halibut fishing.

(3) Sections 7 to 20 apply to commercial fishing for halibut.

(4) Section 21 applies to tagged halibut caught by any vessel.

(5) Section 22 applies to the United States treaty Indian fishery in Subarea 2A–1.

(6) Section 23 applies to customary and traditional fishing in Alaska.

(7) Section 24 applies to Aboriginal groups fishing for food, social and ceremonial purposes in British Columbia.

(8) Sections 25 to 28 apply to sport fishing for halibut.

(9) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

### 3. Interpretation

(1) In these Regulations,

(a) “authorized officer” means any State, Federal, or Provincial officer authorized to enforce these regulations including, but not limited to, the National Marine Fisheries Service (NMFS), Canada’s Department of Fisheries and Oceans (DFO), Alaska Wildlife Troopers (AWT), United States Coast Guard (USCG), Washington Department of Fish and Wildlife (WDFW), and the Oregon State Police (OSP);

(b) “authorized clearance personnel” means an authorized officer of the United States, a representative of the Commission, or a designated fish processor;

(c) “charter vessel” means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

(d) “commercial fishing” means fishing, the resulting catch of which is sold or bartered; or is intended to be sold or bartered, other than

(i) sport fishing,  
(ii) treaty Indian ceremonial and subsistence fishing as referred to in section 22,

(iii) customary and traditional fishing as referred to in section 23 and defined by and regulated pursuant to NMFS regulations published at 50 CFR Part 300, and

(iv) Aboriginal groups fishing in British Columbia as referred to in section 24;

(e) “Commission” means the International Pacific Halibut Commission;

(f) “daily bag limit” means the maximum number of halibut a person may take in any calendar day from Convention waters;

(g) “fishing” means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

(h) “fishing period limit” means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(i) “land” or “offload” with respect to halibut, means the removal of halibut from the catching vessel;

(j) “license” means a halibut fishing license issued by the Commission pursuant to section 4;

(k) “maritime area,” in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea and internal waters of that Party;

(l) “net weight” of a halibut means the weight of halibut that is without gills and entrails, head-off, washed, and without ice and slime. If a halibut is weighed with the head on or with ice and slime, the required conversion factors for calculating net weight are a 2% deduction for ice and slime and a 10% deduction for the head.

(m) “operator,” with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(n) “overall length” of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(o) “person” includes an individual, corporation, firm, or association;

(p) “regulatory area” means an area referred to in section 6;

(q) “setline gear” means one or more stationary, buoyed, and anchored lines with hooks attached;

(r) “sport fishing” means all fishing other than i) commercial fishing, ii) treaty Indian ceremonial and subsistence fishing as referred to in section 22, iii) customary and traditional fishing as referred to in section 23 and defined in and regulated pursuant to NMFS regulations published in 50 CFR Part 300, and iv) Aboriginal groups fishing in British Columbia as referred to in section 24;

(s) “tender” means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(t) “VMS transmitter” means a NMFS-approved vessel monitoring system transmitter that automatically determines a vessel’s position and transmits it to a NMFS-approved communications service provider.<sup>1</sup>

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the United States National Ocean Service or the Canadian Hydrographic Service.

#### 4. Licensing Vessels for Area 2A

(1) No person shall fish for halibut from a vessel, nor possess halibut on board a vessel, used either for commercial fishing or as a charter vessel in Area 2A, unless the Commission has issued a license valid for fishing in Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in Area 2A shall be valid only

for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid Area 2A commercial license cannot be used to sport fish for Pacific halibut in Area 2A.

(4) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid for one of the following, but not both

(a) the directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 and the incidental commercial fishery during the sablefish fishery specified in paragraph (3) of section 8; or

(b) the incidental catch fishery during the salmon troll fishery specified in paragraph (4) of section 8.

(5) A license issued in respect of a vessel referred to in paragraph (1) of this section must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(6) The Commission shall issue a license in respect of a vessel, without fee, from its office in Seattle, Washington, upon receipt of a completed, written, and signed “Application for Vessel License for the Halibut Fishery” form.

(7) A vessel operating in the directed commercial fishery or the incidental commercial fishery during the sablefish fishery in Area 2A must have its “Application for Vessel License for the Halibut Fishery” form postmarked no later than 11:59 PM on April 30, or on the first weekday in May if April 30 is a Saturday or Sunday.

(8) A vessel operating in the incidental commercial fishery during the salmon troll season in Area 2A must have its “Application for Vessel License for the Halibut Fishery” form postmarked no later than 11:59 PM on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

(9) Application forms may be obtained from any authorized officer or from the Commission.

(10) Information on “Application for Vessel License for the Halibut Fishery” form must be accurate.

(11) The “Application for Vessel License for the Halibut Fishery” form shall be completed and signed by the vessel owner.

(12) Licenses issued under this section shall be valid only during the year in which they are issued.

(13) A new license is required for a vessel that is sold, transferred, renamed, or the documentation is changed.

(14) The license required under this section is in addition to any license, however designated, that is required under the laws of the United States or any of its States.

<sup>1</sup> Call NOAA Enforcement Division, Alaska Region, at 907-586-7225 between the hours of 0800 and 1600 local time for a list of NMFS-approved VMS transmitters and communications service providers.

(15) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in Title 15, CFR Part 904.

#### 5. In-Season Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) will not result in exceeding the catch limit established preseason for each regulatory area;

(b) is consistent with the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and

(c) is consistent, to the maximum extent practicable, with any domestic catch sharing plans or other domestic allocation programs developed by the United States or Canadian governments.

(2) In-season actions may include, but are not limited to, establishment or modification of the following:

- (a) closed areas;
- (b) fishing periods;
- (c) fishing period limits;
- (d) gear restrictions;
- (e) recreational bag limits;
- (f) size limits; or
- (g) vessel clearances.

(3) In-season changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce in-season actions under this section by providing notice to major halibut processors; Federal, State, United States treaty Indian, and Provincial fishery officials; and the media.

#### 6. Regulatory Areas

The following areas shall be regulatory areas (see Figure 1) for the purposes of the Convention:

(1) Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) Area 2B includes all waters off British Columbia;

(3) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11'54" N. latitude, 136°38'24" W. longitude) and south and east of a line running 205° true from said light;

(4) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41'15" N. latitude, 155°35'00" W. longitude) to Cape Ikolik (57°17'17" N. latitude, 154°47'18" W. longitude), then along the Kodiak Island coastline to Cape Trinity (56°44'50" N. latitude, 154°08'44" W. longitude), then 140° true;

(5) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29'00" N. latitude, 164°20'00" W. longitude) and south of 54°49'00" N. latitude in Isanotski Strait;

(6) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in section 10 that are east of 172°00'00" W. longitude and south of 56°20'00" N. latitude;

(7) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20'00" N. latitude;

(8) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in section 10 which are east of 171°00'00" W. longitude, south of 58°00'00" N. latitude, and west of 168°00'00" W. longitude;

(9) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00'00" W. longitude;

(10) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in section 10, east of 168°00'00" W. longitude, and south of 65°34'00" N. latitude.

#### 7. Fishing in Regulatory Area 4E and 4D

(1) Section 7 applies only to any person fishing, or vessel that is used to fish for, Area 4E Community Development Quota (CDQ) or Area 4D CDQ halibut provided that the total annual halibut catch of that person or vessel is landed at a port within Area 4E or 4D.

(2) A person may retain halibut taken with setline gear in Area 4E CDQ and 4D CDQ fishery that are smaller than the size limit specified in section 13, provided that no person may sell or barter such halibut.

(3) The manager of a CDQ organization that authorizes persons to harvest halibut in the Area 4E or 4D CDQ fisheries must report to the Commission the total number and weight of undersized halibut taken and retained by such persons pursuant to section 7, paragraph (2). This report, which shall include data and methodology used to collect the data, must be received by the Commission prior to November 1 of the year in which such halibut were harvested.

#### 8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch limits specified in section 11 have not been taken.

(2) Each fishing period in the Area 2A directed commercial fishery<sup>2</sup> shall begin at 0800 hours and terminate at 1800 hours local time on June 24, July 8, July 22, August 5, August 19, September 2, September 16, and September 30 unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (7) of section 11, an incidental catch fishery<sup>3</sup> is authorized during the sablefish seasons in Area 2A in accordance with regulations promulgated by NMFS.

(4) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A in accordance with regulations promulgated by NMFS.

(5) The fishing period in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin at 1200 hours local time on March 21 and terminate at 1200 hours local time on November 15, unless the Commission specifies otherwise.

(6) All commercial fishing for halibut in Areas 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours local time on November 15.

#### 9. Closed Periods

(1) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in section 8 in respect of that area.

(2) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of section 19, these Regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(6) A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies an authorized officer or representative of the Commission prior to that retrieval.

(7) After retrieval of halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection

<sup>2</sup> The directed fishery is restricted to waters that are south of Point Chehalis, Washington (46°53'18" N. latitude) under regulations promulgated by NMFS and published in the **Federal Register**.

<sup>3</sup> The incidental fishery during the directed, fixed gear sablefish season is restricted to waters that are north of Point Chehalis, Washington (46°53'18" N. latitude) under regulations promulgated by NMFS at 50 CFR 300.63.

at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved referred to in paragraph (6).

(9) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

**10. Closed Area**

All waters in the Bering Sea north of 55°00'00" N. latitude in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36'00" N. latitude, 164°55'42" W. longitude) to a point at 56°20'00" N. latitude, 168°30'00" W. longitude; thence to a point at 58°21'25" N. latitude, 163°00'00" W. longitude; thence to Strogonof Point 56°53'18" N. latitude, 158°50'37" W. longitude); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters except in the course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00'00" N. latitude and 54°49'00" N. latitude are closed to halibut fishing.

**11. Catch Limits**

(1) The total allowable catch of halibut to be taken during the halibut fishing periods specified in section 8 shall be limited to the net weights expressed in pounds or metric tons shown in the following table:

Regulatory Area	Catch Limit	
	Pounds	Metric tons
2A: directed commercial, and incidental commercial during salmon troll fishery	195,747	88.8
2A: incidental commercial during sablefish fishery	11,895	5.4
2B <sup>4</sup>	7,630,000	3,460.3
2C	5,020,000	2,276.6
3A	21,700,000	9,841.3
3B	10,900,000	4,943.3
4A	2,550,000	1,156.5
4B	1,870,000	848.1
4C	1,569,000	711.6
4D	1,569,000	711.6
4E	322,000	146.0

<sup>4</sup>Area 2B includes combined commercial and sport catch limits which will be allocated by DFO.

(2) Notwithstanding paragraph (1), regulations pertaining to the division of the Area 2A catch limit between the directed commercial fishery and the incidental catch fishery as described in paragraph (4) of section 8 will be promulgated by NMFS and published in the **Federal Register**.

(3) The Commission shall determine and announce to the public the date on which the catch limit for Area 2A will be taken.

(4) Notwithstanding paragraph (1), Area 2B will close only when all Individual Vessel Quotas (IVQs) assigned by DFO are taken, or November 15, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all IFQs and all CDQs issued by NMFS have been taken, or November 15, whichever is earlier.

(6) If the Commission determines that the catch limit specified for Area 2A in paragraph (1) would be exceeded in an unrestricted 10-hour fishing period as specified in paragraph (2) of section 8, the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

(7) When under paragraphs (2), (3), and (6) the Commission has announced a date on which the catch limit for Area 2A will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

(8) Notwithstanding paragraph (1), the total allowable catch of halibut that may be taken in the Area 4E directed commercial fishery is equal to the combined annual catch limits specified for the Area 4D and Area 4E CDQ fisheries. The annual Area 4D CDQ catch limit will decrease by the equivalent amount of halibut CDQ taken in Area 4E in excess of the annual Area 4E CDQ catch limit.

(9) Notwithstanding paragraph (1), the total allowable catch of halibut that may be taken in the Area 4D directed commercial fishery is equal to the combined annual catch limits specified for the Area 4C and Area 4D. The annual Area 4C catch limit will decrease by the equivalent amount of halibut taken in Area 4D in excess of the annual Area 4D catch limit.

**12. Fishing Period Limits**

(1) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut on board said vessel to that processor and ensure that all halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut on board said vessel and ensure that all halibut are weighed and reported on State fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the halibut on board is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on

- (a) the vessel's overall length in feet and associated length class;
- (b) the average performance of all vessels within that class; and
- (c) the remaining catch limit.

(6) Length classes are shown in the following table:

Overall Length (in feet)	Vessel Class
1-25	A
26-30	B
31-35	C
36-40	D
41-45	E
46-50	F
51-55	G
56+	H

(7) Fishing period limits in Area 2A apply only to the directed halibut fishery referred to in paragraph (2) of section 8.

**13. Size Limits**

(1) No person shall take or possess any halibut that

(a) with the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 2; or

(b) with the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in Figure 2.

(2) No person on board a vessel fishing for, or tendering, halibut caught

in Area 2A shall possess any halibut that has had its head removed.

#### 14. Careful Release of Halibut

(1) All halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by

- (a) hook straightening;
  - (b) cutting the gangion near the hook;
- or
- (c) carefully removing the hook by twisting it from the halibut with a gaff.

