

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: