

categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATIONS REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub.L. 102–587, 106 Stat. 5039.

2. Section 117.741 is revised to read as follows:

##### § 117.741 Raccoon Creek.

(a) The draw of the Route 130 highway bridge, mile 1.8 at Bridgeport, shall open on signal:

(1) March 1 through November 30, from 7 a.m. to 11 p.m.

(2) At all other times, if at least four hours notice is given.

(b) The draw of the CONRAIL Railroad Bridge, mile 2.0 at Bridgeport, shall operate as follows:

(1) From March 1 through November 30, the draw shall be left in the open position at all times and will only be close for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(i) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in § 117.31(b).

(ii) Before the bridge closes for any reason, a train crewmember will observe the waterway for approaching craft, which will be allowed to pass. A train crewmember will then operate the bridge by radiophone. The bridge shall only be closed if a train crewmember's visual inspection shows that the channel is clear and there are no vessels transiting in the area.

(iii) While the CONRAIL Railroad Bridge is moving from the full open to the full closed position, a train crewmember will maintain constant surveillance of the navigational channel to ensure no conflict with maritime traffic exists. In the event of failure or obstruction, the train crewmember will stop the bridge and return the bridge to the open position.

(iv) The CONRAIL Railroad channel traffic lights will change from flashing green to flashing red anytime the bridge is not in the full open position.

(v) During closing of the span, the channel traffic lights will change from flashing green to flashing red, the horn will sound four times, followed by a pause, then the four blasts will be repeated and the bridge will close. When the rail traffic has cleared the swing span, the horn will automatically sound five times to signal the draw of the CONRAIL Railroad Bridge is about to return to its full open position.

(vi) During open span movement, the channel traffic lights will be flashing red, the horn will sound four times, followed by a pause, then four blasts will be repeated until the bridge is in the full open position. In the full open position, the channel traffic lights will then turn from flashing red to flashing green.

(2) At all other times, the draw may be left in the closed position and opened on signal if at least four hours notice is given by telephone at (856) 231–2393.

Dated: January 28, 2003.

**James D. Hull,**

*Vice Admiral, USCG, Commander, Fifth Coast Guard District.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 300

[Docket No. 030124019–3019–01; I.D. 010703B]

**RIN 0648–AQ67**

##### Pacific Halibut Fisheries; Catch Sharing Plan

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

**ACTION:** Proposed rule; proposed changes to the Catch Sharing Plan and to 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: implement closed areas for the Washington North Coast sport fishery subarea and the nontreaty commercial halibut fishery to protect yelloweye rockfish; allocate subarea halibut quota between the May and June sport seasons in Washington's North Coast subarea; cap the incidental halibut retention allocation for the primary sablefish

fishery at 70,000 lb (31.8 kg) when halibut is available to that fishery; move the season ending date for Oregon sport fisheries in the North Central and South Central areas from September 30 to October 31; provide more flexibility for inseason sport fishery management; and revise the names of Oregon sport seasons. These actions are intended to enhance the conservation of Pacific halibut and to protect yelloweye rockfish, and overfished groundfish species, from incidental catch in the halibut fisheries.

**DATES:** Comments on the proposed changes to the Plan and on the proposed sport fishery regulations must be received by February 18, 2003.

**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 2003, and of the draft EA/RIR are also available at the NMFS Northwest Region Web site: <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 or Jamie Goen (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736 and; e-mail: [yvonne.dereynier@noaa.gov](mailto:yvonne.dereynier@noaa.gov) or [jamie.goen@noaa.gov](mailto:jamie.goen@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Halibut Act of 1982, at 16 U.S.C. 773c, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada. It requires the Secretary to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention 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 between 1988 and 1995, the Pacific Fishery Management Council (Pacific Council) 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 Pacific Council-recommended long-term 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.

#### **Pacific Council Recommended Changes to the Plan**

Each year, the states and tribes consider whether changes to the Plan are needed or desired by their fishery participants. Fishery managers from the states and tribes hold public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September 2002 Pacific Council meeting, the states recommended several changes to the Plan and the tribes announced that they had no proposal for revising the Plan in 2003. Following the September 2002 Pacific Council meeting, the states again reviewed their proposals with the public and drafted their recommended revisions for review by the Pacific Council.

At its October 29 through November 1, 2002, meeting, the Pacific Council considered the results of State-sponsored workshops on the proposed changes to the Plan and public comments, and made the final recommendations for modifications to the Plan as follows:

(1) Divide the Washington North Coast subarea recreational quota such that 78 percent of the quota for that subarea is available to a May fishery and 22 percent is available for a late June fishery. Revise the closed area within this sport fishery subarea to better protect yelloweye rockfish, an overfished groundfish species.

