

RETAINING INCIDENTAL HALIBUT CATCH IN THE 2001 SABLEFISH FISHERY NORTH OF POINT CHEHALIS

The National Marine Fisheries Service (NMFS), International Pacific Halibut Commission (IPHC), Washington Department of Fish and Wildlife (WDFW), and Council staff discussed options to provide for the incidental take of 47,946 pounds of Pacific halibut in the primary sablefish fishery north of Point Chehalis, Washington as provided in the Pacific Halibut Catch Sharing Plan (CSP). A number of options to regulate the incidental catch were discussed as described below.

Initial consideration of regulatory options to manage the incidental halibut harvest in the sablefish fishery included allocating the halibut among vessels or permits with the possible weighting of such allocations by sablefish tier or vessel length. However, upon further consideration, the group believes that implementing an incidental catch ratio of halibut to sablefish may be a better way to comply with the intent of the halibut CSP, avoid targeted halibut fishing, and provide equitable distribution of the available halibut consistent with sablefish fishing opportunity. Preliminary analysis indicates that the ratio would likely be in the range of one halibut per 200 to 400 pounds of sablefish (dressed weight). The ratio will be further defined after potential participants in the incidental halibut fishery north of Point Chehalis are identified through the IPHC licensing process. A proposed timeline and regulatory process for this option are listed below.

Proposed Process and Timeline to Implement Incidental Halibut Fishery

Date	Action	Agency
March	Notify fishers of proposed regulations	Council/NMFS
April	Adopt framework regulations for implementation by NMFS; complete EA; and issue proposed annual restrictions for public review	Council/NMFS
Mar - Apr	Issue licenses to retain halibut in sablefish fishery	IPHC
June	Adopt halibut ratio (or other restriction for retention in sablefish fishery	Council/NMFS
Aug - Oct	Monitor halibut catch in-season to ensure quota is not exceeded; schedule conference call with appropriate parties; close fishery when approaching halibut quota and notify fishers	States/IPHC/Council/NMFS

Existing IPHC Regulations

- Licenses are required to fish for, transport, possess, or sell halibut caught incidentally in the sablefish fishery north of Point Chehalis.
- Requests for licenses must be submitted to IPHC by April 30, 2001.
- Vessel operators must complete and submit IPHC logbooks for each licensed vessel.
- Vessels cannot be used for fishing for a minimum of 72 hours before participating in the directed halibut fishery south of Point Chehalis.
- A vessel issued a commercial halibut license may not be used to sport fish for halibut.

Proposed Framework Regulations

To implement the landing ratio or other annual restrictions that provide for management of the incidental halibut harvest in the sablefish fishery north of Point Chehalis, the regulations at 50 CFR 300 need to be modified. This is the same section of the regulations which allow the Council to set various landing restrictions each year for the incidental halibut harvest in the salmon troll fishery. The regulations could be modified as follows (new text is underlined):

* * * * *

§ 300.63 Catch sharing plans, local area management plans, and domestic management measures.

Catch sharing plans (CSP) and local area management plans (LAMP) may be developed by the appropriate regional fishery management council, and approved by NMFS, for portions of the fishery. Any approved CSP or LAMP may be obtained from the Administrator, Northwest Region, or the Administrator, Alaska Region.

- (a) The catch sharing plan for area 2A provides a framework that shall be applied to the annual Area 2A total allowable catch (TAC) adopted by the Commission, and shall be implemented through domestic and Commission regulations, which will be published in the Federal Register each year before March 15. The Area 2A CSP allocates halibut among the treaty Indian fishery, segments of the non-Indian commercial fishery, and segments of the recreational fishery.
- (1) Each year, before January 1, NMFS will publish a proposal to govern the recreational fishery under the CSP for the following year and will seek public comment. The comment period will extend until after the Commission's annual meeting, so the public will have the opportunity to consider the final area 2A total allowable catch (TAC) before submitting comments. After the Commission's annual meeting and review of public comments, NMFS will publish in the Federal Register the final rule governing sport fishing in area 2A. Annual management measures may be adjusted inseason by NMFS.
- (2) A portion of the commercial TAC is allocated as incidental catch in the salmon troll fishery in Area 2A and a portion of the Area 2A recreational TAC is allocated as incidental catch in the directed longline sablefish fishery north of Point Chehalis, Washington. Each year, the landing restrictions necessary to keep ~~the fishery~~ these fisheries within ~~its~~ their respective allocations will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the *Federal Register* along with the annual salmon and sablefish management measures.
 - (a) The incidental harvest of halibut in the directed sablefish fishery north of Point Chehalis is allowed only by vessels using longline gear and possessing the appropriate incidental halibut harvest license issued by the IPHC.
 - (b) It is unlawful to fish for, transport, possess, or sell halibut caught incidentally in the sablefish fishery south of Point Chehalis (even if the halibut were caught north of Point Chehalis).
- (3) The commercial longline fishery in area 2A is governed by the annual management measures published pursuant to §§ 300.62 and 300.63.
- (4) The treaty Indian fishery is governed by § 300.64 and tribal regulations. The annual quota for the fishery will be announced with the Commission regulations under § 300.62

* * * * *

Proposed Preliminary Annual NMFS Regulations

- Properly licensed vessels may retain and land 1 halibut for every 300 pounds (dressed weight) of sablefish landed and up to 2 additional halibut in excess of the 1 per 300 pound ratio per landing. (The additional 2 halibut are intended as a buffer against miscalculations in total poundage of sablefish.)^{1/}

PPMC
03/21/01

1/ The exact ratio will be determined at the June Council meeting when the vessels licensed for the incidental fishery will be known.

WDFW COMMENTS ON PROPOSED 2001 MANAGEMENT RESTRICTIONS
FOR THE INCIDENTAL HALIBUT CATCH IN THE SABLEFISH FISHERY

	Regulatory Approach	Concerns/Advantages
1	Pounds of halibut per pound of sablefish	<ul style="list-style-type: none"> • It may be difficult to accurately estimate the weight of halibut • Fishers may highgrade to obtain larger halibut • Enforcement will have to be at-sea or dockside
2	Number of halibut per pounds of sablefish (ratio)	<ul style="list-style-type: none"> • Regulation has to be based on an assumed average weight of halibut in the commercial fishery • If ratios are set too conservatively, fishers may not be able to take full amount of harvest allowed • Fishers may highgrade to obtain larger halibut • Enforcement will have to be at-sea or dockside
3	Number of halibut per pounds of sablefish plus a cumulative limit for the season (based on the amount of sablefish a vessel can land)	<ul style="list-style-type: none"> • May more equitably distribute the opportunity for all fishers to access the available incidental harvest allowed • Individual cumulative limits must be enforced after the season by auditing fish tickets in the same manner as will likely occur for the directed sablefish fishery (number of halibut are also recorded in the IPHC required logbook) • Fishers may highgrade to obtain larger halibut • Enforcement have to be at-sea or dockside

NOTE: WDFW will have to monitor the fishery inseason to ensure that the overall harvest allocation (47,946 pounds) is not exceeded under any of the regulatory approaches identified above.

PROPOSED INCIDENTAL CATCH REGULATIONS FOR
SABLEFISH LONGLINE FISHERY NORTH OF POINT CHEHALIS

Situation: For the first time, the total Area 2A halibut quota is large enough this year (over 900,000 pounds) to provide for an incidental halibut harvest in the commercial, longline sablefish fishery north of Point Chehalis, Washington. This incidental fishery is allocated that portion of the Washington sport allocation in excess of 214,110 pounds, provided a minimum of 10,000 pounds is available. For 2001, the available incidental harvest amounts to 47,946 pounds.

To manage the incidental halibut harvest, the Council will need to develop some form of restrictions to allow incidental harvest while assuring the halibut quota is not exceeded. At the March Council meeting, a joint staff proposal recommended the Council use a landing ratio restriction similar to that used for the incidental harvest of halibut in the salmon troll fishery. The joint staff believes this alternative would be superior to allocating the catch among vessels or permits based on the sablefish tier or vessel length.

Since this is the first year incidental halibut catch has been available for the sablefish fishery, the Council must establish both the framework mechanism and the specific 2001 restrictions to manage the fishery. Attachment 1 provides a revised version of the joint staff report from March which describes the basic approach to establishing these regulations. More detailed descriptions of the possible alternatives and impacts of the incidental harvest management will be provided in a supplemental report at the Council meeting.

Council Action: To control incidental harvest of Pacific halibut in the commercial, longline sablefish fishery north of Point Chehalis, Washington:

1. **Adopt for implementation by National Marine Fisheries Service, a proposed framework mechanism for considering and establishing annual management restrictions.**
2. **Adopt for public review, proposed options for annual management restrictions in 2001(e.g., various landing ratios or limits).**

Reference Materials:

1. Exhibit G.1.a, Revised Joint Staff Proposal from March.

Groundfish Fishery Strategic Plan Consistency Analysis

The groundfish strategic plan calls for minimizing discarded bycatch. The sablefish fishery has heretofore discarded halibut, alive or dead, due to low halibut quota levels. Retaining halibut is consistent with minimizing discarded dead halibut bycatch.

DRAFT

Exhibit G.1
Supplemental Attachment 1
April 2001

ENVIRONMENTAL ASSESSMENT

AND

REGULATORY IMPACT REVIEW

OF

**REGULATIONS TO ALLOW RETENTION OF HALIBUT
CAUGHT WITH LONGLINE GEAR IN THE FIXED GEAR
SABLEFISH FISHERY**

Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, Oregon 97201
(503) 326-6352
<http://www.pcouncil.org>

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LIST OF ACRONYMS AND ABBREVIATIONS

DTL	Daily Trip Limit (sablefish)
Council	Pacific Fishery Management Council
EA	Environmental Assessment
FMP	Fishery Management Plan
IPHC	International Pacific Halibut Commission
mt	metric tons
RIR	Regulatory Impact Review
NEPA	National Environmental Policy Act
RFA	Regulatory Flexibility Act
TAC	Total Allowable Catch

1.0 PURPOSE AND NEED FOR ACTION

This document combines the environmental assessment (EA) and the regulatory impact review (RIR) and provides background information, analysis and assessments necessary for the Council (and subsequently the Secretary of Commerce) to determine that proposed changes to Pacific halibut fishery regulations in Area 2A are consistent with the Northern Pacific Halibut Act, and other applicable federal law, such as the National Environmental Policy Act (NEPA) and the Regulatory Flexibility Act (RFA).

