

where the operator can be reached at all times.

* * * * *

6. Section 195.442 is added to subpart F to read as follows:

§ 195.442 Damage prevention program.

(a) After September 20, 1995, and except for pipelines listed in paragraph (c) of this section, each operator of a buried pipeline shall carry out in accordance with this section a written program to prevent damage to that pipeline by excavation activities. For the purpose of this section, "excavation activities" include excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means, and other earth moving operations. An operator may comply with any of the requirements of paragraph (b) of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section.

(b) The damage prevention program required by paragraph (a) of this section must, at a minimum:

(1) Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.

(2) Provide for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in paragraph (b)(1) of this section of the following, as often as needed to make them aware of the damage prevention program:

(i) The program's existence and purpose; and

(ii) How to learn the location of underground pipelines before excavation activities are begun.

(3) Provide a means of receiving and recording notification of planned excavation activities.

(4) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings.

(5) Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins.

(6) Provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

(i) The inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

(ii) In the case of blasting, any inspection must include leakage surveys.

(c) A damage prevention program under this section is not required for the following pipelines:

(1) Pipelines located offshore.

(2) Pipelines to which access is physically controlled by the operator.

Issued in Washington, DC on February 17, 1995.

Ana Sol Gutiérrez,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 95-6723 Filed 3-17-95; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 950106003-5070-02; I.D. 121994A]

RIN 0648-AH01

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Final rule and approval of catch sharing plan.

SUMMARY: NMFS, on behalf of the International Pacific Halibut Commission (IPHC), publishes regulations governing the Pacific halibut fishery implemented by the IPHC and approved by the Secretary of State. NMFS also approves catch limits for Areas 2A and 2C, approves regulations implementing a catch sharing plan for Area 2A, and repeals three regulations for Area 4. This final rule is intended to enhance the conservation of the Pacific halibut stock and to rebuild and sustain it in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: March 15, 1995.

ADDRESSES: NMFS Alaska Regional Office, 709 W 9th Street, P.O. Box 21668, Juneau, AK 99802-1668, telephone: 907-586-7228; NMFS Northwest Regional Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115-0070, telephone: 206-586-6140.

FOR FURTHER INFORMATION CONTACT: Aven Andersen, 907-586-7228, or Joe Scordino, 206-526-6140.

SUPPLEMENTARY INFORMATION: The IPHC, 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, DC, on March 29, 1979), has implemented new regulations governing the Pacific halibut fishery in 1995. The Secretary of State of the United States has accepted the IPHC regulations under section 4 of the Northern Pacific Halibut Act (Halibut Act, 16 U.S.C. 773-773k). However, the IPHC did not adopt 1995 catch limits for any portion of Area 2. Therefore, the United States is adopting catch limits for Areas 2A and 2C, which are implemented under domestic rule as described herein.

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 23-26, 1995, in Victoria, British Columbia, and adopted regulations for 1995. The substantive changes to the previous IPHC regulations (59 FR 22522, May 2, 1994) include: (1) New catch limits for all areas except Areas 2A and 2C; (2) a commercial fishing season opening on March 15 and closing November 15 for all areas except 2A, which has specific 1-day openings; (3) repeal of a prohibition on automated hook strippers; (4) elimination of Area 4D-N; (5) a requirement that halibut be dressed before offloading; and (6) revisions to the Area 4 clearance requirements. In addition, because the non Indian directed commercial fishery in Area 2A is likely to exceed the subquota for this fishery during the first 10-hour opening, the IPHC announced that it would impose vessel trip limits. However, because it was unknown at the time of the meeting how many vessels might participate in the Area 2A fishery, the IPHC staff will determine and announce the vessel trip limits necessary to avoid exceeding the subquota prior to the July 5 opening, when better information will be available on the number of vessels that may participate in the fishery.

The U.S. and Canadian Commissioners were unable to agree upon new catch limits for Area 2, which includes all waters off Canada (Area 2B), waters off southeast Alaska (Area 2C), and waters off Washington, Oregon, and California (Area 2A). However, the U.S. and Canadian Commissioners expressed a joint commitment to adopt domestic catch limits for their respective portions of Area 2 to ensure conservation of the halibut stock. Without domestic action, the Area 2

catch limits for the 1994 halibut fisheries would remain in effect for 1995. The 1994 catch limits for Areas 2C and 2A of 11,000,000 lb (4,990 mt) and 550,000 lb (249.5 mt), respectively, are higher than the catch limits recommended by the U.S. Commissioners for 1995. The lower catch limits were recommended by the U.S. Commissioners based on recent stock assessments, because of a continuing decline in the abundance of halibut, and the need to reduce catch limits to conserve the stock. Based on this recommendation and the findings in the February 1995 Environmental Assessment (EA) prepared on these catch limits, the NOAA Assistant Administrator for Fisheries (AA) approves the catch limits of 520,000 lb (235.9 mt) in Area 2A and 9,000,000 lb (4,082 mt) in Area 2C recommended by the U.S. Commissioners at the IPHC meeting. Canada is expected to adopt a 9,520,000 lb (4,318 mt) total allowable catch (TAC) level for Area 2B as recommended by the Canadian Commissioners. Copies of the EA are available from NMFS (see ADDRESSES).

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, 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 councils 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. Regulations developed by the councils may be implemented only with the Secretary's approval. Under this authority, NOAA requested the Pacific and North Pacific Fishery Management Councils to allocate halibut catches should allocation be necessary.

Repeal of Unnecessary Regulations

NMFS repeals three regulations that were necessary during the past open access fishery in waters off Alaska, but that have been made unnecessary by provisions of the individual fishing quota (IFQ) program (50 CFR part 676) that will govern the fishery for the first time this year. The North Pacific Fishery Management Council (NPFMC) recommended the repeal of these regulations at its December 1994 meeting. NMFS issues this final rule repealing them before the start of the

1995 Alaska commercial halibut fishery. Regulations implementing the IFQ program were published on November 9, 1993 (58 FR 59375). They since have been amended at 59 FR 28281, June 1, 1994; 59 FR 43502, August 24, 1994 (corrected at 59 FR 51874, October 13, 1994); and 59 FR 51135, October 7, 1994.

First, NMFS repeals § 301.7(f), a regulation that (1) closes Area 4B to commercial halibut fishing when the commercial harvest amounts to 315,000 lb (143 mt), and (2) withholds the remainder of that area's harvest limit until the fishery reopens on August 15. NMFS, at the recommendation of the NPFMC, implemented these provisions to provide summer fishing opportunities for operators of small vessels that catch and land all their halibut in Area 4B, which, in an open-access fishery, are at a competitive disadvantage with the operators of larger vessels that catch and land halibut in other areas as well as in Area 4B (59 FR 27241, May 26, 1994).

Second, NMFS removes § 301.10(g), which (1) divides Area 4E into a southeast part and a northwest part, (2) provides for a test fishery in the southeast part, (3) closes the southeast part when 30 percent of the total Area 4E quota has been harvested from the southeast part, and (4) transfers 50 percent of the amount of the quota remaining in the northwest part, as of August 1, to the quota of the southeast part. NMFS, on the recommendation of the NPFMC, implemented this provision in 1991 to ensure that, in the open access fishery, the small-boat fisheries of Nelson Island and Nunivak Island would have an opportunity for an equitable share of the harvest in Area 4E (56 FR 19617, April 29, 1991).