(2) Require non-treaty commercial vessels operating in the directed commercial fishery for halibut to fish offshore of 100 fm (184 m) to protect yelloweye rockfish.

(3) Cap the incidental halibut retention allocation for the primary sablefish fishery at 70,000 lb (31.8 kg) when halibut is available to that fishery so that the fishery is maintained as an incidental, not directed, opportunity.

(4) Change the season ending date for Oregon sport fisheries in the North Central and South Central areas from September 30 to October 31.

(5) Revise the inseason management provisions to allow more flexibility for managers making inseason adjustments to fishery openings and closures to ensure that the available quota may be taken.

(6) Change the names of the Oregon North Central and South Central all-depth fisheries from the "May" and "August" fisheries to the "Spring" and "Summer" fisheries.

#### **Proposed Changes to the Catch Sharing Plan**

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

In section (e) of the Plan, Non-Indian Commercial Fisheries, insert a new third sentence in paragraph (2) to read as follows:

This fishery may also be managed with closed areas designed to protect overfished groundfish species. Any such closed areas will be described annually in Federal halibut regulations and published in the **Federal Register**.

In section (e) of the Plan, Non-Indian Commercial Fisheries, add a sentence at the end of the first paragraph of paragraph (3) to read as follows:

The amount of halibut allocated to the sablefish fishery will be shared as follows: up to 70,000 lb (31.8 kg) of halibut to the primary sablefish fishery north of Pt. Chehalis. Any remaining allocation will be distributed to the Washington sport fishery among the four subareas according to the sharing described in the Plan, Section (f)(1).

In section (f) of the Plan, Sport Fisheries, revise the third sentence through the end of the paragraph of paragraph (1)(ii) to read from the third sentence as follows:

The management objective for this subarea is to provide a quality recreational fishing opportunity during May and the latter part of June. To meet this objective, the north coast subarea quota will be allocated as follows: 72 percent for the month of May and 28 percent for the latter part of June. The fishery will open on May 1, and continue 5 days per week (Tuesday through Saturday) until the May allocation is projected to be taken. If May 1 falls on a Sunday or Monday, the fishery will open on the following Tuesday. The fishery will then reopen on the third Wednesday in June and continue until the remaining quota is projected to be taken, 5 days per week (Tuesday through Saturday.) 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 "C-shaped" yelloweye rockfish conservation area that is closed to recreational groundfish and halibut fishing is defined by the following coordinates in the order listed:

48°18' N. lat.; 125°18' W. long.;  
48°18' N. lat.; 124°59' W. long.;  
48°11' N. lat.; 124°59' W. long.;  
48°11' N. lat.; 125°11' W. long.;  
48°04' N. lat.; 125°11' W. long.;  
48°04' N. lat.; 124°59' W. long.;  
48°00' N. lat.; 124°59' W. long.;  
48°00' N. lat.; 125°18' W. long.;  
and connecting back to 48°18' N. lat.;  
125°18' W. long.

In section (f) of the Plan, Sport Fisheries, revise the third through the thirteenth sentence of paragraph (1)(v) to read from the third sentence as follows:

The structuring objectives for this subarea are to provide two periods of fishing opportunity in spring and in summer in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and provide a period of fishing opportunity in the summer for nearshore waters for small boat anglers. Fixed season dates will be established pre-season for the spring and summer openings and will not be modified inseason except that the summer openings may be modified inseason if the combined Oregon all-depth quotas are estimated to be achieved. Recent year catch-rates will be used as a guideline for estimating the catch rate for the spring and summer fisheries each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas. Oregon Department of Fish and Wildlife (ODFW) will monitor landings and provide a postseason estimate of catch within 2 weeks of the

end of the fixed season. If sufficient catch remains for an additional day of fishing after the spring season or the summer season, the fishery may be reopened between May and June or August and October respectively. Additional opening dates for both the spring and summer seasons will be announced preseason. If a decision is made inseason to allow fishing on one or more additional days, notice of the opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No all-depth halibut fishing will be allowed on the additional dates unless the opening date has been announced on the NMFS hotline. If preseason catch and effort estimates determine catch rates and quotas allocated to the Oregon North Coast and South Coast subareas will result in spring seasons of differing durations, quota may be shifted pre- or inseason to ensure that the two subareas have the same number of fishing days. Any poundage remaining unharvested in the spring all-depth subquota will be added to the summer all-depth subquota. Any poundage that is not needed to extend the inside 30-fathom fishery through to October 31 will be added to the summer all-depth season if it can be used, and any poundage remaining unharvested from the summer all-depth fishery will be added to the inside 30-fathom fishery subquotas.