(2) Except that paragraph (1) shall not prohibit the possession of halibut on board a vessel that has been brought aboard to be measured to determine if the minimum size limit of the halibut is met and, if sublegal-sized, is promptly returned to the sea with a minimum of injury.

#### 15. Vessel Clearance in Area 4

(1) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the landing of any halibut caught in any of these areas, unless specifically exempted in paragraphs (10), (13), (14), (15), or (16).

(2) An operator obtaining a vessel clearance required by paragraph (1) must obtain the clearance in person from the authorized clearance personnel and sign the IPHC form documenting that a clearance was obtained, except that when the clearance is obtained via VHF radio referred to in paragraphs (5), (8), and (9), the authorized clearance personnel must sign the IPHC form documenting that the clearance was obtained.

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4A may be obtained only at Nazan Bay on Atka Island, Dutch Harbor or Akutan, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(4) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(5) The vessel clearance required under paragraph (1) prior to fishing in Area 4C and 4D may be obtained only at St. Paul or St. George, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio and allowing

the person contacted to confirm visually the identity of the vessel.

(6) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(7) Before unloading any halibut caught in Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(8) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio or in person.

(9) Before unloading any halibut caught in Area 4C and 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(10) Any vessel operator who complies with the requirements in section 18 for possessing halibut on board a vessel that was caught in more than one regulatory area in Area 4 is exempt from the clearance requirements of paragraph (1) of this section, provided that:

(a) the operator of the vessel obtains a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the Areas in which the vessel will fish; and

(b) before unloading any halibut from Area 4, the vessel operator obtains a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul or St. George can be obtained by

VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(11) Vessel clearances shall be obtained between 0600 and 1800 hours, local time.

(12) No halibut shall be on board the vessel at the time of the clearances required prior to fishing in Area 4.

(13) Any vessel that is used to fish for halibut only in Area 4A and lands its total annual halibut catch at a port within Area 4A is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for halibut only in Areas 4C or 4D or 4E and lands its total annual halibut catch at a port within Areas 4C, 4D, 4E, or the closed area defined in section 10, is exempt from the clearance requirements of paragraph (1).

(16) Any vessel that carries a transmitting VMS transmitter while fishing for halibut in Area 4A, 4B, 4C, or 4D and until all halibut caught in any of these areas is landed is exempt from the clearance requirements of paragraph (1) of this section, provided that:

(a) the operator of the vessel complies with NMFS' vessel monitoring system regulations published at 50 CFR sections 679.28(f)(3), (4) and (5); and

(b) the operator of the vessel notifies NOAA Fisheries Office for Law Enforcement at 800-304-4846 (select option 1 to speak to an Enforcement Data Clerk) between the hours of 0600 and 0000 (midnight) local time within 72 hours before fishing for halibut in Area 4A, 4B, 4C, or 4D and receives a VMS confirmation number.

#### 16. Logs

(1) The operator of any U.S. vessel fishing for halibut that has an overall length of 26 feet (7.9 meters) or greater shall maintain an accurate log of halibut fishing operations. The operator of a vessel fishing in waters in and off Alaska must use one of the following logbooks: the Groundfish/IFQ Daily Fishing Longline and Pot Gear Logbook provided by NMFS; the Alaska hook-and-line logbook provided by Petersburg Vessel Owners Association or Alaska Longline Fisherman's Association; the Alaska Department of Fish and Game (ADF&G) longline-pot logbook; or the logbook provided by IPHC. The operator of a vessel fishing in Area 2A must use either the Washington Department of Fish and Wildlife (WDFW) Voluntary



Sablefish Logbook, or the logbook provided by IPHC.

(2) The logbook referred to in paragraph (1) must include the following information:

(a) the name of the vessel and the state (ADF&G, WDFW, Oregon Department of Fish and Wildlife, or California Department of Fish and Game) vessel number;

(b) the date(s) upon which the fishing gear is set or retrieved;

(c) the latitude and longitude or loran coordinates or a direction and distance from a point of land for each set or day.

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of halibut retained for each set or day.

(3) The logbook referred to in paragraph (1) shall be

(a) maintained on board the vessel;

(b) updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) retained for a period of two years by the owner or operator of the vessel;

(d) open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed.

(4) The log referred to in paragraph (1) does not apply to the incidental halibut fishery during the salmon troll season in Area 2A defined in paragraph (4) of section 8.

(5) The operator of any Canadian vessel fishing for halibut shall maintain an accurate log recorded in the British Columbia Integrated Groundfish Fishing Log provided by DFO.

(6) The logbook referred to in paragraph (5) must include the following information:

(a) the name of the vessel and the DFO vessel number;

(b) the date(s) upon which the fishing gear is set or retrieved;

(c) the latitude and longitude or loran coordinates or a direction and distance from a point of land for each set or day;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of halibut retained for each set or day.

(7) The logbook referred to in paragraph (5) shall be

(a) maintained on board the vessel;

(b) retained for a period of two years by the owner or operator of the vessel;

(c) open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(d) kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed;

(e) mailed to the DFO (white copy) within seven days of offloading; and

(f) mailed to the Commission (yellow copy) within seven days of the final offload if not collected by a Commission employee.

(8) No person shall make a false entry in a log referred to in this section.

#### 17. Receipt and Possession of Halibut

(1) No person shall receive halibut caught in Area 2A from a United States vessel that does not have on board the license required by section 4.

(2) No person shall possess on board a vessel a halibut other than whole or with gills and entrails removed. Except that this paragraph shall not prohibit the possession on board a vessel of:

(a) halibut cheeks cut from halibut caught by persons authorized to process the halibut on board in accordance with NMFS regulations published at 50 CFR Part 679;

(b) fillets from halibut offloaded in accordance with section 17 that are possessed on board the harvesting vessel in the port of landing up to 1800 hours local time on the calendar day following the offload; and

(c) halibut with their heads removed in accordance with section 13.

(3) No person shall offload halibut from a vessel unless the gills and entrails have been removed prior to offloading.

(4) It shall be the responsibility of a vessel operator who lands halibut to continuously and completely offload at a single offload site all halibut on board the vessel.

(5) A registered buyer (as that term is defined in regulations promulgated by NMFS and codified at 50 CFR Part 679) who receives halibut harvested in IFQ and CDQ fisheries in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, directly from the vessel operator that harvested such halibut must weigh all the halibut received and record the following information on federal catch reports: date of offload; name of vessel; vessel number; scale weight obtained at the time of offloading, including the scale weight (in pounds) of halibut purchased by the registered buyer, the scale weight (in pounds) of halibut offloaded in excess of the IFQ or CDQ, the scale weight of halibut (in pounds) retained for personal use or for future sale, and the scale weight (in pounds) of halibut discarded as unfit for human consumption.

