



# Quinault Indian Nation

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**QUINAULT BUSINESS COMMITTEE**

RESOLUTION NO. 08-107-87

**WHEREAS**, the Quinault Business Committee is the governing body of the Quinault Indian Nation;

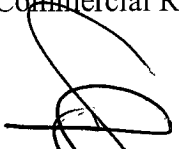
**WHEREAS**, the Committee is charged under Article V of the Constitution of the Quinault Indian Nation with the duty of protecting the health, welfare and safety of the People of the Quinault Indian Reservation; and

**WHEREAS**, Article V, Section 3 of the Constitution of the Quinault Indian Nation specifically grants the Committee the power to manage, protect, and preserve the wildlife and natural resources of the Nation and to regulate hunting, fishing, including shellfish, and trapping within the jurisdiction of the Nation and authorizes delegation of this power to a committee;

**WHEREAS**, the Committee, under the authority of Q.T.C. 51.03.020(d) and 51.03.030(g), has the power to enact ocean fishing for the necessary and appropriate use of the Nation's resources;

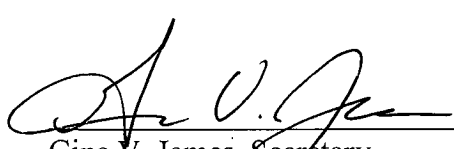
**WHEREAS**, the Committee finds that the attached general regulations shall ensure future protection for the ocean fisheries; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Quinault Indian Nation Business Committee hereby immediately enacts the attached Quinault Indian Nation Ocean Fisheries General Commercial Regulations of 2008.

  
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Fawn R. Sharp, President  
Quinault Indian Nation Business Committee

## CERTIFICATION

I hereby certify that the Quinault Indian Nation Business Committee duly adopted the above resolution at a regular meeting of the Business Committee at Queets, Washington, on the 24 day of November 2008, at which time a quorum was present by a vote of 8 for and 0 against and 1 abstaining.

  
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Gina V. James, Secretary  
Quinault Indian Nation Business Committee

**QUINAULT INDIAN NATION**  
**OCEAN FISHERIES GENERAL COMMERCIAL REGULATIONS**

**I. GENERAL**

A. Title

This document shall be known as the Quinault Indian Nation Ocean Fisheries General Commercial Regulations.

B. Statement of Intent

Since time immemorial, the Quinault Indian Nation (QIN) has protected its natural resources, including its ocean fisheries. To this end, the OFC enacts these regulations to provide for the effective management of the Quinault fisheries, the safety of persons exercising treaty-fishing rights and to comply with the consent decree in United States v. Washington, Subproceeding 88-1.

C. Authority

These regulations are adopted under the authority to Quinault Tribal Code (Q.T.C.), Title 51.03.020(d) and 51.03.030(g) and as hereafter amended.

D. Applicability/Scope

Treaty ocean fishing shall be limited to the Quinault Indian Nation's usual and accustomed fishing grounds and stations.

E. Definitions

1. "Address of Record" shall mean the permittee's address as listed on the most recent application to fish within the ocean fishery;
2. "Application" shall mean a formal application approved by the OFC;
3. "Authorization" shall mean a valid license, permit, or other authorization to participate in the Quinault Treaty-ocean fishery as required by Q.T.C. Title 51;
4. "Committed Violation" shall mean a court order finding a person has committed a violation of Q.T.C. Title 51 or its implementing regulations or a settlement of a claim of a violation of Q.T.C. Title 51 or its implementing regulations in lieu of litigation;
5. "Fish ticket" shall mean a receipt for all reportable catch authorized by Q.T.C. Title 51;

6. "Master Roster" shall mean the list of vessels and persons authorized or otherwise permitted to participate in the Quinault Treaty-ocean fishery;
7. "Ocean Fisheries Committee" or "OFC" shall mean the Quinault Ocean Fisheries OFC as empowered pursuant to Q.T.C. Title 51;
8. "QIN" shall mean the Quinault Indian Nation;
9. "Release to Sell" shall mean a written authorization from the Seafood Enterprises permitting a Vessel Owner to sell its catch to another buyer;
10. "Seafood Enterprises" shall mean the Quinault Seafood Enterprises, Quinault Pride Seafood or any of its successors in interest;
11. "Summary suspension" shall mean a suspension of privileges prior to issuing a notice of hearing and allowing the permittee the opportunity to be heard.