1.1 Problem Statement and Objectives for Action

The Pacific halibut catch sharing plan includes provisions for an allocation of halibut to cover incidental harvest of halibut in the primary directed sablefish fishery¹ north of Point Chehalis Washington when the halibut total allowable catch (TAC) exceeds 900,000 pounds. TACs have been below 900,000 pounds since the adoption of the catch sharing plan provisions for incidental halibut harvest in the sablefish fishery since 1998. Consequently, regulations have not been developed to implement the allocation for the primary directed sablefish fishery. For 2001, the Area 2A TAC level will be 1,140,000 pounds, allowing 47,946 pounds for the incidental harvest. The Council-recommended allocations have already been implemented for other sectors of the Pacific halibut fishery. Therefore, if no implementing regulations are adopted for the primary directed sablefish fishery, the portion of the TAC allocated to this fishery will go unharvested.

The objective for this action is to promulgate regulations to implement the portion of the catch sharing plan that allocates halibut for incidental harvest in the primary fixed gear sablefish fishery. Absent such an action, the previously adopted and approved catch sharing plan will be violated.

1.2 Legal Basis

The Northern Pacific Halibut Act of 1982 at 16 U.S.C. 773c provides that the Secretary of Commerce (Secretary) shall have general responsibility to carry out the Halibut Convention between the United States and Canada and that the Secretary shall adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. Section 773c(c) also authorizes the regional fishery management council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC). Accordingly, catch sharing plans to allocate the TAC of Pacific halibut between treaty Indian and non-Indian harvesters, and among non-Indian commercial and sport fisheries in IPHC statistical Area 2A (off Washington, Oregon, and California) have been developed each year since 1988 by the Pacific Fishery Management Council (Council) in accordance with the Halibut Act. In 1995, NMFS implemented a Council-recommended long-term catch sharing plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the catch sharing plan have been made to adjust for the changing needs of the fisheries. The most recent adjustment to the catch sharing plan was approved by the Council November 2000 and implemented by NMFS on March 21, 2001 (66 FR 15801).

The current catch sharing plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-treaty fisheries is

¹ The "primary directed sablefish fishery" is the groundfish limited entry fixed gear sablefish fishery during which 85% of the sablefish allocated to the limited entry fixed gear vessels is taken. Each vessel participating in this fishery must have a fixed gear groundfish limited entry permit with sablefish endorsement. The vast majority of participating vessels use longline gear (see Section 3.0) and the remainder are fishpot vessels. IPHC regulations do not allow the retention of halibut caught with fishpot gear. Therefore, in this context, "primary directed sablefish fishery" refers only to the longline segment of that fishery. Historically, federal regulations have referred to the primary fishery as including the "regular" (or derby) fishery plus the mop-up fishery. See draft Amendment 14 to the groundfish FMP.

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. If the Area 2A TAC is greater than 900,000 pounds (408.2 mt), the primary directed sablefish fishery north of point Chehalis is allocated the Washington sport allocation that is in excess of 214,110 pounds (97.1 mt), provided a minimum of 10,000 pounds (4.5 mt) is available. The Council is proposing regulations to implement this provision of the catch sharing plan.

2.0 ALTERNATIVES

2.1 Available Alternatives

This section summarizes the four major alternatives that appear to be available and explains why only three are being given detailed consideration in this document. The four main courses of action available are:

No Action	Take no action to implement the catch sharing plan with respect to the primary directed sablefish fishery (maintain status quo harvest regulations that conflict with the status quo catch sharing plan for a Area 2A TAC above 900,000 pounds).
Implement Framework Regulations	Implement framework regulations for the status quo catch sharing plan with respect to incidental harvest in the primary directed sablefish fishery.
Implement Fixed Regulations	Implement specific fixed harvest regulations based on the 2001 TAC and status quo catch sharing plan with respect to incidental harvest in the primary directed sablefish fishery.
Change Catch Sharing Plan	Modify the catch sharing plan to eliminate the allocation to the primary directed sablefish fishery.

The last of these courses of action, modification of the catch sharing plan, is not given detailed consideration in this document. The catch sharing plan was reviewed and modified in the fall of 2000. At that time, neither the Council nor the public suggested that the current catch sharing plan needed to be modified with respect to provisions for the primary directed sablefish fishery, nor were such suggestions made in March 2001 when the Council discussed the need for regulations to implement the incidental harvest provisions for this sablefish fishery.

2.2 Alternatives for Detailed Analysis

2.2.1 Alternative 1 - Status Quo

Under the status quo alternative, there would be no regulations that would allow the incidental catch of halibut in the primary directed sablefish fishery. The portion of the TAC that would have gone to the primary directed sablefish fishery would go unharvested. Under status quo, a conflict would occur between the regulations and the catch sharing plan in 2001 and other years in which the Area 2A TAC exceeds 900,000 pounds. This problem would continue until such time as the conflict is resolved either through a modification of the catch sharing plan or the adoption of implementing regulations such as those considered under Alternatives 2 and 3 in this document.

2.2.2 Alternative 2 – Framework Regulations to Provide for the Incidental Harvest of Halibut in the Primary Directed Sablefish Fishery

Under this alternative, the framework regulations at 50 CFR 300 would be modified to specify that a portion of the Area 2A recreational Washington TAC may be allocated as incidental catch to the primary directed

sablefish fishery. This allocation would be in accordance with the previously adopted catch sharing plan. Landings restrictions needed to keep the incidental harvest of halibut in this fishery within its allocation would be recommended by the Council in the spring of each year and published in the *Federal Register*. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings. The catch restrictions for a particular year would be announced in the Federal Register as an inseason action under the Catch Sharing Plan. Appendix A provides the proposed specific changes to the regulations that would be implemented if this alternative is adopted.

NOTE: In 2001 the primary directed sablefish fishery will begin August 1, at the earliest, and vessels have already been notified that they must apply for Pacific halibut permits by April 30. In 2002, the fishery is scheduled to begin April 1. In order to establish appropriate harvest restrictions for an April 1 opening the deadline for applying to the IPHC for a license for the directed sablefish fishery will have to be moved up to March 1. The Council would then take action to recommend harvest restrictions at its March council meeting. The deadline for applying for IPHC is established in the catch sharing plan. In the fall of 2001, the catch sharing plan will need to be modified to specify a the earlier deadline for applying for a permit. Alternatively, the opportunity to retain Pacific halibut along with sablefish harvest could start subsequent to the April 1 start of the primary fixed gear sablefish fishery.

Rationale

Framework Approach

There are two main approaches for implementing the modifications needed to bring the fishery regulations in line with the catch sharing plan. One approach would be to implement specific harvest restrictions based on the amounts of fish available for the 2001 fishery (Alternative 3). The other approach would be to implement framework regulations that allow specific regulations to be implemented through a notice procedure so long as the regulations stay within the guidelines of the authorizing framework regulations (Alternative 2.). Catch sharing plan allocations to all other sectors are implemented through framework regulations and notice procedures such as those proposed under this alternative. The framework approach to fishery regulations streamlines governmental processes for routine management actions. This allows fishery managers and the public to focus on more controversial management issues that need resolution, contributing to greater efficiency in the governing process.

Regulations Under the Framework

Regulations under the framework would be intended to ensure that the halibut landings are truly incidental. This would be achieved by the implementation of harvest restrictions that create some kind of halibut to sablefish retention ratio that, to the degree possible, would attempt to match the occurrence of halibut incidental to the directed sablefish fishery while not exceeding the available halibut allocation. At present, there is not much quantitative data on the occurrence of halibut in the catch during the directed sablefish fishery, however, such information may be collected under the West Coast at-sea observer program that will be implemented beginning this year. The restrictions developed under this framework may not implement the ratios in a fashion that is entirely exact. Other management concerns and the reality of fishing activities may warrant some variation. Alternative 3 provides an example of the type of variation from an exact ratio that may be warranted under the framework regulations.

2.2.3 Alternative 3 – Regulations to Provide for the Incidental Harvest of Halibut in the Primary Directed Sablefish Fishery Based on the 2001 Area 2A TAC

Under this alternative, specific regulations would be implemented to establish an allocation for the primary directed sablefish fishery based on the 2001 Area 2A TAC. These regulations and the landings restrictions needed to keep the incidental harvest of halibut in this fishery within its allocation would be modified each year under a full regulatory amendment process.

The proposed annual NMFS regulations for 2001 would be as follows:

- (a) The incidental harvest of halibut in the directed sablefish fishery north of 46°53'18" (Point Chehalis) is allowed by vessels possessing groundfish limited entry fixed gear sablefish permits and the appropriate incidental halibut harvest license issued by the IPHC. ***Incidental harvest is not allowed for vessels fishing under DTL regulations during the primary directed sablefish fishery.***
- (b) This fishery will be restricted to a total harvest of 47,946 pounds (21.3 mt).
- (c) Properly licensed vessels may retain and land 1 halibut for every 480 pounds (round weight) of sablefish landed and up to 2 additional halibut in excess of the 1 per 480 pound ratio per landing. (The additional 2 halibut are intended to (a) prevent the need for the discard of halibut if halibut are brought on board before sufficient pounds of sablefish have been retained, (b) to provide some regulatory flexibility to account for the difficulty of accurately determining total weight of sablefish on board while at sea.)
- (d) South of Point Chehalis Washington, it is unlawful for a vessel to fish for, *take, retain, transport, possess, land* or sell halibut caught incidentally in the sablefish fishery (even if the halibut were caught north of Point Chehalis).