(6) The first recipient, commercial fish processor, or buyer in the United

States who purchases or receives halibut directly from the vessel operator that harvested such halibut must weigh and record all halibut received and record the following information on state fish tickets: the date of offload; vessel number; total weight obtained at the time of offload including the weight (in pounds) of halibut purchased; the weight (in pounds) of halibut offloaded in excess of the IFQ, CDQ, or fishing period limits; the weight of halibut (in pounds) retained for personal use or for future sale; and the weight (in pounds) of halibut discarded as unfit for human consumption.

(7) The individual completing the state fish tickets for the Area 2A fisheries as referred to in paragraph (6) must additionally record whether the halibut weight is of head-on or head-off fish.

(8) For halibut landings made in Alaska, the requirements as listed in paragraph (5) and (6) can be met by recording the information in the Interagency Electronic Reporting Systems, eLandings

(9) The master or operator of a Canadian vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports the date; locality; name of vessel; the name(s) of the person(s) from whom the halibut was purchased; and the scale weight obtained at the time of offloading of all halibut on board the vessel including the pounds purchased, pounds in excess of IVQs, pounds retained for personal use, and pounds discarded as unfit for human consumption.

(10) No person shall make a false entry on a State or Provincial fish ticket or a Federal catch or landing report referred to in paragraphs (5), (6), and (9) of section 17.

(11) A copy of the fish tickets or catch reports referred to in paragraphs (5), (6), and (9) shall be

(a) retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) open to inspection by an authorized officer or any authorized representative of the Commission.

(12) No person shall possess any halibut taken or retained in contravention of these Regulations.

(13) When halibut are landed to other than a commercial fish processor, the records required by paragraph (6) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (9).

(14) It shall be unlawful to enter an IPHC license number on a State fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

(15) No person shall tag halibut unless the tagging is authorized by IPHC permit or by a Federal or State agency.

5DFO has more restrictive regulations; therefore, section 17(2)b does not apply to fish caught in Area 2B or landed in British Columbia.

6DFO did not adopt this regulation; therefore, section 17 paragraph (3) does not apply to fish caught in Area 2B.

### 18. Fishing Multiple Regulatory Areas

(1) Except as provided in this section, no person shall possess at the same time on board a vessel halibut caught in more than one regulatory area.

(2) Halibut caught in more than one of the Regulatory Areas 2C, 3A, or 3B may be possessed on board a vessel at the same time provided the operator of the vessel:

(a) has a NMFS-certified observer on board when required by NMFS regulations published at 50 CFR Section 679.7(f)(4); and

(b) can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(3) Halibut caught in more than one of the Regulatory Areas 4A, 4B, 4C, or 4D may be possessed on board a vessel at the same time provided the operator of the vessel:

(a) has a NMFS-certified observer on board the vessel as required by NMFS regulations published at 50, CFR Section 679.7(f)(4); or has an operational Vessel Monitoring System (VMS) on board actively transmitting in all regulatory areas fished and does not possess at any time more halibut on board the vessel than the IFQ permit holders on board the vessel have cumulatively available for any single Area 4 regulatory area fished; and

(b) can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the holds, tagging halibut, or by other means.

(4) If halibut from Area 4 are on board the vessel, the vessel can have halibut caught in Regulatory Areas 2C, 3A, and 3B on board if in compliance with paragraph (2).

7Without an observer, a vessel cannot have on board more halibut than the IFQ for the area that is being fished, even if some of the catch occurred earlier in a different area.

### 19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear, except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined in the Condition of Sablefish Licence can retain halibut caught as bycatch under regulations promulgated by the Canadian Department of Fisheries and Oceans.

(2) No person shall possess halibut taken with any gear other than hook and line gear, except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined by the Condition of Sablefish Licence can retain halibut caught as bycatch under regulations promulgated by the Canadian Department of Fisheries and Oceans.

(3) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut, except that in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E, halibut heads, skin, entrails, bones or fins for use as bait may be possessed on board a vessel carrying pots capable of catching halibut, provided that a receipt documenting purchase or transfer of these halibut parts is on board the vessel.

(4) All setline or skate marker buoys carried on board or used by any United States vessel used for halibut fishing shall be marked with one of the following

(a) the vessel's state license number; or

(b) the vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be

(a) floating and visible on the surface of the water; and

(b) legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the fishing period for the directed commercial fishery shall catch or possess halibut anywhere in those waters during that halibut fishing period unless, prior to the start of the halibut fishing period, the vessel has removed its gear from the water and has either

(a) made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(8) No vessel used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the fishing period for the directed commercial fishery may be used to catch or possess halibut anywhere in those waters during that halibut fishing period unless, prior to the start of the halibut fishing period, the vessel has removed its gear from the water and has either

(a) made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(9) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these regulations, a person may retain, possess and dispose of halibut taken with trawl gear only as authorized by Prohibited Species Donation regulations of NMFS.

### 20. Supervision of Unloading and Weighing

The unloading and weighing of halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

### 21. Retention of Tagged Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission external tag at the time of capture, if the halibut with the tag still attached is

reported at the time of landing and made available for examination by a representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut:

(a) may be retained for personal use; or

(b) may be sold only if the halibut is caught during commercial halibut fishing and complies with the other commercial fishing provisions of these regulations.

(3) Externally tagged fish must count against commercial IVQs, CDQs, IFQs, or daily bag or possession limits unless otherwise exempted by state, provincial, or federal regulations.

## 22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in Subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NMFS and published in the **Federal Register**.

(2) Subarea 2A–1 includes all waters off the coast of Washington that are north of 46°53'18" N. latitude and east of 125°44'00" W. longitude, and all inland marine waters of Washington.

(3) Section 13 (size limits), section 14 (careful release of halibut), section 16 (logs), section 17 (receipt and possession of halibut) and section 19 (fishing gear), except paragraphs (7) and (8) of section 19, apply to commercial fishing for halibut in Subarea 2A–1 by the treaty Indian tribes

(4) Commercial fishing for halibut in Subarea 2A–1 is permitted with hook and line gear from March 21 through November 15, or until 303,500 pounds (137.6 metric tons) net weight is taken, whichever occurs first.

(5) Ceremonial and subsistence fishing for halibut in Subarea 2A–1 is permitted with hook and line gear from January 1 through December 31, and is estimated to take 29,000 pounds (13.2 metric tons) net weight.

## 23. Customary and Traditional Fishing in Alaska

(1) Customary and traditional fishing for halibut in Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall be governed pursuant to regulations promulgated by NMFS and published in 50 CFR Part 300.

(2) Customary and traditional fishing is authorized from January 1 through December 31.

