

Executive Order 12612

This final rule would not have substantial direct effect on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of Government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), RSPA has determined that this final rule would not have sufficient federalism implications to warrant preparation of a federalism assessment.

Regulatory Flexibility Act

Because this final rule will impose little to no additional cost on pipeline operators (see discussion on the regulatory evaluation), RSPA certifies under section 605 of the Regulatory Flexibility Act (5 U.S.C.) that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

There are no new information collection requirements in this rule.

Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

List of Subjects in 49 CFR Part 199

Drug testing, Pipeline safety.

In consideration of the foregoing RSPA amends, 49 CFR part 199 as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 49 App. U.S.C. 60101 et seq.; 49 CFR 1.53.

2. Section 199.3 is amended by removing the definition of Employee and adding new definitions of Covered employee and Covered function to read as follows:

§ 199.3 Definitions.

* * * * *

Covered employee means a person who performs, on a pipeline or LNG facility, an operations, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter. This does not include clerical, truck driving, accounting, or other functions not subject to part 192, 193, or 195. The

person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

Covered function means an operations, maintenance, or emergency-response function conducted on the pipeline or LNG facility that is regulated by part 192, 193, or 195.

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3. Section 199.11 is amended by revising paragraph (e) and adding paragraph (f) to read as follows:

§ 199.11 Drug tests required.

* * * * *

(e) Return to duty testing. A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has had a face-to-face evaluation conducted by a substance abuse professional, and has properly followed any prescribed assistance.

(f) Follow-up testing. A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

4. Section 199.15 is amended by revising paragraph (d)(2) and adding new paragraphs (e) and (f) to read as follows:

§ 199.15 Review of drug testing results.

* * * * *

(d) * * *

(2) If the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO shall refer:

- (i) The individual tested to a personnel or administrative office for further proceedings in accordance with the operator's anti-drug plan; and
(ii) For evaluation by a SAP who shall determine what assistance, if any, the

employee needs in resolving problems associated with drug misuse.

* * * * *

(e) Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment of costs shall be made in accordance with the operator/employee agreements and operator/employee policies.

(f) The operator shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring a covered employee for assistance provided through:

- (1) A public agency, such as a State, county, or municipality;
(2) The operator or a person under contract to provide treatment for drug problems on behalf of the operator;
(3) The sole source of therapeutically appropriate treatment under the employee's health insurance program; or
(4) The sole source of therapeutically appropriate treatment reasonably accessible to the employee.

Issued in Washington, DC, on March 11, 1998.

Kelley S. Coyner,

Acting Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 980225048-8059-02; I.D. 030698A]

RIN 0648-AK58

Pacific Halibut Fisheries; Catch Sharing Plans

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

ACTION: Final rule; annual management measures for Pacific halibut fisheries and approval of catch sharing plans.

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 the approval of modifications to the Catch Sharing Plan for Area 2A and publishes the implementing regulations for 1998. These actions are intended to enhance the conservation of the Pacific halibut stock in order to help rebuild and sustain it at an adequate level in the northern Pacific Ocean and Bering Sea.

DATES: This final rule is effective March 15, 1998.

ADDRESSES: NMFS Alaska Region, 709 West 9th St., P.O. Box 21668, Juneau, AK 99802-1668; or NMFS Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206-526-6143 or Jay Ginter, 907-586-7228.

SUPPLEMENTARY INFORMATION: The IPHC has promulgated regulations governing the Pacific halibut fishery in 1998, 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, DC, 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). Pursuant to regulations at 50 CFR 300.62, the approved IPHC regulations setting forth the 1998 IPHC annual management measures 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 26-29, 1998, in Anchorage, Alaska, and adopted regulations for 1998. The substantive changes to the previous IPHC regulations (62 FR 12759, March 18, 1997) include:

1. New catch limits for all areas;
2. Elimination of the IPHC license requirements for halibut charter vessels operating in waters off the coasts of Alaska and British Columbia;
3. Revision of logkeeping requirements for commercial halibut

vessels 26 ft (7.9 meter (m)) and longer; and

4. Establishment of opening dates for the Area 2 commercial directed halibut fishery.

In addition, this action implements Catch Sharing Plans (Plans) for regulatory Areas 2A and 4C, 4D, and 4E. These Plans 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 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 AA. 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.