NOTE: In 2001 the primary directed sablefish fishery will begin August 1, at the earliest, and vessels have already been notified that they must apply for permits by April 30. In 2002, primary directed sablefish fishery is scheduled to begin April 1. Alternative 3 would require at least a two meeting council process to establish appropriate harvest restrictions. Total allowable catches are generally not known until the annual IPHC meeting in January. The Council's two meeting process could be completed at its March and April meetings. There would be some delay after the April meeting while NMFS completed a process for publishing a proposed and final rule. Because of these time constraints, under Alternative 3, the opportunity to retain incidental halibut harvest would be delayed until sometime after the April 1 start of the primary fixed gear sablefish fishery. As noted in Alternative 2, the deadline for applying for IPHC permits, as specified in the catch sharing plan, would have to be moved up to some time prior to the April Council meeting. This change to the catch sharing plan would need to be made in the fall of 2001.

Rationale

Provisions (a) and (b) are derived directly from the catch sharing plan.

The halibut to sablefish ratio of Provision (c) is based on the number of vessels in the primary directed sablefish fishery that land most of their sablefish to Washington ports (Table 7), the expected sablefish cumulative limits, and the poundage of halibut allocated to the directed sablefish fishery by the catch sharing plan, and an assumed average weight of commercial halibut. Proper licensing for vessels include a federal fixed gear limited entry sablefish license and an IPHC license for incidental sablefish harvest in the directed sablefish fishery north of Point Chehalis. IPHC licenses are applied for on an annual basis. For 2001, applications must be submitted by April 30, 2001. Once this application process is completed, the maximum number of vessels that may participate will be known and adjustments in the catch sharing ratio may be appropriate to help maintain the halibut harvest within the allocation. Because licenses from the IPHC are free, it is likely that more vessels will sign up for licenses than will actually participate in the fishery. Based on the number of licensed vessels or an estimate of the number of vessels likely to participate, the ratios specified in Alternative 3 may be adjusted. The ratios may either be set conservatively to ensure that the halibut retention opportunity lasts for the duration of the entire directed fishery without additional adjustments or the fishery may be monitored and regulations adjusted inseason. In the latter case, the potential for a closure of the halibut retention opportunity could encourage vessels to harvest their sablefish at a faster rate at the start of the sablefish fishery in order to ensure their opportunity to retain incidental halibut harvest. The rationale for allowing 2 additional halibut in excess of the specified ratio is provided as part of Provision (c).

Provision (d) is intended to make it easier for enforcement to ensure that halibut are harvested only from the specified area.

3.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT

The Area 2A halibut fisheries occur in marine waters off Washington, Oregon and California. The biology, fishery and overall management of Pacific halibut is described in IPHC (1998). A detailed description of the Area 2A fisheries as influenced by past Catch Sharing Plans is presented in the 1994 EA/RIR on the Catch Sharing Plan (NMFS 1995). The Area 2A fisheries also have been described by IPHC in Trumble et al. (1991) and Hoag et al. (1983 and 1993). Additional information on recent harvests and the status of the stocks in Area 2A can be found in the stock assessment documents prepared by IPHC staff for each annual IPHC meeting and in IPHC Annual Reports (available from IPHC) and the December 2000 environmental assessment prepared by NMFS to support changes to the catch sharing plan for the 2001 fishery.

3.1 Existing Area 2A Halibut Fisheries

The allocations to the four fishery groups (tribal fishery, non-Indian commercial fishery, Washington sport fishery, and Oregon/California sport fishery) since 1988 (first year of annual Catch Sharing Plans) are shown in Table 1. Catches by group are shown in Table 2.

TABLE 1. Area 2A quotas and allocations (dressed weight in pounds).

Year	Total Quota	Treaty Indian	Tribal Reserve	Non-Indian Commercial	Non-Indian Sport	Washington Sport	Oregon/California Sport
1988	750,000	100,000	50,000	330,000	270,000	--	--
1989	650,000	130,000	22,000	274,000	224,000	167,000	57,000
1990	520,000	130,000	--	195,000	195,000	118,950	76,050
1991	450,000	112,500	--	168,750	168,750	102,938	65,812
1992	650,000	162,500	--	243,750	243,750	148,687	95,063
1993	600,000	150,000	--	225,000	225,000	137,250	87,750
1994	550,000	192,500	--	178,750	178,750	109,037	69,713
1995	520,000	182,000	--	107,120	230,880	123,760	107,120
1996	520,000	182,000	--	107,120	230,880	123,760	107,120
1997	700,000	245,000	--	144,235	310,765	166,530	144,235
1998	820,000	287,000	--	168,961	364,039	195,078	168,961
1999	760,000	266,000	--	156,598	337,402	180,804	156,598
2000	830,00	315,500	--	163,097	351,403	188,307	163,097

TABLE 2. Total catches of halibut in Area 2A (dressed weight in pounds).

	Total Catch	Tribal Total	Commercial Total	Sport Total
1988	746,676	105,800	392,000	248,876
1989	809,429	152,400	330,000	327,029
1990	542,866	131,400	203,000	208,466 ^{a/}
1991	518,962	127,500	233,000	158,462 ^{a/}
1992	700,077	168,400	282,000	249,677 ^{a/}
1993	764,484	152,031	366,000	246,453 ^{a/}
1994	566,978	198,639	182,000	186,339 ^{a/}
1995	547,892	190,569	121,125	236,198 ^{a/}
1996	537,562	181,184	127,521	228,857 ^{a/}
1997	750,700	243,258	152,570	354,872 ^{a/}
1998	856,560	307,145	166,424	382,991 ^{a/}
1999	769,812	272,018	160,955	337,339 ^{a/}
2000	b/	b/	b/	b/

a/ Sport catch estimates from California are not available; this estimate assumes that the CA allocation was harvested.

b/ 2000 catch estimates not yet available

Under the current catch sharing plan, when the Washington sport allocation exceeds 224,100 pounds (101.7 mt) the amount in excess of 214,110 pounds (97.1 mt) will be allocated instead for an incidental harvest in the primary directed sablefish fishery north of Point Chehalis Washington. The Washington sport allocation exceeds 214,100 pounds whenever the Area 2A TAC exceeds 900,000 pounds and exceeds 224,100 (101.7 mt) whenever the Area 2A TAC exceeds 942,040 lb (427.3 mt). A 942,040 (427.3 mt) TAC provides the minimum 10,000 pounds of harvest required to trigger an allocation for incidental harvest in the directed sablefish fishery.

Sport fishing for halibut in Washington is divided into four subareas for management and catch allocation purposes: WA Inside Waters (Puget Sound) subarea, WA North Coast subarea, WA South Coast subarea, and Columbia River subarea (which is shared with Oregon). The WA Inside Waters Subarea includes all waters east of the Sekiu River mouth and includes Puget Sound, most of the Strait of Juan De Fuca, the San Juan Islands area, Hood Canal and Admiralty Inlet. The WA North Coast Subarea is the area west of the Sekiu River mouth and north of the Queets River. The WA South Coast Subarea lies to the south of Queets River and north of **Point Leadbetter**. The Columbia River subarea lies between Leadbetter Point and Cape Falcon, Oregon, and is shared with Oregon. The allocations for this subarea are derived from both the Washington and Oregon sport allocations.

Since 1995 there have been three commercial fishery components authorized under the catch sharing plan: a directed commercial fishery (e.g., the traditional longline fishery); an incidental halibut catch in the salmon troll fishery; and an incidental halibut catch in the primary directed sablefish fishery. The directed commercial fishery is restricted to the area south of Pont Chehalis, WA. Since 1995, the annual regulations have allowed the prosecution of only the first two of the authorized commercial fisheries because the Area 2A TACs have been below 900,000 pounds. The proposed action will establish regulations to implement the third component specified in the current catch sharing plan. Table 3 shows the quotas (allocations after 1987) and catches through 2000 for the two components that have been active to date.

TABLE 3. Commercial fishery catch statistics.

Year	Directed Fishery (Longline)			Incidental Fishery (Salmon)		
	Quota	Catch	Days Open	Quota	Catch	Days Open
1981	200,000	202,000	56			
1982	200,000	211,000	49			
1983	200,000	265,000	26			
1984	300,000	431,000	35			
1985	500,000	493,000	31			

1986	550,000	564,000	19			
1987	550,000	548,000	12			
1988	330,000	392,000	5			
1989	274,000	330,000	2			
1990	195,000	203,000	2			
1991	168,750	233,000	1	a/		
1992	243,750	282,000	2	a/		
1993	225,000	366,000	1	a/		
1994	178,750	182,000	3	a/		
1995	91,052	119,000	7	a/	16,068	2,125
1996	91,052	118,000	2	a/	16,068	9,521
1997	122,600	135,000	1	a/	21,635	17,570
1998	143,617	166,424	4	a/	25,344	13,416
1999	133,108	151,000	2	a/	23,490	9,955
2000	138,632	137,000	3		24,464	22,350

a/ Since 1991, directed commercial halibut fishing has been restricted to 10-hour per day openings

Since 1991 the directed nonIndian commercial fishery has been managed with catch limits by vessel size. The size classes were as follows:

A. 0'-25' B. 25'-30' C. 31'-35' D. 36'-40' E. 41'-45' F. 46'-50' G. 51'-55' H. 56'+

Effective in 1995, three types of IPHC licenses were issued for Area 2A fisheries: a directed commercial license, a license to land halibut caught incidentally in the salmon troll fishery, and a charter license. No vessel may participate in more than one of these three fisheries per year. The numbers of IPHC licenses issued for Area 2A in recent years are shown in Table 4. In the sport fishery, only charterboat owners/operators must obtain an IPHC license; IPHC licenses are not required for individual anglers nor private boats.

TABLE 4. IPHC Licenses issued for Area 2A.

Year	Directed Fishery	Incidental Catch in Salmon Troll	Charterboat
1995	350	124	132
1996	403	123	135
1997	428	275	139
1998	363	264	141
1999	286	284	126
2000	268	235	130

Additional detail on the tribal and sport components of existing fisheries can be found in the December 2000 environmental assessment prepared by NMFS to support changes to the catch sharing plan for the 2001 fishery.

3.2 The Directed Sablefish Fishery

For most of the 1980s the directed fixed gear sablefish fishery extended through most of the year and any halibut taken during openings of the halibut fishery could be retained as incidental catch. Many vessels fished both the directed halibut and directed sablefish seasons. As the primary sablefish and halibut seasons shortened, they ceased to overlap and it was no longer possible for sablefish vessels to retain incidentally caught halibut.

TABLE 5. Commercial directed sablefish and halibut seasons.

