

survivorship, smolt production estimates, fecundity, and ocean survival rates); historical and present data on hatchery fish releases, outmigration, survivorship, returns, straying rates, replacement rates, and reproductive success in the wild; data on age structure and migration patterns of juveniles and adults; meristic, morphometric, and genetic studies; and spatial or temporal trends in the quality and quantity of freshwater, estuarine, and marine habitats. NMFS is particularly interested in receiving such information for the period subsequent to the most recent status review for a given ESU (see Description of ESUs to be Reviewed). Status reviews for the majority of the 25 ESUs to be reviewed were conducted in 1997–2000. However, the status of Sacramento River winter-run chinook, and Central California coast coho were last assessed in 1994, and 1995, respectively.

Conservation Efforts to Protect West Coast Salmonids

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after conducting a review of the status of a species and after taking into account efforts being made to protect the species. Therefore, in making its listing determinations, NMFS first assesses the status of the species and identifies factors that have led to the decline. NMFS then assesses conservation measures to determine whether they ameliorate a species extinction risk (50 CFR 424.11(f)). In judging the efficacy of conservation efforts, NMFS considers the following: The substantive, protective, and conservation elements of such efforts; the degree of certainty that such efforts will reliably be implemented (see draft policy, 65 FR 37102; June 13, 2000); the degree of certainty that such efforts will be effective in furthering the conservation of the species; and the presence of monitoring provisions to determine effectiveness of recovery efforts and that permit adaptive management. In some cases, conservation efforts may be relatively new or may not have had sufficient time to demonstrate their biological benefit. In such cases, provisions of adequate monitoring and funding for conservation efforts are essential to ensure that the intended conservation benefits are realized. NMFS also encourages all parties to submit information on ongoing efforts to protect and conserve West Coast salmonids, as well as information on recently implemented or planned activities (i.e.,

since the time of listing for a given ESU) and their likely impact on the ESUs to be reviewed.

The complete citations for the references used in this document can be obtained by contacting NMFS or via the internet (see ADDRESSES and FOR FURTHER INFORMATION CONTACT).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: February 6, 2002.

Rebecca Lent,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 020131023-2023-01; I.D. 011602B]

RIN 0648–AP80

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed changes to catch sharing plan and sport fishing management.

SUMMARY: NMFS proposes, under authority of the Northern Pacific Halibut Act (Halibut Act), to approve and implement changes to the Area 2A Pacific Halibut Catch Sharing Plan (Plan) to adjust the management of the sport fishery in Puget Sound, WA, and to adjust the halibut possession limit for Oregon anglers. NMFS also proposes sport fishery regulations to implement the Plan in 2002. A draft environmental assessment and regulatory impact review (EA/RIR) on this action is also available for public comment.

DATES: Comments on the proposed changes to the Plan must be received by February 22, 2002, and comments on the proposed sport fishery regulations must be received by February 22, 2002.

ADDRESSES: Send comments or requests for a copy of the Plan and/or the EA/RIR to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115. Electronic copies of the Plan, including proposed changes for 2002, and of the draft EA/RIR are also available at the NMFS Northwest Region website: <http://www.nwr.noaa.gov>, click on “Pacific Halibut.” Comments will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier, Northwest Region, NMFS, phone: 206–526–6140; fax: 206–526–6736 or; e-mail: yvonne.dereynier@noaa.gov.

SUPPLEMENTARY INFORMATION: The Halibut Act of 1982, at 16 U.S.C. 773c, requires that the Secretary of Commerce (Secretary) adopt such regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention between the United States and Canada and the Halibut Act. Section 773c(c) of the Halibut Act authorizes the Regional Fishery Management Councils to develop regulations governing the Pacific halibut catch in their corresponding U.S. Convention waters that are in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC). Each year since 1988, the Pacific Fishery Management Council (Council) has developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in IPHC statistical Area 2A (off Washington, Oregon, and California).

In 1995, NMFS implemented the Council-recommended Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53'18" N. lat.), Oregon, and California. North of 46°53'18" N lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry sablefish fishery when the overall

Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into seven geographic subareas, each with separate allocations, seasons, and bag limits.

Council Recommended Changes to the Plan

At its September 2001 meeting, the Council adopted, for public comment, the following proposed changes to the plan: (1) Allowing the Washington Inside Waters sport fishery sub-quota to be taken in two separate seasons for two different regions within that sport fishery subarea; (2) allocating 50-65 percent of the Oregon North Central and South Central all-depth sport fishery sub-quotas to the May through June fishery and allowing only vessels carrying IPHC charter licenses to participate in the all-depth fishery during these months, and allocating 35-50 percent of the Oregon North Central and South Central all-depth sport fishery sub-quotas to the August through September fishery and allowing only vessels that do not have IPHC charter licenses to participate in the all-depth fishery during these months; (3) changing the season start date for the Columbia River subarea from May 1 to June 15; and (4) allowing Oregon sport fishers to retain and transport up to two halibut on land.

At its November 2001 public meeting, the Council considered the results of state-sponsored workshops on the proposed changes to the Plan and public comments, and made the final recommendations for two modifications to the Plan as follows:

(1) Allow the Washington Inside Waters sport fishery sub-quota to be taken in two separate seasons for two different regions within that sport fishery subarea. This provision is primarily intended to allow anglers in eastern Puget Sound to have access to halibut before the halibut migrate out of that area in the spring.

(2) Allow Oregon sport fishers to retain and transport up to two halibut on land. This provision would be more convenient for anglers who travel to the coast for multi-day fishing vacations. It also makes the possession limit consistent with the limit in the State of Washington and improved enforceability for agencies and for anglers.

Proposed Changes to the Catch Sharing Plan

NMFS is proposing to approve and to make the following changes to the Plan:

In section (f) of the Plan, Sport Fisheries, insert a new fourth sentence and revise the newly renumbered fifth,

sixth, and seventh sentence of paragraph (1)(i) to read from the third sentence as follows:

The structuring objective for this subarea is to provide a stable sport fishing opportunity and maximize the season length. To that end, the Puget Sound subarea may be divided into two regions with separate seasons to achieve a fair harvest opportunity within the subarea. Due to inability to monitor the catch in this area inseason, fixed seasons, which may vary and apply to different regions within the subarea, will be established preseason based on projected catch per day and number of days to achievement of the quota. Inseason adjustments may be made, and estimates of actual catch will be made postseason. The fishery will open in April or May and continue until a dates established preseason (and published in the sport fishery regulations) when the quota is predicted to be taken, or until September 30, whichever is earlier.

In section (f), Sport Fisheries, paragraph 3 is revised to read as follows:

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

Proposed 2002 Sport Fishery Management Measures

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2002. The 2002 TAC is unknown at this time, but information available from the IPHC indicates that the TAC may be similar to or somewhat higher than the TAC in 2001. The final TAC will be determined by the IPHC at its annual meeting January 22-25, 2002. The proposed 2002 sport fishery regulations based on the 2001 Area 2A TAC of 1,140,000 lb (517 mt) are as follows:

Washington Inside Waters (Subarea Puget Sound and Straits)

This subarea would be allocated 57,393 lb (26 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The Washington Department of Fish and Wildlife (WDFW), NMFS and IPHC are currently discussing how to estimate season durations for the Puget Sound and North Coast subareas under the proposed changes to subarea seasons and quota allocations. According to the Plan, the structuring objective for this subarea is to provide a stable sport fishing opportunity and to maximize the season length. In 2001, the fishery in this subarea was 49 days long, from May 17 through July 22, held for 5 days per

week (Thursday through Monday). For the 2002 fishing season, the fishery in this subarea would be set to meet the structuring objectives described in the Plan, possibly with separate seasons in eastern and western Puget Sound. The final determination of the season dates would be based on the allowable harvest level, projected 2002 catch rates, and on recommendations developed in a public workshop sponsored by WDFW after the 2002 TAC is set by the IPHC. The daily bag limit would be one halibut of any size per day per person.

Washington North Coast Subarea (North of the Queets River)

This subarea would be allocated 108,030 lb (49 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. According to the Plan, 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 use these remote grounds. The fishery opens on May 1, and continues 5 days per week (Tuesday through Saturday). The highest priority for local anglers 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. In 2001, the fishery in this subarea was 29 days long, from May 1 through June 1, held for 5 days per week (Tuesday through Saturday); the season re-opened for June 16, and again July 1 through 4. For the 2002 fishing season, the fishery in this subarea would be set to meet the structuring objectives described in the Plan. The final determination of the season dates would be based on the allowable harvest level, projected 2002 catch rates, and on recommendations developed in a public workshop sponsored by WDFW after the 2002 TAC is set by the IPHC. The daily bag limit would be one halibut of any size per day per person. A portion of this subarea located about 19 nm (35 km) southwest of Cape Flattery would be closed to sport fishing for halibut. The size of this closed area is described in the Plan, but may be modified preseason by NMFS to maximize the season length.