Catch Sharing Plan (CSP) for Area 2A

The PFMC has prepared annual Plans 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. In 1995, NMFS implemented a Council-recommended, long-term Plan (60 FR 14651, March 20, 1995), which was revised in 1996 (61 FR 11337, March 20, 1996) and 1997 (62 FR 12759, March 18, 1997). The Plan allocates 35 percent of the Area 2A total allowable catch (TAC) to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into two sectors: A directed (traditional longline) commercial fishery that is allocated 85 percent of the non-Indian commercial harvest, and a salmon troll fishery that is allocated 15 percent for harvests of incidental catches of halibut. The directed commercial fishery in Area 2A

is confined to southern Washington (south of 46°53'18" N. lat.), Oregon and California. The Plan also divides the sport fisheries into seven geographic areas, each with separate allocations, seasons, and bag limits.

For 1998, PFMC recommended changes to the CSP to modify the Pacific halibut sport fisheries in Area 2A in 1998 and beyond, pursuant to recommendations from the Washington Department of Fish and Wildlife (WDFW) and the Oregon Department of Fish and Wildlife (ODFW). The purpose of the changes was to increase sport fishing opportunity for halibut at higher TAC levels, allow sport fishery users to better utilize their allocation, and provide an opportunity for sablefish longline fishermen to retain incidentally caught halibut when the halibut TAC is high. For the Washington sport fisheries, the PFMC recommended changing the CSP such that when the 2A TAC is above 550,000 lb (249.5 mt), the sharing of the Washington sport allocation among the four subareas would change to 32 percent each to the WA Inside Waters, WA North Coast and WA South Coast subareas, and 4 percent to the Columbia River subarea. Further, at TACs in excess of 900,000 lb (408.2 mt), the Council recommended applying the Washington sport share of the TAC above 214,110 lb (97.1 mt), provided a minimum of 10,000 lb (4.5 mt) is available (i.e., the Washington sport allocation is 224,110 lb (101.7 mt) or greater) to incidental catches in the non-Indian commercial fishery for sablefish north of Point Chehalis, WA. For the Oregon sport fisheries, the Council recommended frameworking the opening dates and providing a fixed season for the Oregon South Coast area.

A complete description of the PFMC recommended changes to the CSP, notice of a draft Environmental Assessment and Regulatory Impact Review (EA/RIR), and proposed sport fishery management measures were published in the **Federal Register** on January 26, 1998 (63 FR 3693), with a request for public comments. No public comments were received on the proposed changes to the CSP, except for a statement of support for the changes by the Washington Department of Fish and Wildlife. Also, no comments were received on the EA/RIR. Therefore, NMFS has approved the changes to the CSP as proposed, made a finding of no significant impact on the environment, and finalized the EA/RIR. Copies of the complete CSP for Area 2A as modified and the final EA/RIR are available from the NMFS Northwest Regional Office (see **ADDRESSES**).

In accordance with the CSP, the WDFW and the ODFW held public workshops (after the IPHC set the Area 2A quota) on February 2 and 9, 1998, respectively, to develop recommendations on the opening dates and weekly structure of the sport fisheries. The WDFW and ODFW sent letters to NMFS on February 6 and 17, 1998, respectively, advising on the outcome of the workshop and provided the following comments and recommendations on the opening dates and season structure for the sport fisheries. In addition, NMFS received one public comment on the proposed sport seasons included in the following comment and response section.

Comment: WDFW recommended a May 22 to August 3 season, 5 days per week (closed Tuesday and Wednesday) for the Washington Inside Waters area sport fishery. The recommended number of fishing days is based on analysis of past harvest patterns in this fishery.

Response: NMFS agrees with the calculated number of fishing days necessary to achieve, but not exceed, the subquota for this area. The recommended season has been incorporated in the 1998 sport fishery measures.