Year	Fixed Gear Sablefish Directed Season North of 36° N. lat. Season	Over lap between Sablefish and Halibut Directed Fisheries	Area 2A Directed Halibut Fishery Season
1981	Year round	Yes	June 7-21 July 7-21 Aug 6-20 Sept 5-19
1982	Year round	Yes	May 12-24 June 9-21 July 7-19 Aug 9-21
1983	Year round	Yes	June 15-28 July 14-27
1984	Year round	Yes	May 21-June 2 June 21-July 3 July 22-Aug 2
1985	Close December 6	Yes	May 9-21 June 8-20 July 24-31
1986	Closed October 23	Yes	June 16-June 28 July 15-22
1987	Closed October 14	Yes	July 10-22
1988	Closed Aug 26	Yes	July 25-30
1989	Closed July 17	Yes	June 27-June 29
1990	Feb 1-June 24	No	July 10 & 30, Aug 27, Sept 11
1991	April 1-May 24	No	July 22
1992	May 12-27	No	July 29 and Aug 12
1993	May 12-June 1	No	July 27
1994	May 15-June 3	No	July 6 & 19, Aug 3
1995	Aug 6-13	No	July 5 & 18, Aug 1, 15 & 29, Sep 12 & 26
1996	Sept 1-6	No	July 7 & 24
1997	Aug 25-Sept 3	No	July 8
1998	6 days in Aug DATES??? (1-6?)	No	July 22, Aug 12 & 26, September 23
1999	Aug 16-25	No	July 7 & 21
2000	Aug 6-15	No	July 5 & 19, Aug 2
2001 ^{a/}	Aug 1-Oct 31	No	

a/ Council Recommended.

In 1994, the Pacific Coast groundfish limited entry plan (Amendment 6 to the FMP) went into effect controlling access to the vast majority of the groundfish harvest for trawl, longline and fishpot vessels. For sablefish, after setting aside 10% for the tribes, 90.6% of the sablefish was allocated to the limited entry fishery to be split 42% to groundfish trawl gear and 58% to fixed gear vessels (longline and fishpot). The remaining 9.4% was allocated to the open access fishery to be taken by exempted gears (including longline and fishpot vessels without permits).

The "primary directed sablefish fishery" is the segment of the groundfish limited entry fixed gear sablefish fishery that is allocated the vast majority (85%) of the limited entry fixed gear sablefish. Each vessel participating in this fishery must have a fixed gear groundfish limited entry permit with sablefish endorsement. There are 230 limited entry fixed gear vessels. Of these, 164 vessels have permits with endorsements allowing

them to take part in the primary directed sablefish fishery. Of that 164 vessels, 132 are endorsed for longline gear. The remaining 32 vessels have permits endorsed only for pot gear. IPHC regulations do not allow the retention of halibut caught with pot gear. Therefore, in the context of the halibut catch sharing plan, the "primary directed sablefish fishery" refers only to the longline segment of the sablefish fishery.² A "three tier" system that was established by regulatory amendment in 1998. Under this "three-tier" system, sablefish endorsement holders were ranked into three different tiers based on their permit histories, with the lowest tier having the lowest qualification requirements and being allocated the lowest amount of fish per vessel. Annual management of the three-tier cumulative limit system requires that the allocation for this fishery be divided such that there are three different cumulative limits for the different tiers. Cumulative limits for the vessels in each tier (Tiers 1, 2 and 3) are set according to the ratio specified in Table 6.

TABLE 6. Ratio of sablefish harvest between tiers and associated cumulative limits from the year 2000 fishery.

Sablefish tier	Cumulative Limit Ratios	Approx. Year 2000 Cumulative Limits (Pounds of Sablefish)
1	3.85	82,000
2	1.75	37,000
3	1	21,000

Of the 132 longline vessels, 55 made the majority of their landings in Washington ports in 1999 (Table 7). It is these vessels would be the most likely to apply for IPHC licenses and participate in a halibut retention opportunity incidental to the primary directed sablefish fishery.

TABLE 7. Number of vessels with groundfish limited entry longline permit endorsed for the primary sablefish fishery by primary port of delivery (Washington and northern Oregon) and tier level (1999).

	Tier 1	Tier 2	Tier 3	Total
Washington				
Bellingham	1	8	3	12
Everett	-	1	1	2
Seattle	2	3	2	7
Pt Angeles	1	3	8	12
Neah Bay	-	-	1	1
La Push	-	1	4	5
Westport	-	6	10	16
Ilwaco	-	-	-	0
State Total	4	22	29	55
Oregon				
Astoria	2	3	7	12
Newport	2	2	5	9

From 1997 through 1999, sablefish endorsed vessels (55 longline endorsed vessels and 3 fishpot endorsed vessels) landing most of their sablefish in Washington ports generally earned less than 1% of their total fishing revenue from Pacific halibut (the Area 2A directed halibut fishery, as incidental halibut catch in the salmon fishery, or from halibut caught in Alaska and landed on the West Coast) (Table 8).

²

Historically, federal regulations have referred to the primary fishery as including the "regular" (or derby) fishery plus the mop-up fishery. See draft Amendment 14 to the groundfish FMP.

TABLE 8. Gear and state stratified landings (in \$1000s) of various species for vessels with a limited groundfish limited entry permit endorsed for longline or pot gear and some sablefish landings during the year, for Washington.

Species group	Washington Exvessel Value of Landings		
	1997	1998	1999
Groundfish	4,286	1,830	2,501
Prawns/shrimp	1	48	4
Crab	755	406	1,022
Salmon	0	1	4
Tuna	51	47	61
P. Halibut	19	17	27
Other	5	1	50
Total Exvessel Revenue	5,117	2,350	3,669
Halibut as percent of all revenue	0.4%	0.7%	0.7%

From 1997 through 1999, sablefish endorsed vessels landing most of their sablefish in Washington ports landed between 4 mt and 6 mt of halibut from all sources (Table 9). Part of the reason for the low landings of halibut is the restriction of the primary halibut fishery to the area south of Point Chehalis Washington.

TABLE 9. Gear and state stratified landings (mts) of various species for vessels with a limited groundfish limited entry permit endorsed for longline or pot gear and some sablefish landings during the year.

Species group	Washington Round Weight of Landings (mt)		
	1997	1998	1999
Groundfish	2,511	1,986	923
Prawns/shrimp	0	7	3
Crab	192	109	249
Salmon	0	1	1
Tuna	30	41	35
P. Halibut	4	6	6
Other	41	6	25

4.0 IMPACT ANALYSIS

This analysis compares the alternatives with status quo management of the Area 2A halibut fishery.

4.1 Physical Impacts

None identified.

4.2 Biological Impacts

Under status quo, the allocation for incidental halibut harvest in the primary sablefish fishery would remain unharvested. Implementation of either Alternative 2 or 3 would increase the harvest to the levels determined appropriate by the IPHC. Based on the IPHC determination and best available data, there would be no adverse short or long term impacts from harvests at levels authorized by the IPHC.

Although the incidental catch rate for halibut in the sablefish fishery is not determined, incidental catch of halibut is known to occur. In the past the commercial longline fishers targeted halibut during the commercial halibut seasons with the same longline gear used to target on sablefish. Currently, no directed commercial fishery is allowed north of Point Chehalis, Washington. Under status quo management there is believed to be harvest mortality related to the discard of halibut taken as bycatch in the directed sablefish fishery. Implementation of either Alternative 2 or Alternative 3 would provide an opportunity to convert some of this halibut bycatch in the area north of Point Chehalis Washington into retained incidental harvest, reducing bycatch mortality.

For 2001, a halibut retention rate of 0.039 pounds of halibut per pound of sablefish would fully harvest the amount of halibut allocated to the primary directed sablefish fishery. This retention rate is based on the sablefish harvest that would be allowed if all 55 vessels that landed primarily in Washington ports in 1999 participate in the incidental halibut fishery. As discussed in Section 4.3, it is possible that additional vessels would be attracted to the area by the opportunity to retain sablefish. If additional vessels entered the fishery the halibut retention rate would need to be reduced.

4.3 Social and Economic Impacts

Net Harvest Benefits

Under either alternative to status quo, harvest would be increased, as compared to the status quo regulations (See Section 4.2). Status quo regulations do not accommodate the catch sharing plan's allocation of halibut to the primary directed sablefish fishery and would leave fish allocated to this sablefish fishery unharvested.

Increased harvest would be expected to increase fishery benefits. Based on the expected sustainability of IPHC approved harvest levels, the increase in benefits would be over both the short and long term. Under status quo, halibut caught as bycatch in the directed sablefish fishery will be discarded, regardless of the Pacific halibut TAC level. The alternatives to status quo allow the retention of some portion of this incidental catch, with no additional effort.

Under Alternative 2, the implementing measures are to be specified in a manner that ensures that the halibut are incidental take caught in conjunction with sablefish harvest. The most likely means of accomplishing this end is to require the halibut be landed in some rough proportion to the amount of sablefish landed. Alternative 3 provides an example of such a rough requirement. If the halibut taken are truly incidental harvest, there could be an increase in revenue with little increase in harvest costs, for a net positive change. Based on 2000 prices and the allocation to this fishery for 2001, total exvessel revenue for the halibut allocation to the primary directed sablefish fishery would be about \$126,000.

Effect on Effort and Excess Capacity

If fishers believe the halibut retention opportunity may be closed midseason there will be incentive for individual fishers to increase the intensity of their harvest effort and possibly invest in additional capacity. The degree of incentive will depend on the amount of halibut a vessel will be able to harvest as incidental catch. A sufficiently lucrative incidental catch opportunity combined with the threat of a midseason reduction in that opportunity could encourage vessels to increase the intensity of their effort, increasing harvest costs and reducing net benefits. The incentive for vessels to take their sablefish cumulative limit quickly in order to have the opportunity to also retain halibut is in addition to the incentive for rapid harvest established by the structure of the sablefish daily trip limit (DTL) opportunity for sablefish endorsed limited entry vessels.³ On the other hand, if fishers believe it reasonable that halibut retention opportunities will last the entire primary season, they are more likely to harvest at optimal rates relative to their sablefish fishing opportunity. Beginning in 2001, sablefish will be managed under an individual quota type system under which every vessel has a given amount of sablefish to harvest (its cumulative limits) and ample time to take the sablefish harvest.