Third, NMFS removes three paragraphs of § 301.11 regarding trip harvest limits. Section 301.11(g) limits all vessels fishing in Area 4B to a maximum catch of 10,000 lb (4.5 mt) per fishing period from June 6 through August 14; § 301.11(h) limits all vessels fishing in Area 4C to a maximum catch of 10,000 lb (4.5 mt) of halibut per fishing period; and § 301.11(j) limits all vessels fishing in Area 4E to a maximum catch of 6,000 lb (2.7 mt) of halibut per fishing period. NMFS, on the recommendation of the NPFMC, implemented these provisions to (1) enhance fishing opportunities for operators of vessels that land their total annual catch within Area 4B (59 FR 22522, May 2, 1994); (2) enhance the economic development of the Pribilof Islands (55 FR 23085, June 6, 1990), and (3) increase the competitive advantage of the small vessels that catch and land

their halibut exclusively in Area 4B (59 FR 27241, May 26, 1994).

The IFQ program provides each permitted fisher with an individual share of the harvest limit for a fishing area, which the fisher may harvest anytime during the fishing season that he or she deems to be the safest and most economical. Thus, the IFQ program eliminates the need for regulations, such as harvest limits per fishing period, intended to equalize the competitive abilities of fishers. In addition, community development quota (CDQ) allocations under the IFQ program will provide special economic benefits to resident fishers in Area 4. Hence, these regulations would impose an economic hardship on some fishers under the IFQ program. For example, a fisher with an IFQ or CDQ allocation amounting to 17,637 lb (8 mt) for Area 4B would be unable to harvest his or her entire allocation if the existing regulations are not removed. Thus, the regulation is unnecessary, because it has been superseded by provisions of the IFQ program, and it would be burdensome on fishers if it were not removed. The same reasoning applies to the other paragraphs removed by this final rule.

NMFS has prepared a regulatory impact review (RIR) for this action. It concludes that the action would have no significant economic or social impacts, is not a significant regulatory action as defined by E.O. 12866, requires no new reporting requirements, would not increase administrative or enforcement costs, and would not substantially alter the current management process. A copy of the RIR may be obtained from the NMFS Alaska Regional Office (see ADDRESSES).

Catch Sharing Plan

The PFMC has prepared catch sharing plans since 1988 to allocate the TAC of Pacific halibut among treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A off Washington, Oregon, and California. For 1995 and beyond, the PFMC recommended revisions only to the allocations within the non-Indian fisheries, leaving the treaty Indian share of 35 percent of the Area 2A TAC the same as for 1994. The PFMC's recommended Catch Sharing Plan for 1995 and Beyond (Plan) divides the non-Indian harvest into three shares with the sport fishery north of the Columbia River receiving 36.6 percent, the sport fishery south of the Columbia River receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The recommended Plan also contains a number of management

measures including restricting the non-Indian commercial fishery to the area south of Subarea 2A-1 (south of the treaty Indian tribes' usual and accustomed fishing area). A complete description of the proposed Plan, background information on development and rationale for the Plan, and the proposed regulations necessary to implement the Plan were published in the **Federal Register** on January 12, 1995 (60 FR 2925) with a request for public comments. This action responds to public comments on the proposed Plan and proposed implementing regulations and announces approval of the final Plan, and final implementing regulations. Comments and Responses on the Proposed Plan and the Proposed Rule.

NMFS received six letters from the public with comments on the proposed Plan and one letter with comments on the proposed sport regulations. One letter from the Oregon Department of Fish and Wildlife (ODFW) expressed support for the Plan and five letters from commercial fishery interests were opposed. The one letter with comments on the proposed sport regulations was from Washington Department of Fish and Wildlife (WDFW) and was based on input the State received from sport fishing representatives at a public workshop on the Pacific halibut sport fishery on February 3, 1995. The comments are summarized below with responses.

Comment 1: ODFW supports approval of the Plan, because it provides a better balance between resource harvest and resource distribution. Available scientific information indicates that most (as high as 70 percent) of the halibut in Area 2A are found south of subarea 2A-1; however, for many years, the harvests south of subarea 2A-1 have averaged 30 to 35 percent of the TAC but those harvest do not reflect the abundance and distribution of halibut available to Oregon and California fishers.

Response: The Plan increases the allocation to sport fisheries off Oregon and California by about 8 percent over 1994 (from about 12.7 percent of the Area 2A TAC in 1994 to 20.6 percent in 1995). The Plan also closes the non-Indian directed commercial fishery north of subarea 2A-1. The PFMC recommended this shift in harvests to the south to provide a broader distribution of harvests in Area 2A that is more consistent with the distribution of halibut biomass in Area 2A.

Comment 2: The reallocation from commercial to sport fishery would unreasonably and unfairly terminate a

106-year-old commercial longline fishery north of Willapa Bay.

Response: The Plan does reduce the allocation to the commercial fishery from 50 percent of the non-Indian allocation to 31.7 percent and does shift the location of the directed (traditional) commercial halibut fishery south of Willapa Bay. Participation in the Area 2A halibut fishery by non-Indian commercial and sport users has increased and the potential harvests by both groups have had to be severely restricted in recent years to prevent quota overages. The continued need to reduce fishing effort and fishing opportunity prompted the PFMC to review the overall allocations to determine what changes could be made to preserve the viability of some of the Area 2A halibut fisheries over the long term. Because halibut quotas are expected to be low and not sufficient to fulfill the needs of all user groups for the near future, the PFMC has placed a high priority on maintaining viable sport fisheries and the coastal community businesses supported by sport fisheries in developing its allocation recommendations.

Comment 3: The basis for the PFMC's recommendation was an economic analysis that was fundamentally flawed with respect to treatment of economic contributions of the commercial and sport sectors of the fishery. That analysis, an EA/RIR, includes data on the numbers of commercial vessels in the fishery, but does not include comparable information on charterboats.

Response: Concerns about the economic analysis were raised by the Fishing Vessel Owners' Association at the PFMC's Halibut Advisory Subpanel meeting in July 1994 and at the PFMC's public meeting in October 1994, and the author of the analysis did address the concerns at these meetings. The EA/RIR contained the best available information on all sectors of the halibut fishery in Area 2A including catches by charterboats. Although the PFMC did review and consider economic aspects of the revised allocations, such information was not the primary basis for its recommendation. The PFMC placed a high priority on maintaining viable sport fisheries and the coastal community businesses supported by sport fisheries in developing the allocation recommendations.

Comment 4: Small longline commercial vessels will not be able to safely and reasonably transit from Neah Bay or Westport to the area open to commercial fishing south of Willapa Bay. Larger boats would have to absorb the additional time and expense of fishing in southern waters.

Response: NMFS acknowledges that this action may reduce the number of commercial vessels operating in this fishery; however, with the need to reduce fishing effort and shift harvests into areas of halibut biomass, it is not possible to accommodate the entire fleet that would like to fish off the northern Washington coast.

Comment 5: The PFMC failed to analyze other reasonable alternatives such as a system of individual fishing quotas based on historical landings.

Response: Various alternatives and options for allocation between and within commercial and sport sectors were considered, analyzed and discussed by the PFMC over the course of five public meetings from September 1993, when the PFMC decided to consider all aspects of the halibut allocation issue and to develop a multi-year plan for 1995 and beyond, through adoption of a final Plan at the PFMC's October 1994 public meeting. At its November 1993 public meeting, the PFMC did discuss transferable Individual Quotas (IQs) for the non-Indian commercial halibut fishery including transfer of IQs to sport users in 2A. As described in the EA/RIR, the PFMC, in developing the IQ program for fixed gear sablefish, initially included Pacific halibut. However, as the PFMC proceeded with the development of the fixed-gear IQ program, it decided that its limited resources would best be spent in development of the IQ program for the much larger sablefish fishery. The halibut fishery was sufficiently different not to be included with the sablefish fishery. An IQ program was identified for halibut allocations in 1995 and beyond, and the PFMC advised the commercial fishing industry to take the lead in establishing a committee to develop a proposal for PFMC consideration.

Comment 6: The Halibut Act requires that any limited entry scheme be consistent with section 303(b)(6) of the Magnuson Act.

