

50 CFR Part 301

[Docket No. 960111003-6068-03; I.D. 030796A]

RIN 0648-A148

Pacific Halibut Fisheries; Catch Sharing Plans

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

ACTION: Final rule and approval of Catch Sharing Plans.

SUMMARY: NMFS, on behalf of the International Pacific Halibut Commission (IPHC), publishes regulations governing the Pacific halibut fishery that are recommended by the IPHC and approved by the Secretary of State. NMFS also approves regulations implementing Catch Sharing Plans (CSPs) for Areas 2A and 4, and makes several minor regulatory changes. This final rule is necessary to implement approved regulatory changes for the halibut fishery in 1996. The intended effect of this action is to enhance the conservation and growth of the Pacific halibut stock in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: March 15, 1996.

ADDRESSES: NMFS Alaska Region, 709 W. 9th St., P.O. Box 21668, Juneau, AK 99802-1668; or NMFS Northwest

Region, Bldg. 1, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907-586-7228, or Joe Scordino, 206-526-6150.

SUPPLEMENTARY INFORMATION: The IPHC has implemented regulations governing the Pacific halibut fishery in 1996, under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), 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 approved by the Secretary of State of the United States under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773-773k). Except for the changes described below, the approved regulations for the 1996 fishery are the same as those for the 1995 fishery (60 FR 14651, March 20, 1995). The catch limit for each of the IPHC regulatory areas remains unchanged. Substantive changes include: (1) New fishing periods in Area 2A, (2) revision of the prohibition on mutilating halibut, (3) revision of the logbook requirement, (4) new requirements for fishing in multiple regulatory areas, (5) new vessel clearance requirements for Area 4, and (6) a new possession limit in the Area 2B sport fishery.

In addition, this action implements the CSPs for regulatory Areas 2A and 4. These CSPs were developed respectively by the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC) under authority of the Halibut Act. Section 5 of the Halibut Act (16 U.S.C. 773c) provides that the Secretary of Commerce (Secretary) shall have general responsibility to carry out the Halibut Convention (Convention) between the United States and Canada, and that the Secretary shall adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the Assistant Administrator for Fisheries, NOAA. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) also authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, NMFS requested the PFMC and NPFMC to allocate halibut catches should such allocation be necessary.

IPHC Regulations

On behalf of the IPHC, the approved IPHC regulations are published in the Federal Register to provide notice of

their effectiveness and to inform persons subject to the regulations of the restrictions and requirements. The IPHC held its Annual Meeting on January 22-25, 1996, in Bellevue, WA, and adopted regulations for 1996. The substantive changes to the IPHC regulations are discussed below.

Area 2A Fishing Periods

In Area 2A, six 10-hour fishing periods for the non-treaty directed commercial fishery are specified at § 301.7(b) for July 10, July 24, August 14, August 28, September 11, and September 25, 1996. All fishing periods will begin at 8 a.m. and end at 6 p.m. local time unless announced otherwise, and will be further restricted by fishing period limits announced by the IPHC.

Prohibition Against Mutilating Halibut

IPHC regulations at § 301.12 specify minimum size limits for halibut taken in the commercial fishery, and further prohibit the mutilation of halibut in a manner that prevents authorized officers from determining whether the halibut complies with those minimum size limits. To improve enforcement of the minimum size limits, the IPHC amended these regulations at § 301.12(b)(2) to prohibit possession of filleted halibut on board vessels. The IPHC also amended these regulations to address an industry request to remove and freeze halibut cheeks on board vessels. Paragraph 301.12(b)(1) now authorizes possession on board vessels of halibut cheeks cut from halibut caught by persons authorized to process that halibut on board in accordance with NMFS regulations implementing the individual fishing quota (IFQ) program for the halibut fishery in and off Alaska.

Logbooks

The commercial fishery logbook required by § 301.15 now may be kept in groundfish daily fishing logbooks provided by NMFS pursuant to 50 CFR parts 672 and 675. Before this change, IPHC regulations required commercial halibut fishermen to keep their halibut logbooks separate from other records maintained on board the vessel.

Fishing in Multiple Regulatory Areas

The IPHC collects halibut stock data, by regulatory area, from halibut landed in the commercial fishery to carry out its stock assessment and conservation responsibilities. Fishermen harvesting halibut in Areas 2C, 3, and 4 under the IFQ regulations increasingly are taking advantage of the longer, slower-paced fishery by fishing in more than one regulatory area during a single fishing

trip. The IPHC is concerned that this practice eventually could degrade stock data collected at landing for each regulatory area. Consequently, the IPHC developed new regulations at § 301.17 restricting the practice of fishing in more than one regulatory area during a fishing trip. Halibut caught in Areas 2C, 3A, and 3B may be possessed on board a vessel at the same time only if the operator of the vessel has a NMFS-certified observer aboard as required by the IFQ regulations published at 50 CFR part 676. Halibut caught in the more remote Areas 4A, 4B, 4C, and 4D may be possessed aboard a vessel at the same time only if the operator of the vessel has a NMFS-certified observer on board whenever halibut caught from more than one of those regulatory areas is on board. Moreover, halibut caught in more than one regulatory area may be possessed on board a vessel only if the operator can identify the regulatory area in which each halibut on board was caught. The regulations do not specify any single method of identifying the halibut by area, but suggest that identification may be accomplished by separating the catch in the hold or by tagging each fish according to the area of harvest.