## 24. Aboriginal Groups Fishing for Food, Social and Ceremonial Purposes in British Columbia

(1) Fishing for halibut for food, social and ceremonial purposes by Aboriginal groups in Regulatory Area 2B shall be governed by the Fisheries Act of Canada and regulations as amended from time to time.

## 25. Sport Fishing for Halibut—General

(1) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) Any minimum overall size limit promulgated under IPHC or NMFS regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(3) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(4) No person may possess halibut on a vessel while fishing in a closed area.

(5) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(6) No halibut caught in sport fishing shall be possessed onboard a vessel when other fish or shellfish aboard said vessel are destined for commercial use, sale, trade, or barter.

(7) The operator of a charter vessel shall be liable for any violations of these regulations committed by a passenger aboard said vessel.

## 26. Sport Fishing for Halibut—Area 2A

(1) The total allowable catch of halibut shall be limited to

(a) 214,110 pounds (97.1 metric tons) net weight in waters off Washington and

(b) 195,748 pounds (88.8 metric tons) net weight in waters off California and Oregon;

(2) The Commission shall determine and announce closing dates to the public for any area in which the catch limits promulgated by NMFS are estimated to have been taken.

(3) When the Commission has determined that a subquota under paragraph (8) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(4) In California, Oregon, or Washington, no person shall fillet,

mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(5) The possession limit on a vessel for halibut in the waters off the coast of Washington is the same as the daily bag limit. The possession limit on land in Washington for halibut caught in U.S. waters off the coast of Washington is two halibut.

(6) The possession limit on a vessel for halibut caught in the waters off the coast of Oregon is the same as the daily bag limit. The possession limit for halibut on land in Oregon is three daily bag limits.

(7) The possession limit on a vessel for halibut caught in the waters off the coast of California is one halibut. The possession limit for halibut on land in California is one halibut.

(8) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the in-season actions in 50 CFR 300.63(c). All sport fishing in Area 2A is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(a) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is not managed in-season relative to its quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lb (26.03 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is open April 23 — June 5, and the fishing season in western Puget Sound (west of 123°49.50' W. long., Low Point) is open May 21 — July 3, 5 days a week (Thursday through Monday).

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.), is 108,030 lb (49.0 mt).

(i) The fishing seasons are:

(A) Commencing on May 14 and continuing 2 days a week (Thursday and Saturday) until 108,030 lb (49.0 mt) are estimated to have been taken and the season is closed by the Commission.

(B) If sufficient quota remains the fishery will reopen on June 4 in the entire north coast subarea, continuing 2 days per week (Thursday and Saturday)

until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. When there is insufficient quota remaining to reopen the entire north coast subarea for another day, then the nearshore areas described below will reopen for 2 days per week (Thursday and Saturday), until the overall quota of 108,030 lb (49.0 mt) is estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier. After May 24, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after May 24 unless the date is announced on the NMFS hotline. The nearshore areas for Washington's North Coast fishery are defined as follows:

(1) WDFW Marine Catch Area 4B, which is all waters west of the Sekiu River mouth, as defined by a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(2) Shoreward of the recreational halibut 30-fm boundary line, a modified line approximating the 30-fm depth contour from the Bonilla-Tatoosh line south to the Queets River. The recreational halibut 30-fm boundary line is defined by the following coordinates in the order listed:

- (1) 48°24.79' N. lat., 124°44.07' W. long.;
- (2) 48°24.80' N. lat., 124°44.74' W. long.;
- (3) 48°23.94' N. lat., 124°44.70' W. long.;
- (4) 48°23.51' N. lat., 124°45.01' W. long.;
- (5) 48°22.59' N. lat., 124°44.97' W. long.;
- (6) 48°21.75' N. lat., 124°45.26' W. long.;
- (7) 48°21.23' N. lat., 124°47.78' W. long.;
- (8) 48°20.32' N. lat., 124°49.53' W. long.;
- (9) 48°16.72' N. lat., 124°51.58' W. long.;
- (10) 48°10.00' N. lat., 124°52.58' W. long.;
- (11) 48°05.63' N. lat., 124°52.91' W. long.;
- (12) 47°56.25' N. lat., 124°52.57' W. long.;

(13) 47°40.28' N. lat., 124°40.07' W. long.; and

(14) 47°1.70' N. lat., 124°37.03' W. long.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 48°18.00' N. lat.; 125°18.00' W. long.;

(2) 48°18.00' N. lat.; 124°59.00' W. long.;

(3) 48°11.00' N. lat.; 124°59.00' W. long.;

(4) 48°11.00' N. lat.; 125°11.00' W. long.;

(5) 48°04.00' N. lat.; 125°11.00' W. long.;

(6) 48°04.00' N. lat.; 124°59.00' W. long.;

(7) 48°00.00' N. lat.; 124°59.00' W. long.;

(8) 48°00.00' N. lat.; 125°18.00' W. long.; and connecting back to 48°18.00' N. lat.; 125°18.00' W. long.

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.), is 42,739 pounds (19.38 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. (the Washington South coast, northern nearshore area). The south coast subarea quota will be allocated as follows: 40,739 lb (18.47 mt), for the primary fishery, and 2,000 lb (0.9 mt), for the nearshore fishery. The primary fishery commences on May 3 and continues 2 days a week (Sunday and Tuesday) until May 24. Beginning on May 24 the primary fishery will be open 1 day per week (Sunday) until the quota for the south coast subarea primary fishery is

taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 3 and, during the primary season, continues 3 days a week (Thursday, Friday and Saturday) in addition to the days open in the primary fishery. Subsequent to closure of the primary fishery the nearshore fishery is open on Thursdays, Fridays, Saturdays and Sundays, until 42,739 lb (19.38 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast intended to protect yelloweye rockfish. The South Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 46°58.00' N. lat., 124°48.00' W. long.;

(2) 46°55.00' N. lat., 124°48.00' W. long.;

(3) 46°55.00' N. lat., 124°49.00' W. long.;

(4) 46°58.00' N. lat., 124°49.00' W. long.;

and connecting back to 46°58.00' N. lat., 124°48.00' W. long.

The Westport Offshore YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 46°54.30' N. lat., 124°53.40' W. long.;

(2) 46°54.30' N. lat., 124°51.00' W. long.;

(3) 46°53.30' N. lat., 124°51.00' W. long.;

(4) 46°53.30' N. lat., 124°53.40' W. long.;  
and connecting back to 46°54.30' N. lat., 124°53.40' W. long.

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.) and Cape Falcon, OR (45°46.00' N. lat.), is 15,735 lb (7.1 mt).