Comment: WDFW recommended that the Washington North Coast area sport fishery be structured such that 15,000 lb (6.8 mt) of the subarea quota be reserved to provide for the second priority in the CSP—a July 1 season. The WDFW recommendation is for the sport fishery to open on May 1 and to continue to June 30, or until 81,052 lb (36.7 mt) of the 96,052 lb (43.6 mt) quota are harvested. The fishery would reopen on July 1 and continue 5 days/week (closed Sunday and Monday) until the quota has been taken or until September 30.

Response: NMFS agrees and has incorporated these recommendations into the 1998 sport fishery measures.

Comment: WDFW recommended that the seasonal structure set forth in the CSP be implemented for the sport fisheries in the Washington South Coast and the Columbia River subareas.

Response: NMFS has structured the seasons for these subareas in accordance with the CSP.

Comment: ODFW recommended a 6-day season for the May opening in the Oregon Central Coast and South Coast subareas based on an analysis of past harvest rates which indicated an increasing annual trend in the sport fishery. Sport users at the ODFW workshop recommended a 7-day season based on the 1997 rates of harvest. ODFW did not recommend using the 1997 harvest per day because the annual

harvest per day has consistently exceeded the rate from the previous year. One public comment submitted to NMFS recommended a 7-day season.

Response: NMFS has implemented a 6-day fixed season in May for these two subareas. The CSP stipulates that the number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas. Based on the increasing annual trend in harvest in these sport fisheries, a 7-day season may result in a catch that exceeds the subquota, and would not be consistent with the CSP.

Comment: ODFW and the public in attendance at the ODFW workshop recommended no additional open days in May-June if unharvested quota remains after the fixed opening days in the Oregon Central Coast subarea. Instead, it was recommended that any unused quota be used in the August fishery, which is a Friday-Saturday fishery. One public comment submitted to NMFS recommended additional fishing on Thursdays in June.

Response: The CSP stipulates that "If sufficient catch remains for an additional day of fishing after the May season or the August season, openings will be provided if possible in May and August respectively. Potential additional open dates for both the May and August seasons will be announced pre-season." Further, the CSP stipulates that "ODFW will monitor landings and provide a post-season estimate of catch within 2 weeks of the end of the fixed season." Since a 6-day May season would extend to late May (May 23), additional opening dates in May cannot be set that would provide the necessary 2-week timeframe for ODFW to estimate the catch during the fixed season. Therefore, NMFS agrees with the recommendation to transfer any unused quota to the August fishery.

Comment: ODFW and the public in attendance at the ODFW workshop recommended 4 additional opening days after the May fixed season on June 12, 13, 19, and 20, with a Saturday preference, for the Oregon South Coast subarea.

Response: NMFS has incorporated these dates in the sport fishery management measures.

Comment: ODFW recommended a 1-day fixed season for the August fishery on August 7 based on an analysis of past harvest rates. Sport users at the ODFW workshop recommended a 2-day season on August 7 and 8. ODFW did not recommend a 2-day season because the projected catch would exceed the quota with 2 full days of fishing. ODFW will make a projection in mid-July to

determine whether sufficient quota remains to recommend a second day of fishing on August 8.

Response: The August fishery is scheduled for only 1 day on August 7 to ensure that the quota is not exceeded. Inseason action may be taken to allow for an additional all-depth fishing day in accordance with the CSP if sufficient quota remains. If the remaining unharvested quota is insufficient for 1 day of all depth fishing, the CSP stipulates that the fishery will reopen in the area inside 30 fathoms and continue until the quota is taken or September 30, whichever is earlier.

Accordingly, NMFS has implemented sport fishing management measures in Area 2A based on recommendations from the states in accordance with the CSP.

Catch Sharing Plan for Areas 4C, 4D, and 4E

The NPFMC developed a Plan in 1996 for allocating the Area 4 catch limit established by the IPHC among subareas 4A, 4B, 4C, 4D, and 4E. This Plan was approved by NMFS and first implemented in 1996 (61 FR 11337, March 20, 1996). In 1997, the NPFMC recommended changing the Plan. NMFS published a proposed rule in the **Federal Register** (63 FR 1812, January 12, 1998) to implement the NPFMC action to revise the CSP. Public comment on the proposed rule was invited for a 30-day period that ended on February 11, 1998. No comments were received. This final rule contains no changes from the proposed rule. Amendment of the Plan as proposed was approved by NMFS and implemented by this action.

The revised CSP removed Areas 4A and 4B from the CSP, so that catch limits for those areas and a combined Area 4C-4E may be set according to the IPHC's biomass-based methodology. Further, the revised CSP provides for apportioning the combined Area 4C-4E catch limit among Areas 4C, 4D, and 4E as separate catch limits. The revised CSP constitutes a framework to be applied to the combined annual catch limit established by the IPHC for Areas 4C, 4D, and 4E. The purpose of the revised CSP is to provide for the apportionment of catch limits to Areas 4C, 4D, and 4E apart from Areas 4A and 4B. This is necessary to carry out the objectives of the Individual Fishing Quota and Western Alaska Community Development Quota programs, which allocate halibut among U.S. fishermen. The IPHC, consistent with its authority and responsibilities, will implement the measures specified in this CSP beginning in 1998. This revised CSP

will continue in effect until amended by the NPFMC or superseded by action of the IPHC. The 1998 catch limits established by the IPHC for the Areas 4C, 4D, and 4E and published at section 11 of the following regulations are consistent with the Plan.

In addition to revision of the CSP, the proposed rule published January 12, 1998 (63 FR 1812), proposed a regulatory change at 50 CFR 300.63(b). This change is necessary for consistency with the revised CSP implemented by this action. The 30-day public comment period on the proposed rule change ended on February 11, 1998, and no comments were received. Therefore, NMFS is incorporating into this action the final rule implementing the change to 50 CFR 300.63(b) with no change from the proposed rule.

The 1998 Pacific halibut fishery regulations that follow are identical to those recommended by the IPHC and approved by the Secretary of State and include the domestic regulations approved by NMFS that are necessary to implement the CSP in Area 2A.

1998 Pacific Halibut Fishery Regulations

1. Short Title

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

2. 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 Division of Fish and Wildlife Protection (ADFWP), and the United States Coast Guard (USCG);

(b) *Charter vessel* means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

(c) *Commercial fishing* means fishing the resulting catch of which either is or is intended to be sold or bartered;

(d) *Commission* means the International Pacific Halibut Commission;

(e) *Daily bag limit* means the maximum number of halibut a person may take in any calendar day from Convention waters;

(f) *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;

(g) *Fishing period limit* means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(h) *Land*, with respect to halibut, means the offloading of halibut from the catching vessel;

(i) *License* means a halibut fishing license issued by the Commission pursuant to section 3;

(j) *Maritime area*, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea or internal waters of that Party;

(k) *Operator*, with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(l) *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);

(m) *Person* includes an individual, corporation, firm, or association;

(n) *Regulatory area* means an area referred to in section 6;

(o) *Setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached;

(p) *Sport fishing* means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing;

(q) *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;

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

(3) In these Regulations all weights shall be computed on the basis that the heads of the fish are off and their entrails removed.

3. Licensing Vessels

(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 license issued for a vessel operating in the commercial fishery in Area 2A shall be valid only for either the directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 or the incidental catch fishery during the salmon troll fishery specified in paragraph (3) of section 8, but not both.

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

(5) 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.

(6) 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 on the first weekday in May if April 30 is a Saturday or Sunday.

(7) 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.

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

(9) Information on "Application for Vessel License for the Halibut Fishery" form must be accurate.

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

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

(12) A new license is required for a vessel that is sold, transferred, renamed, or re-documented.

(13) 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.

(14) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in Title 15, Code of Federal regulations, part 904.

4. Inseason 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 pre-season 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 developed by the United States or Canadian governments.

(2) Inseason 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) Sport bag limits;
- (f) Size limits; or
- (g) Vessel clearances.

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

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

5. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from, waters off the west coast of Canada and the United States, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(2) Sections 6 to 21 apply to commercial fishing for halibut.

(3) Section 7 applies to the Western Alaska Community Development Quota (CDQ) fishery in Area 4E.

(4) Section 22 applies to the United States treaty Indian tribal fishery in Area 2A-1.

(5) Section 23 applies to sport fishing for halibut.

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

6. Regulatory Areas

The following areas shall be regulatory areas 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°11'57" N. lat., 136°38'18" W. long.) 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. lat., 155°35'00" W. long.) to Cape Ikolik (57°41'17" N. lat., 154°47'18" W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44'50" N. lat., 154°08'44" W. long.), 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. lat., 164°20'00" W. long.) and south of 54°49'00" N. lat. 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. long. and south of 56°20'00" N. lat.;

(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. lat.;

(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. long., south of 58°00'00" N. lat., and west of 168°00'00" W. long.;

(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. long.;

(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. long., and south of 65°34'00" N. lat.

7. Fishing in Regulatory Area 4E

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

(2) Section 7 shall be effective until December 31, 1999.

8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch limits specified in section 10 have not been taken.

(2) 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 22, August 19, August 26, September 9, and September 23, unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A. 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**. The notice also will specify the ratio of halibut to salmon that may be retained during this fishery.

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

(5) 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 at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved under 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

(1) All waters in the Bering Sea north of 55°00'00" N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36'00" N. lat., 164°55'42" W. long.) to a point at 56°20'00" N. lat., 168°30'00" W. long.; thence to a point at 58°21'25" N. lat., 163°00'00" W. long.; thence to Strogonof Point (56°53'18" N. lat., 158°50'37" W. long.); 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. lat. and 54°49'00" N. lat. are closed to commercial halibut fishing.

(2) In Area 2A, all waters north of Point Chehalis, WA (46°53'18" N. lat.) are closed to the directed commercial halibut fishery.

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 weight expressed in pounds or metric tons (mt) shown in the following table:

Catch limits	Regulatory area	
	Pounds	Metric tons
2A	168,961	76.6
2B	13,000,000	5,895.7
2C	10,500,000	4,761.9
3A	26,000,000	11,791.4
3B	11,000,000	4,988.7
4A	3,500,000	1,587.3
4B	3,500,000	1,587.3
4C	1,590,000	721.1
4D	1,590,000	721.1
4E	320,000	145.1

(2) Notwithstanding paragraph (1) 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 paragraph 2 of Section 8 and an incidental halibut catch fishery during the salmon troll fishery in Area 2A described in paragraph 3 of Section 8. Inseason actions to transfer catch between these fisheries may occur in conformance with the Catch Sharing Plan for Area 2A.

(a) The catch limit in the directed halibut fishery is 143,617 lb (65.1 mt).

(b) The catch limit in the incidental catch fishery during the salmon troll fishery is 25,344 lb (11.5 mt).

(3) The Commission shall determine and announce to the public the date on which the catch limit for Area 2A will be taken and the specific dates during which the directed fishery will be allowed in Area 2A.

(4) Notwithstanding paragraph (1), Area 2B will close only when all Individual Vessel Quotas assigned by Canada's Department of Fisheries and Oceans are taken, or November 15, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will close only when all Individual Fishing Quotas and all Community Development Quotas issued by the National Marine Fisheries Service 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) or (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.

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	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 shall possess on board a vessel a halibut that has been mutilated, or

otherwise disfigured in any manner that prevents the determination of whether the halibut complies with the size limits specified in this section, except that:

(a) 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 Title 50, Code of Federal Regulations, part 679; and

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

(3) 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

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

- (a) Hook straightening outboard of the roller;
- (b) Cutting the gangion near the hook; or
- (c) Carefully removing the hook by twisting it from the halibut with a gaff.

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 unloading of any halibut caught in any of these areas, unless specifically exempted in paragraphs (9), (12), (13), (14), or (15).

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

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island, 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 4C or 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.

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

(6) 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.

(7) 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, 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.

(8) Before unloading any halibut caught in Area 4C or 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.

(9) 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, but must comply with the following requirements:

(a) 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

(b) 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.

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

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

(12) 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).

(13) 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).

(14) 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 (1).

(15) 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 in section 10, is exempt from the clearance requirements of paragraph (1).