F. General Prohibition

Unless otherwise authorized, all Treaty-ocean fishing in any area whatsoever, is prohibited.

## II. AUTHORIZATION REQUIREMENTS

All persons and vessels participating in the Treaty-ocean fishery shall have a valid authorization in accordance with Q.T.C. Title 51 and its implementing regulations.

A. Vessel License and Personal Authorization Required

Treaty ocean fishing shall be limited to those persons who are enrolled members of the QIN who are in possession of a valid authorization and their eligible spouses and children who are in possession of a valid authorization, and are on a vessel validly registered and licensed by the QIN.

B. Personal License Authorizations

All persons seeking to participate in the Quinault Treaty-ocean fishery shall complete an ocean fisheries application with any applicable fee and meet the minimum requirements listed in Q.T.C. Title 51 and applicable regulations, including proof that the individual is authorized to fish within the Quinault Treaty-ocean fishery, and a signed consent to Quinault jurisdiction, in the case of non-Indian eligible spouses and/or children.

No person shall fish within the Treaty-ocean fisheries without a current authorization.

### C. Vessel Licenses and Registrations

All persons seeking a vessel license and registration to participate in the Quinault Treaty-ocean fishery shall complete an ocean fisheries vessel license and registration application with any applicable fee and meet the minimum requirements listed in Q.T.C. Title 51 and other applicable regulations.

#### 1. Vessel Owner and Operator Requirements

Vessel owners and operators participating in the Treaty-ocean fishery shall comply with the following regulations:

- a. Provide QIN officials access to board a vessel immediately before, during, or immediately after an ocean fishing season at any time without notice;
- b. Permanently display a treaty vessel registration number prominently across both sides of the bow, or in the event the vessel is documented by the United States Coast Guard, on both sides of the wheel house, in block letters not less than three inches in height in a color distinctly contrasting with the background.

The number shall consist of a WN prefix, a four (4) digit number and a KWA suffix or similar alphanumeric identification as hereafter authorized. The number must be read from left to right and include spaces or hyphens the width of the letters between the three parts of the registration number; and

- c. Place annual treaty registration validation sticker across either side of the bow, aft of and directly in line with the registration number within six (6) inches of the registration number or name of the vessel if documented.

#### 2. Vessel Safety Requirements

In the absence of other vessel safety laws or regulations, the following vessel safety regulations shall apply:

- a. United States Department of Transportation boating safety standards, pursuant to 33 CFR Part 183, or thereafter amended.

### D. Master Roster

The OFC or its designee shall compile and publish a Master Roster, identifying each vessel authorized to participate in the Quinault Treaty-ocean

fishery and for what season or seasons the vessel is authorized to fish. Said roster shall be available to all Quinault enforcement officials and any Quinault member upon request.

1. Valid Identification and Authorization Required

It shall be a violation for any person participating in the Quinault Treaty-ocean fishery to fish, unless (a) he or she is in possession of a valid tribal membership card and a valid authorization or (b) in the case of an eligible spouse or child, a valid authorization and tribal identification, and provided that he or she is not otherwise in violation of Title 51 of the Quinault Tribal Code or any implementing regulations approved by the OFC.

2. Name Must Appear on Master Roster

The names of all individuals participating in the Quinault Treaty-ocean fishery shall appear on the Master Roster issued by the OFC or its designee.

**III. FISHING AND GEAR REQUIREMENTS**

A. General Requirements

All individuals participating in the Quinault Treaty-ocean fishery shall comply with the following requirements:

1. Abide by all rules, regulations, laws, resolutions, and mandates applicable to the Quinault treaty-ocean fisheries;
2. Keep an original or a legible copy of the Quinault-issued authorization on his or her person or in prominent place located on or in the vessel;
3. Keep or otherwise make available an original or a legible copy of any tribal photo identification and/or tribally-issued authorization for all persons on the vessel at the time of an open fishery;
4. No person shall remove, damage, or otherwise tamper with another person's fishing gear;
5. No person shall abandon or otherwise leave fishing gear unattended after a fishery closes or for more than thirty consecutive (30) days.