(i) The fishing season commences on May 1, and continues 3 days a week (Thursday through Saturday) until 11,014 lb (4.9 mt) are estimated to have been taken and the season is closed by the Commission or until July 19, whichever is earlier. The fishery will reopen on August 1 and continue 3 days a week (Friday through Sunday) until 4,720 lb (2.1 mt) have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred in-season to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.), is 180,088 lb (81.68 mt).

(i) The fishing seasons are:

(A) The first season (the "inside 40-fm" fishery) commences May 1 and continues 7 days a week through October 31, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon "inside 40-fm" fishery (14,407 lb (6.5 mt)) or any in-season revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 45°46.00' N. lat., 124°04.49' W. long.;

(2) 45°44.34' N. lat., 124°05.09' W. long.;

(3) 45°40.64' N. lat., 124°04.90' W. long.;

(4) 45°33.00' N. lat., 124°04.46' W. long.;

(5) 45°32.27' N. lat., 124°04.74' W. long.;

(6) 45°29.26' N. lat., 124°04.22' W. long.;

(7) 45°20.25' N. lat., 124°04.67' W. long.;

(8) 45°19.99' N. lat., 124°04.62' W. long.;

(9) 45°17.50' N. lat., 124°04.91' W. long.;

(10) 45°11.29' N. lat., 124°05.19' W. long.;

(11) 45°05.79' N. lat., 124°05.40' W. long.;

(12) 45°05.07' N. lat., 124°05.93' W. long.;

(13) 45°03.83' N. lat., 124°06.47' W. long.;

(14) 45°01.70' N. lat., 124°06.53' W. long.;

(15) 44°58.75' N. lat., 124°07.14' W. long.;

(16) 44°51.28' N. lat., 124°10.21' W. long.;

(17) 44°49.49' N. lat., 124°10.89' W. long.;

(18) 44°44.96' N. lat., 124°14.39' W. long.;

(19) 44°43.44' N. lat., 124°14.78' W. long.;

(20) 44°42.27' N. lat., 124°13.81' W. long.;

(21) 44°41.68' N. lat., 124°15.38' W. long.;

(22) 44°34.87' N. lat., 124°15.80' W. long.;

(23) 44°33.74' N. lat., 124°14.43' W. long.;

(24) 44°27.66' N. lat., 124°16.99' W. long.;

(25) 44°19.13' N. lat., 124°19.22' W. long.;

(26) 44°15.35' N. lat., 124°17.37' W. long.;

(27) 44°14.38' N. lat., 124°17.78' W. long.;

(28) 44°12.80' N. lat., 124°17.18' W. long.;

(29) 44°09.23' N. lat., 124°15.96' W. long.;

(30) 44°08.38' N. lat., 124°16.80' W. long.;

(31) 44°08.30' N. lat., 124°16.75' W. long.;

(32) 44°01.18' N. lat., 124°15.42' W. long.;

(33) 43°51.60' N. lat., 124°14.68' W. long.;

(34) 43°42.66' N. lat., 124°15.46' W. long.;

(35) 43°40.49' N. lat., 124°15.74' W. long.;

(36) 43°38.77' N. lat., 124°15.64' W. long.;

(37) 43°34.52' N. lat., 124°16.73' W. long.;

(38) 43°28.82' N. lat., 124°19.52' W. long.;

(39) 43°23.91' N. lat., 124°24.28' W. long.;

(40) 43°20.83' N. lat., 124°26.63' W. long.;

(41) 43°17.96' N. lat., 124°28.81' W. long.;

(42) 43°16.75' N. lat., 124°28.42' W. long.;

(43) 43°13.98' N. lat., 124°31.99' W. long.;

(44) 43°13.71' N. lat., 124°33.25' W. long.;

(45) 43°12.26' N. lat., 124°34.16' W. long.;

(46) 43°10.96' N. lat., 124°32.34' W. long.;

(47) 43°05.65' N. lat., 124°31.52' W. long.;

(48) 42°59.66' N. lat., 124°32.58' W. long.;

(49) 42°54.97' N. lat., 124°36.99' W. long.;

(50) 42°53.81' N. lat., 124°38.58' W. long.;

(51) 42°50.00' N. lat., 124°39.68' W. long.;

(52) 42°49.14' N. lat., 124°39.92' W. long.;

(53) 42°46.47' N. lat., 124°38.65' W. long.;

(54) 42°45.60' N. lat., 124°39.04' W. long.;

(55) 42°44.79' N. lat., 124°37.96' W. long.;

(56) 42°45.00' N. lat., 124°36.39' W. long.;

(57) 42°44.14' N. lat., 124°35.16' W. long.;

(58) 42°42.15' N. lat., 124°32.82' W. long.;

(59) 42°40.50' N. lat., 124°31.98' W. long.;

(B) The second season (spring season), which is for the "all-depth" fishery, is open on May 14, 15, 16, 21, 22, 23, 28, 29, 30, and June 4, 5, 6. The projected catch for this season is 124,261 lb (56.3 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Dependent on the amount of unharvested catch available, the potential season re-opening dates will be June 18, 19, 20 and July 2, 3, 4, 16, 17, 18, 30, 31. If NMFS decides in-season to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) If sufficient unharvested catch remains, the third season (summer season), which is for the "all-depth"

fishery, will be open on August 7, 8, 9, 21, 22, 23 and September 4, 5, 6, 18, 19, 20 and October 2, 3, 4, 16, 17, 18, 30, 31, or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 165,681 lb (75.1 mt), are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if a certain amount of quota remains after August 9 and August 23. If after August 9, greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday through Sunday, beginning August 16–18, and ending October 31. If after September 6, greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday through Sunday, the fishery may re-open every Friday through Sunday, beginning September 18–20, and ending October 31. After September 6, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod, when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is

permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not be in possession of any halibut.

Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 44°37.46' N. lat.; 124°24.92' W. long.;

(2) 44°37.46' N. lat.; 124°23.63' W. long.;

(3) 44°28.71' N. lat.; 124°21.80' W. long.;

(4) 44°28.71' N. lat.; 124°24.10' W. long.;

(5) 44°31.42' N. lat.; 124°25.47' W. long.;

and connecting back to 44°37.46' N. lat.; 124°24.92' W. long.

(f) The area south of Humbug Mountain, Oregon (42°40.50' N. lat.) and off the California coast is not managed in-season relative to its quota. This area is managed on a season that is projected to result in a catch of 5,872 lb (2.6 mt).

(i) The fishing season will commence on May 1 and continue 7 days a week until October 31.

(ii) The daily bag limit is one halibut of any size per day per person.

## 27. Sport Fishing for Halibut—Area 2B

(1) In all waters off British Columbia<sup>8</sup>

<sup>8</sup>DFO could implement more restrictive regulations for the sport fishery, therefore anglers

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person.

(2) In British Columbia, no person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(3) The possession limit for halibut in the waters off the coast of British Columbia is three halibut.