Per Vessel Revenue and Geographic Distribution of Benefits

Vessels from other areas of the coast could be attracted to the north of Point Chehalis area by the opportunity for additional revenue from the retention of incidental halibut catch. This would spread the revenue among more vessels, reduce the additional revenue per vessel, and may result in the flow of some of the financial benefits to other areas of the coast. However, so long as a race for fish is not generated by the possibility of

³ All DTL landings during the primary season will count against a vessel's sablefish cumulative limit until its cumulative limit is exhausted. After that point, the vessel may continue to participate under in the DTL fishery. Thus a vessel that harvests its cumulative limit rapidly will have more DTL fishing opportunities than a vessel that harvests its limit more slowly or later in the season. The DTL fishery generally allows the take of several hundred pounds of sablefish a day, subject to a monthly or bimonthly cap of several thousand pounds.

an inseason reduction in halibut retention opportunity, the entry of vessels from outside the area is not likely to appreciable decrease the net benefits from the incidental halibut retention opportunity (see the section on effort and excess capacity).

The following illustrates the degree of economic incentive for vessels to move into the northern fishery. If only vessels that landed sablefish primarily in Washington participated in the directed sablefish fishery north of Point Chehalis (Table 7) and the harvest ratios were as specified under Alternative 3, the following would be the approximate halibut revenue opportunities per permit by tier (based on 2000 prices).

Tier 1	Tier 2	Tier 3
\$5,800	\$2,700	\$1,500

These values would represent a 6% increase over the amount of revenue the vessels would expect to earn from the directed sablefish fishery alone (based on 2000 prices and 2001 harvest allocations). Because of the opportunity to stack up to three permits in the primary directed sablefish fishery the revenue from halibut bycatch for a vessel stacking three Tier 1 permits could be as much as \$16,400. Entry by vessels from the south would reduce the revenues available per vessel, reducing the incentive for vessels to change fishing locations to take part in the fishery. On the other hand, entry by fewer vessels than anticipated could result in greater per vessel revenue.

The close to constant halibut to sablefish harvest ratio entailed in Alternatives 2 and 3 best achieves the intent of maintaining an the halibut catch as incidental to the sablefish fishery. For 2001, the ratio would be roughly equivalent to 0.039 pounds of halibut per pound of sablefish. The ratio would vary from year to year depending on the sablefish optimum yield and the Pacific halibut TAC for Area 2A.. Alternative specification of incidental harvest rates could result in different levels of revenue by tier or by other groupings of the vessels. For example, a system that equalized the halibut poundage available to each member of each tier would might provide \$2,300 of additional revenue for each vessel based on 2001 TACs and 2000 prices, provided no vessels move north (and more if some vessels stack permits). Equalizing the halibut harvest opportunities across tiers would result in halibut pound to sablefish pound ratios of 0.014, 0.032, and 0.056 for Tiers 1, 2 and 3, respectively. Another incidental harvest scheme possible under Alternative 2 would allocate halibut between tiers based on size of vessel class, as is done under the regulations for the directed halibut fishery. However, given current uncertainties about true incidental catch rates, that there is not reason to believe that incidental catch rates will vary between tiers, the ratios as specified for Alternatives 2 and 3 best achieves the primary objective of maintaining the halibut catch fishery as incidental to the primary directed sablefish fishery.

Equity

Both Alternatives 2 & 3 would preserve the equity balanced embodied in the current catch sharing plan. Under status quo, failure to implement an allocation for the retention of incidental halibut harvest in the directed sablefish fishery would violate and alter the equity balance of the previously approved catch sharing plan. The provisions of the catch sharing plan allocating Pacific halibut to the primary directed sablefish fishery when TACs are at high levels have been in place since 1998. The catch sharing plan was developed and approved based on a balance of conservation, economic and social concerns.

Administrative and Process Costs

For Alternative 2, annual costs would be similar to status quo. Routine adjustments to the regulations would be handled in the same manner that they are for other segments of the Areas 2A Pacific halibut fishery. Alternative 3 would have higher administrative costs than Alternative 2. Full analyses and rulemaking procedures would be required on an ongoing basis. Uncertainty would be generated and conflict could potentially arise each year as the Council goes through the process of amending the regulations. These costs would accrue to NMFS, the Council and public participants in the process.

All the alternatives will require some modification to the catch sharing plan. Status quo would require elimination of the allocation provided for the primary directed sablefish fishery in order to bring the catch sharing

plan in line with the regulations. Alternatives 2 and 3 would require an earlier deadline for fishers to apply to the IPHC for permits in order for the Council to set the harvest restrictions for halibut for the start, or near to the start, of the primary directed sablefish. The primary directed sablefish fishery is scheduled to start April 1 beginning in 2002.

Inseason Monitoring and Enforcement

Inseason monitoring and enforcement costs will be greater than for the directed halibut fishery because the fishery will occur over a longer duration. To a large degree, enforcement effort for halibut bycatch will overlap with enforcement efforts for sablefish. With respect to inseason monitoring, no inseason monitoring effort is needed for the primary fixed gear sablefish fishery. An inseason monitoring effort will be needed for halibut, unless incidental catch allowances are set low enough to ensure that quotas are not exceeded.

5.0 EFFECTS ON ENDANGERED SPECIES AND THE COASTAL ZONE

The proposed changes to the Area 2A framework regulations do not constitute an action that may affect endangered/threatened species listed under the Endangered Species Act (ESA) or their habitat within the meaning of the regulations implementing Section 7 of the ESA. The proposed changes also are unlikely to affect non-listed marine mammals or marine birds as these species do not interact directly or indirectly with the halibut fishery in Area 2A.

The proposed action is consistent to the maximum extent practicable with applicable State coastal zone management programs. NMFS has corresponded with the responsible state agencies under Section 307 of the Coastal Zone Management Act to obtain their concurrence in this finding.

6.0 REGULATORY IMPACT REVIEW AND EXECUTIVE ORDERS 12866 AND 13132

A regulatory impact review is required to comply with EO 12866. The proposed changes to the Area 2A framework regulations are not a significant action according to E.O. 12866. This action will not have a cumulative effect on the economy of \$100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises. Any changes in the gross revenues generated from halibut fisheries coastwide will be in accordance with the catch sharing plan.

Regulatory Impact Review

Required Elements for an RIR Analysis	Corresponding Sections in EA
Description of management objectives	1.1
Description of the Fishery	3.0
Statement of the Problem	1.1
Description of each selected alternative	2.2
An economic analysis of the expected effects of each selected alternative relative to status quo	4.3

None of the proposed changes to the Area 2A framework regulations would have federalism implications subject to E.O. 13132.

7.0 REGULATORY FLEXIBILITY ACT

The purpose of the RFA is to relieve small businesses, small organizations, and small governmental entities from burdensome regulations and record-keeping requirements. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. An initial regulatory flexibility analysis (IRFA) is conducted unless it can be determined that an action will not have a "significant economic impact on a substantial number of small entities." A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$3.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. All of the businesses that would be affected by this action are considered small businesses under SBA guidance.

For regulations that may be proposed here, negative impacts on small businesses do not appear likely, unless the status quo alternative is selected. However, information is not sufficient to absolutely determine that an IRFA is not necessary. The RFA specifically requires that an initial regulatory flexibility analysis include the following information:

- A description of the reasons why action by the agency is being considered;

See Section 1.1

- A succinct statement of the objectives of, and the legal basis for, the proposed rule;

See Sections 1.1, and 1.2.

- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);

The proposed rules would apply to the owners of the 164 limited entry fixed gear sablefish permits issued for this fishery. Most directly affected are the vessels that land primarily to Washington ports (55 vessels in 1999, Table 7). Other vessels may be attracted into the area north of Point Chehalis by the opportunity to retain halibut. The vessels most likely to move into the fishery would those vessels that operate out of ports adjacent to the north of Point Chehalis area, primarily vessels from the northern Oregon coast (Table 7). The affected vessels are divided into segments by the sablefish tier system (Table 7). Based on 2001 allowable harvests, 2000 exvessel prices and the assumed participation by 55 vessels that fished off Washington in 1999, vessels might experience a revenue increase of about 6% in 2001 as a result of the opportunity to retain halibut in the primary directed sablefish fishery.

- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

There would be no new reporting or record keeping requirements. Fishers wishing to retain halibut would be responsible for accurately estimating the amount of halibut and sablefish on board to ensure that catch restrictions are not exceeded. Because of the difficulty of accurately estimating total poundage on board, fishers are allowed fishers may be allowed to possess some number of halibut in excess of a specified restriction (for example, under Alternative 3 vessels would be allowed to possess two halibut in excess of a halibut to sablefish ratio).

- An identification to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule.

The Council is not aware of any other Federal rules that would duplicate or conflict with the permit stacking proposal.

- A description of any significant alternatives to the proposed rule that accomplish the stated objectives that would minimize any significant economic impact of the proposed rule on small entities.

While it appears unlikely, it is not entirely certain that the actions considered in this document will not have significant impacts on small entities. Public comment is invited on adjustments that would reduce the impacts on small entities while achieving the regulatory objectives and on whether the analysis adequately takes impacts on small entities into account.

8.0 PAPERWORK REDUCTION ACT

There is no collection of information requirement subject at the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

9.0 NEPA

9.1 General

The specific purpose of the EA is to analyze the potential effects of the proposed action and reasonable alternatives on the quality of the human environment. If the action is determined not to be significant, then the EA will result in a finding of no significant impact (FONSI) and the EA will be the final environmental document required by NEPA. If, however, a FONSI cannot be made, then a more detailed environmental impact statement (EIS) must be prepared.

The discussion of the need for action, alternatives, and their environmental impacts are contained in Sections 1, 2 and 4 of this document, respectively. A description of the affected environment is contained in Section 3. These sections comprise the required part of an EA.

