permit for the same calendar year for the commercial halibut fishery in Area 2A.

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

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

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

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

26. Previous Regulations Superseded

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all previous regulations of the Commission, and these regulations shall be effective each succeeding year until superseded.

Classification

IPHC Regulations

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, Jensen v. National Marine Fisheries Service, 512 F.2d 1189 (9th Cir. 1975), 5 U.S.C. 553 does not apply to this notice of the effective venen and content of the IPHC regulations. Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable.

Catch Sharing Plan for Area 2A

An Environmental Assessment/Regulatory Impact Review was prepared on the proposed changes to the Plan. NMFS has determined that the proposed changes to the plan and the implementing management measures contained in and implemented by the IPHS regulations will not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations. At the proposed rule state, the Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this action will not have a significant economic impact on a substantial number of small entities. No comments were received on this certification. Consequently, no regulatory flexibility analysis has been prepared. This action has been determined to be not significant for purposes of E.O. 12866.

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

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

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.


David L. Evans,
Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300, subpart C, continues to read as follows:


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

§300.63 Catch sharing plans and domestic management measures.

(a) The catch sharing plan for area 4 allocates the annual TAC among Areas 4C, 4D, and 4E, and will be implemented by the Commission in annual management measures published pursuant to §300.62.

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

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

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

RIN 0648–AH67

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

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

ACTION: Final rule.

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


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

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

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Management Area (BSAI) and of the Gulf of Alaska...
other smelts), members of the Euphausiacea (krill), Bathylagidae (lanternfishes), Myctophidae (lanternfishes), Bathyarctidae (deep-sea smelts), Ammodytidae (Pacific sand lance), Trichiostegidae (Pacific sand lance), Pholidae (gunnels), Stichaeidae (pricklebacks, barbonnets, eelennys, cockscombs and shannys), Gonostomatidae (bristlemouths, lightfishes, and anglemouths), and the Order Euphausiacea (krill). These species have been grouped together because they are considered to be primary food resources for other marine animals and they have the potential to be the targets of a commercial fishery.

**Affected Vessels and Processors**

The requirements of the rule apply to all vessels fishing for groundfish in the Federal waters of the BSAI or GOA or processing groundfish harvested in the Federal waters of the BSAI or GOA. The rule does not apply to fishing for forage fish species within State waters.

**Prohibition on Directed Fishing**

The rule prohibits directed fishing for forage fish at all times in the Federal waters of the BSAI and GOA. The rule establishes maximum retainable bycatch (MRB) percentage of 2 percent for forage fish, meaning that vessels fishing for groundfish may retain a quantity of forage fish equal to no more than 2 percent of the round weight or round-weight equivalent of groundfish species open to directed fishing that are retained on board the vessel during a fishing trip. NMFS data indicate that the aggregate percentage of forage fish incidentally caught in current groundfish fisheries rarely exceeds 2 percent, and many vessels rarely or never encounter catch of forage fish species. Consequently, bycatch of forage fish species is not considered a problem in the groundfish fisheries off Alaska, and the 2-percent MRB is unlikely to result in increased discards of forage fish species.

**Harvest Quotas**

Insufficient information exists upon which to specify a total allowable catch amount (TAC) for forage fish species. Therefore, this action does not establish procedures for specifying an annual TAC for forage fish species. However, by establishing a new species category for forage fish, NMFS will be able to collect additional data on forage fish from vessel logbooks, weekly production reports, and observer reports. This information may be used to evaluate the need for and appropriateness of other management measures for forage fish species.

**Limits on Sale, Barter, Trade or Processing**

The rule prohibits the sale, barter, trade, or processing of forage fish species by vessels fishing for groundfish in the Federal waters of the BSAI or GOA or processing groundfish harvested in the BSAI or GOA, except that retained catch of forage fish species not exceeding the 2-percent MRB may be processed into fishmeal and sold. The rule allows fishmeal processing of forage fish retained under the 2-percent MRB amount to prevent undue burdens on operations that process unsorted processing waste into fishmeal. Industry representatives have indicated that separating small quantities of forage fish from the volumes of fish and fish waste that typically enter fishmeal plants would be nearly impossible. The small volumes of fishmeal production allowed under this rule are not expected to provide an incentive for vessels to target on forage fish through “topping off” activity.

This rule does not apply to onshore processors due to limitations of the authority of the Secretary of Commerce under the Magnuson-Stevens Act. At the June 1997 Council meeting, the State of Alaska indicated that it intends to proceed with parallel forage fish regulations to restrict the harvest of forage fish within State waters and the processing of forage fish by onshore processors.

**Changes From the Proposed Rule**

In the proposed change to Table 2 to 50 CFR Part 679, the order Euphausiacea was incorrectly identified as a family. This error has been corrected in the final rule. No other changes have been made in the final rule.

A technical amendment is made to § 679.20(c)(5) by deleting a date that is no longer applicable.

