

**§ 660.331**

**50 CFR Ch. VI (10–1–02 Edition)**

(k) *Groundfish without a tribal allocation.* Makah tribal members may use midwater trawl gear to take and retain groundfish for which there is no tribal allocation and will be subject to the trip landing and frequency and size limits applicable to the limited entry fishery.

**§ 660.331 Limited entry and open access fisheries—general.**

All commercial fishing for groundfish must be conducted in accordance with the regulations governing limited entry and open access fisheries, except such fishing by treaty Indian tribes as may be separately provided for.

**§ 660.332 Allocations.**

(a) *General.* The commercial portion of the Pacific Coast groundfish fishery, excluding the treaty Indian fishery, is divided into limited entry and open access fisheries. Separate allocations for the limited entry and open access fisheries will be established annually for certain species and/or areas using the procedures described in this subpart or the PCGFMP.

(1) *Limited entry allocation.* The allocation for the limited entry fishery is the allowable catch (harvest guideline or quota excluding set asides for recreational or tribal Indian fisheries) minus the allocation to the open access fishery.

(2) *Open access allocation.* The allocation for the open access fishery is derived by applying the open access allocation percentage to the annual harvest guideline or quota after subtracting any set asides for recreational or tribal Indian fisheries. For management areas where quotas or harvest guidelines for a stock are not fully utilized, no separate allocation will be established for the open access fishery until it is projected that the allowable catch for a species will be reached.

(b) *Open access allocation percentage.* For each species with a harvest guideline or quota, the initial open access allocation percentage is calculated by:

(1) Computing the total catch for that species during the window period by any vessel that does not initially receive a limited entry permit.

(2) Dividing that amount by the total catch during the window period by all gear.

(3) The guidelines in this paragraph (b)(3) apply to recalculation of the open access allocation percentage. Any recalculated allocation percentage will be used in calculating the following year's open access allocation. If a gear type is prohibited by a state or the Secretary and a vessel thereby qualifies for a limited entry permit under this subpart, or if a small limited entry fleet is incorporated into the limited entry fishery under § 660.338, the window-period catch of these vessels will be deducted from the open access fishery's historical catch levels and the open access allocation percentage recalculated accordingly.

(c) *Catch accounting between the limited entry and open access fisheries.* Any groundfish caught by a vessel with a limited entry permit will be counted against the limited entry allocation while the limited entry fishery for that vessel's limited entry gear is open. When the fishery for a vessel's limited entry gear has closed, groundfish caught by that vessel with open access gear will be counted against the open access allocation. All groundfish caught by vessels without limited entry permits will be counted against the open access allocation.

(d) *Additional guidelines.* Additional guidelines governing determination of the limited entry and open access allocations are in the PCGFMP.

(e) *Treaty Indian fisheries.* Certain amounts of groundfish may be set aside annually for tribal fisheries prior to dividing the balance of the allowable catch between the limited entry and open access fisheries. Tribal fisheries conducted under a set-aside are not subject to the regulations governing limited entry and open access fisheries.

(f) *Recreational fisheries.* Recreational fishing for groundfish is outside the scope of, and not affected by, the regulations governing limited entry and open access fisheries. Certain amounts of groundfish may be specifically allocated to the recreational fishery, and will be set aside prior to dividing the commercial allocation between the commercial limited entry and open access fisheries.