

To compare the stock abundance among years using a uniform measure, the stock abundance will be compared to the average 1999–2000 CEY using the CEY established for that year by the Commission. The CEY is the total target biomass that may be removed each year. The Commission sets the CEY based on the best available information and the professional judgment of the Commission. As such, it may reflect uncertainty, or changes in the stock assessment modeling. However, comparing the CEY each year to the average 1999–2000 CEY, provides the best available measure of stock abundance trends between years.

The GHL in each area is reduced in stepwise increments based on a reduction in the CEY. This reduction would occur the year following the availability of the data indicating that a GHL in a given area has been exceeded. This stepwise incremental reduction was chosen by the Council to provide some consideration for the natural variability of halibut stocks and not require the adoption of a new GHL every year if the stock varies only slightly. For example, if the halibut stock in area 2C were to fall from 15 to 24 percent below its 1999–2000 average CEY, then the area 2C GHL would be reduced by 15 percent from 1,432,000 lb (649.5 mt) to 1,217,200 lb (552.1 mt). If the Area 2C stock abundance were to fall at least 25 to 34 percent, then the GHL would be reduced by an additional 10 percent from 1,217,200 lb (552.1 mt) to 1,095,480 lb (496.9 mt). If the stock abundance continued to decline by at least 10 percent increments, the GHL in Area 2C would be reduced by an additional 10 percent once the stock abundance was reduced by at least 10 percent.

If abundance returns to its pre-reduction level (the 1999–2000 average CEY), the GHL would be stepped back up in the following year by commensurate incremental percentage points to its initial level of 125 percent of the average of 1995–99 guided recreational harvest estimates. As an example, if the Area 2C stock abundance was 19 percent lower than the 1999–2000 average stock abundance, the GHL would be 15 percent lower than the initial level. The Area 2C GHL would be 1,217,200 lbs. (552.1 mt). If the stock abundance in Area 2C increased by 15 percent over this level, the GHL in Area 2C would be stepped up to its maximum initial level of 1,432,000 lbs (649.5 mt).

If halibut stock abundance were to increase above its 1999–2000 average CEY, then the GHL would never exceed its initial level of 1,432,000 lb (649.5 mt)

in Area 2C and 3,650,000 lb (1,655.6 mt) in Area 3A. Setting the GHL at a maximum of 125 percent of the 1995–1999 harvest estimates would allow for limited growth of the guided recreational fishery, but would effectively limit further growth at this level. The Council chose not to provide a mechanism to increase the GHL above this initial level if the stock abundance increases. The Council clarified that its goal for the GHL was to provide a limit on the total amount of harvests in the guided fishery that would be designated as a fixed poundage based on an amount equal to 125 percent of the average 1995–1999 harvests. This amount was set higher than existing harvest levels to accommodate some future growth in the recreational sector. The Council stated its intent that the GHLs would not close the fishery, but instead would trigger other management measures in years following attainment of the GHL. The overall intent was to maintain a stable guided recreational fishery season of historic length, using area-specific measures.

Once the Commission determines the stock abundance for the year during its January meeting, NMFS will review the Commission's CEY relative to the baseline 1999–2000 average CEY and announce the GHL for the year in the **Federal Register** by notice before the beginning of the guided fishery. If the GHL is exceeded in any year, then NMFS will notify the Council in writing that the GHL has been exceeded as soon as that information is available. Currently, the only source of information on guided recreational harvests comes from the Harvest Survey. The final results from the Harvest Survey are typically available by August of the year following the survey. Under this data collection system, NMFS would not have data that the GHL was exceeded until eight months after the end of the prior guided recreational season. NMFS has established a contract to develop a data collection system independent of the State's Harvest Survey. That system is still under development.

Changes from the Proposed Rule

This final rule does not implement the framework harvest restrictions recommended by the Council and published in the **Federal Register** as a proposed rule on January 28, 2002 (67 FR 3867). The final rule regulatory text includes: (1) the GHL in Areas 2C and 3A; (2) the mechanism for reducing the GHL in years of low abundance as determined by the Commission; (3) a requirement for NMFS to publish the GHL on an annual basis in the **Federal**

Register; and (4) a requirement for NMFS to notify the Council in writing within 30 days of receiving information that the GHL has been exceeded. At that time, the Council may choose to initiate an analysis of alternative management restrictions on the guided recreational fishery and propose harvest reduction restrictions through the usual APA rulemaking process.

This final rule also revises the regulatory language to better clarify the mechanism for reducing the GHLs if the stock abundance declines. This change does not modify the intent or effect of the language in the proposed rule but improves its readability and accuracy. The final rule also removes the definition of “guided recreational vessel” because existing regulations (at 50 CFR 300.61) define a “charter vessel” and an additional definition would be duplicative. This change does not modify the intent or effect of the language in the proposed rule. The term “guided recreational fishery” is used in the preamble to the proposed rule because that term has been used consistently throughout the analytical process. Retaining the term in this final rule assists the public by maintaining consistent terminology.

The suite of harvest restrictions recommended by the Council and published in the proposed rule may be one of the alternatives that is analyzed in subsequent rulemaking if the GHL is exceeded. The Council may choose other reasonable alternative harvest reduction restrictions if the GHL is exceeded.

The specific regulatory language in the proposed rule that is not implemented in this final rule includes: (1) the suite of harvest restrictions that would apply if the GHL were exceeded; (2) the notification process for implementing the harvest restriction measures; and (3) regulatory language that would require the Council to review the harvest restriction measures after their implementation to evaluate their efficacy in preventing further excess harvests and recommend that NMFS adjust those measures as necessary to ensure that the following season's harvest levels do not exceed the GHL.

This final rule imposes no restrictions on the guided recreational fishery as outlined in the proposed rule. This change from the proposed rule is necessary to address concerns raised about the ability to implement the harvest restriction measures without providing opportunity for public comment under APA rulemaking procedures.