Response: This action is not a limited-entry scheme. It does not place direct limits on who can participate, rather it reallocates among groups and shifts the area of participation.

Comment 7: The Halibut Act requires that any allocation be reasonably calculated to promote conservation.

Response: The potential Pacific halibut harvest in Area 2A by either the non-Indian commercial fishery or the sport fishery can easily exceed the non-Indian allocation, thereby exceeding the overall Area 2A quota, which could result in conservation problems for the halibut resource in Area 2A. All of the

quotas are calculated to promote conservation.

Comment 8: The PFMC recommended prohibiting double-dipping by commercial vessels that also may fish in the sport fishery, but did not address multiple access by the charterboat fishery.

Response: The Plan prohibits commercial fishing for halibut from any vessel that participates in the sport fishery for halibut in Area 2A and vice versa. This includes charter boats. The PFMC is concerned that increased numbers of charterboat vessels operating in the sport fishery will also participate in the commercial fishery in Area 2A. The PFMC considers this double-dipping into both commercial and sport allocations as inconsistent with its intent to provide separate quotas and opportunity for each harvesting sector to utilize its allocation. Because the potential fishing effort and harvests far exceed what the resource can accommodate, the PFMC is trying to allocate fairly among various groups.

Comment 9: There is no net economic benefit, from either a national or local perspective, demonstrated by the reallocation.

Response: The analysis in the EA/RIR indicates varying losses/gains on the alternatives considered by the PFMC in terms of net economic value, local personal income, or state level income with the principal result of the allocations being distributional shifts. As noted above, although the PFMC did consider economic aspects of the revised allocations, such information was not the primary basis for its recommendation. The PFMC concluded that the best use for the limited halibut resource in Area 2A was to stabilize the recreational fishery while allowing some commercial harvest.

Comment 10: The PFMC did not follow a procedure that allowed for public input.

Response: As described above, the PFMC considered and discussed allocation options over the course of five public meetings, during which descriptions and analyses of the options were provided to the public and public input was received both orally and in writing.

Comment 11: The change in fishing boundary will disrupt the collection of data on the catch per unit-of-effort needed to manage the halibut stock.

Response: Although catch and effort data cannot be derived from non-Indian commercial harvests in the closed area in the future, the same data will continue to be collected from the commercial fisheries in the open area as

well as from tribal commercial fisheries in the closed area.

Comment 12: The proposed geographic redistribution of harvest is not based on a conservation concern.

Response: NMFS agrees that the harvest shift was not necessitated by a conservation concern. See response to Comment 1.

Comment 13: The PFMC did not consider the findings of the Halibut Advisory Subpanel (HAS), which had nearly agreed on an option to allocate 40 percent of the TAC to commercial users and 60 percent to sport users.

Response: The PFMC did not adopt the recommendations of the HAS, but it considered them before it made its decision. The decision is fully supported by the record.

Comment 14: Why did salmon trollers receive 15 percent of the non-Indian commercial allocation?

Response: In the mid-1980's, quota reductions and increased fishing effort caused constraints on the commercial fishery, reducing it from multi-day seasons (35 days in 1985) that overlapped the May chinook salmon troll season to the current 1-day, 10-hour openings that occur only in the summer months. From about 1960 to the mid-1980's, salmon trollers caught about 15 percent of the commercial halibut fishery quota incidental to their salmon troll fishery. With the reduced seasons in recent years that occurred outside the timeframe of the chinook salmon fishery, the trollers lost their fishing opportunity. The PFMC decided that an allocation within the commercial fishery was necessary to provide trollers the opportunity to retain halibut caught incidentally during chinook salmon troll seasons.

Comment 15: WDFW recommends that the sport fishing season in Puget Sound open on May 25 and close on July 29. This recommendation is based on recent performance of the fishery that indicates an average of 440 lb (0.2 mt) of halibut were caught on weekdays and 1000 lb (0.5 mt) on weekend days. With the area allocation of 34,653 lb (15.7 mt) and closures on Tuesday and Wednesday, these average catches would allow 29 weekdays of fishing and 19 weekend days. The average catches used in these calculations were developed in consultation with IPHC.

Response: NMFS agrees with this recommendation, and the sport fishing season at § 301.21(d)(2)(i)(A) has been modified accordingly.

Comment 16: WDFW recommends that the sport fishing season in the north Washington coast area open on May 2 and continue until the subarea quota is taken. WDFW has estimated that the

subarea quota is insufficient to allow for the May season and the second priority season from July 1 through at least July 4 in accordance with the Plan.

Therefore, WDFW recommends that the May season be allowed to continue, possibly into early June, for 5 days per week until the subarea quota is estimated to have been taken.

Response: NMFS agrees with this recommendation and the sport fishing regulations for the north coast area at § 301.21(d)(2)(ii) have been modified accordingly.

Comment 17: WDFW recommends that the closed area in the north Washington coast area be enlarged by 1 mile on each side of the proposed closure area. In accordance with the Plan, the State is recommending this enlarged closure area to extend the length of the fishing season by reducing the numbers of larger fish caught. Data from the 1994 fishery indicate that larger fish were caught just outside the closure area and an enlarged closure would prevent this, thus allowing a longer fishing season since the quotas are based on pounds of halibut caught.

Response: NMFS agrees with this recommendation and the sport fishing closed area for the north coast area at § 301.21(d)(2)(ii) has been modified to be an area 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.

The proposed Plan for 1995 and beyond was approved by NMFS on January 20, 1995, and the approval was announced at the IPHC annual meeting on January 23, 1995, so the IPHC could implement applicable portions of the Plan in its regulations. The only modifications to the proposed Plan, as recommended by the PFMC, are the opening and closing dates of the treaty Indian commercial fishery. The dates in the Plan adopted by PFMC were March 1 to October 31. These dates have been modified to allow the opening to be set between March 1 and April 1 and to set the closing for November 15 to be consistent with the IPHC action to have a March 15 to November 15 commercial season for all areas. The final approved Plan appears in the regulations at § 301.23.

Changes From the Proposed Plan and the Proposed Rule

The final regulations implementing the Plan are hereby approved, with the following changes from the proposed regulations. The subquotas in the proposed regulations implementing the Plan were based on an assumed

500,000-lb (226.8-mt) TAC for Area 2A and have been modified in accordance with the allocations set forth in the Plan based on the final TAC of 520,000 lb (235.9 mt) in Area 2A. The only other substantive modifications to the proposed sport fishing regulations at § 301.21(d)(2) were described in the responses to the comments above (i.e., the seasons and the closure area for the sport fishery subareas off Washington have been modified based on the final TAC, in accordance with the objectives in the Plan). The proposed sport fishing possession limits on land at § 301.21 (n) and (o) have been redesignated (i) and (j), respectively, to follow IPHC regulations on possession limits on the water. The proposed restriction on use of commercial vessels in the sport fishery and vice versa at § 301.21 (p) and (q) have been removed, because they are redundant with the restrictions in § 301.22. References to new §§ 301.22 and 301.23 have been added to § 301.5. The closure of the non-Indian commercial fishery north of Point Chehalis, WA (46°53'18" N. lat.) set forth in the Plan at § 301.23(e)(2) and described in the preamble of the proposed rule (January 12, 1995, 60 FR 2925) has been added to the final rule at § 301.9(b) and noted in the IPHC regulations at §§ 301.3(c), 301.7(b), 301.10(b), and 301.11(g). Portions of the proposed rule have been implemented in IPHC regulations and separate U.S. rules are not necessary. Those portions of the proposed rule implemented by the IPHC are: (1) Area 2A license requirements in § 301.3, (2) fishing periods for the non-Indian directed commercial fishery in § 301.7, (3) fishing period limits for the non-Indian directed commercial fishery in § 301.11, and (4) treaty Indian commercial and ceremonial and subsistence fishing seasons in § 301.20. The proposed rules at §§ 301.7(j) and 301.10(j) were modified and renumbered §§ 301.7(c) and 301.10(b), respectively, to conform with IPHC regulations.

For the convenience and information of the public, all of the regulations in part 301 (including the 1995 IPHC regulations, U.S. regulations for Area 2A, the catch limits for Area 2, and U.S. regulations at § 301.21(d) (3), (4), and (5) originally published at 58 FR 17791 (April 6, 1993)) are set out in their entirety herein as revised.

Classification

IPHC Regulations

Because approval of the IPHC regulations by the Secretary of State 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 a notice of proposed rulemaking is not required, the preparation of a regulatory flexibility analysis is not required.

Area 2A and 2C Catch Limits

The AA has determined that this rule is necessary to respond to an emergency situation and is consistent with the Halibut Act of 1982 and other applicable law. Without emergency adoption of the catch limits for Area 2A and 2C for 1995, the Pacific halibut stock would be harvested at an unacceptably high rate that could have long-term adverse effects on the halibut stock and U.S. halibut fisheries. Accordingly, the AA finds there is good cause to implement these regulations expeditiously and that it is impracticable and contrary to the public interest to require prior notice and public comment, or to delay the effective date of the regulations, under the provisions of section 553 (b) and (d) of the APA. This rule is exempt from the procedures of the Regulatory Flexibility Act, because the rule is not required to be issued with prior notice and opportunity for public comment. This action has been determined to be not significant for purposes of E.O. 12866.

Repeal of Unnecessary Regulations for Area 4

The AA has determined, under 5 U.S.C. 553(b)(B), that good cause exists for waiving prior notice of this action and opportunity for public comment, because providing prior notice and opportunity for public comment would have been impracticable and contrary to the public interest. It was impracticable to do so, because the NPFMC determined only in December 1994, after hearing reports from its technical committees and entertaining public comment, that these regulations were an unnecessary burden on the IFQ fishery. Thus, there was inadequate time to prepare a proposed rule, collect comments, and prepare a final rule before the start of the Alaska commercial halibut fishery on March 15, 1995. A delay in repealing these unnecessary regulations would have been contrary to the public interest because, to realize the full benefit of the IFQ program and prevent economic inefficiencies and bycatch waste, the regulations must be removed by March 15, 1995. Moreover, this action is necessary to provide consistent management and conservation of other fixed gear fisheries also scheduled to begin on March 15.

Because this action relieves a restriction under 5 U.S.C. 553(d)(1), it is being made immediately effective. This action has been determined to be not significant for purposes of E.O. 12866.

Catch Sharing Plan and Implementing Regulations

The EA/RIR prepared for this Plan and implementing domestic regulations indicates that, although the actions taken under this Plan would reduce the allocation and area available to commercial fisheries, the commercial harvest of halibut in Area 2A is a small part of their average annual harvests. As such, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when the Plan and regulations were proposed that, if they were adopted as proposed, they would not have a significant economic impact on a substantial number of small entities. Accordingly, preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act was not required.

The AA finds, under 5 U.S.C. 553(d)(3), that having the regulations for the Plan in place when the treaty Indian fishery opens on March 15 justifies waiving the 30-day delayed-effectiveness period. A copy of the EA/RIR may be obtained from the NMFS Northwest Region (see ADDRESSES).

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

List of Subjects in 50 CFR Part 301

Fisheries, Treaties.

Dated: March 13, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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

PART 301—PACIFIC HALIBUT FISHERIES

Sec.	
301.1	Short title.
301.2	Interpretation.
301.3	Licensing vessels.
301.4	Inseason actions.
301.5	Application.
301.6	Regulatory areas.
301.7	Fishing periods.
301.8	Closed periods.
301.9	Closed area.
301.10	Catch limits.
301.11	Fishing period limits.
301.12	Size limits.
301.13	Careful release of halibut.
301.14	Vessel clearance in Area 4.
301.15	Logs.

- 301.16 Receipt and possession of halibut.
 301.17 Fishing gear.
 301.18 Retention of tagged halibut.
 301.19 Supervision of unloading and weighing.
 301.20 Fishing by U.S. treaty Indian tribes.
 301.21 Sport fishing for halibut.
 301.22 Fishery election in Area 2A.
 301.23 Catch Sharing Plan for Area 2A.
 301.24 Previous regulations superseded.
 Figure 1 to part 301—Map of Regulatory Areas
 Figure 2 to part 301—Halibut Size Limits
Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773-773k.

§ 301.1 Short title.

This part may be cited as the Pacific Halibut Fishery Regulations.

§ 301.2 Interpretation.

(a) In this part:

Authorized officer means any state, Federal, or provincial officer authorized to enforce this part 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 U.S. Coast Guard (USCG).

Charter vessel means a vessel used for hire in sport fishing for halibut, but does not include a vessel without a hired operator.

Commercial fishing means fishing, the resulting catch of which either is, or is intended to be, sold or bartered.

Commission means the International Pacific Halibut Commission.

Daily bag limit means the maximum number of halibut a person may take in any calendar day from Convention waters.

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.

Fishing period limit means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period.

Land, with respect to halibut, means the offloading of halibut from the catching vessel.

License means a halibut fishing license issued by the Commission pursuant to § 301.3.

Maritime area, with respect to the fisheries jurisdiction of a Contracting Party, includes, without distinction, areas within and seaward of the territorial sea or internal waters of that Party.

Operator, with respect to any vessel, means the owner and/or the master or

other individual aboard and in charge of that vessel.

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).

Person includes an individual, corporation, firm, or association.

Regulatory area means an area referred to in § 301.6.

Setline gear means one or more stationary, buoyed, and anchored lines with hooks attached.

Sport fishing means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing.

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.

(b) In this part, 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.

(c) In this part, all weights shall be computed on the basis that the heads of the fish are off and their entrails removed.

§ 301.3 Licensing vessels.

(a) No person shall fish for halibut from a U.S. vessel, nor possess halibut on board a U.S. 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.

(b) 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.

(c) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid only for either the directed commercial fishery south of 46°53'18" N. lat. during the fishing periods specified in § 301.7(b) or the incidental catch fishery during the salmon troll fishery specified in § 301.7(c), but not both.

(d) No person shall fish for halibut from a Canadian vessel used as a charter vessel, nor possess halibut on board such vessel, unless the Commission has issued a license valid for fishing in Area 2B in respect of that vessel.

(e) No person shall fish for halibut from a U.S. vessel, nor possess halibut on board a U.S. vessel, used either for commercial fishing or as a charter vessel in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, unless the Commission has issued a license valid for fishing in those areas in respect of that vessel.

(f) A license issued in respect of a vessel referred to in paragraphs (a), (d), and (e) of this section must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(g) The Commission shall issue a license in respect of a vessel, without fee from its office in Seattle, WA, upon receipt of a completed, written, and signed "Application for Vessel License for the Halibut Fishery" form.

(h) A vessel operating in the commercial fishery in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than midnight April 30.

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

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

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

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

(m) A new license is required for a vessel that is sold, transferred, renamed, or redocumented.

(n) The license required under this section is in addition to any license, however designated, that is required under the laws of Canada or any of its Provinces or the United States or any of its States.

(o) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in 15 CFR part 904.

§ 301.4 Inseason actions.

(a) The Commission is authorized to establish or modify the IPHC regulations in this part during the season after determining that such action:

(1) Will not result in exceeding the catch limit established preseason for each regulatory area;

(2) Is consistent with the Convention between the United States 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

(3) Is consistent, to the maximum extent practicable, with any domestic catch sharing plans developed by the U.S. or Canadian Governments.