Area 4 Vessel Clearances

IPHC regulations at § 301.14 implement some modifications in the vessel clearance requirements for vessels fishing in Area 4. 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 all clearance requirements. Any vessel that is used to fish for halibut only in Area 4B, 4C, or 4D/4E and lands its total annual halibut catch at a port within the area in which the vessel fished continues to be exempt from the clearance requirements. Vessel clearances required prior to fishing in Areas 4C and 4D may be obtained only in St. Paul or St. George. Vessel clearances required at the completion of fishing in Areas 4C and 4D may be obtained at St. Paul, St. George, Dutch Harbor, or Akutan. The clearances obtained at St. Paul or St. George may be obtained via VHF radio provided visual identification of the vessel can be confirmed from shore. Clearance requirements for Areas 4A and 4B are unchanged from 1995.

IPHC regulations at § 301.14(i) provide that vessels that fish in more than one regulatory area within Area 4 during the same trip, as authorized by § 301.17(c), are exempt from the general clearance requirements of § 301.14(a). However, before beginning to fish and before unloading halibut, these vessels

must obtain clearances in Dutch Harbor, Akutan, St. George, St. Paul, or Nazan Bay on Atka Island.

Area 2B Sport Fishery Possession Limit

IPHC regulations at paragraphs 301.22 (h) and (i) are changed to increase the possession limit in waters off the coast of British Columbia from two to three halibut.

Catch Sharing Plan for Area 2A

The PFMC has prepared CSPs since 1988 to allocate the halibut catch limit for Area 2A among treaty Indian, non-Indian commercial, and non-Indian sport fisheries in and off Washington, Oregon, and California. For 1995 and beyond, NMFS implemented a long-term CSP (60 FR 14651, March 20, 1995) recommended by the PFMC that was published at 50 CFR 301.23 (redesignated 301.24 by this notice). After reviewing the conduct of the halibut fisheries in Area 2A under the first year of the long term CSP, the PFMC recommended several revisions to the CSP affecting sport fishery subareas in Washington and management of incidental halibut harvest in the salmon troll fishery. Further, the long term CSP only provided sport fishery structuring for the area off Oregon for 1995, and the PFMC recommended provisions in the CSP to apply over the long term to Oregon sport fishery subareas. In addition, in accordance with the CSP, the PFMC made recommendations on the specific seasons, dates, and other management measures in the sport fisheries necessary to implement the CSP in 1996. A complete description of the PFMC recommendations and proposed changes to the CSP and implementing regulations were published at (61 FR 2782, January 29, 1996) with a request for public comments. No comments were received on the proposed changes to the CSP, and NMFS approves the changes to the CSP at §§ 301.24(e)(1), (3), and (f)(1) (i), (iii), (v) and (vi).

In accordance with the CSP, the Washington Department of Fish and Wildlife (WDFW) held a public workshop on February 1, 1996, (after the IPHC set the Area 2A quota) to develop recommendations on the opening dates and weekly structure of the sport fisheries in Washington. The WDFW sent NMFS a letter on February 12, 1996 advising on the outcome of the workshop and recommended only one change to the proposed regulations on sport fisheries. In the Puget Sound sport fishery subarea, WDFW recommends that the fishing season open on May 23 and continue through July 27. NMFS

agrees with this recommendation and the final regulation at § 301.22(d)(2)(i)(A) has been modified.

The CSP also stipulates that the treaty Indian tribes will estimate their ceremonial and subsistence (C&S) harvest expectations in January of each year, and the remainder of the tribal allocation will be for the tribal commercial fishery. On January 24, 1996, the tribes advised NMFS that the C&S harvest expectation for 1996 is 14,000 lb (6.35 mt). The regulations as shown herein at 50 CFR 301.21 (d) and (g) therefore have a tribal commercial quota of 168,000 lb (76.2 mt) and a year-round C&S fishery that is expected to harvest 14,000 lb (6.35 mt).

Catch Sharing Plan for Area 4

The NPFMC developed a CSP to apportion the IPHC's catch limit for Area 4 among subareas 4A, 4B, 4C, 4D, and 4E in and off the State of Alaska. NMFS published the proposed CSP for Area 4 on January 30, 1996 (61 FR 2992). The rationale for the CSP for Area 4 is discussed in the proposed CSP. No comments on the proposed CSP were received from the public or from other government agencies. No changes from the proposed CSP are made in the final CSP, which is adopted as follows:

Introduction: This CSP constitutes a framework that applies to the annual Area 4 catch limit established by the IPHC. The purpose of the CSP is to establish subareas within Area 4, and to provide for the apportionment of the

Area 4 catch limit among the subareas as necessary to carry out the objectives of the IFQ and CDQ programs that allocate halibut among U.S. fishermen. The IPHC, consistent with its responsibilities, implemented the measures specified in this CSP at its annual meeting in January 1996, based on an assumption that the CSP would be approved by NMFS. This CSP will continue in effect until amended by the NPFMC or superseded by action of the IPHC.

