

GROUNDFISH RETENTION IN THE COLUMBIA RIVER SUBAREA
RECREATIONAL HALIBUT FISHERY

At its November 2004 meeting, the Council adopted proposed changes to the Pacific Halibut Catch Sharing Plan for Area 2A (CSP), which included prohibiting retention of groundfish except sablefish (when allowed by groundfish regulations) while sport fishing for halibut in the Columbia River subarea. Subsequent discussion of the Council intent revealed some confusion on how this regulation was to be implemented within the subarea. NMFS has filed a proposed rule (Agenda Item D.1.a, Attachment 1) with two options for implementation:

1. The restriction on groundfish retention would apply to the entire subarea (Leadbetter Point, Washington, to Cape Falcon, Oregon). This would restrict both Oregon and Washington anglers from retaining groundfish (except sablefish when permitted under groundfish regulations) while fishing for halibut. The regulation could be enforced either on water or shore, by both states.
2. The restriction would apply only to vessels landing in Oregon. Landing of groundfish in conjunction with halibut would be prohibited in Oregon ports between the state border and Cape Falcon. This would prohibit Oregon licensed anglers from retaining groundfish anywhere in the subarea and allow Washington licensed anglers to retain groundfish anywhere in the subarea, as long as they land north of the border. The regulation could be enforced either on water or shore, by both states.

The Council should clarify its intent by recommending one of the two options above for implementing the restriction on groundfish retention in the Columbia River subarea recreational halibut fishery.

Council Action:

- 1. Clarify recommended regulation for groundfish retention in the Columbia River recreational subarea halibut fishery.**

Reference Materials:

1. Agenda Item D.1.a, Attachment 1: excerpt from proposed rule to implement 2005 changes to the Catch Sharing Plan and partial domestic regulations for Pacific halibut in Area 2A -- February 7, 2005.

Agenda Order:

- a. Agenda Item Overview
- b. Agency and Tribal Reports and Comments
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Clarify Recommendations for Groundfish Retention Regulations

Chuck Tracy

PFMC
02/22/05

• E-mail: For California ESUs, send e-mail comments to critical.habitat.swr@noaa.gov. For ESUs in Washington, Oregon, or Idaho, send e-mail comments to critical.habitat.nwr@noaa.gov. In the subject line of your e-mail please include the pertinent docket and RIN numbers specified above.

• Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Agency Web Site: <http://ocio.nmfs.noaa.gov/ibrm-ssi/index.shtml>. Follow the instructions for submitting comments at <http://ocio.nmfs.noaa.gov/ibrm-ssi/process.shtml>.

• Mail: For California ESUs, submit written comments and information to: Assistant Regional Administrator, Protected Resources Division, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. For ESUs in Washington, Oregon, or Idaho, submit written comments and information to: Chief, NMFS, Protected Resources Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737. You may hand-deliver written comments to our offices during normal business hours at the addresses given above (although after February 18, 2005, the Portland address will change to 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232).

• Fax: Submit fax comments to the NMFS Southwest Regional Office at 562-980-4027, or the NMFS Northwest Regional Office at 503-230-5441.

FOR FURTHER INFORMATION CONTACT: In California, contact Craig Wingert at the address above or at 562-980-4021. In Washington, Oregon, and Idaho, contact Steve Stone at the above address or at 503-231-2317. The proposed rules, maps, and other materials relating to these proposals can be found on the agency's Southwest Region website at <http://swr.nmfs.noaa.gov/salmon.htm> and the Northwest Region website at <http://www.nwr.noaa.gov/1salmon/salmesa/crithab/CHsite.htm>.

SUPPLEMENTARY INFORMATION:

Background

On December 10 and 14, 2004, NMFS published separate critical habitat proposed rules addressing 20 ESUs of Pacific salmon and *O. mykiss* (inclusive of anadromous steelhead and resident rainbow trout) listed under the ESA. The first proposed rule (69 FR 71880, December 10, 2004) addressed 7 ESUs in California and announced a public comment period extending through February 8, 2005. The second proposed rule (69 FR 74572, December 14, 2004) addressed 13 ESUs in Washington,

Oregon, and Idaho, and announced a public comment period extending through February 14, 2005. The timeline for completion of these proposed rules was established pursuant to litigation between NMFS and the Pacific Coast Federation of Fishermen's Associations, Institute for Fisheries Resources, the Center for Biological Diversity, the Oregon Natural Resources Council, the Pacific Rivers Council, and the Environmental Protection Information Center (PCFFA *et al.*) and are subject to a Consent Decree and Stipulated Order of Dismissal (Consent Decree) approved by the D.C. District Court.

We received several requests, including a request from PCFFA *et al.*, to extend the public comment period. We recently submitted to the D.C. District Court a joint request with PCFFA *et al.* to extend the comment period and to modify the schedule for submission of final rules designating critical habitat for the 20 ESUs to the **Federal Register** established in the Consent Decree. The court approved the joint request on January 26, 2005. Pursuant to that approval we are extending the deadline for accepting public comments on both proposed rules until March 14, 2005. Also, on or before August 15, 2005, we will complete both rulemakings by submitting to the **Federal Register** for publication the final rules designating critical habitat for those of the 20 ESUs that are included on the lists of threatened and endangered species as of August 15, 2005. These extensions will allow the public additional time to provide information related to the proposed designations and will provide us with the time needed to review, consider, and respond to comments.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 1, 2005.

William T. Hogarth,

Assistant Administrator, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 050125016-5016-01; I.D. 011805C]

RIN 0648-AS61

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes to approve and implement changes to the International Pacific Halibut Commission's (IPHC) regulatory Area 2A off Washington, Oregon, and California (Area 2A) Pacific Halibut Catch Sharing Plan (Plan) to: allow remaining quota from Washington's south coast subarea to be used to accommodate incidental catch in the south coast nearshore fishery; allow quota projected to be unused to be transferred from Oregon's central coast subarea to another subarea south of Leadbetter Point, WA; revise the season structure for Oregon's all-depth spring and summer sport fisheries; provide more flexibility for Oregon's inseason sport fishery management (triggers for additional fishery openings and bag limits in the all-depth summer fishery); revise the public announcement process for Oregon's all-depth summer sport fishery; revise the Columbia River subarea quota contributions from Oregon/California; remove the minimum length requirement in all subareas south of Leadbetter Point, WA; prohibit retention of all groundfish, except sablefish, in Oregon's and possibly Washington's Columbia River fishery on all days and in the Central Coast fisheries on "all-depth" days; implement a closed area off Oregon's coast; and revise all coordinates from degrees minutes seconds to degrees decimal minutes. NMFS also proposes to revise the coordinates for the closed area to Oregon's central coast recreational fishery and to non-treaty commercial halibut fishing in Area 2A. NMFS is also proposing to implement the portions of the Plan and management measures that are not implemented through the IPHC, which includes the sport fishery management measures for Area 2A, the flexible inseason management provisions in Area 2A, fishery election in Area 2A,

and Area 2A non-treaty commercial fishery closed areas. These actions are intended to enhance the conservation of Pacific halibut, to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries, and to provide greater angler opportunity where available.

DATES: Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management measures must be received no later than 5 p.m., local time on March 16, 2005.

ADDRESSES: Copies of the Plan, Environmental Assessment (EA)/Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and/or Categorical Exclusion (CE) are available from D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070. Electronic copies of the Plan, including proposed changes for 2005, and of the draft EA/RIR/IRFA are also available at the NMFS Northwest Region website: <http://www.nwr.noaa.gov>, click on "Pacific Halibut."

You may submit comments on the proposed rule for the Plan and to domestic Area 2A halibut management measures or supporting documents, identified by [011805C], by any of the following methods:

- E-mail:

PHalibut2005.nwr@noaa.gov. Include the I.D. number in the subject line of the message.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, Attn: Jamie Goen, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

- Fax: 206-526-6736, Attn: Jamie Goen.

FOR FURTHER INFORMATION CONTACT:

Jamie Goen or Yvonne deReynier (Northwest Region, NMFS), phone: 206-526-6150, fax: 206-526-6736 or e-mail: jamie.goen@noaa.gov or yvonne.dereynier@noaa.gov.