(b) Inseason actions may include, but are not limited to, establishment or modification of the following:

(1) Closed areas;

(2) Fishing periods;

- (3) Fishing period limits;
- (4) Gear restrictions;
- (5) Recreational bag limits;
- (6) Size limits; or
- (7) Vessel clearances.

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

(d) The Commission will announce inseason actions under this section by providing notice to major halibut processors; Federal, state, U.S. treaty Indian, and provincial fishery officials; and the media.

§ 301.5 Application.

(a) This part applies 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.

(b) Section 301.6 through 301.19 apply to commercial fishing for halibut.

(c) Section 301.20 applies to the U.S. treaty Indian tribal fishery in Area 2A-1.

(d) Section 301.21 applies to sport fishing for halibut.

(e) Section 301.22 applies to non-Indian commercial and sport fishing for halibut in Area 2A.

(f) Section 301.23 applies to all fishing for halibut in Area 2A.

(g) This part does not apply to fishing operations authorized or conducted by the Commission for research purposes.

§ 301.6 Regulatory areas.

The following areas (shown in Figure 1 of this part) shall be regulatory areas for the purposes of the Convention:

(a) Area 2A includes all waters off the States of California, Oregon, and Washington;

(b) Area 2B includes all waters off British Columbia;

(c) 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;

(d) 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°17'17" 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;

(e) 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;

(f) 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 § 301.9 that are east of 172°00'00" W. long. and south of 56°20'00" N. lat.;

(g) 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.;

(h) 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.;

(i) 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.;

(j) 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.

§ 301.7 Fishing periods.

(a) The fishing periods for each regulatory area apply where the catch limits specified in § 301.10 have not been taken.

(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 5, July 18, August 1, and August 15, 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. 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.

(d) 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.

(e) 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.

§ 301.8 Closed periods.

(a) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in § 301.7 in respect of that area.

(b) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(c) Subject to § 301.17(g) and (h), fishing is not prohibited for any species of fish other than halibut during the closed periods.

(d) Notwithstanding paragraph (c) of this section, no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(e) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(f) 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.

(g) After retrieval of halibut gear in accordance with paragraph (f) of this section, the vessel shall submit to a hold inspection at the discretion of the authorized officer or representative of the Commission.

(h) No person shall retain any halibut caught on gear retrieved under paragraph (f) of this section.

(i) No person shall possess halibut on board 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.

§ 301.9 Closed area.

(a) All waters in the Bering Sea that are north of 54°49'00" 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.

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

§ 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
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 § 301.23.

(1) The catch limit in the directed halibut fishery is 91,052 lb (41.3 mt).

(2) The catch limit in the incidental catch fishery during the salmon troll fishery is 16,068 lb (7.3 mt).

(c) 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.

(d) Notwithstanding paragraph (a) of this section, 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.

(e) Notwithstanding paragraph (a) of this section, 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 NMFS have been taken, or November 15, whichever is earlier.

(f) If the Commission determines that the catch limit specified for Area 2A in paragraph (a) of this section would be exceeded in an unrestricted 10-hour fishing period as specified in § 301.7(b), the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

(g) When under paragraph (c) or (f) of this section 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.

§ 301.11 Fishing period limits.

(a) 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.

(b) 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 are weighed and reported on state fish tickets.

(c) 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.

(d) The provisions of paragraph (c) of this section are not intended to prevent retail over-the-side sales to individual purchasers, so long as all the halibut on board are ultimately offloaded and reported.

(e) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on:

(1) The vessel's overall length in feet and associated length class;

(2) The average performance of all vessels within that class; and

(3) The remaining catch limit.

(f) 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

(g) Fishing period limits in Area 2A apply only to the directed halibut fishery south of 46°53'18" N. lat. referred to in § 301.7(b).

§ 301.12 Size limits.

(a) No person shall take or possess any halibut that:

(1) With the head on, is less than 32 in (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 of this part; or

(2) With the head removed, is less than 24 in (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 of this part.

(b) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of the minimum size of the halibut for the purpose of paragraph (a) of this section.

(c) No person aboard a vessel fishing for, or tendering, halibut caught in Area 2A shall possess any halibut that has had its head removed.

§ 301.13 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.

§ 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 fishing periods that apply, and before the unloading of any halibut caught in any of these areas and fishing periods, unless specifically exempted in paragraph (k), (l), or (m) of this section.

(b) The vessel clearance required under paragraph (a) of this section prior to fishing in Areas 4A, 4C, or 4D 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 operator shall specify the specific regulatory area in which fishing will take place.

(e) 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.

(f) 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, 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.

(g) Before unloading any halibut caught in Area 4C or 4D, a vessel operator may obtain the clearance required under paragraph (a) of this section only in St. Paul or St. George, 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) Vessel clearances required under paragraph (a) of this section prior to fishing in Area 4 shall be obtained between 0600 and 1800 hours, local time.

(i) No halibut shall be on board the vessel at the time of the clearance required by paragraph (h) of this section.

(j) Vessel clearances required under paragraph (a) of this section after fishing in Area 4 shall be obtained between 0600 and 1800 hours, local time.

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

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

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

§ 301.15 Logs.

(a) The operator of any vessel that has an overall length of 26 ft (7.9 m) 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.

(b) The log referred to in paragraph (a) of this section shall be:

- (1) Separate from other records maintained on board the vessel;
- (2) 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;

(3) Retained for a period of 2 years by the owner or operator of the vessel;

(4) Open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(5) Kept on board the vessel during halibut fishing, during transits to port of landing, and for 5 days following offloading halibut.

(c) 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.

(d) No person shall make a false entry in a log referred to in this section.

§ 301.16 Receipt and possession of halibut.

(a) No person shall receive halibut from a U.S. vessel that does not have on board the license required by § 301.3.

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

(c) A commercial fish processor who purchases or receives halibut directly from the owner or operator of a vessel that was engaged in halibut fishing must accept and weigh 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 (United States), 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: 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.

(d) No person shall make a false entry on a state fish ticket or a Federal catch or landing report referred to in paragraph (c) of this section.

(e) A copy of the fish tickets or catch reports referred to in paragraph (c) of this section shall be:

(1) Retained by the person making them for a period of 3 years from the date they are made; and

(2) Open to inspection by an authorized officer or any authorized representative of the Commission.

(f) No person shall possess any halibut that he/she knows to have been taken in contravention of this part.

(g) When halibut are delivered to other than a commercial fish processor the records required by paragraph (c)

shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (e).

(h) 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.

§ 301.17 Fishing gear.

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

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

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

(d) All setline or skate marker buoys carried on board or used by any U.S. vessel used for halibut fishing shall be marked with one of the following:

- (1) The vessel's name;
- (2) The vessel's state license number;

or

- (3) The vessel's registration number.

(e) The markings specified in paragraph (d) of this section shall be in characters at least 4 in (10.2 cm) in height and 0.5 in (1.3 cm) in width in a contrasting color visible above the water, and shall be maintained in legible condition.

(f) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be:

- (1) Floating and visible on the surface of the water; and

(2) Legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(g) No person aboard 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.

(h) 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.

(i) No person aboard 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:

- (1) Made a landing and completely offloaded its entire catch of other fish; or
 - (2) Submitted to a hold inspection by an authorized officer.
- (j) 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 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:
- (1) Made a landing and completely offloaded its entire catch of other fish; or
 - (2) Submitted to a hold inspection by an authorized officer.

§ 301.18 Retention of tagged halibut.

- (a) Nothing contained in this part 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.
- (b) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut:
 - (1) May be retained for personal use; or
 - (2) May be sold if it complies with the provisions of § 301.12.

§ 301.19 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 this part.

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

- (a) Halibut fishing in subarea 2A-1 by members of U.S. treaty Indian tribes located in the State of Washington is governed by this section.
- (b) For purposes of this part, "treaty Indian tribes" means the Hoh, Jamestown S'Klallam, Lower Elwha S'Klallam, Lummi, Makah, Port Gamble S'Klallam, Quileute, Quinault, Skokomish, Suquamish, Swinomish, and Tulalip tribes.
- (c) Subarea 2A-1 includes all U.S. 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.
- (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 171,000 lb (77.6 mt) are taken by treaty Indians, whichever occurs first.
- (e) Commercial fishing periods and management measures to implement paragraph (d) of this section will be established by treaty Indian tribal regulations.
- (f) Commercial fishing for halibut by treaty Indians shall comply with the provisions of §§ 301.12, 301.13, 301.15, and 301.17, 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 to December 31, and is estimated to take 11,000 lb (5 mt).

(h) No size or bag limits shall apply to the ceremonial and subsistence fishery, except that when commercial halibut fishing is prohibited pursuant to paragraph (d) of this section, treaty Indians may take and retain not more than two halibut per person per day.

(i) Halibut taken for ceremonial and subsistence purposes shall not be offered for sale or sold.

(j) Any member of a U.S. treaty Indian tribe, as defined in paragraph (b) of this section, who is engaged in commercial or ceremonial and subsistence fishing under this section must have on his or her person a valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, and must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in *United States v. Washington* 384 F. Supp. 312 (W.D. Wash. 1974).

(k) The following table sets forth the fishing areas of each of the 12 treaty Indian tribes fishing pursuant to this section. Within subarea 2A-1, boundaries of a tribe's fishing area may be revised as ordered by a Federal Court.

Tribe	Boundaries
Hoh	Between 47°54'18" N. lat. (Quillayute River) and 47°21'00" N. lat. (Quinault River), and east of 125°44'00" W. long.
Jamestown S'Klallam	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown S'Klallam Tribe may fish under rights secured by treaties with the United States.
Lower Elwha S'Klallam	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049 and 1066 and 626 F. Supp. 1443, to be places at which the Lower Elwha S'Klallam Tribe may fish under rights secured by treaties with the United States.
Lummi	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 384 F. Supp. 360, as modified in Subproceeding No. 89-08 (W.D. Wash. February 13, 1990) (decision and order re: cross-motions for summary judgement), to be places at which the Lummi Tribe may fish under rights secured by treaties with the United States.
Makah	North of 48°02'15" N. lat. (Norwegian Memorial), west of 123°42'30" W. long., and east of 125°44'00" W. long.
Port Gamble S'Klallam	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1442, to be places at which the Port Gamble S'Klallam Tribe may fish under rights secured by treaties with the United States.
Quileute	Between 48°07'36" N. lat. (Sand Point) and 47°31'42" N. lat. (Queets River), and east of 125°44'00" W. long.
Quinault	Between 47°40'06" N. lat. (Destruction Island) and 46°53'18" N. lat. (Point Chehalis), and east of 125°44'00" W. long.

Tribe	Boundaries
Skokomish	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 384 F. Supp. 377, to be places at which the Skokomish Tribe may fish under rights secured by treaties with the United States.
Suquamish	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Suquamish Tribe may fish under rights secured by treaties with the United States.
Swinomish	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Swinomish Tribe may fish under rights secured by treaties with the United States.
Tulalip	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1531-1532, to be places at which the Tulalip Tribe may fish under rights secured by treaties with the United States.

§ 301.21 Sport fishing for halibut.

(a) 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.

(b) In all waters off Alaska:

(1) The sport fishing season is from February 1 to December 31; and

(2) The daily bag limit is two halibut of any size per day per person.

(c) In all waters off British Columbia:

(1) The sport fishing season is from February 1 to December 31; and

(2) The daily bag limit is two halibut of any size per day per person.

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

(1) The total allowable catch of halibut shall be limited to:

(i) 123,760 lb (56.1 mt) in waters off Washington; and

(ii) 107,120 lb (48.6 mt) in waters off Oregon and California.

(2) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in paragraph (d)(3) of this section. 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°4'00" W. long.) to Cape Flattery (48°22'55" N. lat., 124°43'42" W. long.), there is no subquota. 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 25 through July 29, 5 days a week (closed Tuesdays and Wednesdays).

(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 subquota 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 subquota and are governed by the regulations in this paragraph (d)(2)(ii).

(A) The fishing season commences on May 2, 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 subquota 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 through September 30, or until 15,222 lb (6.9 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 of any size per day per person.

(C) The northern offshore portion of this area is closed to sport fishing for

halibut. The closed area is west of 124°40'00" W. long. and north of 47°10'00" N. lat. If, on September 1, sufficient quota remains for at least 1 day of fishing, NMFS will, by inseason action as specified at § 301.21(d)(4), remove the geographical restriction on each Tuesday until the fishery is closed.

(iv) In the area between Leadbetter Point, WA and Cape Falcon, OR (45°46'00" N. lat.), the subquota 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 in (81.3 cm).

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

(A) The fishing seasons are:

(1) Commencing May 4, and continuing 3 days a week (Thursday through Saturday) until 67,706 lb (30.7 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)(v)(A)(1) of this section, and continuing every day through August 2, 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 3,314 lb (1.5 mt) or the area subquota 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 3, and continuing 3 days a week (Thursday through Saturday) through September 30, or until the combined subquotas for the areas 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 in (81.3 cm) and the second with a minimum overall size limit of 50 in (127.0 cm).

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

(A) The fishing seasons are:
(1) Commencing May 4 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 2, 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 subquota 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 3 and continuing 3 days a week (Thursday through Saturday) through September 30, or until the combined subquotas for the areas 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 in (81.3 cm) and the second with a minimum overall size limit of 50 in (127.0 cm).

(vii) In the area off the California coast, there is no subquota. 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 in (81.3 cm).

(3) *Flexible inseason management provisions in Area 2A.*

(i) The Regional Director, 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 determining that such action:

(A) Is necessary to allow allocation objectives to be met; and

(B) Will not result in exceeding the catch limit established preseason for each area.

(ii) 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.

(iii) *Notice procedures.* (A) Actions taken under paragraph (d)(3) of 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 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 fishermen should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(iv) *Effective dates.* (A) Any action issued under paragraph (d)(3)(iii) of 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 Director 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 of the action in the **Federal Register**.

(C) Any inseason action issued under paragraph (d)(3) of 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.

(v) *Availability of data.* The Regional Director 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, Fisheries Management Division, 7600 Sand Point Way NE, Seattle, WA.

(4) The Commission shall determine and announce closing dates to the public for any area in which the subquotas under paragraph (d)(2) of this section are estimated to have been taken.

(5) When the Commission has determined that a subquota under paragraph (d)(2) 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 under paragraph (d)(2) or (d)(3) of this section, or announced by the Commission.

(e) Any minimum overall size limit in this section 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.

(f) 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.

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

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

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

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

(k) 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.

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

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

(n) 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.

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

§ 301.22 Fishery 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 § 301.21;

(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 § 301.21 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.

(c) No person shall fish for halibut in the directed halibut fishery in Area 2A during the fishing periods established in § 301.7(b) 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 § 301.7(c).

(d) 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 recreational halibut fishery in Area 2A or that is licensed for the recreational halibut fishery in Area 2A.

(e) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under § 301.7(c) taken on a vessel that, during the same calendar year, has been used in the recreational halibut fishery in Area 2A, or that is licensed for the recreational halibut fishery in Area 2A.

(f) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under § 301.7(c) taken on a vessel that, during the same calendar year, has been used in the directed commercial fishery during the fishing periods established in § 301.7(b) for Area 2A or that is licensed to participate in the directed commercial fishery during the fishing periods established in § 301.7(b) in Area 2A.