Area 4 subareas: Regulatory Areas 4A, 4B, 4C, 4D, and 4E will be established as they are defined currently at paragraphs (f), (g), (h), (i), and (j), respectively, at § 301.6. For the convenience of the reader, definitions of these subareas are set out as follows:

Area 4A includes all waters in the Gulf of Alaska west of Area 3B defined in § 301.6(e) and in the Bering Sea west of the closed area, defined in § 301.9, that are east of 172°00'00" W. long. and south of 56°20'00" N. lat.

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. lat.

Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in § 301.9, that are east of 171°00'00" W. long., south of 58°00'00" N. lat., and west of 168°00'00" W. long.

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. long.

Area 4E includes all waters in the Bering Sea north and east of the closed area defined in § 301.9, east of 168°00'00" W. long., and south of 65°34'00" N. lat.

Catch limit apportionments: Apportionments of the Area 4 catch limit specified annually by the IPHC are as follows:

Subarea 4A.....	33 percent
Subarea 4B.....	39 percent
Subarea 4C.....	13 percent
Subarea 4D.....	13 percent
Subarea 4E.....	2 percent

An exception to this CSP apportionment schedule is provided when the Area 4 catch limit is greater than 5,920,000 lb (2,685.3 metric tons (mt)) and less than or equal to 6,000,000 lb (2,721.6 mt). In this event, the amount of the Area 4 catch limit that is greater than 5,920,000 lb (2,685.3 mt) but less than or equal to 6,000,000 lb (2,721.6 mt) would be assigned to subarea 4E. The amount of the Area 4 catch limit that is greater than 6,000,000 lb (2,721.6 mt) would be distributed among all Area 4 subareas according to the CSP apportionment schedule.

Example 1: If the IPHC specifies the Area 4 catch limit to be 5,980,000 lb (2,712.5 mt), then 5,920,000 lb (2,685.3 mt) would be distributed among the Area 4 subareas according to the CSP apportionment schedule, and 60,000 lb (27.2 mt) would be added to subarea 4E as follows:

Subarea		lb	mt
4A .....	.33×5,920,000	= 1,953,600	886.1
4B .....	.39×5,920,000	= 2,308,800	1,047.3
4C .....	.13×5,920,000	= 769,600	349.1
4D .....	.13×5,920,000	= 769,600	349.1
4E .....	.02×5,920,000+60,000	= 178,400	80.9
Totals .	1.00	5,980,000	2,712.5

Example 2: If the IPHC specifies the Area 4 catch limit to be 6,100,000 lb (2,766.9 mt), then 5,920,000 lb (2,685.3 mt) plus the amount that is greater than 6,000,000 lb (2,721.6 mt) (i.e., 100,000 lb (45.4 mt)) would be distributed among the Area 4 subareas according to the CSP apportionment schedule, and the 80,000 lb (36.3 mt) remainder would be added to subarea 4E as follows:

Subarea		lb	mt
4A .....	.33×6,020,000	= 1,986,600	901.1
4B .....	.39×6,020,000	= 2,347,800	1,064.9
4C .....	.13×6,020,000	= 782,600	355.0
4D .....	.13×6,020,000	= 782,600	355.0
4E .....	.02×6,020,000+80,000	= 200,400	90.9
Totals	1.00	6,100,000	2,766.9

Classification

IPHC Regulations

Because approval by the Secretary of State of the IPHC regulations is a foreign

affairs function, *Jensen v. National Marine Fisheries Service*, 512 F.2d 1189 (9th Cir. 1975), 5 U.S.C. 553 of the Administrative Procedure Act (APA) does not apply to this notice of the

effectiveness and content of the IPHC regulations. Because proposed rulemaking is not required, the preparation of a regulatory flexibility analysis is not required.

CSP for Area 2A

This action has been determined to be not significant for purposes of E.O. 12866.

NMFS finds under 5 U.S.C. 553(d)(3) of the APA that good cause exists for waiving the 30-day delayed-effectiveness period for the implementation of the Area 2A CSP. It would be contrary to the public interest to disrupt the tribal halibut commercial fishery, which opens on March 15, 1996.

CSP for Area 4

Copies of the Environmental Assessment/Regulatory Impact Review prepared for the CSP are available (see ADDRESSES).

This final rule has been determined to be not significant for purposes of E.O. 12866.

NMFS finds under 5 U.S.C. 553(d)(3) of the APA that good cause exists for waiving the 30-day delayed-effectiveness period for the implementation of the Area 4 CSP. It would be contrary to the public interest to disrupt the halibut commercial fishery, which open on March 15, 1996.

List of Subjects in 50 CFR Part 301

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: March 13, 1996.

C. Karnella,
*Acting Program Management Officer,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 301 is amended as follows:

PART 301—PACIFIC HALIBUT FISHERIES

1. The authority citation for 50 CFR part 301 continues to read as follows:

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

2. In § 301.3, paragraph (h) is revised, paragraphs (i), (j), (k), (l), (m), (n), and (o) are redesignated (j), (k), (l), (m), (n), (o), and (p), respectively, and new paragraph (i) is added, to read as follows:

§ 301.3 Licensing vessels.

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

(i) 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 p.m. on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

* * * * *

3. In § 301.5, paragraphs (b), (c), (d), (e), and (f) are revised to read as follows:

§ 301.5 Application.

* * * * *

(b) Section 301.6 through 301.20 apply to commercial fishing for halibut.

(c) Section 301.21 applies to the U.S. treaty Indian tribal fishery in Area 2A–1.

(d) Section 301.22 applies to sport fishing for halibut.

(e) Section 301.23 applies to non-Indian commercial and sport fishing for halibut in Area 2A.

(f) Section 301.24 applies to all fishing for halibut in Area 2A.

* * * * *

4. In § 301.7, paragraphs (b) and (c) are revised to read as follows:

§ 301.7 Fishing periods.

* * * * *

(b) Each fishing period in the Area 2A directed fishery south of 46°53'18" N. lat. shall begin at 0800 hours and terminate at 1800 hours local time on July 10, July 24, August 14, August 28, September 11, and September 25, unless the Commission specifies otherwise.

(c) Notwithstanding paragraph (b) of this section and § 301.10(g), an incidental catch fishery is authorized during salmon troll seasons in Area 2A. Operators of vessels participating in the salmon troll fishery in Area 2A may retain halibut caught incidentally during authorized periods, in conformance with the annual salmon management measures announced in the Federal Register. Halibut landing restrictions for the salmon troll fishery will be based on the expected number of incidental harvest permits, halibut allocation, and other pertinent information, and may include landing ratios, landing limits, or other means to control the rate of halibut harvest. Inseason changes to the halibut landing restrictions will be announced in accordance with § 301.22(d)(3)(iii).

* * * * *

5. In § 301.8, paragraph (c) is revised to read as follows:

§ 301.8 Closed periods.

* * * * *

(c) Subject to § 301.18 (g) and (h), fishing is not prohibited for any species of fish other than halibut during the closed periods.

* * * * *

6. In § 301.10, paragraphs (a) and (b) are revised to read as follows:

§ 301.10 Catch Limits.

(a) The total allowable catch of halibut to be taken during the halibut fishing periods specified in § 301.7 shall be limited to the weight expressed in pounds or metric tons shown in the following table.

Regulatory area	Catch limits	
	Pounds	Metric tons
2A	107,120	49
2B	9,520,000	4,318
2C	9,000,000	4,082
3A	20,000,000	9,072
3B	3,700,000	1,678
4A	1,950,000	885
4B	2,310,000	1,048
4C	770,000	349
4D	770,000	349
4E	120,000	54

(b) Notwithstanding paragraph (a) of this section, the catch limit in Area 2A shall be divided between a directed halibut fishery to operate south of 46°53'18" N. lat. during the fishing periods set out in § 301.7(b) and an incidental halibut catch fishery during the salmon troll fishery in Area 2A described in § 301.7(c). Inseason actions to transfer catch between these fisheries may occur in conformance with § 301.24.

* * * * *

7. In § 301.12, paragraph (b) is revised to read as follows:

§ 301.12 Size limits.

* * * * *

(b) No person shall possess on board a vessel a halibut that has been mutilated or otherwise disfigured in any manner that prevents determination of whether the halibut complies with the size limits specified in this section, except that:

(1) This paragraph shall not prohibit the possession on board a vessel of 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 676; and

(2) No person shall possess a filleted halibut on board a vessel.

* * * * *

8. Section 301.14 is revised to read as follows:

§ 301.14 Vessel clearance in Area 4.

(a) 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 unloading of any halibut

caught in any of these areas, unless specifically exempted in paragraphs (i), (l), (m), (n), or (o) of this section.

(b) The vessel clearance required under paragraph (a) of this section prior to fishing in Area 4A may be obtained only at Dutch Harbor or Akutan, AK, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

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

(d) The vessel clearance required under paragraph (a) of this section prior to fishing in Areas 4C or 4D may be obtained only at St Paul or St. George, AK, 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.

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

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

(g) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (a) of this section only in Nazan Bay on Atka Island, AK, either in person or by contacting 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.