**Classification**

At the proposed rule stage, 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 that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared. An informal consultation under the Endangered Species Act was concluded for amendments 36 and 39 on July 11,
1997. As a result of the informal consultation, the Regional Administrator determined that fishing activities under this rule are not likely to adversely affect endangered or threatened species or critical habitat.

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

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 10, 1998.

David L. Evans,
Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 et seq., 1801 et seq., and 3631 et seq.

2. In §679.2, the definition of "forage fish" is added in alphabetical order to read as follows:

Forage fish means all species of the following families:
(1) Osmeridae (eulachon, capelin and other smelts),
(2) Myctophidae (lanternfishes),
(3) Bathylagidae (deep-sea smelts),
(4) Ammodiptidae (Pacific sand lance),
(5) Trichodontidae (Pacific sandfish),
(6) Pholidae (gunnels),
(7) Stichaeidae (pricklebacks, warbonnets, eelblennys, cockscombs and shannys),
(8) Gonostomatidae (bristlemouths, lightfishes, and anglemouths), and
(9) The Order Euphausiacea (krill).

3. In §679.20, paragraph (c)(5) is amended by removing the phrase "(Applicable through December 31, 1996)" and a new paragraph (i) is added as follows:

(i) Forage fish—(1) Definition. See §679.2.
(2) Applicability. The provisions of §679.20(i) apply to all vessels fishing for groundfish in the BSAI or GOA, and to all vessels processing groundfish harvested in the BSAI or GOA.
(3) Closure to directed fishing. Directed fishing for forage fish is prohibited at all times in the BSAI and GOA.

(4) Limits on sale, barter, trade, and processing. The sale, barter, trade, or processing of forage fish is prohibited, except as provided in paragraph (i)(5) of this section.

(5) Allowable fishmeal production. Retained catch of forage fish not exceeding the maximum retainable bycatch amount may be processed into fishmeal for sale, barter, or trade.

4. In §679.22, paragraph (c) is revised to read as follows:

(c) Directed fishing closures. See §679.20(d) and §679.20(i).

5. In Table 2 to 50 CFR part 679, a column for "Aggregate Forage Fish" is added between columns "Atka mackerel" and "Other species," and footnote 5 is added to read "Forage fish are defined at §679.2." Table 10, as revised, reads as follows:
### Table 10.—Gulf of Alaska Retainable Percentages

<table>
<thead>
<tr>
<th>Bycatch species</th>
<th>Pollock</th>
<th>Pacific cod</th>
<th>Deep flatfish</th>
<th>Rex sole</th>
<th>Flathead sole</th>
<th>Shallow flatfish</th>
<th>Arrowtooth</th>
<th>Sablefish</th>
<th>Aggregated rockfish</th>
<th>DSR</th>
<th>Skee</th>
<th>Aggregated forage fish</th>
<th>Akka mackerel</th>
<th>Other species</th>
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<tbody>
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<td>Pollock</td>
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<tr>
<td>Pacific cod</td>
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<td>Deep flatfish</td>
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<td>Arrowtooth</td>
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<tr>
<td>Pacific Ocean perch</td>
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<td>Shortraker/rougheye</td>
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<td>Other rockfish</td>
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<td>Northern rockfish</td>
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<td>Pelagic rockfish</td>
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<td>DSR–Skee</td>
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<td>Thornyhead</td>
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<td>Atka mackerel</td>
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</table>

1. For definition of species, see Table 1 of the Gulf of Alaska groundfish specifications.
2. Aggregated Rockfish means any rockfish except in the Southeast Outside District where demersal shelf rockfish (DSR) is a separate category.
3. na = not applicable.

In Table 11 to 50 CFR part 679, a column for “Aggregate Forage Fish” is added between columns “Squid” and “Other species,” footnote 3 is redesignated as footnote 4, and a new “Other species” footnote 3 is added to read “Forage fish and.” Table 11, as revised, reads as follows:

### Table 11.—Bering Sea and Aleutian Islands Management Area Retainable Percentages

<table>
<thead>
<tr>
<th>Bycatch species</th>
<th>Pollock</th>
<th>Pacific cod</th>
<th>Atka mackerel</th>
<th>Arrowtooth</th>
<th>Yellowfin sole</th>
<th>Other flatfish</th>
<th>Rock sole</th>
<th>Flathead sole</th>
<th>Greenland turbot</th>
<th>Sablefish</th>
<th>Aggregated rockfish</th>
<th>Squid</th>
<th>Aggregated forage fish</th>
<th>Other species</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basis species</td>
<td>na</td>
<td>5</td>
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<td>Pollock</td>
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<td>Pacific cod</td>
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<td>Rex sole</td>
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<td>Pacific Ocean perch</td>
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<td>Shortraker/rougheye</td>
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<tr>
<td>Northern rockfish</td>
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<td>Pelagic rockfish</td>
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1. For definition of species, see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
2. Aggregated rockfish of the genera Sebastes and Sebastolobus.
3. na = not applicable.

[FR Doc. 98-6857 Filed 3-16-98; 8:45 am]
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