16. Logs

(1) The operator of any U.S. vessel that has an overall length of 26 feet (7.9 meters) or

greater shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality. The log information must be recorded in the groundfish daily fishing logbook provided by NMFS, or Alaska hook-and-line logbook provided by Petersburg Vessels Owner Association or Alaska Longline Fishermen's Association, or the logbook provided by IPHC.

(2) The log 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 period;
- (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 for 5 days following offloading halibut.

(3) The log referred to in paragraph (1) does not apply to the incidental halibut fishery in Area 2A defined in paragraph (3) of section 8.

(4) The operator of any Canadian vessel shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality. The log information must be recorded in the British Columbia Halibut Fishery logbook provide by the Department of Fisheries and Oceans (DFO).

(5) The log referred to in paragraph (4) 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 period;
- (c) Retained for a period of 2 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;
- (e) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for 5 days following offloading halibut; and
- (f) Within 7 days of offloading the yellow copy be mailed to the DFO and the white copy be mailed to IPHC.

(6) The poundage of any halibut that is not sold, but is utilized by the vessel operator, his/her crew members, or any other person for personal use, shall be recorded in the vessel's log within 24-hours of offloading.

(7) 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 from a United States vessel that does not have on board the license required by section 3.

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

(3) A commercial fish processor in the United States who purchases or receives

halibut directly from the owner or operator of a 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 State fish tickets or Federal catch reports the date, locality, name of vessel, Halibut Commission license number (for Area 2A), 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 IFQs, IVQs, or fishing period limits; pounds retained for personal use; and pounds discarded as unfit for human consumption.

(4) 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 State 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.

(5) No person shall make a false entry on a State fish ticket or a Federal catch or landing report referred to in paragraph (3) and (4).

(6) A copy of the fish tickets or catch reports referred to in paragraph (3) and (4) 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.
- (7) No person shall possess any halibut that he/she knows to have been taken in contravention of these Regulations.
- (8) When halibut are delivered to other than a commercial fish processor the records required by paragraph (3) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (6).

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

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 Regulatory Areas 2C, 3A, and 3B may be possessed on board a vessel at the same time providing the operator of the vessel:

- (a) Has a NMFS-certified observer on board when required by NMFS regulations published at Title 50, Code of Federal Regulations, 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 Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board

a vessel at the same time providing the operator of the vessel:

- (a) Has a NMFS-certified observer on board the vessel when halibut caught in different regulatory areas are on board; 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.
- (4) Halibut caught in Regulatory Areas 4A, 4B, 4C, and 4D may be possessed on board a vessel when in compliance with paragraph (3) and 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).

19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear.

(2) No person shall possess halibut taken with any gear other than hook and line gear.

(3) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut.

(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 name;
 - (b) The vessel's state license number; or
 - (c) The vessel's registration number.
- (5) The markings specified in paragraph (4) shall be in characters at least 4 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 from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(8) No vessel from which setline gear was used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(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 and possess, but not sell or barter halibut taken with trawl gear only as authorized by NMFS' Prohibited Species Donation regulations.

20. 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 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 if it complies with the provisions of section 13, Size Limits.

21. 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.

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. lat. and east of 125°44'00" W. long., and all inland marine waters of Washington.

(3) Commercial fishing for halibut in subarea 2A-1 is permitted with hook and line gear from March 15 through November 15, or until 272,000 lb (123.4 mt) is taken, whichever occurs first.

(4) 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 15,000 lb (6.8 mt).

23. Sport Fishing for Halibut

(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) In all waters off Alaska:

- (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.

(3) In all waters off British Columbia:

- (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.

(4) In all waters off California, Oregon, and Washington:

(a) The total allowable catch of halibut shall be limited to 195,078 lb (88.5 mt) in waters off Washington and 168,961 lb (76.6 mt) in waters off California and Oregon;

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in Section 24. All sport fishing in Area 2A (except for fish caught in the North Washington coast area and landed into Neah Bay) 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.

(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 57,191 lb (25.9 mt).

