

CAA. This final rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This final rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 19, 2006.

**William W. Rice,**

*Acting Regional Administrator, Region 7.*

■ Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart AA—Missouri**

■ 2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for "10-6.060" to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED MISSOURI REGULATIONS**

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
* * * * *				
<b>Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri</b>				
* * * * *				
10-6.060	Construction Permits Required.	12/30/2004	6/27/2006	This revision incorporates by reference elements of EPA's NSR reform rule published December 31, 2002. Provisions of the incorporated reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from record keeping provisions for certain sources using the actual-to-projected-actual emissions projections test are not SIP approved. This revision also incorporates by reference the other provisions of 40 CFR 52.21 as in effect on July 1, 2003, which supersedes any conflicting provisions in the Missouri rule. Section 9, pertaining to hazardous air pollutants, is not SIP approved.
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**DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**50 CFR Part 679**  
[Docket No. 040610180-6173-03; I.D. 030806A]  
**RIN 0648-AR09**  
**Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting; Tagged Pacific Halibut and Tagged Sablefish**  
**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.  
**SUMMARY:** NMFS issues a final rule to exclude tagged halibut and tagged sablefish catches from deduction from fishermen's Individual Fishing Quota (IFQ) and from Western Alaska Community Development Quota (CDQ) accounts. This action is necessary to ensure that only halibut and sablefish that are tagged with an external research tag are excluded from IFQ deduction, and to extend the same exclusion to halibut and sablefish harvested under the CDQ Program. This action is intended to improve administration of the IFQ and CDQ Programs, to enhance collection of scientific data from external tags, and to further the goals

and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI), the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs), and the halibut management program.

**DATES:** Effective July 27, 2006.

**ADDRESSES:** Copies of the Categorical Exclusion, the Regulatory Impact Review, and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from: NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Walsh, Records Officer; NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or the NMFS Alaska Region Web site at <http://www.fakr.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS at the mailing address above and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Becky Carls, 907-586-7228 or [becky.carls@noaa.gov](mailto:becky.carls@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the exclusive economic zone of the BSAI and the Gulf of Alaska are managed by NMFS under the FMPs for these areas. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement between Canada and the United States. This agreement, entitled the "Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea" (Convention), was signed at Ottawa, Canada, on March 2, 1953, and was amended by the "Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act). The directed commercial Pacific halibut fishery in Alaska is managed under an IFQ Program, as is the fixed gear sablefish fishery. The IFQ Program is a limited access management system. Both species are also a part of the annual apportionment under the CDQ Program. These programs are codified at 50 CFR part 679.

The International Pacific Halibut Commission (IPHC) develops halibut fishery management regulations pursuant to the Convention and submits those regulations to the U.S. Secretary of State for approval. NMFS publishes approved IPHC regulations in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. NMFS published the IPHC's current annual management measures on March 3, 2006, at 71 FR 10850. The Halibut Act also authorizes the Council to develop Pacific halibut fishery regulations in and off Alaska that are in addition to, but not in conflict with, the approved IPHC regulations (Halibut Act, section 773c(c)). Regulations developed by the Council pursuant to the Halibut Act are implemented only with the approval of the U.S. Secretary of Commerce.

#### Background and Need for Action

The background and need for this action were described in the preamble to the proposed rule published in the **Federal Register** on March 29, 2006 (71 FR 15687). In summary, this final rule will eliminate an inconsistency between Federal and IPHC regulations, and will include the CDQ Program in the exemption from quota deduction of halibut and sablefish tagged with external research tags.

IPHC regulations at section 21(3) require externally tagged halibut and sablefish harvested in commercial fisheries to count against Individual Vessel Quotas (used in Canada), CDQs, IFQs, or daily bag or possession limits "unless otherwise exempted by state, provincial, or federal regulations." Federal regulations at 50 CFR 679.40(g) exempt any tagged halibut and sablefish landed in Federal commercial IFQ fisheries from counting against a person's IFQ. The regulatory language currently included in the Federal exemption is inconsistent with that in the IPHC regulations because it does not specifically identify "external" tags for halibut. This Federal regulatory text was written when only external tags were used on Pacific halibut and sablefish. Now, various types of internal and external tags are used to identify these fish for scientific purposes.

This action will amend Federal regulations so only halibut and sablefish that are "externally" tagged may be excluded from quota deduction. This regulatory change will eliminate the potential for ambiguity and confusion over the exemption status of these fish. Also, extension of the exemption to the CDQ fisheries will provide an incentive for fishermen operating in these programs to return tags.

#### Regulatory Amendments

In § 679.40, paragraph (g) is amended by removing "Tagged" and adding in its place "External research tags for." This action specifies that only halibut or sablefish bearing an external research tag issued by any state, Federal, or international agency, are excluded from quota program deduction.

In § 679.40 paragraph (g)(1), the phrase "a research tag" is revised to read "an external research tag" to ensure that only halibut and sablefish bearing external research tags are exempt from quota deduction.

Paragraph (g)(1)(i) is amended by removing "pursuant to 50 CFR 300.18" and adding in its place "pursuant to § 300.62 of this title and to this part 679." The reference to "50 CFR 300.18" is an artifact from when the IPHC regulations for annual management measures were codified in the CFR (Code of Federal Regulations). NMFS annually publishes the IPHC regulations as annual management measures in the **Federal Register**, but now does not codify them in the CFR.

Paragraph (g)(1)(ii) is revised to require fishermen to comply with all sablefish regulations at 50 CFR part 679 in addition to turning in a tagged sablefish.

Paragraph (g)(2) is amended by removing "Tagged halibut and sablefish" and adding in its place "Halibut and sablefish bearing an external research tag from any state, Federal, or international agency." In addition a reference to 50 CFR 679.5(l) is added concerning the recordkeeping and reporting requirements for the IFQ Program. Language specifying which quotas will not be debited by harvest of externally tagged halibut or sablefish is broken out into two separate paragraphs (g)(2)(i) and (g)(2)(ii). The first addresses halibut IFQ and sablefish IFQ, while the second addresses halibut CDQ and sablefish CDQ.

Additional language is added to paragraphs (g)(1) and (g)(2) to improve the clarity of the regulations.

#### Response to Comments

The proposed rule for this action was published in the **Federal Register** on March 29, 2006 (71 FR 15687). NMFS received no public comments on the proposed rule.

#### Changes From the Proposed Rule

No changes are made in this final rule from the proposed rule.

#### Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A FRFA was prepared for this action. The FRFA includes a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis (IRFA), NMFS's responses to those comments, and a summary of the analyses completed to support the action. The need for and objectives of this action are contained at the beginning of the preamble and in the SUMMARY section of the preamble. The legal basis for this action also is contained in the preamble. No public comments were received in response to the IRFA or on the economic effects of the rule. A summary of the FRFA follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The entities that will be directly regulated by this action are the Western Alaska CDQ groups that annually receive halibut and sablefish quota, and those entities harvesting halibut and/or sablefish under the IFQ and CDQ Programs. There were six Western Alaska CDQ groups in 2004. Each of these groups is organized as a not-for-profit entity, and none is dominant in its field, thus, each group is considered to be a directly regulated small entity.

In 2004, 1,524 unique vessels harvested halibut and/or sablefish. A total of 1,304 unique vessels were used to harvest IFQ halibut, 199 to harvest CDQ halibut, and 1,489 to harvest IFQ halibut and/or CDQ halibut (i.e., 14 harvested both). A total of 396 unique vessels were used to harvest IFQ sablefish, 18 to harvest CDQ sablefish, and 403 to harvest IFQ and/or CDQ sablefish (i.e., 11 harvested both). Contractual arrangements, ownership information, and any resulting affiliations between such parties are not well documented and are not currently available to agency analysts. Though affiliation status for these entities is not known, vessel operations are believed to be small entities and will be treated as such for the purposes of this action.