Regulations to implement the previously adopted catch sharing plan would not be a major action having significant impact on the quality of the marine or human environment of the West Coast. Mitigating measures related to these regulations would be unnecessary. No unavoidable, adverse impacts on protected species, wetlands, or the marine environment would be expected to result from the recommended action. Section 1508.27 of the CEQ Regulations lists ten points to be considered in determining whether or not impacts are significant. Those points are as follows (1) Beneficial and Adverse Impacts, (2) Public Health or Safety, (3) Unique Characteristics, (4) Controversial Effects, (5) Uncertainty or Unique/Unknown Risks, (6) Precedent/Principle Setting, (7) Relationship/Cumulative Impact, (8) Historical/Cultural Impacts, (9) Endangered/Threatened Species Impacts, (10) Interaction with Existing Laws for Habitat Protection. These points have been considered as appropriate in the analysis of impacts and Sections 5 and 6. No significant impact was identified under any of the points listed. During public review there no affects have been identified that are not covered by this document.

9.2 Finding of No Significant Impact

All of the alternatives considered ensure that catch limits on Pacific halibut set by the IPHC are not exceeded. All of the alternatives except status quo allow for harvests of exploitable yield among various users in Area 2A in accordance with the Catch Sharing Plan. Besides the harvest removals, which will not adversely affect the halibut stock, this action will have no appreciable effect on the other species or the ocean environment. For these reasons and those described in more detail herein, it is hereby determined that implementation of the proposed changes to the framework regulations will not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by Section 102 (2)(C) of the National Environmental Policy Act or its implementing regulations.

Asst. Administrator for Fisheries, NOAA

Date

10.0 COORDINATION AND CONSULTATION

This EA/RIR was prepared in coordination and consultation with the National Marine Fisheries Service, the Washington Department of Fish and Wildlife, the Oregon Department of Fish and Wildlife, the Northwest Indian Fisheries Commission, and the International Pacific Halibut Commission.

11.0 LIST OF PREPARERS

Jim Seger, Pacific Fishery Management Council

Advice and assistance for this EA/RIR was provided by Ms. Yvonne deReynier (NMFS) Mr. John Coon, (Pacific Fishery Management Council), and Brian Culver (WDFW).

12.0 REFERENCES

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APPENDIX A--*Proposed Framework Regulations*

To implement the landing ratio or other annual restrictions that provide for management of the incidental halibut harvest in the sablefish fishery north of Point Chehalis, the regulations at 50 CFR 300 need to be modified. This is the same section of the regulations which allow the Council to set various landing restrictions each year for the incidental halibut harvest in the salmon troll fishery. The regulations could be modified as follows (new text is underlined):

* * * * *

§ 300.63 Catch sharing plans, local area management plans, and domestic management measures.

Catch sharing plans (CSP) and local area management plans (LAMP) may be developed by the appropriate regional fishery management council, and approved by NMFS, for portions of the fishery. Any approved CSP or LAMP may be obtained from the Administrator, Northwest Region, or the Administrator, Alaska Region.

- (a) The catch sharing plan for area 2A provides a framework that shall be applied to the annual Area 2A total allowable catch (TAC) adopted by the Commission, and shall be implemented through domestic and Commission regulations, which will be published in the Federal Register each year before March 15. The Area 2A CSP allocates halibut among the treaty Indian fishery, segments of the non-Indian commercial fishery, and segments of the recreational fishery.
- (1) Each year, before January 1, NMFS will publish a proposal to govern the recreational fishery under the CSP for the following year and will seek public comment. The comment period will extend until after the Commission's annual meeting, so the public will have the opportunity to consider the final area 2A total allowable catch (TAC) before submitting comments. After the Commission's annual meeting and review of public comments, NMFS will publish in the Federal Register the final rule governing sport fishing in area 2A. Annual management measures may be adjusted inseason by NMFS.
- (2) A portion of the commercial TAC is allocated as incidental catch in the salmon troll fishery in Area 2A. Each year, the landing restrictions necessary to keep the fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the *Federal Register* along with the annual salmon management measures.
- (3) A portion of the Area 2A Washington recreational TAC is allocated as incidental catch in the primary directed longline sablefish fishery north of 46°53'18" N. lat. (Point Chehalis, Washington). In accordance with the catch sharing plan, this fishing opportunity is only available in years in which the Area 2A TAC is greater than 900,000 pounds, provided that a minimum of 10,000 pounds is available. Each year that this harvest is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the Federal Register. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings.
 - (i) In years when this incidental harvest of halibut in the directed sablefish fishery north of 46°53'18" N. lat allowed, it is allowed only by vessels using longline gear and possessing the appropriate incidental halibut harvest license issued by the IPHC.
 - (ii) It is unlawful for any person to possess or land halibut south of 46°53'18" N. lat that were taken and retained north of 46°53'18" N. lat in the directed sablefish fishery

authorized under ' 300.63(3)(i).

- (4)(3) The commercial longline fishery in area 2A is governed by the annual management measures published pursuant to §§ 300.62 and 300.63.
- (5)(4) The treaty Indian fishery is governed by § 300.64 and tribal regulations. The annual quota for the fishery will be announced with the Commission regulations under § 300.62

APPENDIX B--2001 Pacific Halibut Catch Sharing Plan for Area 2a

(a) FRAMEWORK

This Plan constitutes a framework that shall be applied to the annual Area 2A total allowable catch (TAC) approved by the International Pacific Halibut Commission (IPHC) each January. The framework shall be implemented in both IPHC regulations and domestic regulations (implemented by NMFS) as published in the *Federal Register*.

(b) ALLOCATIONS

(1) Except as provided below under (b)(2), this Plan allocates 35 percent of the Area 2A TAC to U.S. treaty Indian tribes in the State of Washington in subarea 2A-1, and 65 percent 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. Allocations within the non-Indian commercial and sport fisheries are described in sections (e) and (f) of this Plan. These allocations may be changed if new information becomes available that indicates a change is necessary and/or the Pacific Fishery Management Council takes action to reconsider its allocation recommendations. Such changes will be made after appropriate rulemaking is completed and published in the *Federal Register*.

(2) To meet the requirements of U.S. District Court Stipulation and Order (*U.S., et al. v. State of Washington, et al.* Case No. 9213 Phase I, Subproceeding No. 92-1, Stipulation and Order, July 7, 1999), 25,000 lb (11.3 mt) dressed weight of halibut will be transferred from the non-treaty Area 2A halibut allocation to the treaty allocation in Area 2A-1 each year for eight years commencing in the year 2000 and ending in the year 2007, for a total transfer of 200,000 lb (90.7 mt). To accelerate the total transfer, more than 25,000 lb (11.3 mt) may be transferred in any year upon prior written agreement of the parties to the stipulation.

(c) SUBQUOTAS

The allocations in this Plan are distributed as subquotas to ensure that any overage or underage by any one group will not affect achievement of an allocation set aside for another group. The specific allocative measures in the treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A are described in paragraphs (d) through (f) of this Plan.

(d) TREATY INDIAN FISHERIES

Except as provided above in (b)(2), thirty-five 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°53'18" N. lat.) and east of 125°44'00" W. long. The treaty Indian allocation is to provide for a tribal commercial fishery and a ceremonial and subsistence fishery. These two fisheries are managed separately; any overages in the commercial fishery do not affect the ceremonial and subsistence fishery. The commercial fishery is managed to achieve an established subquota, while the ceremonial and subsistence fishery is managed for a year-round season. The tribes will estimate the ceremonial and subsistence harvest expectations in January of each year, and the remainder of the allocation will be for the tribal commercial fishery.

- (1) The tribal ceremonial and subsistence fishery begins on January 1 and continues through December 31. No size or bag limits will apply to the ceremonial and subsistence fishery, except that when the tribal commercial fishery is closed, treaty Indians may take and retain not more than two halibut per day per person for subsistence purposes. Ceremonial fisheries shall be managed by tribal regulations promulgated inseason to meet the needs of specific ceremonial events. Halibut taken for ceremonial and subsistence purposes may not be offered for sale or sold.
- (2) The tribal commercial fishery begins between March 1 and April 1 and continues through November 15 or until the tribal commercial subquota is taken, whichever is earlier. Any halibut sold by treaty

Indians during the commercial fishing season must comply with IPHC regulations on size limits for the non-Indian fishery.

(e) NON-INDIAN COMMERCIAL FISHERIES

The non-Indian commercial fishery is allocated 31.7 percent of the non-Indian share of the Area 2A TAC for a directed halibut fishery and an incidental catch fishery during the salmon troll fishery. The non-Indian commercial allocation is approximately 20.6 percent of the Area 2A TAC. Incidental catch of halibut in the primary directed sablefish fishery north of Point Chehalis, WA will be authorized if the Washington sport allocation exceeds 224,110 lb (101.7 mt) as described in section (e)(3) of this Plan. The structuring and management of these three fisheries is as follows.

(1) Incidental halibut catch in the salmon troll fishery.

Fifteen percent of the non-Indian commercial fishery allocation is allocated to the salmon troll fishery in Area 2A as an incidental catch during salmon fisheries. The quota for this incidental catch fishery is approximately 3.1 percent of the Area 2A TAC. The primary management objective for this fishery is to harvest the troll quota as an incidental catch during the May/June salmon troll fishery. The secondary management objective is to harvest the remaining troll quota as an incidental catch during the July through September salmon troll fishery.

- (i) The Council will recommend landing restrictions at its spring public meeting each year to control the amount of halibut caught incidentally in the troll fishery. The landing restrictions will be based on the number of incidental harvest license applications submitted to the IPHC, halibut catch rates, the amount of allocation, and other pertinent factors, and may include catch or landing ratios, landing limits, or other means to control the rate of halibut harvest. NMFS will publish the landing restrictions annually in the *Federal Register*, along with the salmon management measures.
- (ii) Inseason adjustments to the incidental halibut catch fishery.
 - (A) NMFS may make inseason adjustments to the landing restrictions, if requested by the Council Chairman, as necessary to assure that the incidental harvest rate is appropriate for salmon and halibut availability, does not encourage target fishing on halibut, and does not increase the likelihood of exceeding the quota for this fishery. In determining whether to make such inseason adjustments, NMFS will consult with the applicable state representative(s), a representative of the Council's Salmon Advisory Sub-Panel, and Council staff.
 - (B) Notice and effectiveness of inseason adjustments will be made by NMFS in accordance with paragraph (f)(5) of this Plan.
- (iii) If the overall quota for the non-Indian, incidental commercial troll fishery has not been harvested by salmon trollers during the May/June fishery, additional landings of halibut caught incidentally during salmon troll fisheries will be allowed in July and will continue until the amount of halibut that was initially available as quota for the troll fishery is taken or the overall non-Indian commercial quota is estimated to have been achieved by the IPHC. Landing restrictions implemented for the May/June salmon troll fishery will apply for as long as this fishery is open. Notice of the July opening of this fishery will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut retention in the salmon troll fishery will be allowed in July unless the July opening has been announced on the NMFS hotline.
- (iv) A salmon troller may participate in this fishery or in the directed commercial fishery targeting halibut, but not in both.