In section (f) of the Plan, Sport Fisheries, paragraph (1)(v)(A) is revised to read as follows:

The first season opens on May 1, only in waters inside the 30-fathom (55 m) curve, and continues daily until the combined subquotas for the North Central and South Central inside 30-fathom fisheries (7 percent of the North Central subarea quota plus 20 percent of the South Central subarea quota) are taken, or until October 31, whichever is earlier. Poundage that is estimated to be above the amount needed to keep this season open through October 31 will be transferred to the summer all-depth fishery if it can be used. Any overage in the all-depth fisheries would not affect achievement of allocation set aside for the inside 30-fathom curve fishery.

In section (f) of the Plan, Sport Fisheries, revise the fourth through the thirteenth sentence of paragraph (1)(vi) to read from the third sentence as follows:

Fixed season dates will be established preseason for the spring and summer openings and will not be modified inseason except that the summer openings may be modified inseason if the combined Oregon all-depth quotas are estimated to be achieved. Recent year catch rates will be used as a

guideline for estimating the catch rate for the spring fishery and summer fishery each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas. ODFG will monitor landings and provide a postseason estimate of catch within 2 weeks of the end of the fixed season. If sufficient quota remains for an additional day of fishing after the spring season or the summer season, the fishery may be reopened from May to July and August to October respectively. Additional opening dates for both the spring and summer seasons will be announced preseason. If a decision is made inseason to allow fishing on one or more additional days, notice of the opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No all-depth halibut fishing will be allowed on the additional dates unless the opening date has been announced on the NMFS hotline. If preseason catch and effort estimates determine catch rates and quotas allocated to the Oregon North Coast and South Coast subareas will result in spring seasons of differing durations, quota may be shifted preseason to ensure that the two subareas have the same number of fixed season days. Any poundage remaining unharvested in the spring all-depth subquota will be added to the summer all-depth sub-quota. Any poundage that is not needed to extend the inside 30-fathom fishery through to October 31 will be added to the summer all-depth season, if it can be used, and any poundage remaining unharvested from the August all-depth fishery will be added to the inside 30-fathom fishery subquotas.

In section (f) of the Plan, Sport Fisheries, paragraph (1)(vi)(A) is revised to read as follows:

The first season opens on May 1, only in waters inside the 30-fathom (55 m) curve, and continues daily until the combined subquotas for the North Central and South Central inside 30-fathom fisheries (7 percent of the North central subarea quota plus 20 percent of the South Central subarea quota) are taken, or until October 31, whichever is earlier. Poundage that is estimated to be above the amount needed to keep this season open through October 31 will be transferred to the summer all-depth fishery if it can be utilized. Any overage in the all-depth fisheries would not affect achievement of allocation set aside for the inside 30-fathom curve fishery.

In section (f) of the Plan, Sport Fisheries, paragraph (5)(i)(C) is revised to read as follows:

If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to another Washington sport subarea.

In section (f) of the Plan, Sport Fisheries, paragraph (5)(i)(D) is added to read as follows:

If any of the sport fishery subareas south of Leadbetter Point, WA are not projected to utilize their respective quotas by their season ending dates, NMFS may take inseason action to transfer any projected unused quota to another Oregon sport subarea.

In section (f) of the Plan, Sport Fisheries, paragraph (5)(ii)(E) is revised to read as follows:

Modification of subarea quotas north of Cape Falcon, OR.

#### *Proposed 2003 Sport Fishery Management Measures*

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2003. The 2003 TAC for Area 2A was determined by the IPHC at its annual meeting January 21-24, 2003, to be 1,310,000 lb (594 mt), the same as in 2002. The proposed 2003 sport fishery regulations based on the Area 2A TAC of 1,310,000 lb (594 mt) are as follows:

#### *Washington Inside Waters (Subarea Puget Sound and Straits)*

This subarea would be allocated 63,278 lb (28.7 mt) at an Area 2A TAC of 1,310,000 lb (594 mt) in accordance with the Plan. 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 2002, the fishery in this subarea was 49 days long, from May 23 through July 26, held for 5 days per week (Thursday through Monday). For the 2003 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 2003 catch rates and on recommendations developed in a public workshop sponsored by Washington Department of Fish and Wildlife after the 2003 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 113,915 lb (52 mt) at an Area 2A TAC of 1,310,000 lb (594 mt) in accordance

with the Plan. According to the Plan, the management objective for this subarea is to provide a quality recreational fishing opportunity during May and the latter part of June. The fishery opens on May 1, and continues 5 days per week (Tuesday through Saturday) until 72 percent of the quota for the subarea has been taken, 82,019 lb (37 mt). The fishery will re-open on the third Wednesday in June, which is June 18th, until the remaining quota for the subarea is taken, 31,896 lb (14 mt). The daily bag limit would be one halibut of any size per day per person. A portion of this subarea would be closed to sport fishing for halibut as a yelloweye rockfish conservation area bounded by the following coordinates:

48°18' N. lat.; 125°18' W. long.;  
 48°18' N. lat.; 124°59' W. long.;  
 48°11' N. lat.; 124°59' W. long.;  
 48°11' N. lat.; 125°11' W. long.;  
 48°04' N. lat.; 125°11' W. long.;  
 48°04' N. lat.; 124°59' W. long.;  
 48°00' N. lat.; 124°59' W. long.;  
 48°00' N. lat.; 125°18' W. long.;  
 and connecting back to 48°18' N. lat.;  
 125°18' W. long.

#### *Washington South Coast Subarea*

This subarea would be allocated 48,623 lb (22 mt) at an Area 2A TAC of 1,310,000 lb (594 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 11,923 lb (5.4 mt) at an Area 2A TAC of 1,310,000 lb (594 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 230,639 lb (104.6 mt) at an Area 2A TAC of 1,310,000 lb (594 mt) in accordance with the Plan. The structuring objectives for this subarea are to provide two periods of fishing opportunity in spring (May-June) and in summer (August-October) 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 156,835 lb (71 mt). Based on an observed catch per day trend in this fishery, an estimated 24,000 - 29,000 lb (10.9-13.1 mt) would be caught per day in 2003, resulting in a 5 to 6 day fixed season. In accordance with the Plan, the season dates could be May 8, 9, 10, 15, 16, and 17. An appropriate number of additional fishing days will be scheduled for late May or early June and fishing will be allowed on those days if the quota has not already been taken. The restricted depth fishery inside 30 fathoms for the North Central and South Central coast subareas combined would be allocated 19,797 lb (9 mt), starting May 1 through October 31 or until the TAC is attained, whichever occurs first. The August coastwide all-depth fishery (Cape Falcon to Humbug Mountain) would be allocated 57,660 lb (26 mt), which may be sufficient for a 3-day or 2-day opening, starting August 1, 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 Oregon Department of Fish and Wildlife after the 2003 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 18,261 lb (8.3 mt) at an Area 2A TAC of 1,310,000 lb (594 mt) in accordance with the Plan. The May all-depth season would be allocated 14,609 lb (6.6 mt) and, based on the observed catch per day trend in this fishery, an estimated 2,400 - 2,900 lb (1.1-1.3 mt) would be

caught per day in 2003, resulting in a 5 to 6 day fixed season. In accordance with the Plan, the season dates could be May 8, 9, 10, 15, 16 and 17. An appropriate number of additional fishing days will be scheduled for late May or early June and fishing will be allowed on those days if the quota has not already been taken. The restricted depth fishery inside 30 fathoms is combined for the North Central and South Central coast subareas and would be allocated 19,797 lb (9 mt), starting May 1 through October 31 or until the TAC is attained, whichever occurs first. The August coastwide all-depth fishery (Cape Falcon to Humbug Mountain) would be allocated 57,660 lb (26 mt), which may be sufficient for a 3-day opening, starting August 1, based on the expected catch per day. 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 2003 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 7,860 lb (3.6 mt) at an Area 2A TAC of 1,310,000 lb (594 mt) in accordance with the Plan. The proposed 2003 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 Pacific Council's recommended modifications to the Plan and the proposed sport fishing regulations. The Area 2A TAC were set by the IPHC at its annual meeting on January 21-24, 2003, in Victoria, British Columbia. NMFS requests comments on the proposed changes to the Plan and sport fishing regulations by February 18, 2003, after the 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 2003 Pacific halibut fisheries.

#### *Housekeeping Revision to Halibut Regulations*

With this rule, NMFS is proposing a minor housekeeping revision to the Federal halibut regulations at 50 CFR 300.63, which authorizes vessels with IPHC licenses that are operating in the primary sablefish longline fishery north of Pt. Chehalis to land halibut taken incidentally in that fishery. The housekeeping revision would alter the regulations to more clearly state that no halibut taken in this fishery may be landed south of Pt. Chehalis, an action that would be contrary to the Plan. This is a minor clarification and has no effect on the environment.