(h) Before unloading any halibut caught in Areas 4C or 4D, a vessel operator may obtain the clearance required under paragraph (a) of this section only in St. Paul, St. George, Dutch Harbor, or Akutan, AK, 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, AK, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(i) Any vessel operator who complies with the requirements in § 301.17 of this part 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 (a) of this section, but must comply with the following requirements:

(1) The operator of the vessel must obtain a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, 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, 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

(2) Before unloading any halibut from Area 4, the vessel operator must obtain a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, 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, 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.

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

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

(l) 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 (a) of this section.

(m) 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 (a) of this section.

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

(o) Any vessel that is used to fish for halibut only in Areas 4D and 4E and lands its total annual halibut catch at a port within Areas 4D, 4E, or the closed area defined at § 301.9 is exempt from the clearance requirements of paragraph (a) of this section.

9. In § 301.15, paragraph (b)(1) is revised to read as follows:

§ 301.15 Logs.

* * * * *

(b) * * *

(1) Separate from other records maintained on board the vessel or recorded in groundfish daily fishing logbooks provided by NMFS.

* * * * *

10. Sections 301.17 through 301.24 are redesignated as §§ 301.18 through 301.25, and a new § 301.17 is added to read as follows:

§ 301.17 Fishing multiple regulatory areas.

(a) 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.

(b) Halibut caught in regulatory Areas 2C, 3A, and 3B may be possessed on board a vessel at the same time providing the operator of the vessel:

(1) Has a NMFS-certified observer aboard when required by NMFS regulations at 50 CFR part 676; and

(2) 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.

(c) Halibut caught in regulatory areas 4A, 4B, 4C, and 4D may be possessed aboard a vessel at the same time providing the operator of the vessel:

(1) Has a NMFS-certified observer on board the vessel when halibut caught in different regulatory areas are on board; and

(2) 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.

11. In newly redesignated § 301.21, paragraphs (d), (f), and (g) are revised to read as follows:

§ 301.21 Fishing by U.S. treaty Indian tribes.

* * * * *

(d) Commercial fishing for halibut by treaty Indians is permitted only in subarea 2A-1 with hook-and-line gear from March 15 through November 15, or until 168,000 lb (76.2 mt) are taken by treaty Indians, whichever occurs first.

* * * * *

(f) Commercial fishing for halibut by treaty Indians shall comply with the provisions of §§ 301.12, 301.13, 301.15, and 301.18, except that the 72-hour fishing restriction preceding the opening of a halibut fishing period shall not apply to treaty Indian fishing.

(g) Ceremonial and subsistence fishing for halibut by treaty Indians in

subarea 2A-1 is permitted with hook-and-line gear from January 1 through December 31, and is estimated to take 14,000 lb (6.35 mt).

* * * * *

12. In newly redesignated § 301.22, paragraphs (d)(2)(i) through (d)(2)(vii) are revised, paragraphs (i) through (o) are redesignated as paragraphs (j) through (p) respectively, new paragraph (i) is added, and paragraphs (h) through (p) are revised to read as follows:

§ 301.22 Sport fishing for halibut.

* * * * *

(d) * * *
(2) * * *

(i) In Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line from the lighthouse on Bonilla Point on Vancouver Island, British Columbia (48°35'44" N. lat., 124°43'00" W. long.) to the buoy adjacent to Duntze Rock (48°24'55" N. lat., 124°44'50" W. long.) to Tatoosh Island lighthouse (48°23'30" N. lat., 124°44'00" W. long.) to Cape Flattery (48°22'55" N. lat., 124°43'42" W. long.), there is no quota. This area is managed by setting a season that is projected to result in a catch of 34,653 lb (15.7 mt).

(A) The fishing season is May 23 through July 27, 5 days a week (Thursday through Monday).

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

(ii) In the area off the north Washington coast, west of the line described in paragraph (d)(2)(i) of this section and north of the Queets River (47°31'42" N. lat.), the quota for landings into ports in this area is 71,410 lb (32.4 mt). Landings into Neah Bay of halibut caught in this area will count against this quota and are governed by the regulations in this paragraph (d)(2)(ii).

(A) The fishing season commences on May 1, and continues 5 days a week (Tuesday through Saturday) until 71,410 lb (32.4 mt) are estimated to have been taken and the season is closed by the Commission.

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

(C) A portion of this area about 19 nm (35 km) southwest of Cape Flattery is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 48°18'00" N. lat., 125°11'00" W. long.; 48°18'00" N. lat., 124°59'00" W. long.; 48°04'00" N. lat., 125°11'00" W. long.; and, 48°04'00" N. lat., 124°59'00" W. long.

(iii) In the area between the Queets River, WA and Leadbetter Point, WA (46°38'10" N. lat.), the quota for landings into ports in this area is 15,222 lb (6.9 mt).

(A) The fishing season commences on May 1 and continues every day until 1,000 lb (0.45 mt) are projected to remain in the subarea quota of 15,222 lb (6.9 mt). Immediately following this closure, the area from the Queets River south to 47°00'00" N. lat. and east of 124°40'00" W. long. will reopen for 7 days per week until either 15,222 lb (6.9 mt) are estimated to have been taken and the season is closed by the Commission, or until September 30, whichever occurs first.