(A) The fishing season is May 22 through August 3, 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°3'42" N. lat.), the quota for landings into ports in this area is 96,052 lb (43.6 mt). Landings into Neah Bay of halibut caught in this area will be governed by this paragraph.

(A) The fishing seasons are:

(1) Commencing May 1 and continuing 5 days a week (Tuesday through Saturday) until 81,052 lb (36.8 mt) are estimated to have been taken and the season is closed by the Commission, or until June 30, whichever occurs first.

(2) Commencing July 1 and continuing 5 days a week (Tuesday through Saturday) until the overall area quota of 96,052 lb (43.6 mt) are estimated to have been taken and the area 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) 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 36,648 lb (16.6 mt).

(A) The fishing season commences on May 3 and continues 5 days a week (Sunday through Thursday) until 35,648 lb (16.1 mt) are estimated to have been taken and the season is closed by the Commission. Immediately following this closure, the

season reopens in the area from the Queets River south to 47°00'00" N. lat. and east of 124°40'00" W. long. and continues every day until 36,648 lb (16.6 mt) are estimated to have been taken and the area 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 8,565 lb (3.9 mt).

(A) The fishing season commences on May 1, and continues every day through September 30, or until 8,565 lb (3.9 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 149,362 lb (67.8 mt).

(A) The fishing seasons are:

(1) The first season is open on May 14, 15, 16, 21, 22, and 23. The projected catch for this season is 101,566 lb (46.1 mt). Any poundage remaining unharvested will be added to the August season.

(2) The second season commences May 24 and continues every day through August 6, 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 10,455 lb (4.7 mt) or the subarea quota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(3) The third season is open on August 7 or until the combined quotas for the subareas described in paragraphs (v) and (vi) of this section totaling 161,189 lb (73.1 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. If the harvest during this opening does not achieve the 161,189 lb (73.1 mt) quota, the season will reopen. If the amount of unharvested catch available is sufficient for an additional day of all-depth fishing, the reopening date will be announced inseason on the NMFS hotline (206) 526-6667 or (800) 662-9825. If the amount of unharvested catch available is not sufficient for an additional day of all-depth fishing, a reopening of the fishery will be announced on the NMFS hotline for the area inside the 30-fathom curve (55 m) which will continue for 7 days per week until the quota is taken or September 30, whichever is earlier. No halibut fishing will be allowed after August 7 unless the opening is announced on the NMFS hotline.

(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 11,827 lb (5.4 mt).

(A) The fishing seasons are:

(1) The first season is open on May 14, 15, 16, 21, 22 and 23. The projected catch for this season is 9,462 lb (4.3 mt). If sufficient unharvested catch remains for an additional day's fishing, the season will reopen. Dependent on the amount of unharvested catch available, the season reopening dates will be June 13, then June 12, then June 20, and then June 19. If a decision is made inseason by NMFS to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the additional dates unless the opening date is announced on the NMFS hotline.

(2) The second season commences May 24 and continues every day through August 6, 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 2,365 lb (1.1 mt) or the subarea quota is estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(3) The third season is open on August 7 or until the combined quotas for the subareas described in paragraphs (v) and (vi) of this section totaling 161,189 lb (73.1 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. If the harvest during this opening does not achieve the 161,189 lb (73.1 mt) quota, the season will reopen. If the amount of unharvested catch available is sufficient for an additional day of all-depth fishing, the reopening date will be announced inseason on the NMFS hotline (206) 526-6667 or (800) 662-9825. If the amount of unharvested catch available is not sufficient for an additional day of all-depth fishing, a reopening of the fishery will be announced on the NMFS hotline for the area inside the 30-fathom curve (55 m) which will continue for 7 days per week until the quota is taken or September 30, whichever is earlier. No halibut fishing will be allowed after August 7 unless the opening is announced on the NMFS hotline.

(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 4,393 lb (2.0 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).

(c) The Commission shall determine and announce closing dates to the public for any area in which the subquotas in this Section are estimated to have been taken.

(d) When the Commission has determined that a subquota under paragraph (4)(b) 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.

(5) 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.

(6) 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.

(7) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

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

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

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

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

(12) 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.