B. Catch Requirements

All individuals participating in the Quinault Treaty-ocean fishery shall comply with the following requirements unless otherwise permitted by in-season

regulations or other applicable law:

1. No person shall take, possess, deliver, or otherwise control with the intent to harvest any female Dungeness crab;
2. No person shall take, possess, deliver, or otherwise control with the intent to harvest for a commercial purpose any male Dungeness crab measuring less than 6-1/4 inches, caliper measurement, across the back immediately in front of the tips;
3. No person shall take, possess, deliver, or otherwise control with the intent to harvest any soft shell crab. Crab will be tested by pinching the shell from underneath the front claw.
4. No person shall take, possess, deliver, or otherwise control with the intent to harvest for a commercial purpose any halibut measuring less than 32 inches from the front of the head to the fork (middle) of the tail;
5. No person shall filet a halibut until it is properly landed and reported in accordance with applicable law;
6. No person shall take, possess, deliver, or otherwise control with the intent to harvest for a commercial purpose a Chinook salmon less than 24 inches in total length;
7. No person shall take, possess, deliver, or otherwise control with the intent to harvest for a commercial purpose a Coho salmon less than 16 inches in total length.

C. Gear Requirements

All individuals participating in the Quinault Treaty-ocean fishery shall comply with the following requirements unless otherwise permitted by in-season regulations or other applicable law:

1. For a crab fishery, gear without adequate escape rings or ports is prohibited. Gear shall have not less than two escape rings or ports not less than 4-1/4 inches inside diameter. Escape rings or ports described above must be located in the upper half of the trap;
2. For all fisheries, gear without adequate and proper markings is prohibited. All unattended gear shall be marked in a manner clearly visible from the air with the tribal member's tribal membership

number;

3. For a crab fishery, all gear shall be registered with the Quinault Fish and Game Office, including identifying the number of pots to be used and the color of buoys;
4. Sable fishing shall be conducted by snap gear only;
5. Salmon trolling, ground fishing, and halibut fishing shall be conducted by hook and line gear only;
6. Harvest of sablefish, salmon, or halibut by pots, traps, trawls, nets or any other method not identified within applicable regulations is strictly prohibited;
7. Federal regulations shall govern salmon troll gear, unless otherwise specified herein or by other in-season regulation;

#### **IV. REPORTING AND SALE OF CATCH**

Pursuant to Q.T.C. Title 51, all catch under a tribal authorization in the Quinault Treaty-ocean fishery must be reported as required herein or by other in-season regulations and sold to the Seafood Enterprises except as otherwise authorized.

##### **A. Logging Requirements**

For all halibut fisheries, all owners and/or operators shall complete a halibut log book with all information required by Quinault Department of Fisheries. Said logbook shall be made available upon request by any Quinault enforcement officer or Quinault Fisheries official.

##### **B. Reporting Requirements**

All vessel owners and/or operators shall ensure to report all catch within twelve (12) hours of landing.

##### **C. Sale to Quinault Pride Seafood**

All persons licensed and/or permitted to fish in accordance with this regulation shall attempt to sell their catch to Quinault Seafood Enterprises. In the event that Quinault Seafood Enterprises is unwilling or unable to purchase said catch, persons licensed or permitted to fish under this regulation may sell said catch to alternate commercial purchasers in accordance with Q.T.C. Title 51 and after having their catch reviewed by Quinault Nation Resource Protection.

**V. VIOLATIONS AND SCHEDULE FOR FINES**

Any violations of these regulations may be punished up to the maximum allowable under, and in accordance with, Q.T.C. Title 51.

**A. Suspensions for Committed Violations**

The OFC, in accordance with Q.T.C. 51.07.050(d), may suspend a permittee's privilege to engage in activity governed by Q.T.C. Title 51 for a Committed Violation.

**B. Suspension of Privileges – Notice**

Except for summary suspensions, the OFC shall give the permittee written notice of the OFC's intent to suspend a permittee's privileges by registered mail, return receipt requested, to the permittee's mailing Address of Record with the Fish and Game Office. The Notice shall state with sufficient detail, the basis for the proposed action with a copy of any Committed Violation and the time, date and place of the hearing. The date for the hearing shall be no fewer than 20 calendar days from the date the notice was delivered or attempted to be delivered.

**C. Suspension of Privileges - Burden**

At a hearing for the suspension of a permittee's privileges, once the OFC is in receipt of a Committed Violation, the permittee shall have the opportunity to show that he or she does not have a Committed Violation. The OFC may review any reliable evidence and take any reliable testimony as it deems fit for the sole purpose of determining whether the permittee has a Committed Violation.

**D. Summary Suspension of Privileges**

The OFC, by majority vote, based upon a preponderance of the evidence, may summarily suspend a permittee's privilege to engage in activity governed by Q.T.C. Title 51 upon receipt of a certified copy of a Committed Violation by a permittee.

An order of summary suspension takes effect immediately on notice unless stated otherwise in the order of summary suspension. Notice may be given in any manner reasonably practicable, specifically including informing the permittee by radio in the event the permittee is on the ocean or in Grays Harbor. In addition, the Notice shall be posted at Quinault Seafood Enterprises and mailed to the Permittee's Address of Record.

The order of summary suspension shall notify the permittee of the duration of the suspension, that the suspension commences immediately, the basis for the



summary suspension, and the permittee's options for seeking a stay of the suspension and the process for an appeal.

E. Effect of Summary Suspension

Upon notice of a summary suspension, the permittee shall immediately remove all fishing gear from the water and return to port. The permittee shall have no more than forty-eight (48) hours to make a landing for any catch while out on the water when notified of a summary suspension. In the event a landing is made more than forty-eight (48) hours following notice of a summary suspension, the Quinault Resource Protection shall be notified and may issue a citation for any violation(s) and seize any evidence of said violation(s) in accordance with Q.T.C. 51

F. Petition and Hearing for Stay of the Summary Suspension

When the OFC summarily suspends an authorization, the affected permittee may petition for a "stay of suspension" by filing a petition in writing to the Fish and Game Office within fifteen days of service of the summary suspension. The Fish and Game Office shall notify all OFC members as soon as possible of the petition so as to allow the Committee to call a meeting for the sole purpose of the Petition.

The OFC shall, within seven days of receipt of the petition, hold a hearing unless the permittee requests a continuance of the seven-day period.

At the hearing, the only issues are whether the OFC: (a) should grant a stay or (b) modify the terms of the suspension. At the hearing, the permittee has the burden of demonstrating by clear and convincing evidence all of the following: (a) the permittee is likely to prevail upon the merits of the evidence at hearing and (b) without relief, the permittee will suffer irreparable injury (for purposes of this section, elimination of income from permitted activities must not be deemed irreparable injury).-

In the event that a permittee fails to petition for a stay, the suspension shall become final and not subject to a hearing before the OFC or an appeal to the tribal court.

H. Appeals of Suspensions

Except for a summary suspension, all appeals of suspensions by the OFC shall be filed with the Quinault Tribal Court within sixty (60) days of said decision. In an appeal to the Tribal Court concerning a suspension by the OFC, the Tribal Court shall not grant a de novo review, but shall only review whether the action of the OFC was authorized by existing law or regulation and whether the evidence supports the OFC's determination. The OFC's

determination shall be upheld unless the court concludes the OFC acted arbitrarily, capriciously, or abused its discretion.

#### I. Length of Suspension of Privileges

For a first Committed Violation, the OFC may suspend a permittee's permission to engage in activity governed by Q.T.C. Title 51 for no less than one week and no more than one month; for a second Committed Violation, the OFC may suspend a permittee's permission to engage in activity governed by Q.T.C. Title 51 for no less than one month and no more than one fishing season; and for a third or subsequent Committed Violation, the OFC may suspend a permittee's permission to engage in activity governed by Q.T.C. Title 51 for no less than one fishing season up to five (5) years.

#### J. Hearing Rules

The OFC may enact procedural rules as necessary in order to conduct hearings in a fair and orderly manner. In the absence of such rules, the OFC shall give the permittee adequate written notice of the hearing date, time and place, the opportunity to be heard and to present evidence in his or her own behalf in regards to the OFC's decision and/or action.

##### 1. Findings

Following any hearing or in the event of a summary suspension, the OFC shall issue written findings informing the permittee of its decision. Said findings shall include conclusions and a final order and the same shall be transmitted to all interested parties, including the permittee, the tribal court, the Fish and Game office, and the Quinault Seafood Enterprises. .

##### 2. Conduct

In the conduct of any hearing, each OFC member shall have the power to administer oaths and affirmation, and the OFC shall have power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and evidence relevant to the hearings.

## **VI. MISCELLANEOUS**

### A. Effective Date

These regulations shall become effective ten (10) days following approval.

### B. Amendment

These regulations shall remain effective until amended, revised, revoked, or until otherwise found invalid by a court of competent jurisdiction.

### C. Saving Clause

If any clause, paragraph, or section of these regulations is found invalid by a

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these regulations and those remaining portions shall remain in full force and effect and to this end, invalid provisions of these Regulations shall be declared severable.