Washington South Coast Subarea

This subarea would be allocated 42,739 lb (19.4 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The fishery would open on May 1 and continue 5 days per week (Sunday through Thursday) until September 30, or until the quota is achieved, whichever occurs first. According to the Plan, the structuring

objective for this subarea is to maximize the season length, while maintaining a quality fishing experience. The fishery would be open Sunday through Thursday in all areas, except where prohibited, and the fishery will be open 7 days per week in the area from the Queets River south to 47°00'00" N lat. and east of 124°40'00" W long. Subsequent to the closure of the Washington South Coast subarea, if any remaining quota is sufficient for a nearshore fishery, the area from the Queets River south to 47°00'00" N lat. and east of 124°40'00" W long. would be allowed 7 days per week until either the remaining subarea quota is estimated to have been taken and the season is closed by the IPHC, or until September 30, whichever occurs first. The daily bag limit would be one halibut of any size per day per person.

Columbia River Subarea

This subarea would be allocated 10,487 lb (4.8 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The fishery would open on May 1 and continue 7 days per week until the quota is reached or September 30, whichever occurs first. The daily bag limit would be the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Oregon North Central Coast Subarea

This subarea would be allocated 199,803 lb (90.6 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The structuring objectives for this subarea are to provide two periods of fishing opportunity in May and in August in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and to provide a period of fishing opportunity during the summer in nearshore waters for small boat anglers. The May all-depth season would be allocated 135,866 lb (61.6 mt). Based on an observed catch per day trend in this fishery, an estimated 24,000 lb (10.9 mt) would be caught per day in 2002, resulting in a 5-day fixed season. In accordance with the Plan, the season dates would be May 9, 10, 11, 16, and 17. If the quota is not taken, an appropriate number of fishing days would be scheduled for late May or early June. The restricted depth fishery inside 30 fathoms for the north central and south central coast subareas combined would be allocated 17,150 lb (7.8 mt) and would be open starting May 1 through September 30 or until the TAC is attained, whichever occurs first. The August coastwide all-depth fishery (Cape Falcon to Humbug Mountain) would be allocated 49,951 lb (22.7 mt),

which may be sufficient for a 1-day or 2-day opening starting August 2, based on the expected catch per day. If sufficient quota remains after this season for additional days of fishing, the dates for an all-depth fishery would be in mid-August. The final determination of the season dates will be based on the allowable harvest level, projected catch rates, and recommendations developed in a public workshop sponsored by the Oregon Department of Fish and Wildlife (ODFW) after the 2002 TAC is set by the IPHC. The daily bag limit would be the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Oregon South Central Coast Subarea

This subarea would be allocated 15,820 lb (7.2 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The May all-depth season would be allocated 12,656 lb (5.7 mt) and, based on the observed catch per day trend in this fishery, an estimated 3,000 lb (1.4 mt) would be caught per day in 2002, resulting in a 4-day fixed season. In accordance with the Plan, the season dates would be May 10, 11, 17, and 18. If the quota is not taken, an appropriate number of fishing days would be scheduled for late May or early June. The restricted depth fishery inside 30 fathoms is combined for the north central and south central coast subareas and would be allocated 17,150 lb (7.8 mt) and would be open starting May 1 through September 30 or until the TAC is attained, whichever occurs first. The August coastwide all-depth fishery (Cape Falcon to Humbug Mountain) may open for 1 day or 2 days on August 2, if sufficient quota is available. If sufficient quota remains for additional fishing days after this season, the dates for an all-depth fishery would be in mid-August. The final determination of the season dates would be based on the allowable harvest level, projected catch rates, and recommendations developed in an ODFW-sponsored public workshop after the IPHC sets the 2002 TAC. The daily bag limit would be the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Humbug Mountain, OR, through California Subarea

This subarea would be allocated 6,809 lb (3.1 mt) at an Area 2A TAC of 1,140,000 lb (517 mt) in accordance with the Plan. The proposed 2002 sport season for this subarea would be the same as last year, with a May 1 opening and continuing 7 days per week until September 30. The daily bag limit would be the first halibut taken, per

person, of 32 inches (81.3 cm) or greater in length.