(2) Directed fishery targeting halibut.

Eighty-five percent of the non-Indian commercial fishery allocation is allocated to the directed fishery targeting halibut (e.g., longline fishery) in southern Washington, Oregon, and California. The allocation for this directed catch fishery is approximately 17.5 percent of the Area 2A TAC. This fishery is confined to the area south of Subarea 2A-1 (south of Point Chehalis, WA; 46°53'18" N. lat.). The commercial fishery opening date(s), duration, and vessel trip limits, as necessary to ensure that the quota for the non-Indian commercial fisheries is not exceeded, will be determined by the IPHC and implemented in IPHC regulations. If the IPHC determines that poundage remaining in the quota for the non-Indian commercial fisheries is insufficient to allow an additional day of directed halibut fishing, the remaining halibut will be made available for incidental catch of halibut in the fall salmon troll fisheries (independent of the incidental harvest allocation).

(3) Incidental catch in the sablefish fishery north of Point Chehalis.

If the Area 2A TAC is greater than 900,000 lb (408.2 mt), the primary directed sablefish fishery north of Point Chehalis will be allocated the Washington sport allocation that is in excess of 214,110 lb (97.1 mt), provided a minimum of 10,000 lb (4.5 mt) is available (i.e., the Washington sport allocation is 224,110 lb (101.7 mt) or greater). If the amount above 214,110 lb (97.1 mt) is less than 10,000 lb (4.5 mt), then the excess will be allocated to the Washington sport subareas according to section (f) of this Plan.

The Council will recommend landing restrictions at its spring public meeting each year to control the amount of halibut caught incidentally in this fishery. The landing restrictions will be based on the amount of the allocation and other pertinent factors, and may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings. NMFS will publish the landing restrictions annually in the Federal Register.

(4) Commercial license restrictions/declarations.

Commercial fishers must choose either (1) to operate in the directed commercial fishery in Area 2A and/or retain halibut caught incidentally in the primary directed sablefish fishery north of Point Chehalis, WA or (2) to retain halibut caught incidentally during the salmon troll fishery. Commercial fishers operating in the directed halibut fishery and/or retaining halibut incidentally caught in the primary directed sablefish fishery must send their license application to the IPHC postmarked no later than April 30, or the first weekday in May, if April 30 falls on a weekend, in order to obtain a license to fish for halibut in Area 2A. Commercial fishers operating in the salmon troll fishery who seek to retain incidentally caught halibut must send their application for a license to the IPHC for the incidental catch of halibut in Area 2A postmarked no later than March 31, or the first weekday in April, if March 31 falls on a weekend. Fishing vessels licensed by IPHC to fish commercially in Area 2A are prohibited from operating in the sport fisheries in Area 2A.

(f) SPORT FISHERIES

The non-Indian sport fisheries are allocated 68.3 percent of the non-Indian share, which is approximately 44.4 percent of the Area 2A TAC. The allocation is further divided as subquotas among seven geographic subareas.

(1) Subarea management. The sport fishery is divided into seven sport fishery subareas, each having separate allocations and management measures as follows.

(i) Washington inside waters (Puget Sound) subarea.

This sport fishery subarea is allocated 23.5 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 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 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. The structuring objective for this subarea is to provide a stable sport fishing opportunity and

maximize the season length. Due to inability to monitor the catch in this area inseason, a fixed season will be established preseason based on projected catch per day and number of days to achievement of the quota. No inseason adjustments will be made, and estimates of actual catch will be made postseason. The fishery will open in May and continue at least through July 4, or until a date established preseason (and published in the sport fishery regulations) when the quota is predicted to be taken, or until September 30, whichever is earlier. The Washington Department of Fish and Wildlife will sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the opening date and weekly structure of the fishery each year. The daily bag limit is one fish per person, with no size limit.

(ii) Washington north coast subarea.

This sport fishery subarea is allocated 62.2 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 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 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°31'42" N. lat.). The structuring objective for this subarea is to maximize the season length for viable fishing opportunity and, if possible, stagger the seasons to spread out this opportunity to anglers who utilize these remote grounds. The fishery opens on May 1, and continues 5 days per week (Tuesday through Saturday). If May 1 falls on a Sunday or Monday, the fishery will open on the following Tuesday. The highest priority is for the season to last through the month of May. If sufficient quota remains, the second priority is to establish a fishery that will be open July 1, through at least July 4. If the preseason prediction indicates that these two goals can be met without using the quota for this subarea, then the next priority is to extend the fishery into June and continue for 5 days per week (Tuesday through Saturday) for as long a period as possible. No sport fishing for halibut is allowed after September 30. The daily bag limit in all fisheries is one halibut per person with no size limit. A closure to sport fishing for halibut will be established in an area that is approximately 19.5 nm (36.1 km) southwest of Cape Flattery. The size of this closed area may be modified preseason by NMFS to maximize the season length. The closed area is defined as the area within a rectangle defined by these four corners: 48°18'00" N. lat., 125°11'00" W. long.; 48°18'00" N. lat., 124°59'00" W. long.; 48°04'00" N. lat., 125°11'00" W. long.; 48°04'00" N. lat., 124°59'00" W. long.

(iii) Washington south coast subarea.

This sport fishery is allocated 12.3 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 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 is defined as waters south of the Queets River (47°31'42" N. lat.) and north of Leadbetter Point (46°38'10" 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". The fishery will continue until September 30, or until the quota is achieved, whichever occurs first. Subsequent to this closure, if any remaining quota is insufficient for an offshore fishery, but is sufficient for a nearshore fishery, the area from the Queets River south to 47°00'00" N. lat. and east of 124°40'00" W. long. will reopen for 7 days per week until either the remaining subarea quota is estimated to have been taken and the season is closed by the IPHC, or until September 30, whichever occurs first. The daily bag limit is one halibut per person, with no size limit.

(iv) Columbia River subarea.

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 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 2.0 percent of the Oregon/California sport allocation. This subarea is defined as waters south

of Leadbetter Point, WA (46°38'10" N. lat.) and north of Cape Falcon, OR (45°46'00" N. lat.). The fishery will open on May 1, and continue 7 days per week until the subquota is estimated to have been taken, or September 30, whichever is earlier. The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

(v) Oregon north central coast subarea.

If the Area 2A TAC is 388,350 lb (176.2 mt) and greater, this subarea extends from Cape Falcon to the Siuslaw River at the Florence north jetty (44°01'08" N. lat.) and is allocated 88.03 percent of the Oregon/California sport allocation, which is approximately 18.13 percent of the Area 2A TAC. If the Area 2A TAC is less than 388,350 lb (176.2 mt), this subarea extends from Cape Falcon to the Humbug Mountain, Oregon (42°40'30" N. lat.) and is allocated 95.0 percent of the Oregon/California sport allocation. The structuring objectives for this subarea are to provide two periods of fishing opportunity in May and in August in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and provide a period of fishing opportunity in the summer for nearshore waters for small boat anglers. Fixed season dates will be established preseason for the May and August openings and will not be modified inseason except that the August openings may be modified inseason if the combined Oregon all-depth quotas are estimated to be achieved. Recent year catch rates will be used as a guideline for estimating the catch rate for the May and August fishery each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas. ODFW will monitor landings and provide a post-season estimate of catch within 2 weeks of the end of the fixed season. If sufficient catch remains for an additional day of fishing after the May season or the August season, openings will be provided if possible in May and August respectively. Potential additional open dates for both the May and August seasons will be announced preseason. If a decision is made inseason to allow fishing on one or more additional days, notice of the opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No all-depth halibut fishing will be allowed on the additional dates unless the opening date has been announced on the NMFS hotline. Any poundage remaining unharvested in the May all-depth subquota will be added to the August all-depth sub-quota. Any poundage that is not needed to extend the inside 30-fathom fishery through to September 30 will be added to the August all-depth season if it can be utilized, and any poundage remaining unharvested from the August all-depth fishery will be added to the inside 30-fathom fishery subquotas. The daily bag limit for all seasons is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length. ODFW will sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the open dates for each season each year. The three seasons for this subarea are as follows.

A. The first season opens on May 1, only in waters inside the 30-fathom (55 m) curve, and continues daily until the combined subquotas for the north central and south central inside 30-fathom fisheries (7 percent of the north central subarea quota plus 20 percent of the south central subarea quota) are taken, or until September 30, whichever is earlier. Poundage that is estimated to be above the amount needed to keep this season open through September 30 will be transferred to the August all-depth fishery if it can be utilized. Any overage in the all-depth fisheries would not affect achievement of allocation set aside for the inside 30-fathom curve fishery.

B. The second season is an all-depth fishery that begins on the second Thursday in May and is allocated 68 percent of the subarea quota. Fixed season dates will be established preseason based on projected catch per day and number of days to achievement of the subquota for this season. No inseason adjustments will be made, except that additional opening days (established preseason) may be allowed if any quota for this season remains unharvested. The fishery will be structured for 2 days per week (Friday and Saturday) if the season is for 4 or fewer fishing days. The fishery will be structured for 3 days per week (Thursday through Saturday) if the season is for 5 or more fishing days.