§ 301.23 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 301.22.

(b) This Plan allocates 35 percent of the Area 2A TAC to U.S. treaty Indian tribes in the State of Washington 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 sport fishery in the Columbia River area (Leadbetter Point to Cape Falcon) will receive 2 percent of the Washington sport allocation plus 2 percent of the Oregon/California sport allocation. The California sport fishery is allocated 2.6 percent of the Oregon/California sport allocation. These allocations may be changed if new information becomes available that indicates a change is necessary and/or the Pacific Fishery Management Council takes action to reconsider its allocation recommendations. Such changes will be made after appropriate rulemaking is completed and published in the **Federal Register**.

(c) The allocations in this Plan are distributed as subquotas to ensure that any overage or underage by any one group will not affect achievement of an allocation set aside for another group. The specific allocative measures in the treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A are described in paragraphs (d) through (f) of this section.

(d) Thirty-five percent of the Area 2A TAC is allocated to 12 treaty Indian tribes in subarea 2A-1, which includes that portion of Area 2A north of Point Chehalis, WA (46°53'18" N. lat.) and east of 125°44'00" W. long. The treaty Indian allocation is to provide for a tribal commercial fishery and a ceremonial and subsistence fishery. These two fisheries are managed separately; any overages in the commercial fishery do not affect the ceremonial and subsistence fishery. The commercial fishery is managed to achieve an established subquota, while the ceremonial and subsistence fishery is managed for a year-round season. The tribes will estimate the ceremonial and subsistence harvest expectations in January of each year, and the remainder of the allocation will be for the tribal commercial fishery.

(1) The tribal ceremonial and subsistence fishery begins on January 1 and continues through December 31. No size or bag limits will apply to the

ceremonial and subsistence fishery, except that when the tribal commercial fishery is closed, treaty Indians may take and retain not more than two halibut per day per person. Halibut taken for ceremonial and subsistence purposes may not be offered for sale or sold.

(2) The tribal commercial fishery begins between March 1 and April 1 and continues through November 15 or until the tribal commercial subquota is taken, whichever is earlier. Any halibut sold by treaty Indians during the commercial fishing season must comply with Commission regulations on size limits for the non-Indian fishery.

(e) The non-Indian commercial fishery is allocated 20.6 percent of the Area 2A TAC. The commercial fishery is divided into two components: A directed fishery targeting on halibut, and an incidental catch fishery during the salmon troll fisheries off Washington, Oregon, and California.

(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 the May through June salmon fisheries. The subquota for this incidental catch fishery is 3.1 percent of the Area 2A TAC. One halibut (in compliance with the Commission minimum size limit of 32 in (81.3 cm)) may be landed for each 25 chinook landed by a salmon troller. A salmon troller must have 25 chinook on board before retaining a halibut. NMFS may adjust this ratio pre-season, after the halibut and chinook quotas are established. NMFS will publish adjustments to the ratio annually in the **Federal Register**, along with the salmon management measures. A salmon troller may participate in this fishery or in the directed commercial fishery targeting halibut, but not in both. Any poundage remaining in the subquota for this fishery after the May through June salmon troll season will be made available in-season to the directed halibut fishery. If the Commission determines that poundage remaining in the subquota for the directed fishery is insufficient to allow an additional day of directed halibut fishing, the remaining directed harvest subquota will be made available in-season for the fall salmon troll fisheries.

(2) *Directed fishery targeting halibut.* Eighty-five percent of the non-Indian commercial fishery allocation is allocated to the directed fishery targeting halibut (e.g., longline fishery) in southern Washington, Oregon, and California. The subquota for this directed catch fishery is 17.5 percent of

the Area 2A TAC. This fishery is confined to the area south of Subarea 2A-1 (south of Point Chehalis, WA; 46°53'18" N. lat.). The commercial fishery opening date(s), duration and vessel trip limits for this fishery, as necessary to ensure that the subquota for this fishery is not exceeded, will be determined by the Commission and implemented in Commission regulations. If the Commission determines that poundage remaining in the subquota for this fishery is insufficient to allow an additional day of directed halibut fishing, the remaining subquota will be made available for incidental catch of halibut in the fall salmon troll fisheries.

(3) *Commercial license restrictions/declarations.* Commercial fishers must obtain a license to fish for halibut in Area 2A by May 1 of each year. 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. Fishing vessels that are issued Commission licenses to fish commercially in Area 2A are prohibited from obtaining a Commission charterboat license for Area 2A. Sport fishing for halibut in Area 2A is prohibited from a vessel licensed to fish commercially for halibut in Area 2A.

(f) *Sport fisheries.* The non-Indian sport fisheries are allocated 68.3 percent of the non-Indian share, which is 44.4 percent of the Area 2A TAC. The Washington sport fishery (north of the Columbia River) is allocated 53.6 percent of the non-Indian sport allocation and Oregon/California is allocated 46.4 percent. The allocations are further subdivided as subquotas among seven geographic subareas as described in paragraph (f)(1) of this section.

(1) *Subarea management.* The sport fishery is divided into seven sport fishery subareas, each having separate allocations and management measures as follows.

(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 subquota. No inseason adjustments will be made, and estimates of actual catch will be made postseason. The fishery opens on either May 18 or May 25 and continues at least through July 4, until a date established preseason when the subquota is predicted to be taken, or until September 30, whichever is earlier. If May 18 or May 25 fall on a Tuesday or Wednesday, the fishery will open on the following Thursday. The season opens for 5 days per week (closed on Tuesdays and Wednesdays). The daily bag limit is one fish per person, with no size limit.

(ii) *Washington north coast subarea.* This sport fishery subarea is allocated 57.7 percent of the Washington sport allocation, which equals 13.73 percent of the Area 2A TAC. This subarea is defined as all U.S. waters west of the Bonilla-Tatoosh line, as defined in paragraph (f)(1)(i) of this section, and north of the Queets River (47°31'42" N. lat.). The structuring objective for this subarea is to maximize the season length for viable fishing opportunity and, if possible, stagger the seasons to spread out this opportunity to anglers who utilize these remote grounds. The fishery opens on May 1, and continues 5 days per week (closed on Sundays and Mondays). If May 1 falls on a Sunday or Monday, the fishery will open on the following Tuesday. The highest priority is for the season to last through the month of May. If sufficient quota remains, the second priority is to establish a fishery that will be open July 1, through at least July 4. If the preseason prediction indicates that these two goals can be met without utilizing the quota for this subarea, the next priority is to open the May fishery 7 days per week and extend it into June as long as possible. No sport fishing for halibut is allowed after September 30. The daily bag limit in all fisheries is one halibut per person with no size limit. A closure to sport fishing for halibut will be established in an area that is approximately 19.5 nm (36.1 km) southwest of Cape Flattery. The size of this closed area may be modified preseason by NMFS to maximize the season length. The closed area is defined as the area within a rectangle defined by these four corners: 48°17'00" N. lat., 125°10'00" W. long.; 48°17'00" N. lat., 125°00'00" W. long.; 48°05'00" N. lat., 125°10'00" W. long.; and, 48°05'00" N. lat., 125°00'00" W. long.

(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 until the subquota is estimated to have been taken, or September 30, whichever is earlier. 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. This closure may be removed through inseason action by NMFS under §301.21(d)(3) after September 1, for 1 day each week on Tuesday only, if NMFS determines that sufficient subarea quota remains to allow for 1 day of fishing without geographic restriction.