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

(C) The northern offshore portion of this area west of 124°40'00" W. long. and north of 47°10'00" N. lat. is closed to sport fishing for halibut.

(iv) In the area between Leadbetter Point, WA and Cape Falcon, OR (45°46'00" N. lat.), the quota for landings into ports in this area is 4,617 lb (2.1 mt).

(A) The fishing season commences on May 1, and continues every day through September 30, or until 4,617 lb (2.1 mt) are estimated to have been taken and the area is closed by the Commission, whichever occurs first.

(B) The daily bag limit is one halibut with a minimum overall size limit of 32 inches (81.3 cm).

(v) In the area off Oregon between Cape Falcon and the Siuslaw River at the Florence north jetty (44°01'08" N. lat.), the quota for landings into ports in this area is 94,694 lb (43 mt).

(A) The fishing seasons are:

(1) Commencing May 16, and continuing 3 days a week (Thursday through Saturday) until 64,392 lb (29.2 mt) are estimated to have been taken and the season is closed by the Commission;

(2) Commencing the day following the closure of the season in paragraph (d)(2)(v)(A)(1) of this section, and continuing every day through August 1, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600, or until 6,629 lb (3.0 mt) or the subarea quota is estimated to have been taken (except that any poundage remaining unharvested after the earlier season will be added to this season) and the season is closed by the Commission, whichever is earlier; and

(3) Commencing August 2, and continuing 2 days a week (Friday and Saturday) through September 30, or until the combined quotas for the subareas described in paragraphs (d)(2)(v) and (vi) of this section totaling 102,193 lb (46.4 mt) are estimated to have been taken and the area is closed

by the Commission, whichever is earlier.

(B) The daily bag limit is two halibut, one with a minimum overall size limit of 32 inches (81.3 cm) and the second with a minimum overall size limit of 50 inches (127.0 cm).

(vi) In the area off Oregon between the Siuslaw River at the Florence north jetty and the California border (42°00'00" N. lat.), the quota for landings into ports in this area is 7,499 lb (3.4 mt).

(A) The fishing seasons are:

(1) Commencing May 16 and continuing 3 days a week (Thursday through Saturday) until 5,999 lb (2.7 mt) are estimated to have been taken and the season is closed by the Commission;

(2) Commencing the day following the closure of the season in paragraph (d)(2)(vi)(A)(1) of this section, and continuing every day through August 1, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600, or until a total of 1,500 lb (0.7 mt) or the area quota is estimated to have been taken (except that any poundage remaining unharvested after the earlier season will be added to this season) and the season is closed by the Commission, whichever is earlier; and

(3) Commencing August 2 and continuing 2 days a week (Friday and Saturday) through September 30, or until the combined quotas for the subareas described in paragraphs (d)(2)(v) and (vi) of this section totaling 102,193 lb (46.4 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier.

(B) The daily bag limit is two halibut, one with a minimum overall size limit of 32 inches (81.3 cm) and the second with a minimum overall size limit of 50 inches (127.0 cm).

(vii) In the area off the California coast, there is no quota. This area is managed on a season that is projected to result in a catch of less than 2,785 lb (1.3 mt).

(A) The fishing season will commence on May 1, and continue every day through September 30.

(B) The daily bag limit is one halibut with a minimum overall size limit of 32 inches (81.3 cm).

* * * * *

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

(i) The possession limit for halibut in the waters off Washington, Oregon, and California is the same as the daily bag limit.

(j) The possession limit for halibut on land in Area 2A north of Cape Falcon, OR is two daily bag limits.

(k) The possession limit for halibut on land in Area 2A south of Cape Falcon, OR is one daily bag limit.

(l) Any halibut brought on board 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.

(m) No person shall be in possession of halibut on a vessel while fishing in a closed area.

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

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

(p) The operator of a charter vessel shall be liable for any violations of this part committed by a passenger aboard said vessel.

* * * * *

13. In newly redesignated § 301.23, paragraphs (a) and (b) are revised to read as follows:

§ 301.23 Fishing election in Area 2A.

(a) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(1) The recreational fishery under § 301.22;

(2) The commercial directed fishery for halibut during the fishing period(s) established in § 301.7(b); or

(3) The incidental catch fishery during the salmon troll fishery as authorized in § 301.7(c).

(b) No person shall fish for halibut in the recreational fishery in Area 2A under § 301.22 from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

* * * * *

14. In newly redesignated § 301.24, paragraphs (a), (e)(1), (e)(3), (f)(1)(i), (iii), (v), (vi), and (g) are revised to read as follows:

§ 301.24 Catch sharing plan for Area 2A.

(a) This Plan constitutes a framework that shall be applied to the annual Area 2A total allowable catch (TAC) approved by the Commission each January. The framework shall be implemented in both Commission regulations and domestic regulations (implemented by NMFS) as published in the Federal Register as rulemaking in §§ 301.1 through 301.23.