## 28. Sport Fishing for Halibut—Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, 4E

(1) In waters in and off Alaska<sup>9</sup>

(a) The sport fishing season is from February 1 to December 31;

(b) The daily bag limit is two halibut of any size per day per person unless a more restrictive bag limit applies in federal regulations at 50CFR 300.65; and

(c) No person may possess more than two daily bag limits.

(2) In Convention waters in and off Alaska, no person shall possess on board a vessel, including charter vessels and pleasure craft used for fishing, halibut that has been filleted, mutilated, or otherwise disfigured in any manner, except that

(a) Each halibut may be cut into no more than 2 ventral pieces, 2 dorsal pieces, and 2 cheek pieces, with skin on all pieces; and

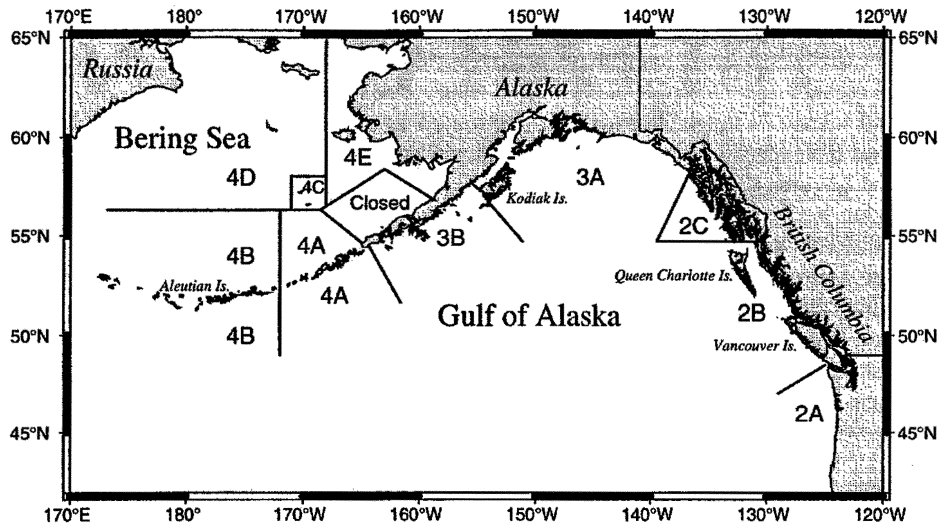
(b) Halibut in excess of the possession limit in paragraph (1)(c) of this section may be possessed on a vessel that does not contain sport fishing gear, fishing rods, hand lines, or gaffs.

## 29. Previous Regulations Superseded

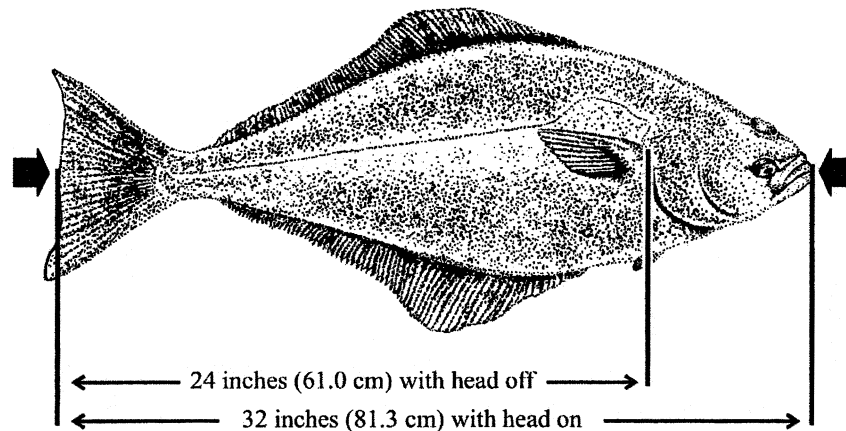
These regulations shall supersede all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

are advised to check the current federal or provincial regulations prior to fishing.

<sup>9</sup>NMFS could implement more restrictive regulations for the sport fishery or components of it, therefore, anglers are advised to check the current federal or state regulations prior to fishing.



**Figure 1. Regulatory areas for the Pacific halibut fishery.**



**Figure 2. Minimum commercial size.**

### Classification

#### *IPHC Regulations*

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

Pursuant to 5 U.S.C. 553(a)(1), the notice-and-comment and delay-in-effectiveness date requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, are inapplicable to this notice of the effectiveness and content of the IPHC regulations because this regulation involves a foreign affairs function of the United States.

Furthermore, no other law requires prior notice and public comment for this rule. Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law,

the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

#### *2009 Area 2A Catch Sharing Plan, Annual Management Measures and Federal Regulations*

As explained above in the preamble, the recreational management measures for Area 2A are promulgated through a different process than the process for the IPHC regulations themselves. NMFS proposed these management measures on January 14, 2009 (74 FR 2032). The different regulatory process requires a different classification section for these recreational management measures.

This action has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) in association with the proposed rule for this action. A final regulatory flexibility analysis (FRFA) incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, if any, and NMFS responses to those comments, and a summary of the analyses completed to support the action. NMFS received no comments on the IRFA or on the economic impacts of the rule. A copy of the FRFA is available from the NMFS Northwest Region (see ADDRESSES) and a summary of the FRFA follows:

This rule is needed to implement the CSP and annual domestic management measures in Area 2A. The main objective for the Pacific halibut fishery in Area 2A is to manage the fisheries to

remain within the TAC for Area 2A, while also allowing each commercial, recreational, and tribal fishery to target halibut in the manner most appropriate for the users' needs within that fishery. This rule is intended to enhance the conservation of Pacific halibut, to protect yellow eye rockfish and other overfished species from incidental catch in the halibut fisheries, and to provide greater angler opportunity where available.