(iv) *Columbia River subarea.* This sport fishery subarea is allocated 2.0 percent of the Washington sport allocation plus 2.0 percent of the Oregon/California sport allocation, which combined equals 0.89 percent of the Area 2A TAC. This subarea is defined as waters south of Leadbetter Point, WA (46°38'10" N. lat.) and north of Cape Falcon, OR (45°46'00" N. lat.). The structuring objective for this subarea is to provide for a non-directed halibut sport fishery of not more than 5 months duration out of the Columbia River ports. The fishery will open on May 1, and continue 7 days per week until the subquota is estimated to have been taken, or September 30, whichever is earlier. The daily bag limit is one halibut per person, with a 32-in (81.3 cm) minimum size.

(v) *Oregon central coast subarea (applicable through December 31, 1995).* 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 in June and July,

especially 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)(2)(v) (A) through (C) of this section. The daily bag limit for all seasons is two halibut per person, one with a minimum 32-in (81.3 cm) size limit and the second with a minimum 50-in (127.0 cm) size limit.

(A) The first season is an all-depth fishery that begins on May 4, and continues 3 days per week (Thursday through Saturday) until 71.5 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 3.5 percent of the subarea quota is taken, or August 2, whichever is earlier.

(C) The last season begins on August 3, with no depth restrictions, and continues 3 days per week (Thursday through Saturday), 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 (applicable through December 31, 1995).* 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)(2)(vi) (A) through (C) of this section. The daily bag limit for all seasons is two halibut per person, one with a minimum 32-in (81.3 cm) size

limit and the second with a minimum 50-in (127.0 cm) size limit.

(A) The first season is an all-depth fishery that begins on May 4, and continues 3 days per week (Thursday through Saturday) 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 August 2, whichever is earlier.

(C) The last season begins on August 3, with no depth restrictions, and continues 3 days per week (Thursday through Saturday), until the combined Oregon subarea quotas south of Falcon are estimated to have been taken, or September 30, whichever is earlier.

(vii) *California subarea.* This sport fishery subarea is allocated 2.6 percent of the Oregon/California subquota, which is 0.54 percent of the Area 2A TAC. This area is defined as the area south of the California border (42°00'00" N. lat.). The structuring objective for this subarea is to provide anglers in California the opportunity to fish in a continuous, fixed season that is open from May 1 through September 30. The daily bag limit is one halibut per person, with a minimum 32-in (81.3 cm) size limit. Due to inability to monitor the catch in this area inseason, a fixed season will be established preseason by NMFS based on projected catch per day and number of days to achievement of the subquota; no inseason adjustments will be made, and estimates of actual catch will be made post season.

(2) *Port of landing management.* All sport fishing in Area 2A (except for fish caught in the Washington north coast subarea and landed in Neah Bay) will be managed on a "port of landing" basis, whereby any halibut landed into a port will count toward the quota for the subarea in which that port is located, and the regulations governing the subarea of landing apply, regardless of the specific area of catch. The one exception is for halibut caught west of the Bonilla-Tatoosh line and landed in Neah Bay, which are counted against the Washington north coast subarea

quota, and are governed by the regulations governing the Washington north coast subarea.

(3) *Possession limits.* The sport possession limit on land north of Cape Falcon, OR is two daily bag limits, regardless of condition, but only one daily bag limit may be possessed on the vessel. The possession limit on land south of Cape Falcon is the same as the bag limit.

(4) *Ban on sport vessels in the commercial fishery.* Vessels operating in the sport fishery for halibut in Area 2A are prohibited from operating in the commercial halibut fishery in Area 2A. Charterboat operators must choose, prior to May 1 of each year, whether they will obtain a charterboat license from the Commission or a commercial license, but cannot obtain both. Sport fishing for halibut in Area 2A is prohibited from a vessel licensed to fish commercially for halibut in Area 2A.

(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 § 301.21(d)(3).

§ 301.24 Previous regulations superseded.

This part shall supersede all previous regulations of the Commission, and this part shall be effective each succeeding year until superseded by regulations, which will be published in the **Federal Register**.

BILLING CODE 3510-22-W

Figure 1 to Part 301—Map of Regulatory Areas

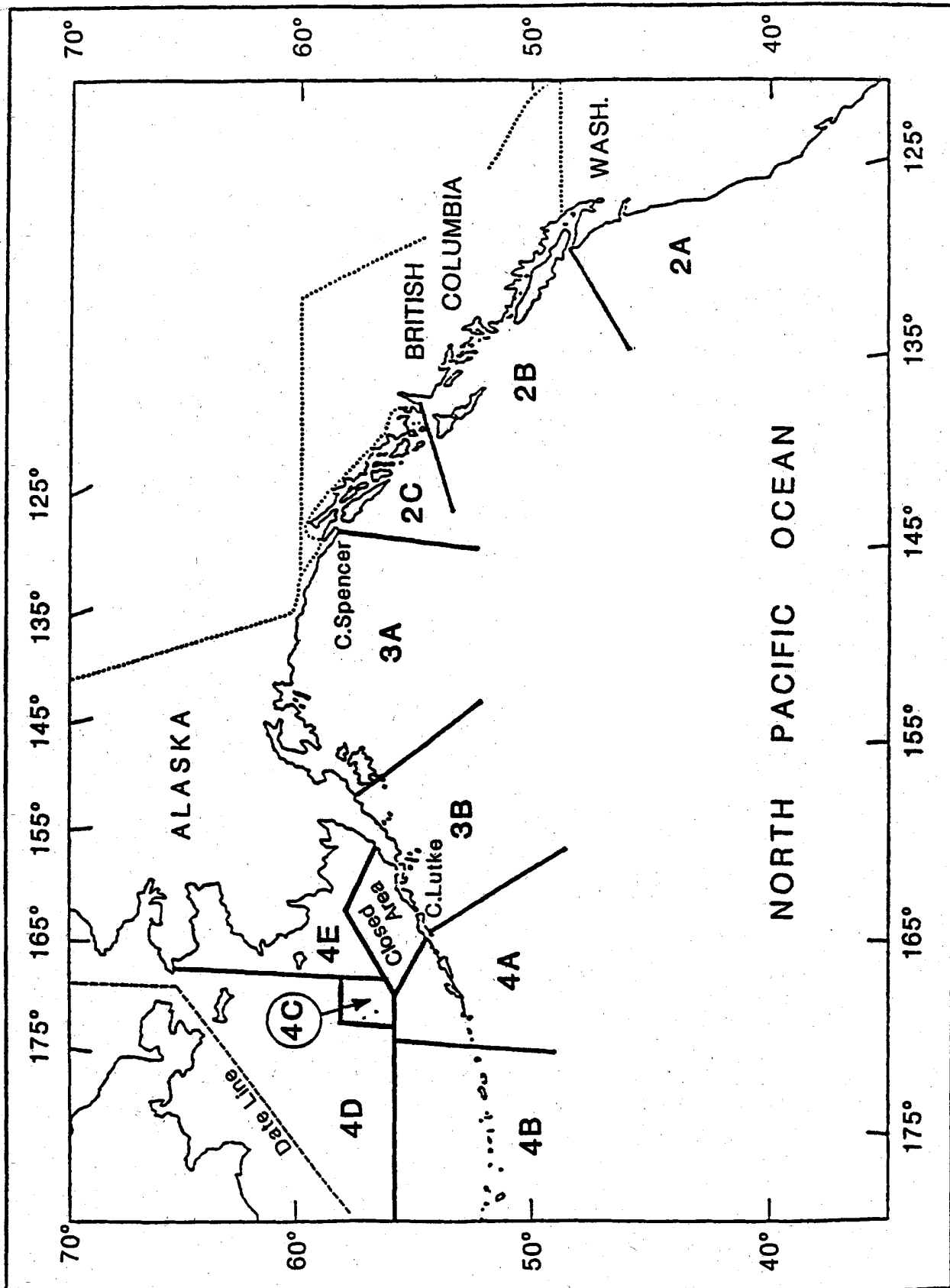


Figure 2 to Part 301—Halibut Size Limits