* * * * *

(e) * * *

(1) Incidental halibut catch in the salmon troll fishery.

Fifteen percent of the non-Indian commercial fishery allocation is allocated to the salmon troll fishery in Area 2A as an incidental catch during salmon fisheries. The quota for this incidental catch fishery is 3.1 percent of the Area 2A TAC.

(i) The Pacific Fishery Management Council (Council) will recommend landing restrictions at its spring public meeting each year to control the amount of halibut caught incidentally in the troll fishery. The landing restrictions will be based on the number of incidental harvest license applications submitted to the Commission, halibut catch rates, the amount of allocation, and other pertinent factors, and may include catch or landing ratios, landing limits, or other means to control the rate of halibut harvest. NMFS will publish the landing restrictions annually in the Federal Register, along with the salmon management measures.

(ii) Inseason adjustments. (A) NMFS may make inseason adjustments to the landing restrictions, if requested by the Council Chairman, as necessary to assure that the incidental harvest rate is appropriate for salmon and halibut availability, does not encourage target fishing on halibut, and does not increase the likelihood of exceeding the quota for this fishery. In determining whether to make such inseason adjustments, NMFS will consult with the applicable state representative(s) on the Halibut Managers Group, a representative of the Council's Salmon Advisory Sub-Panel, and Council staff.

(B) Notice and effectiveness of inseason adjustments will be made by NMFS in accordance with § 301.22(d)(3) (iii) and (iv).

(iii) If the quota for this fishery is not harvested during the May/June salmon troll fishery, the remaining quota will be made available by the Commission to the directed halibut fishery on July 1.

(iv) If the quota for the non-Indian commercial fisheries specified at paragraph (e) of this section has not been harvested by July 31 and the quota for the salmon troll fishery was not harvested during the May/June fishery, landings of halibut caught incidentally during salmon troll fisheries will be allowed effective August 1 and will continue until the quota for the troll fishery is taken or the overall non-Indian commercial quota is estimated to have been achieved by the Commission. Landing restrictions implemented for the May/June salmon troll fishery will apply to this reopening of the fishery.

(v) A salmon troller may participate in this fishery or in the directed commercial fishery targeting halibut, but not in both.

* * * * *

(3) *Commercial license restrictions/declarations.* Commercial fishers must choose either to operate in the directed commercial fishery in Area 2A, or to retain halibut caught incidentally during the salmon troll fishery. Commercial fishers operating in the directed halibut fishery must send their license application to the Commission postmarked no later than April 30, or the first weekday in May, if April 30 falls on a weekend, in order to obtain a license to fish for halibut in Area 2A. Commercial fishers operating in the salmon troll fishery who seek to retain incidentally caught halibut must send their application for a license to the Commission for the incidental catch of halibut in Area 2A postmarked no later than March 31, or the first weekday in April, if March 31 falls on a weekend. Fishing vessel operators who are issued licenses to fish commercially in Area 2A are prohibited from obtaining a Commission charterboat license for Area 2A. Sport fishing for halibut is prohibited from a vessel licensed to fish commercially for halibut in Area 2A.

(f) * * *

(1) * * *

(i) *Washington inside waters subarea.* This sport fishery subarea is allocated 28.0 percent of the Washington sport allocation, which equals 6.66 percent of the Area 2A TAC. This subarea is defined as all U.S. waters east of the Bonilla-Tatoosh line, defined as follows: From Bonilla Point (48°35'44" N. lat., 124°43'00" W. long.) to the buoy adjacent to Duntze Rock (48°24'55" N. lat., 124°44'50" W. long.) to Tatoosh Island lighthouse (48°23'30" N. lat., 124°44'00" W. long.) to Cape Flattery (48°22'55" N. lat., 124°43'42" W. long.), including Puget Sound. The structuring objective for this subarea is to provide a stable sport fishing opportunity and maximize the season length. Due to inability to monitor the catch in this area inseason, a fixed season will be established preseason based on projected catch per day and number of days to achievement of the quota. No inseason adjustments will be made, and estimates of actual catch will be made postseason. The fishery will open in May and continue at least through July 4, or until a date established preseason (and published in the sport fishery regulations) when the quota is predicted to be taken, or until September 30, whichever is earlier. The Washington Department of Fish and Wildlife will

sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the opening date and weekly structure of the fishery each year. The daily bag limit is one fish per person, with no size limit.