#### **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 18, 2003.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, 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 SBA if it has annual receipts not in excess of \$3.5 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 proposed changes to the Area 2A Catch Sharing Plan (Plan), which allocates the catch of Pacific halibut among users in Washington, Oregon and California, would: (1) Allocate the Washington North Coast sport fishery sub-area quota, 78 percent for a May fishery and 22 percent for a late June fishery; (2) Revise the closed area within the Washington north coast subarea so that it is better situated to protect yelloweye rockfish, an overfished groundfish species; (3) Require non-treaty commercial vessels operating in the directed commercial fishery for halibut to fish offshore of 100 fm to protect yelloweye rockfish; (4) Set the incidental halibut

retention allocation for the primary sablefish fishery at 70,000 lb; (5) Move the season ending date for Oregon sport fisheries in the North Central and South Central areas to October 31; (6) Revise the inseason management measures provisions to allow more flexibility for managers making inseason adjustments to fishery openings and closures.

Setting a more clear allocation between the May and late June fisheries in the Washington north coast fishery subarea is primarily intended to recognize the historical but informal allocation between these two fisheries. A formal allocation is also intended to reduce inseason pressure from anglers asking managers to move quota from May to June or vice versa. The Yelloweye Rockfish Conservation Area within the Washington North Coast and the closure of nontreaty commercial fishing opportunities in depths inshore of the 100 fm (184 m) depth contour are intended to protect yelloweye rockfish, an overfished species, from being incidentally caught in directed halibut fisheries. Specifying a 70,000 lb (31.8 mt) cap on the allocation to the primary sablefish longline fishery when the overall Area 2A TAC is over 900,000 lb (408 mt) is intended to maintain this fishery as an incidental catch fishery and to return halibut quota to the sport halibut fisheries, where it is more likely to be taken. Other proposed changes to the Plan are either editorial or intended to provide managers with more flexibility for adjusting fisheries inseason in order to ensure the available quota is taken. These changes are authorized under the Pacific Halibut Act and implementing regulations at 50 CFR 300.60–65.

Proposed changes to the Plan will affect charter fishing operations and anglers who operate off the north coast of Washington state and participants in the nontreaty directed commercial fishery. In 2002, approximately 1,888 anglers participated in the Washington north coast sport fishery from charterboats and 4,875 anglers participated from private boats. In 2002, IPHC issued 252 licenses to participate in either the directed commercial fishery or the primary longline sablefish fishery. Revisions to the plan affecting the Washington north coast sport fishery subarea are expected to have either no economic effect or a modest positive effect based on fuel and maintenance savings from having more open fishing areas closer to shore while setting the closed area farther offshore. The revision to the Plan to set the primary longline sablefish fishery allocation at 70,000 lb (31.8 mt) is not expected to have any effect on this fishery, which caught less than that amount in 2001 and 2002, the only years this incidental halibut fishing opportunity was open. The revision to the Plan to require nontreaty directed commercial vessels to operate offshore of a boundary line approximating the 100 fm (184 m) is expected to have no economic effect or a modest negative effect based on greater fuel and maintenance costs associated with having to fish farther offshore.

The proposed changes to the Plan are expected to result in a modest increase in fishery and regulatory convenience for sport

fisheries and/or a modest decrease in fishery convenience for the nontreaty directed commercial fishery. The proposed sport management measures for 2003 implement the Plan by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The measures for 2003 will be very similar to last year's management measures. 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 any of the RFA tests of having a "significant" economic impact on a "substantial number" of small entities.

As a result, an initial regulatory flexibility analysis was not prepared.

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

Pursuant to Executive Order 13175, the Secretary of Commerce recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. At section 302(b)(5), the Magnuson-Stevens Fishery Conservation and Management Act reserves a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. government formally recognizes that the thirteen Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed (U and A) fishing areas (described at 50 CFR 660.324). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

#### **List of Subjects in 50 CFR Part 300**

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements, Treaties.

Dated: January 30, 2003.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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

**PART 300 INTERNATIONAL FISHERIES  
REGULATIONS, SUBPART E—PACIFIC  
HALIBUT FISHERIES**

1. The authority citation for 50 CFR  
part 300, subpart E continues to read as  
follows:

**Authority:** 16 U.S.C. 773–773k.

2. In § 300.63, paragraph (a)(3)(ii) is  
revised to read as follows:

**§ 300.63 Catch sharing plans, local area  
management plans, and domestic  
management measures.**

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \*

(ii) It is unlawful for any person to  
possess or land halibut south of 46°53'8"  
N. lat. that were taken and retained as  
incidental catch authorized by this  
section in the directed longline sablefish  
fishery.

\* \* \* \* \*

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