

**SUPPLEMENTARY INFORMATION:** The Commission makes recommendations regarding management of the Pacific halibut fishery under the Convention between the United States and Canada. The Commission's recommendations are subject to approval by the Secretary of State with concurrence of the Secretary of Commerce (Secretary). Additional management regulations that are not in conflict with regulations adopted by the Commission, may be developed by the North Pacific Fishery Management Council (Council) to allocate harvesting privileges among U.S. fishermen.

The Halibut Act provides NMFS, in consultation with the Council, with authority to implement such allocation measures through regulatory amendments approved by the Secretary. In addition to the Commission regulations, the commercial halibut fishery off Alaska is managed under the halibut Individual Fishing Quota (IFQ) Program implemented in 1995.

Each year the Commission staff assesses the abundance and potential yield of Pacific halibut using all available data from the commercial fishery and scientific surveys. Harvest limits for ten regulatory areas are determined by fitting a detailed population model to the abundance and harvest data from each area. A biological target level for total removals in a given area is then calculated by multiplying a fixed harvest rate presently 20 percent to the estimate of exploitable biomass. This target level is called the "constant exploitation yield" (CEY) for that area in the coming year. Each CEY represents the target level for total removals (in net pounds) for that area. The Commission then estimates the sport and personal use, subsistence harvests, wastage, and bycatch mortalities for each area. These are subtracted from the CEY and the remaining amount of fish may be set as the catch quota or "setline CEY" for each area's directed commercial fixed gear fishery. The setline CEY is a fixed quota, but other removals of fish are not allocated a specific quota.

Harvests by the guided recreational fishery and other non-commercial harvests are thus unrestricted within the CEY because no specific amount is allocated to the guided fishery. This represents an open-ended allocation to the guided recreational fishery from quota available to the commercial halibut fishery. Hence, as the guided recreational fishery expands, its harvests reduce the pounds available to be fished in the commercial halibut fishery and, subsequently, the value of quota shares (QS) in the IFQ Program.

The Council recognized the growth of harvests in the guided recreational

fishery and adopted a problem statement in 1995 that recognized that ever increasing harvests in this fishery may make achievement of Magnuson-Stevens Act National Standards more difficult. Of concern was the Council's ability to maintain the stability, economic viability, and diversity of the halibut industry, the quality of the recreational experience, the access of subsistence users, and the socioeconomic well-being of the coastal communities dependent on the halibut resource. This policy statement led to the development of a GHL policy that would address allocative concerns in the Council's problem statement. More detail on the development of the GHL policy is provided in the preamble to the proposed rule, published in the **Federal Register** on January 28, 2002 (67 FR 3867).

#### **Development of the GHL**

This final rule establishes a GHL policy which specifies a level of harvest for the guided recreational fishery. If the GHL is exceeded, then NMFS will notify the Council within 30 days of receiving information that the GHL has been exceeded. At that time the Council may initiate analysis of possible harvest restrictions and NMFS may initiate subsequent rulemaking to reduce guided recreational harvests. This final rule does not establish specific harvest restrictions for the guided recreational fishery. This final rule does not prevent the Council from recommending management measures before the guided recreational fishery exceeds a GHL, nor does it obligate the Council to take specific action if the GHL is exceeded. Under this GHL policy, NMFS would notify the Council if a GHL for the guided recreational harvests has been met or exceeded.

This final rule is the result of ongoing efforts by the Council to address allocation concerns between the commercial IFQ halibut fishery and the guided recreational fishery. The Council has discussed the expansion of the guided recreational halibut fishery since 1993. In September 1997, the Council adopted two management actions affecting the halibut guided recreational fishery, culminating more than 4 years of discussion, debate, public testimony, and analysis.

First, the Council adopted recording and reporting requirements for the halibut guided recreational fishery. To implement this requirement, the Alaska Department of Fish and Game (ADF&G) Sport Fish Division, instituted a Saltwater Charter Vessel logbook (Logbook) in 1998. It complemented additional sportfish data collected by

the State of Alaska (State) through the Statewide Harvest Survey (Harvest Survey), conducted annually since 1977, and the on-site (creel and catch sampling) surveys conducted separately by ADF&G in Southeast and Southcentral Alaska.

The Council's second management action recommended GHLs for the guided recreational halibut fishery in Commission regulatory areas 2C and 3A. The GHLs were based on the guided recreational sector receiving an allocation of 125 percent of its 1995 harvest. This amount was equivalent to 12.76 percent and 15.61 percent of the combined commercial/guided recreational halibut quota in areas 2C and 3A, respectively.

The Council stated its intent that guided recreational harvests in excess of the GHL would not lead to a mid-season closure of the fishery, but instead would trigger other management measures to take effect in years following attainment of the GHL. These measures would restrict the guided recreational fishery and maintain harvests within the GHL allocation. The overall intent was to maintain a stable guided recreational season of historic length, using area-specific harvest restrictions. If end-of-season harvest data indicated that the guided recreational sector likely would reach or exceed its area-specific GHL in the following season, NMFS would implement measures to reduce guided recreational halibut harvest.

Given the one-year lag between the end of the fishing season and availability of that year's harvest data, management measures in response to the guided recreational fleet's meeting or exceeding the GHL would take up to two years to become effective. However, the Council did not recommend specific management measures to be implemented by NMFS if the GHL were reached.

In December 1997, the NMFS Alaska Regional Administrator informed the Council that publishing the GHL as a regulation without specific management measures would have no regulatory effect on the guided recreational fleet. Further, because the Council had not recommended specific management measures by which to limit harvests if the GHL were reached, no formal approval decision by the Secretary would be required for the Council's proposed GHL policy. Hence, a GHL proposed rule would not be developed and forwarded for review by the Secretary.

After being notified that its 1997 GHL policy recommendation would not be submitted for Secretarial review, the Council initiated a public process to