SUPPLEMENTARY INFORMATION: The Northern Pacific Halibut Act (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 (Halibut Convention). It requires the Secretary to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut 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 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 Area 2A.

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 plus 25,000 lb (11.3 mt) to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent minus 25,000 lb (11.3 mt) 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°53.30' N. lat.), Oregon, and California. North of 46°53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry longline 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 and Domestic Fishing Regulations

Each year, the states (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW)) and tribes consider whether changes to the Plan are needed or desired by their fishery participants. Fishery managers from the states hold public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September

2004 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 2005. Following the meeting, the states again reviewed their proposals with the public and drafted their recommended revisions for review by the Pacific Council.

At its November 1-5, 2004, meeting in Portland, OR, 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) Allow remaining quota from Washington's south coast subarea to be used to accommodate incidental catch in the south coast nearshore fishery.

(2) Revise the Columbia River subarea quota contributions from Oregon/California to equal the amount of pounds contributed by Washington.

(3) Remove the minimum length requirement in all subareas south of Leadbetter Point, WA.

(4) Revise the season structure for Oregon's all-depth spring and summer sport fisheries in Oregon's central coast subarea (Cape Falcon to Humbug Mountain) from 2-days to 3-days by adding Thursdays to all spring fishery openings after the initial fixed day openings and by adding Sundays to all summer fishery openings.

(5) Provide more flexibility for Oregon's inseason sport fishery management by adding triggers for additional fishery openings and bag limits in the central coast all-depth summer fishery as follows: (a) if after the first scheduled open period of the summer fishery, the remaining central coast quota (combined all-depth and inside 40-fm (73-m) fishery quotas) is 60,000 lbs (27.2 mt) or more, the fishery reopens every Friday through Sunday until October 31 or quota attainment, whichever is earlier; and (b) if after the third scheduled open period of the summer fishery, the remaining central coast quota (combined all-depth and inside 40-fm (73-m) fishery quotas) is 30,000 lbs (13.6 mt) or more, the fishery reopens every Friday through Sunday until October 31 or quota attainment, whichever is earlier, and the bag limit would increase to two fish per person per day.

(6) Prohibit the retention of all groundfish, except sablefish when allowed by groundfish regulation, in the Columbia River fishery during all days and in the Central Coast fisheries during "all-depth" days.

(7) Revise the public announcement process for the Oregon central coast all-

depth summer sport fishery to allow inseason changes to transfer quota and to change the fishery season dates based on the triggers mentioned above to be announced by NMFS via an update to the recreational halibut hotline (i.e., no **Federal Register** document would be required).

(8) Allow quota projected to be unused to be transferred from Oregon's central coast subarea to another subarea south of Leadbetter Point, WA.

(9) Implement a closed area to recreational halibut fishing off Oregon's central coast on a portion of Stonewall Bank to protect yelloweye rockfish, an overfished groundfish species. This closed area, called a "yelloweye rockfish conservation area," would be defined by connecting the following coordinates in the order listed:

(1) 44°37.46 N. lat.; 124°24.92 W. long.;

(2) 44°37.46 N. lat.; 124°23.63 W. long.;

(3) 44°28.71 N. lat.; 124°21.80 W. long.;

(4) 44°28.71 N. lat.; 124°24.10 W. long.;

(5) 44°31.42 N. lat.; 124°25.47 W. long.;

(6) and connecting back to 44°37.46 N. lat.; 124°24.92 W. long.