This regulation does not impose new recordkeeping or reporting requirements on directly regulated small entities. Small entities targeting halibut and/or sablefish under the IFQ or CDQ Program may choose to ignore external research tags, and are not under any obligation to report them. However, if these small entities wish to avail themselves of the benefits this regulation imparts, they must report the presence of external research tags to IPHC port samplers, to the IPHC directly, to the Alaska Department of Fish and Game, or to NMFS as appropriate.

This action will amend regulations to provide that only halibut or sablefish that are externally tagged with research

tags are exempt from deduction from IFQ or CDQ accounts. The exemption is believed to provide an economic incentive for fishermen to take the additional time to notify fishery managers about the tags and about the tagged fish they encounter during their fishing operations. This information is important for the conservation and management of the halibut and sablefish fisheries.

This regulation appears to impose no costs on directly regulated small entities. IFQ fishermen currently voluntarily bear the small burden of collecting and returning tags. Fishermen in the IFQ halibut and IFQ sablefish fisheries are accustomed to exemptions for delivery of externally tagged fish, and will continue to enjoy this benefit, if they so choose. CDQ groups harvesting CDQ halibut and CDQ sablefish now also will have the opportunity to benefit from this exemption. CDQ groups will not be required to return tags, so no costs will be imposed on them. Overall, this action will have no known adverse impacts on the profitability or competitiveness of small, directly regulated entities.

A FRFA should contain "a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."

As stated above, this regulation appears to impose no adverse economic impacts on directly regulated small entities. Therefore, no steps were taken to minimize the effects of this regulatory action on small entities.

This action was selected because it best accomplishes the objectives of eliminating an inconsistency between Federal and IPHC regulations, and expanding the exemption from quota deduction of halibut and sablefish tagged with external research tags to the CDQ Program.

The no action alternative would have no direct impact on small entities. Under this alternative the regulations would not be changed to eliminate the inconsistency between IPHC and Federal regulations, nor would CDQ groups be eligible for exemptions from quota deduction for halibut or sablefish tagged with external tags issued by any state, Federal, or international agency. Therefore, the no action alternative would not meet the objectives of this

action (i.e., to eliminate inconsistency in the regulations and to extend the exemption from quota deduction to the CDQ groups).

An alternative that would leave the CDQ Program fisheries out of this action was considered but was rejected. This alternative would not encourage all fishermen that harvest halibut and sablefish in quota-share fisheries to return tagged fish. This alternative, therefore, would not meet the objectives of this action.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget under Control Number 0648-0276. Public reporting burden for tag information is estimated to average five minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David.Rostker@omb.eop.gov*, or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules.

NMFS will post a small entity compliance guide on the Internet at <http://www.fakr.noaa.gov/index/frules/frules.asp?Yr=2006>. The guide and this final rule will be available upon request (see **ADDRESSES**).

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: June 21, 2006.

**James W. Balsiger,**

*Acting Deputy Assistant Administrator for  
Regulatory Programs, 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 part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

■ 2. In § 679.40, paragraph (g) is revised to read as follows:

**§ 679.40 Sablefish and halibut QS.**

\* \* \* \* \*

(g) *External research tags for halibut and sablefish.* (1) Nothing contained in this part 679 shall prohibit any person at any time from retaining and landing a Pacific halibut or sablefish that bears at the time of capture an external research tag from any state, Federal, or international agency, provided that the halibut or sablefish is one of the following:

(i) A Pacific halibut landed pursuant to § 300.62 of this title and to this part 679; or

(ii) A sablefish landed in accordance with the Tagged Groundfish Research Program, and in compliance with all sablefish requirements of this part 679.

(2) Halibut and sablefish bearing an external research tag from any state, Federal, or international agency, landed pursuant to paragraph (g)(1)(i) or (g)(1)(ii) of this section, and in accordance with § 679.5(l), shall be excluded from IFQ or CDQ deduction as follows:

(i) The fish shall not be calculated as part of a person's IFQ harvest of halibut or sablefish and shall not be debited against a person's halibut IFQ or a person's sablefish IFQ; or

(ii) The fish shall not be calculated as part of the CDQ harvest of halibut or sablefish and shall not be debited against a CDQ group's halibut CDQ or a CDQ group's sablefish CDQ.

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