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## IPHC Fishery Regulations:

### Fishing Period Limits (Sect. 14) & Licensing Vessels for IPHC Regulatory Area 2A (Sect. 15) – Accommodation of the transition of management in the IPHC Regulatory Area 2A

PREPARED BY: IPHC SECRETARIAT (21 DECEMBER 2022)

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#### PURPOSE

To accommodate the transition of management in the IPHC Regulatory Area 2A from the IPHC to the Pacific Fishery Management Council (PFMC) and NOAA Fisheries. This proposal is mainly related to IPHC Fishery Regulations Sect. 14 & 15, but will have implications on other sections, as detailed below.

#### BACKGROUND

At its November 2020 meeting, the PFMC took final action to adopt a set of [management alternatives accommodating the transition of management of the non-tribal directed commercial fishery in the IPHC Regulatory Area 2A](#). The PFMC decided to utilize September and November Catch Sharing Plan process to consider the directed commercial fishery framework, including recommendations for vessel catch limits and in-season changes for NOAA Fisheries implementation. Moreover, the decision was made to charge NOAA Fisheries with issuing permits for all 2A Pacific halibut fisheries: non-tribal directed commercial, incidental salmon troll, incidental sablefish, and recreational charter.

The [proposed rule \(87 FR 44318\)](#) implementing the 2A management transition was published on 26 July 2022 and remained open for public comments until 25 August 2022. The final rule ([87 FR 74322](#)) was published on 5 December 2022 and is effective on 4 January 2023.

More information on the transition of management in the IPHC Regulatory Area 2A can be found in [IPHC-2023-AM099-04](#) and [IPHC-2023-AM099-INF03](#).

#### DISCUSSION

NOAA-Fisheries has authority to promulgate Pacific halibut fishing regulations under the [Northern Pacific Halibut Act of 1982](#), 16 U.S.C. 773-773k, provided such regulations are consistent with broader IPHC Fishery Regulations.

With the transition of management authority of the IPHC Regulatory Area 2A non-tribal directed commercial Pacific halibut fishery from the IPHC to the PFMC and NOAA-Fisheries, and management of 2A Pacific halibut fisheries commencing prior to the 2023 fishing period under NOAA Fisheries, there is a need for a number of amendments to the IPHC Fishery Regulations assuring their consistency with the new management regime.

**Benefits/Drawbacks:** Following the transition, starting in 2023 NOAA-Fisheries will assume responsibility for issuing vessels permits to fish for Pacific halibut in commercial and recreational charter fisheries in Area 2A, and for issuing annual management measures for the non-tribal

directed commercial fishery. These actions would be in addition to actions NOAA-Fisheries already undertakes such as issuing annual management measures for the Area 2A recreational fisheries (applicable to both charter and private anglers), consistent with the recommendations from the PFMC and the framework in the PFMC's Catch Sharing Plan. PFMC is a suitable forum for discussing annual management measures for the non-tribal directed commercial fishery. This action would free a small amount of the Fisheries Data Services Branch (FDSB) resources to be reallocated to other FDSB core activities. The potential drawback is that the IPHC will not have a direct access to the list of vessels licensed to fish Pacific halibut in the IPHC Regulatory Area 2A post-transition. Discussions on data sharing arrangements are ongoing.

**Sectors Affected:** This proposal affects all sectors of the Pacific halibut fishery in the IPHC Regulatory Area 2A.

[Appendix A](#) provides details on the suggested regulatory language.

#### **ADDITIONAL DOCUMENTATION**

None

#### **RECOMMENDATIONS**

That the Commission:

- 1) **NOTE** regulatory proposal IPHC-2023-AM099-PropA3, which accommodates the transition of management in the IPHC Regulatory Area 2A from the IPHC to the Pacific Fishery Management Council (PFMC) and NOAA-Fisheries, as implemented in 50 CFR 300 Subpart E.

#### **APPENDICES**

[Appendix A](#): Suggested regulatory language.

## APPENDIX A

### SUGGESTED REGULATORY LANGUAGE

#### 3. Definitions

(1) In these Regulations, [...]

~~(k) "license" means a Pacific halibut fishing license issued by the Commission pursuant to Section 15;~~

(k) "permit" means a Pacific halibut fishing license issued by NOAA Fisheries;

#### 12. Application of Commercial Fishery Limits

(1) Notwithstanding the fishery limits described in Section 5, regulations pertaining to the division of the IPHC Regulatory Area 2A fishery limit between the directed commercial fishery and the incidental catch fishery as described in paragraphs (5) and (6) of Section 9 will be promulgated by NOAA Fisheries and published in the Federal Register.

~~(2) The Commission shall determine and announce to the public the date on which the fishery limit for IPHC Regulatory Area 2A will be taken.~~

(2) Notwithstanding the fishery limits described in Section 5, the IPHC Regulatory Area 2A non-tribal directed commercial fishery will close when NOAA Fisheries determines and announces in the Federal Register that the fishery limit has been or is projected to be reached, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(3) Notwithstanding the fishery limits described in Section 5, the commercial fishing in IPHC Regulatory Area 2B will close only when all Individual Vessel Quotas (IVQ) and Individual Transferable Quotas (ITQ) assigned by DFO are taken, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

(4) Notwithstanding the fishery limits described in Section 5, IPHC Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quotas (IFQ) and all CDQ issued by NOAA Fisheries have been taken, or on the date when fishing must cease as specified in Section 9, whichever is earlier.

~~(5) If the Commission determines that the fishery limit specified for IPHC Regulatory Area 2A in Section 5 would be exceeded in an additional directed commercial fishing period as specified in paragraph (4) of Section 9, the fishery limit for that area shall be considered to have been taken and the directed commercial fishery closed as announced by the Commission.~~

~~(6) When under paragraphs (1), (2), and (5) the Commission has announced a date on which the fishery limit for IPHC Regulatory Area 2A will be taken, no person shall fish for Pacific halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for Pacific halibut fishing.~~

#### 14. Fishing Period Limits in IPHC Regulatory Area 2A

(1) No person shall fish for Pacific halibut from a vessel, nor land or retain Pacific halibut on board a vessel, used for commercial fishing in IPHC Regulatory Area 2A, unless issued a permit valid for fishing in IPHC Regulatory Area 2A by NOAA Fisheries according to 50 CFR 300 Subpart E.

(2) It shall be unlawful for any vessel to retain more Pacific halibut than authorized by that vessel's ~~license~~ permit in any fishing period for which ~~the Commission has announced a fishing period limit~~ is announced by NOAA Fisheries in the Federal Register.

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

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

(5) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the Pacific 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 fishery limit.~~

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

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

- (6) Fishing period limits in IPHC Regulatory Area 2A will be promulgated by NOAA Fisheries and published in the Federal Register and apply only to the non-tribal directed commercial Pacific halibut fishery referred to in paragraph (4) of Section 9.

### 15. Licensing Vessels for IPHC Regulatory Area 2A

- (1) No person shall fish for Pacific halibut from a vessel, nor possess Pacific halibut on board a vessel, used either for commercial fishing or as a charter vessel in IPHC Regulatory Area 2A, unless the Commission has issued a license valid for fishing in IPHC Regulatory Area 2A in respect of that vessel.
- (2) A license issued for a vessel operating in IPHC Regulatory 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 IPHC Regulatory Area 2A commercial license cannot be used to recreationally (sport) fish for Pacific halibut in IPHC Regulatory Area 2A.
- (4) A license issued for a vessel operating in the commercial fishery in IPHC Regulatory Area 2A shall be valid for one of the following:
- the directed commercial fishery during the fishing periods specified in paragraph (4) of Section 9;
  - the incidental catch fishery during the sablefish fishery specified in paragraph (5) of Section 9; or
  - the incidental catch fishery during the salmon troll fishery specified in paragraph (6) of Section 9.
- (5) A vessel with a valid license for the IPHC Regulatory Area 2A incidental catch fishery during the sablefish fishery described in paragraph (4)(b) may also apply for or be issued a license for the directed commercial fishery described in paragraph (4)(a).
- (6) A license issued in respect to 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.
- (7) The Commission shall issue a license in respect to a vessel from its office in Seattle, Washington, upon receipt of a completed "Application for Vessel License for the Pacific Halibut Fishery" form.
- (8) A vessel operating in the directed commercial fishery in IPHC Regulatory Area 2A must have submitted its "Application for Vessel License for the Pacific Halibut Fishery" form no later than 2359 local time on 30 April, or the first weekday in May if 30 April is a Saturday or Sunday.
- (9) A vessel operating in the incidental catch fishery during the sablefish fishery in IPHC Regulatory Area 2A must have submitted its "Application for Vessel License for the Pacific Halibut Fishery" form no later than 2359 local time on 29 May, or the next weekday in May if 29 May is a Saturday or Sunday.
- (10) A vessel operating in the incidental catch fishery during the salmon troll fishery in IPHC Regulatory Area 2A must have submitted its "Application for Vessel License for the Pacific Halibut Fishery" form no later than 2359 local time on 15 March, or the next weekday in March if 15 March is a Saturday or Sunday.
- (11) Applications are submitted on the IPHC Secretariat webpage.
- (12) Information on the "Application for Vessel License for the Pacific Halibut Fishery" form must be accurate.
- (13) The "Application for Vessel License for the Pacific Halibut Fishery" form shall be completed by the vessel owner.
- (14) Licenses issued under this Section shall be valid only during the year in which they are issued.
- (15) A new license is required for a vessel that is sold, transferred, renamed, or for which the documentation is changed.
- (16) The license required under this Section is in addition to any license, however designated, that is required under the laws of the United States of America or any of its States.

~~(17) The United States of America may suspend, revoke, or modify any license issued under this Section under policies and procedures in U.S. Code Title 15, CFR Part 904.~~

## 21. Receipt and Possession of Pacific Halibut

- (1) No person shall receive Pacific halibut caught in IPHC Regulatory Area 2A from a United States of America vessel that does not have on board the ~~license~~ permit required by Section ~~45~~14(1) [as amended].

## 23. Fishing by United States Indian Tribes

- (1) Pacific halibut fishing in IPHC Regulatory Area Subarea 2A-1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NOAA Fisheries and published in the Federal Register:
- (a) Subarea 2A-1 includes the usual and accustomed fishing areas for Pacific Coast treaty tribes off the coast of Washington and all inland marine waters of Washington north of Point Chehalis (46°53.30' N. lat.), including Puget Sound. Boundaries of a tribe's fishing area may be revised as ordered by a United States Federal court;
  - (b) Section ~~45 (Licensing Vessels for IPHC Regulatory Area 2A)~~ 14(1) [as amended] does not apply to commercial fishing for Pacific halibut in Subarea 2A-1 by Indian tribes; and
  - (c) ceremonial and subsistence fishing for Pacific halibut in Subarea 2A-1 is permitted with hook and line gear from 1 January through 31 December.

## 27. Recreational (Sport) Fishing for Pacific Halibut—IPHC Regulatory Area 2A

[...]

- (3) No person shall fish for Pacific halibut from a vessel, nor land or retain Pacific halibut on board a vessel, used as a charter vessel in IPHC Regulatory Area 2A, unless issued a permit valid for fishing in IPHC Regulatory Area 2A by NOAA Fisheries according to 50 CFR 300 Subpart E.

Minor edits throughout for consistency in Sections numbering.