There is confusion over Pacific Council recommendation 16 (above) as to how it would apply to the Columbia River subarea, which is shared by Washington and Oregon. Therefore, NMFS has requested that the Pacific Council clarify this recommendation at the March 6–11, 2005, Pacific Council meeting in Sacramento, CA. The Council adopted a recommendation for "Sub-areas south of Leadbetter Point, Washington" that stated "No groundfish retention except sablefish allowed during the all-depth fishery if halibut are on-board the vessel except south of Humbug Mt." After the March meeting it became apparent that various Council participants were confused as to exactly where this prohibition would apply. Because of the introductory description (Sub-areas south of Leadbetter Point, Washington), some thought it applied in the entire Columbia River area and the Oregon Central Coast subarea. However, others thought this would only apply off Oregon because it was introduced by Oregon, it had not been discussed in Washington State meetings with Washington fishermen, and because one purpose was to allow dockside enforcement during the groundfish closure seaward of 40 fm (73 m), which only is in place off of Oregon. NMFS has concluded the two possible ways to implement this provision in the Columbia River subarea would be to

apply the groundfish retention prohibition to all halibut fishing in the Columbia River subarea or only to vessels that land in Oregon.

Therefore, the Pacific Council will clarify its recommendation at the March 2005 meeting, and the public comment period on this proposed rule will end on March 16, 2005.

Proposed Changes to the Plan

In addition to the Pacific Council's recommendations, NMFS is proposing to revise all coordinates in the Plan from degrees minutes seconds to degrees decimal minutes in order to conform with U.S. Coast Guard standards and the Pacific coast groundfish regulations. NMFS is proposing to approve the Pacific Council recommendations and to implement the above-described changes by making the following changes to the Plan:

In section (d) of the Plan, Treaty Indian Fisheries, revise the first sentence of the first paragraph to read as follows:

Except as provided above in (b)(2), 35 percent of the Area 2A TAC is allocated to 12 treaty Indian tribes in subarea 2A–1, which includes that portion of Area 2A north of Point Chehalis, WA (46°53.30' N. lat.) and east of 125°44.00' W. long.

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

This fishery is confined to the area south of Subarea 2A–1 (south of Point Chehalis, WA; 46°53.30' N. lat.).

In section (f) of the Plan, Sport Fisheries, revise the second sentence of paragraph (1)(i) to read as follows:

This subarea is defined as all U.S. waters east of the mouth of the Sekiu River, as defined by a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., including Puget Sound.

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

This subarea is defined as all U.S. waters west of the mouth of the Sekiu River, as defined above in paragraph (f)(1)(i), and north of the Queets River (47°31.70' N. lat.).

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

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:

(1) 48°18.00' N. lat.; 125°18.00' W. long.;

(2) 48°18.00' N. lat.; 124°59.00' W. long.;

(3) 48°11.00' N. lat.; 124°59.00' W. long.;

(4) 48°11.00' N. lat.; 125°11.00' W. long.;

(5) 48°04.00' N. lat.; 125°11.00' W. long.;

(6) 48°04.00' N. lat.; 124°59.00' W. long.;

(7) 48°00.00' N. lat.; 124°59.00' W. long.;

(8) 48°00.00' N. lat.; 125°18.00' W. long.; and connecting back to 48°18.00' N. lat.; 125°18.00' W. long.

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

This subarea is defined as waters south of the Queets River (47°31.70' N. lat.) and north of Leadbetter Point (46°38.17' N. lat.). The structuring objective for this subarea is to maximize the season length, while maintaining a quality fishing experience. The fishery will open on May 1. If May 1 falls on a Friday or Saturday, the fishery will open on the following Sunday. The fishery will 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 Queets River south to 47°00.00' N. lat. and east of 124°40.00' W. long. Beginning July 1, the halibut fishery will be open 7 days per week. The fishery will continue until September 30, or until the quota is achieved, whichever occurs first.

Subsequent to this closure, if there is insufficient quota remaining to reopen the entire subarea for another fishing day, then any remaining quota may be used to accommodate incidental catch in the nearshore area from Queets River south to 47°00.00' N. lat. and east of 124°40.00' W. long. or be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline. The daily bag limit is one halibut per person, with no size limit.

In section (f) of the Plan, Sport Fisheries, revise paragraph (1)(iv) regarding the Columbia River subarea to read as follows:

This sport fishery subarea is allocated 2.0 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 4.0 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan). This subarea also is allocated from the Oregon/California sport allocation the number of pounds equal to the Washington contribution. Oregon's contribution will be 2.0 percent of the total Oregon/