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$4.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts not in excess of \$6.5 million. All of the businesses that would be affected by this action are considered small businesses under Small Business Administration guidance. This action finalizes the following changes to the CSP, which allocates the catch of Pacific halibut among users in Washington, Oregon and California: (1) Remove the provision that divides the Washington North Coast subarea quota between May and June; (2) Change the Washington North Coast subarea to a 2-day per week fishery, Thursday and Saturday, from a 3-day per week fishery; (3) Change the June re-opening date in the Washington North Coast subarea to the first Thursday in June, from the status-quo of the first Tuesday and Thursday after June 16; (4) Clarify that the nearshore set-aside in the Washington South Coast subarea is 10 percent of the subquota, or 2,000 pounds, whichever is less, rather than a straight 10 percent of the subquota; (5) Set the Washington South Coast subarea to open the first Sunday in May and continue to be open on Sundays and Tuesdays in May, except that beginning the third week in May the fishery would be open on Sunday only until the quota for the primary season is reached. Under status-quo the fishery was open 2 days a week until the quota was achieved; (6) Set the nearshore fishery in the Washington South Coast subarea as a 3-day per week fishery, open Thursday, Friday, and Saturday, in addition to days on which the primary fishery is open, during the primary season. After the primary season, the nearshore fishery is open Thursday through Sunday. Under status-quo the nearshore fishery was open only after the primary fishery was closed, leaving a large

amount of unfished quota, in 2008 only 158 pounds out of the 4460 pound quota was caught; (7) Specify that in addition to the South Coast Yeloweye Rockfish Conservation Area (YRCA), recreational fishing for groundfish and halibut will be prohibited in the newly created Westport Offshore YRCA; (8) Change the Columbia River subarea spring fishery to a 3-day per week fishery, open Thursday, Friday and Saturday, until 70 percent of the subarea allocation is taken or until the third Sunday in July, whichever is earlier. Under status-quo this was a 7-day per week fishery; (9) Specify that in the Oregon Central Coast subarea Pacific cod may be retained with a halibut on the vessel during the all-depth openings. Under status-quo Pacific cod retention was not allowed. The change is intended to make retention consistent in the areas north and south of Cape Falcon and Pacific cod are rarely encountered south of Cape Falcon; (10) Add the Nooksack tribe to the definition of "Treaty Indian tribes" in the federal regulations; (11) Add the Nooksack tribal fishing area boundaries to the federal regulations.

In 1995, NMFS implemented the Plan, when the TAC was 520,000 pounds (236 mt). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries, even though the TAC reached levels of over 1,000,000 pounds (454 mt), with a peak of 1,480,000 pounds (671 mt) in 2004. Since 2004, there has been very little change in the total allowable catch and sector allocations. In 2007, the Area 2A Halibut TAC set by the IPHC was 1,340,000 pounds (608 mt) and in 2008 it was 1,220,000 pounds (553 mt). However, the 2009 TAC is lower than the TAC levels since 2001. The 2009 Area 2A TAC of 950,000 pounds (430.9 mt) is lower than previous years due to the IPHC's new stock assessment information, revised selectivity assumptions, and revised harvest policy. This is a 22-percent decline from the 2008 TAC.

WDFW held state meetings and crafted alternatives to adjust management of the sport halibut fisheries in their state. These alternatives were then narrowed by the state and brought to the Council at the Council's September and November 2008 meetings. Generally, by the time the alternatives reach the Council, and because they have been through the state public review process, they are narrowed down into the proposed action and status quo. The Council and the States considered the full range of alternatives that could have similarly improved angler enjoyment of and

participation in the fisheries while simultaneously protecting halibut and co-occurring groundfish species from overharvest.

In 2008, 570 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: the directed commercial fishery in Area 2A, including licenses issued to retain halibut caught incidentally in the primary sablefish fishery (296 licenses in 2008); incidental halibut caught in the salmon troll fishery (135 licenses in 2008); and the charterboat fleet (139 licenses in 2008). No vessel may participate in more than one of these three fisheries per year. Individual recreational anglers and private boats are the only sectors that are not required to have an IPHC license to retain halibut.

Specific data on the economics of halibut charter operations is unavailable. However, in January 2004, the Pacific States Marine Fisheries Commission (PSMFC) completed a report on the overall West Coast charterboat fleet. In surveying charterboat vessels concerning their operations in 2000, the PSMFC estimated that there were about 315 charterboat vessels in operation off Washington and Oregon. In 2000, IPHC licensed 130 vessels to fish in the halibut sport charter fishery. Comparing the total charterboat fleet to the 130 and 139 IPHC licenses in 2000 and 2008, respectively, approximately 41 to 44 percent of the charterboat fleet could participate in the halibut fishery. The PSMFC has developed preliminary estimates of the annual revenues earned by this fleet and they vary by size class of the vessels and home state. Small charterboat vessels range from 15 to 30 ft (4.572 to 9.144 m), and typically carry 5 to 6 passengers. Medium charterboat vessels range from 31 to 49 ft (9.44 to 14.93 m) in length and typically carry 19 to 20 passengers. (Neither state has large vessels of greater than 49 ft (14.93 m) in their fleet.) Average annual revenues from all types of recreational fishing, whale watching, and other activities ranged from \$7,000 for small Oregon vessels to \$131,000 for medium Washington vessels. Estimates from the RIR show the recreational halibut fishery generated approximately \$2.5 million in personal income to West Coast communities, while the non-tribal commercial halibut fishery generated approximately \$2.2 million in income impacts. Because these estimated impacts for the entire halibut fishery overall are less than the SBA criteria for individual businesses, these data confirm that charterboat and commercial halibut vessels qualify as



small entities under the Regulatory Flexibility Act (RFA).

These changes are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 through 300.65, and the Pacific Council process of annually evaluating the utility and effectiveness of Area 2A Pacific halibut management under the Plan. Given the TAC, the sport management measures implement the Plan by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The measures are very similar to last year's management measures. The changes to the Plan and domestic management measures are minor changes and are intended to help prolong the halibut season, provide increased recreational harvest opportunities, or clarify sport fishery management for fishermen and managers. There are no large entities involved in the halibut fisheries; therefore, none of these changes to the Plan and domestic management measures will have a disproportionate negative effect on small entities versus large entities.

These changes do not include any reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations. These changes to the Plan and annual domestic Area 2A halibut management measures are not expected to have a "significant" economic impact on a "substantial number" of small entities, as those terms are defined in the RFA.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of halibut management in Area 2A, NMFS maintains a toll-free telephone hotline where members of the public may call in to receive current information on seasons and requirements to participate

in the halibut fisheries in Area 2A. This hotline also serves as small entity compliance guide. Copies of this final rule are available from the NMFS Northwest Regional Office upon request (See **ADDRESSES**). To hear the small entity compliance guide associated with this final rule, call the NMFS hotline at 800—662—9825.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. At section 302(b)(5), the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The U.S. government formally recognizes that 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the changes to the CSP, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

**List of Subjects in 50 CFR Part 300**

Fishing, Fisheries, Indian fisheries, Reporting and recordkeeping requirements, Treaties.

Dated: March 16, 2009

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*

■ 2. In § 300.61, the definition of "Treaty Indian tribes" is revised to read as follows:

**§ 300.61 Definitions.**

\* \* \* \* \*

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

■ 3. In § 300.64, in the table within paragraph (i), an entry for "Nooksack" is added in alphabetical order to read as follows:

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

\* \* \* \* \*

Tribe	Boundaries
*	*
Nooksack	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 459 F. Supp. 1049, to be places at which the Nooksack Tribe may fish under rights secured by treaties with the United States.
*	*

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