

NATIONAL MARINE FISHERIES SERVICE (NMFS) REPORT ON AUTOMATIC ACTION
ALTERNATIVES FOR CLOSURE OF INCIDENTAL HALIBUT RETENTION IN THE
SABLEFISH PRIMARY FISHERY

After further consideration, NMFS does not recommend including changes to groundfish automatic action regulations in the halibut proposed and final rules as we stated in J.1.a. Supplemental NMFS 2. Rather, we believe the Council should select a preliminary preferred alternative at this meeting and a final preferred alternative in March, as previously planned. We also recommend the Council give NMFS the flexibility to implement this change in a future regulatory action that is accessible and most appropriate, following the March Council meeting.

To facilitate Council selection of a preliminary preferred alternative we provide the following alternatives and draft regulations.

- Alternative 1: Status quo, no changes to groundfish automatic action regulations.
- Alternative 2: Modify groundfish regulations at §660.60 to close halibut retention in the limited entry fixed gear sablefish primary fishery when the retention is closed by the International Pacific Halibut Commission.

DRAFT regulations for Alternative 2 (new text is underlined)

§660.60 Specifications and management measures.

(d) *Automatic actions.* Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must have been taken into account prior to the action. Unless otherwise stated, a single notice will be published in the FEDERAL REGISTER making the action effective if good cause exists under the APA to waive notice and comment.

(1) Automatic actions are used in the Pacific whiting fishery to:

(i) Close an at-sea sector of the fishery when that sector's Pacific whiting allocation is reached, or is projected to be reached.

(ii) Close one or more at-sea sectors of the fishery when a non-whiting groundfish species with allocations is reached or projected to be reached.

(iii) Reapportion unused allocations of non-whiting groundfish species from one at-sea sector of the Pacific whiting fishery to another.

(iv) Reapportionment of the unused portion of the tribal allocation of Pacific whiting to the IFQ, mothership and catcher processor Pacific whiting fisheries.

(v) Implement the Ocean Salmon Conservation Zone, described at §660.131(c)(3), when NMFS projects the Pacific whiting fishery may take in excess of 11,000 Chinook within a calendar year.

(vi) Implement Pacific Whiting Bycatch Reduction Areas, described at §660.131(c)(4), when NMFS projects a sector-specific allocation will be reached before the sector's whiting allocation.

(2) Automatic action is used to close retention of halibut in the limited entry fixed gear sablefish primary fishery upon posting of notice by the International Pacific Halibut Commission on its website that the halibut quota for this fishery has been reached and further retention is prohibited. Closures will also be announced on the NMFS halibut hotline.

(3) Automatic actions are effective when actual notice is sent by NMFS. Actual notice to fishers and processors will be by email, Internet (*www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Whiting-Management/index.cfm*), phone, fax, letter, or press release. Allocation reapportionments will be followed by publication in the FEDERAL REGISTER, in which public comment will be sought for a reasonable period of time thereafter.