* * * * *

(iii) *Washington south coast subarea.* This sport fishery subarea is allocated 12.3 percent of the Washington sport allocation, which equals 2.93 percent of the Area 2A TAC. This subarea is defined as waters south of the Queets River (47°31'42" N. lat.) and north of Leadbetter Point (46°38'10" N. lat.). The structuring objective for this subarea is to maximize the season length, while providing for a limited halibut fishery. The fishery opens on May 1, for 7 days per week and continues until 1,000 lb (.45 mt) are projected to remain in the subarea quota. Immediately following this closure, the area from the Queets River south to 47°00'00" N. lat. and east of 124°40'00" W. long. will reopen for 7 days per week until either the subarea quota is estimated to have been taken and the season is closed by the Commission, or until September 30, whichever occurs first. The daily bag limit is one halibut per person, with no size limit. Sport fishing for halibut is prohibited in the area south of the Queets River (47°31'42" N. lat.), west of 124°40'00" W. long. and north of 47°10'00" N. lat.

* * * * *

(v) *Oregon central coast subarea.* If the Area 2A TAC is 388,350 lb (176.2 mt) and above, this subarea extends from Cape Falcon to the Siuslaw River at the Florence north jetty (44°01'08" N. lat.) and is allocated 88.4 percent of the Oregon/California sport allocation, which is 18.21 percent of the Area 2A TAC. If the Area 2A TAC is below 388,350 lb (176.2 mt), this sport fishery subarea extends from Cape Falcon to the California border and is allocated 95.4 percent of the Oregon/California sport allocation. The structuring objectives for this subarea are to provide one or two periods of fishing opportunity in productive deeper water areas along the coast, principally for charter and larger private boat anglers, and provide a period of fishing opportunity in nearshore waters for small boat anglers. Any poundage remaining in this subarea quota from earlier seasons will be added to the last season in this subarea. This subarea has three seasons as set out in paragraphs (f)(1)(v) (A) through (C) of this section. The Council will recommend opening dates for these seasons annually at its fall public meeting. The daily bag limit for all

seasons is two halibut per person, one with a minimum 32-inch (81.3-cm) size limit and the second with a minimum 50-inch (127.0-cm) size limit.

(A) The first season is an all-depth fishery that begins in May and continues at least 3 days per week (dependent on TAC) until 68 percent of the subarea quota is taken.

(B) The second season opens the day following closure of the first season, only in waters inside the 30-fathom (55 m) curve, and continues every day until 7 percent of the subarea quota is taken, or until early August, whichever is earlier.

(C) The last season begins in early August, with no depth restrictions, and continues at least 2 days per week, until the combined Oregon subarea quotas south of Falcon are estimated to have been taken, or September 30, whichever is earlier.

(vi) *Oregon south coast subarea.* If the Area 2A TAC is 388,350 lb (176.2 mt) and above, this subarea extends from the Siuslaw River at the Florence north jetty (44°01'08" N. lat.) to the California border (42°00'00" N. lat.) and is allocated 7.0 percent of the Oregon/California sport allocation, which is 1.44 percent of the Area 2A TAC. If the Area 2A TAC is below 388,350 lb (176.2 mt), this subarea will be included in the Oregon Central sport fishery subarea.

The structuring objective for this subarea is to create a south coast management zone designed to accommodate the needs of both charterboat and private boat anglers in this area where weather and bar crossing conditions very often do not allow scheduled fishing trips. This subarea has three seasons as set out in paragraphs (f)(1)(vi) (A) through (C) of this section. The Council will recommend opening dates for these seasons annually at its fall public meeting. The daily bag limit for all seasons is two halibut per person, one with a minimum 32-inch (81.3-cm) size limit and the second with a minimum 50-inch (127.0 cm) size limit.

(A) The first season is an all-depth fishery that begins in May and continues at least 3 days per week (dependent on TAC) and continues at least 3 days per week until 80 percent of the subarea quota is taken.

(B) The second season opens the day following closure of the first season, only in waters inside the 30-fathom (55 m) curve, and continues every day until the subarea quota is estimated to have been taken, or early August, whichever is earlier.

(C) The last season begins in early August, with no depth restrictions, and continues at least 3 days per week, until

the combined Oregon subarea quotas south of Falcon are estimated to have been taken, or September 30, whichever is earlier.

* * * * *

(g) *Procedures for implementation.* Each year, NMFS will publish a proposed rule with any regulatory modifications necessary to implement the Plan for the following year, with a request for public comments. The comment period will extend until after the Commission's annual meeting, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments. After the Area 2A TAC is known, and after NMFS reviews public comments, NMFS will implement final rules governing the sport fisheries. The final ratio of halibut to chinook to be allowed as incidental catch in the salmon troll fishery will be published with the annual salmon management measures. Inseason actions in the sport fisheries as stipulated in this Plan will be accomplished by NMFS in accordance with § 301.22(d)(3).

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50 CFR Part 625

[Docket No. 951116270-5038-02; I.D. 031396C]

Summer Flounder Fishery; Commercial Quota Harvested for North Carolina

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS issues this notification to announce that the summer flounder commercial quota available to the State of North Carolina has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in North Carolina for the remainder of calendar year 1996, unless additional quota becomes available through a transfer from another state that has not reached its annual quota. Regulations governing the summer flounder fishery require publication of this notification to advise the State of North Carolina that the quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in North Carolina.