NMFS requests public comments on the Council's recommended modifications to the Plan and the proposed sport fishing regulations. The Area 2A TAC will be set by the IPHC at its annual meeting on January 22–25, 2002, in Seattle, WA. NMFS requests comments on the proposed changes to the Plan and sport fishing regulations by February 22, 2002, after the IPHC annual meeting, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments on the proposed changes. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the Area 2A TAC is known, and after NMFS reviews public comments and comments from the States, NMFS will issue final rules for the Area 2A Pacific halibut sport fishery concurrent with the IPHC regulations for the 2002 Pacific halibut fisheries.

Classification

NMFS has prepared a draft EA/RIR on the proposed changes to the Plan. Copies of the "Draft Environmental Assessment and Regulatory Impact Review of Changes to the Catch Sharing Plan for Pacific Halibut in Area 2A" are available from NMFS (see **ADDRESSES**). Comments on the EA/RIR are requested by February 22, 2002.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed changes to the Plan would not have a significant economic impact on a substantial number of small entities as follows:

The Regulatory Flexibility Act (RFA), 5 U.S.C. 603 *et seq.*, requires government agencies to assess the effects that various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those effects. A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$3.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For marinas and charter/party boats, a small business is one with annual receipts not in excess of \$5.0 million. All of the businesses that would be affected by this action are considered small businesses under SBA guidance. The Council considered two issues, with alternatives, and ultimately chose the alternative that balanced the conservation and socioeconomic risks and benefits associated with the Pacific halibut fishery off the West Coast. The relevant issues were equity in access to the resource for Washington anglers and logistical

convenience for Oregon anglers on multi-day fishing vacations. The preferred alternatives were: (1) allowing the Washington Inside Waters sport fishery sub-quota to be taken in two separate seasons for two different regions within that sport fishery subarea; and (2) allowing Oregon sport fishers to retain and transport up to two halibut on land. Separating the Washington Inside Waters subarea into two seasons is primarily intended to allow anglers in eastern Puget Sound to have access to available halibut quota before the halibut migrate out of eastern Puget Sound. With two separate seasons, WDFW may also have a better opportunity to monitor and account for catch in the Inside Waters subarea. Allowing Oregon anglers to retain two halibut on land is intended to be more convenient for halibut anglers who participate in multi-day or multi-trip fishing vacations. Many participants in the Oregon charter halibut fisheries travel to the coast for fishing vacations. This policy change would allow an angler to transport two halibut on land without changing the at-sea bag limit of one fish. These changes are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 - .65, and the Council process of annually evaluating the

utility and effectiveness of Area 2A Pacific halibut management under the Plan.

Proposed changes to the Plan will affect charter fishing operations and anglers in Puget Sound, Washington, and off the coast of the State of Oregon. Neither state is able to make an accurate estimation of the number of anglers participating in their sport halibut fisheries. The proposal to separate the Inside Waters subarea is not expected to affect Washington anglers or charter fishing businesses except by allowing these persons and businesses to fish during times when halibut are more likely to be available in their regions within Puget Sound. The proposal to revise the Oregon on-land bag limit to two fish is a modest change to the Plan and is expected to have modest convenience benefits for Oregon anglers and the charter operations that cater to those anglers. These benefits include anglers being able to bring an additional fish on land after a multi-day fishing trip and operators possibly experiencing an increase in multi-day charters due to the increased on-land bag limit.

These proposed changes to the Plan are insignificant and are expected to result in either no impact at all, or a modest increase in equity for all Washington anglers fishing

in Puget Sound so that they are in parity of Oregon anglers, and in convenience for Oregon anglers and charter operators. These changes do not include any reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations. Consequently, these changes to the Plan are not expected to meet of the RFA criteria of having a "significant" economic effect on a "substantial number" of small entities, as stated in 5 U.S.C. 603 *et seq.* The proposed sport management measures for 2002 merely implement the Plan at the appropriate level of TAC; their impacts are within the scope of the impacts analyzed in the EA/RIR for the Plan. Therefore, a regulatory flexibility analysis was not prepared.

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

Dated: February 5, 2002.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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