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

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

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

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

24. Flexible Inseason Management Provisions in Area 2A

(1) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), is authorized to modify regulations during the season after making the following determinations.

(A) The action is necessary to allow allocation objectives to be met.

(B) The action will not result in exceeding the catch limit for the area.

(C) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to a Washington sport subarea projected to have the fewest number of sport fishing days in the calendar year.

(2) Flexible inseason management provisions include, but are not limited to, the following:

- (A) Modification of sport fishing periods;
- (B) Modification of sport fishing bag limits;
- (C) Modification of sport fishing size limits; and
- (D) Modification of sport fishing days per calendar week.

(3) Notice procedures.

(A) Actions taken under this section will be published in the **Federal Register**.

(B) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206-526-6667 or 800-662-9825 (May through September) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(4) Effective dates.

(A) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the Federal Register, whichever is later.

(B) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the Federal Register. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after publication of the action in the **Federal Register**.

(C) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(5) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA.

25. Fishery Election in Area 2A

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

- (a) The sport fishery under Section 23;
- (b) The commercial directed fishery for halibut during the fishing period(s) established in Section 8; or
- (c) The incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(2) No person shall fish for halibut in the sport fishery in Area 2A under Section 23 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.

(3) No person shall fish for halibut in the directed halibut fishery in Area 2A during the fishing periods established in Section 8 from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(4) No person shall fish for halibut in the directed commercial halibut fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the directed commercial fishery during the fishing periods established in Section 8 for Area 2A or that is licensed to participate in the directed commercial fishery during the fishing periods established in Section 8 in Area 2A.

26. Previous Regulations Superseded

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

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 does not apply to this notice of the effectiveness and content of the IPHC regulations. Because prior notice and an opportunity for public comment are not required to be provided for 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.

Catch Sharing Plan for Area 2A

An Environmental Assessment/Regulatory Impact Review was prepared on the proposed changes to the Plan. NMFS has determined that the proposed changes to the plan and the implementing management measures contained in and implemented by the IPHS regulations will not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations. At the proposed rule state,

the Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this action will not have a significant economic impact on a substantial number of small entities. No comments were received on this certification. Consequently, no regulatory flexibility analysis has been prepared. This action has been determined to be not significant for purposes of E.O. 12866.

Catch Sharing Plan for Areas 4C, 4D, and 4E

At the proposed rule stage, the Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this revision of the CSP would not have a significant economic impact on a substantial number of small entities. No comments were received on this certification. Consequently, no regulatory flexibility analysis was prepared. This action has been determined to be not significant for purposes of E.O. 12866. The revision to CFR 300.63(b) made by this rule is not substantive in that it merely revises the description of the contents of the CSP to reflect that the Council no longer allocates for subareas 4A and 4B. Accordingly, it is not subject to a delay in effective date.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 773-773k.

Dated: March 12, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, 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, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773-773k.

2. In § 300.63, paragraph (b) is revised to read as follows:

§ 300.63 Catch sharing plans and domestic management measures.

* * * * *

(b) The catch sharing plan for area 4 allocates the annual TAC among Areas 4C, 4D, and 4E, and will be implemented by the Commission in

annual management measures published pursuant to § 300.62.

[FR Doc. 98-6854 Filed 3-12-98; 4:01 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971124274-8052-02; I.D. 110597A]

RIN 0648-AH67

Fisheries of the Exclusive Economic Zone Off Alaska; Forage Fish Species Category

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 36 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 39 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). This action creates a forage fish species category in both FMPs and implements associated management measures. The intended effect of this action is to prevent the development of a commercial directed fishery for forage fish, which are a critical food source for many marine mammal, seabird, and fish species. This action is necessary to conserve and manage the forage fish resource off Alaska and to further the goals and objectives of the FMPs. In addition, this action includes a technical amendment removing a date that is no longer applicable.

DATES: Effective April 16, 1998.

ADDRESSES: Copies of Amendments 36 and 39 and the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for Amendments 36 and 39 are available from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or by calling the Alaska Region, NMFS, at 907-586-7228.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907-586-7228 or kent.lind@noaa.gov

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Management Area (BSAI) and of the Gulf of Alaska