

Response: The EA/RIR/IRFA indicated that the Harvest Survey could be used and the one-year lag between the end of the fishing season and availability of that year's harvest data was anticipated as was the possibility that it would take up to two years for management measures to be implemented. This final rule does not implement harvest restrictions and Logbook data are not required for monitoring fleetwide harvests. NMFS currently is reviewing alternative data collection methods for the guided recreational fleet and reduce this delay between exceeding the GHL and notification of the Council. These data collection methods would supplement the existing Harvest Survey and provide additional information on fleetwide and individual vessel harvests.

Comment 10: The proposed rule does not provide a mechanism for the GHL to increase if the stocks increase and therefore limits guided recreational harvests if halibut abundance increases. This would limit the guided recreational fleet to a smaller percentage of the overall available exploitable biomass relative to the commercial fleet. The GHL should be modified to increase during periods of higher stock abundance.

Response: The goal for the GHL is 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 intent is not to close the fishery, but additional management measures may be triggered in years following attainment of the GHL. The overall intent was to maintain a stable guided recreational fishing season of historic length, using area-specific measures.

The GHL is not a fixed percentage of the total halibut biomass available for exploitation and it was not envisioned that the GHL would increase if stock abundance increased. The decision to fix the GHL at a maximum level with some reduction in the GHL as stock abundance decreases was based on several factors including: (1) Halibut are believed to be at high abundance but are declining, according to recent Commission stock assessments, making it unlikely that stock abundance will increase; (2) the current level of harvests by the guided recreational sector are below the GHLs in both Area 2C and 3A; and (3) public comment received during the Council deliberations advocated setting the GHL as a fixed

poundage that would be adjusted in a stepwise fashion if abundance decreases.

Based on these factors, the GHL is not designed to increase if stock abundance increases. However, this final rule does not impose specific harvest restrictions if the GHL is exceeded. If stock abundance does increase and the GHL is exceeded in a specific area, then the Council can review the appropriateness of pursuing additional subsequent rulemaking at that time, including a review of the mechanism used to set the GHL.

State Comments on the Proposed Rule

The ADF&G also provided written comments on the proposed rule.

Comment 1: The description of CEY in the preamble to the proposed rule as it relates to total allowable harvests is incorrect.

Response: The preamble to the proposed rule described the CEY as a specific allocation to the commercial fishery, which is not accurate. The statement in the preamble to this final rule has been corrected to more accurately describe CEY as an estimate of the total allowable harvests, including harvests by the guided fishery, sport anglers, and as bycatch in other fisheries.

Comment 2: The preamble to the proposed rule does not adequately define how stock biomass is defined. Differences exist between the Commission model estimates of CEY and the setline CEY actually approved by the Commission for the commercial fishery. These differences could affect how stock abundance is measured and applied relative to the GHL.

Response: The Commission determines the total biomass based on a variety of model estimates, data sources, and consideration of uncertainty in the model estimates. The proposed rule did not specify the particular method that would be used to estimate changes in stock biomass and model estimates may vary among years. An appropriate measure is the CEY. The CEY is a numerical determination of the amount of biomass available for total removals (i.e., harvests, bycatch) from the fishery.

The CEY incorporates uncertainty that may exist in the fishery stock assessment models and may vary from the stock assessment models based on the professional judgment of the Commission. The CEY reflects the amount of biomass available for harvest on an annual basis and is therefore a reasonable proxy for comparing stock abundance on an interannual basis. The CEY is distinct from the "setline CEY" which is the specific catch limit for the

commercial fishery, and is a portion of the overall CEY. The final rule has been modified from the proposed rule to clarify that the CEY will be used as the means for comparing stock abundance among years.

Comment 3: The proposed rule does not specifically address localized depletion concerns that are described in the Council's Problem Statement which guided the development of this proposed rule. The proposed rule does not address these concerns because the GHL and associated harvest restriction measures would apply on an area-wide basis.

Response: This action does not directly resolve all of the problems raised in the Problem Statement adopted by the Council. This final rule does not impose harvest restrictions and the specific management measures which may address any possible localized depletion would need to be developed by additional future rulemaking.

At the time the Council developed the Problem Statement, it was concerned about the potential adverse effects of localized depletion and cited localized depletion as well as allocation debates as problems in the management of the guided halibut fishery. The EA/RIR/IRFA indicated that localized depletion may not be as great of a concern as originally assumed. Allocation issues also are addressed by the proposed rule. Because this final rule does not impose harvest restriction measures, it would not address potential localized depletion.

Comment 4: The preamble to the proposed rule does not provide adequate consideration of overall economic efficiency and the impact of this rule on the guided recreational halibut fishery.

Response: The preamble to the proposed rule notes that the Council prepared an EA/RIR/IRFA that examines the economic effect of this rule. The EA/RIR/IRFA notes that the economic effects on the guided recreational fishery were calculated with the best available data which was limited for some aspects of the analysis. The preamble to the proposed rule provides a brief review of the effects of this action on economic efficiency. The preamble to the proposed rule refers the reader to the EA/RIR/IRFA for additional discussion. An FRFA was prepared and it addresses the economic impacts of this final rule.

Comment 5: Logbook data should not be used for the estimation of harvests or management of the guided recreational fishery.