C. The last season is a coastwide (Cape Falcon, Oregon to Humbug Mountain, Oregon) all-

depth fishery that begins on the first Friday in August and is allocated 25 percent of the subarea quota. Fixed season dates will be established preseason based on projected catch per day and number of days to achievement of the combined Oregon all-depth quotas for the Central and South Oregon Coast subareas. The fishery will be structured for 2 days per week (Friday and Saturday). No inseason adjustments will be made (unless the combined Oregon all-depth quotas are estimated to be achieved), except that additional opening days may be allowed if quota remains unharvested. If quota remains unharvested, but is insufficient for one day of an all-depth fishery, that additional quota will be transferred to the fisheries inside the 30-fathom (55 m) curve.

(vi) Oregon south central coast subarea.

If the Area 2A TAC is 388,350 lb (176.2 mt) and greater, this subarea extends from the Siuslaw River at the Florence north jetty (44°01'08" N. lat.) to Humbug Mountain, Oregon (42°40'30" N. lat.) and is allocated 6.97 percent of the Oregon/California sport allocation, which is approximately 1.43 percent of the Area 2A TAC. If the Area 2A TAC is less than 388,350 lb (176.2 mt), this subarea will be included in the Oregon Central Coast subarea. The structuring objective for this subarea is to create a south coast management zone that has the same objectives as the Oregon central coast subarea and is designed to accommodate the needs of both charterboat and private boat anglers in the south coast subarea where weather and bar crossing conditions very often do not allow scheduled fishing trips. Fixed season dates will be established preseason for the May and August openings and will not be modified inseason except that the August openings may be modified inseason if the combined Oregon all-depth quotas are estimated to be achieved. Recent year catch rates will be used as a guideline for estimating the catch rate for the May and August fishery each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas. ODFW will monitor landings and provide a post-season estimate of catch within 2 weeks of the end of the fixed season. If sufficient quota remains for an additional day of fishing after the May season or the August season, openings will be provided if possible in May and August respectively. Potential additional open dates for both the May and August seasons will be announced preseason. If a decision is made inseason to allow fishing on one or more additional days, notice of the opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No all-depth halibut fishing will be allowed on the additional dates unless the opening date has been announced on the NMFS hotline. Any poundage remaining unharvested in the May all-depth subquota will be added to the August all-depth sub-quota. Any poundage that is not needed to extend the inside 30-fathom fishery through to September 30 will be added to the August all-depth season if it can be utilized, and any poundage remaining unharvested from the August all-depth fishery will be added to the inside 30-fathom fishery subquotas. The daily bag limit for all seasons is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length. ODFW will sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the open dates for each season each year. The three seasons for this subarea are as follows.

A. The first season opens on May 1, only in waters inside the 30-fathom (55 m) curve, and continues daily until the combined subquotas for the north central and south central inside 30-fathom fisheries (7 percent of the north central subarea quota plus 20 percent of the south central subarea quota) are taken, or until September 30, whichever is earlier. Poundage that is estimated to be above the amount needed to keep this season open through September 30 will be transferred to the August all-depth fishery if it can be utilized. Any overage in the all-depth fisheries would not affect achievement of allocation set aside for the inside 30-fathom curve fishery.

B. The second season is an all-depth fishery that begins on the second Thursday in May and is allocated 80 percent of the subarea quota. Fixed season dates will be established preseason based on projected catch per day and number of days to achievement of the subquota for this

season. No inseason adjustments will be made, except that additional opening days (established preseason) may be allowed if any quota for this season remains unharvested. The fishery will be structured for 2 days per week (Friday and Saturday) if the season is for 4 or fewer fishing days. The fishery will be structured for 3 days per week (Thursday through Saturday) if the season is for 5 or more fishing days.

C. The last season is a coastwide (Cape Falcon, OR to Humbug Mountain, OR) all-depth fishery that begins on the first Friday in August. Fixed season dates will be established preseason based on projected catch per day and number of days to achievement of the combined Oregon all-depth quotas for the Central and South Oregon Coast subareas. The fishery will be structured for 2 days per week (Friday and Saturday). No inseason adjustments will be made (unless the combined Oregon all-depth quotas are estimated to be achieved), except that additional opening days may be allowed if quota remains unharvested. If quota remains unharvested, but is insufficient for one day of an all-depth fishery, that additional quota will be transferred to the fisheries inside the 30 fathom (55 m) curve.

(vii) South of Humbug Mountain subarea.

This sport fishery subarea is allocated 3.0 percent of the Oregon/California subquota, which is approximately 0.62 percent of the Area 2A TAC. This area is defined as the area south of Humbug Mountain, OR (42°40'30" N. lat.), including California waters. The structuring objective for this subarea is to provide anglers the opportunity to fish in a continuous, fixed season that is open from May 1 through September 30. The daily bag limit is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length. Due to inability to monitor the catch in this area inseason, a fixed season will be established preseason by NMFS based on projected catch per day and number of days to achievement of the subquota; no inseason adjustments will be made, and estimates of actual catch will be made post season.

- (2) Port of landing management. All sport fishing in Area 2A will be managed on a "port of landing" basis, whereby any halibut landed into a port will count toward the quota for the subarea in which that port is located, and the regulations governing the subarea of landing apply, regardless of the specific area of catch.
- (3) Possession limits. The sport possession limit on land north of Leadbetter Point, WA is two daily bag limits, regardless of condition, but only one daily bag limit may be possessed on the vessel. The possession limit on land south of Leadbetter Point, WA is the same as the bag limit.
- (4) Ban on sport vessels in the commercial fishery. Vessels operating in the sport fishery for halibut in Area 2A are prohibited from operating in the commercial halibut fishery in Area 2A. Sport fishers and charterboat operators must determine, prior to May 1 of each year, whether they will operate in the commercial halibut fisheries in Area 2A which requires a commercial fishing license from the IPHC. Sport fishing for halibut in Area 2A is prohibited from a vessel licensed to fish commercially for halibut in Area 2A.
- (5) Flexible inseason management provisions.
 - (i) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the IPHC Executive Director, and the Fisheries Director(s) of the affected state(s), or their designees, is authorized to modify regulations during the season after making the following determinations.
 - (A) The action is necessary to allow allocation objectives to be met.
 - (B) The action will not result in exceeding the catch limit for the area.
 - (C) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to

utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to a Washington sport subarea projected to have the fewest number of sport fishing days in the calendar year.

- (ii) Flexible inseason management provisions include, but are not limited to, the following:
 - (A) Modification of sport fishing periods;
 - (B) Modification of sport fishing bag limits;
 - (C) Modification of sport fishing size limits;
 - (D) Modification of sport fishing days per calendar week; and
 - (E) Modification of subarea quotas north of Cape Falcon, OR consistent with the standards in section (f)(5)(i)(C) of this Plan
- (iii) Notice procedures.
 - (A) Inseason actions taken by NMFS will be published in the *Federal Register*.
 - (B) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 800-662-9825 (May through September) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishermen should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.
- (iv) Effective dates.
 - (A) Inseason actions will be effective on the date specified in the Federal Register notice or at the time that the action is filed for public inspection with the Office of the Federal Register, whichever is later.
 - (B) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the *Federal Register*. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after of the action in the *Federal Register*.
 - (C) Inseason actions will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.
- (v) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA.
- (6) Sport fishery closure provisions.

The IPHC shall determine and announce closing dates to the public for any subarea in which a subquota is estimated to have been taken. When the IPHC has determined that a subquota has been taken, and has announced a date on which the season will close, no person shall sport fish for halibut

in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled by NMFS as an inseason action, or announced by the IPHC.

(g) PROCEDURES FOR IMPLEMENTATION

Each year, NMFS will publish a proposed rule with any regulatory modifications necessary to implement the Plan for the following year, with a request for public comments. The comment period will extend until after the IPHC annual meeting, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments. After the Area 2A TAC is known, and after NMFS reviews public comments, NMFS will implement final rules governing the sport fisheries. The final ratio of halibut to chinook to be allowed as incidental catch in the salmon troll fishery will be published with the annual salmon management measures.

Sources: 65 FR 14909 (March 20, 2000)
 64 FR 13519 (March 19, 1999)
 63 FR 13000 (March 17, 1998)
 62 FR 12759 (March 18, 1997)
 61 FR 11337 (March 20, 1996)
 60 FR 14651 (March 20, 1995)
 59 FR 22522 (May 2, 1994)
 58 FR 17791 (April 6, 1993)

Sources: 63 FR 13000 (March 17, 1998)
 62 FR 12759 (March 18, 1997)
 61 FR 11337 (March 20, 1996)
 60 FR 14651 (March 20, 1995)
 59 FR 22522 (May 2, 1994)
 58 FR 17791 (April 6, 1993)

PROPOSED FRAMEWORK REGULATIONS AND 2001 MANAGEMENT RESTRICTIONS

Proposed Framework Regulations

To implement the landing ratio or other annual restrictions that provide for management of the incidental halibut harvest in the directed sablefish fishery north of Point Chehalis, the regulations at 50 CFR 300 need to be modified. This is the same section of the regulations which allow the Council to set various landing restrictions each year for the incidental halibut harvest in the salmon troll fishery. The regulations could be modified as follows (new text is underlined):

§ 300.63 Catch sharing plans, local area management plans, and domestic management measures.

Catch sharing plans (CSP) and local area management plans (LAMP) may be developed by the appropriate regional fishery management council, and approved by NMFS, for portions of the fishery. Any approved CSP or LAMP may be obtained from the Administrator, Northwest Region, or the Administrator, Alaska Region.

(a) The catch sharing plan for area 2A provides a framework that shall be applied to the annual Area 2A total allowable catch (TAC) adopted by the Commission, and shall be implemented through domestic and Commission regulations, which will be published in the Federal Register each year before March 15. The Area 2A CSP allocates halibut among the treaty Indian fishery, segments of the non-Indian commercial fishery, and segments of the recreational fishery.

(1) Each year, before January 1, NMFS will publish a proposal to govern the recreational fishery under the CSP for the following year and will seek public comment. The comment period will extend until after the Commission's annual meeting, so the public will have the opportunity to consider the final area 2A total allowable catch (TAC) before submitting comments. After the Commission's annual meeting and review of public comments, NMFS will publish in the Federal Register the final rule governing sport fishing in area 2A. Annual management measures may be adjusted inseason by NMFS.

(2) A portion of the commercial TAC is allocated as incidental catch in the salmon troll fishery in Area 2A. Each year, the landing restrictions necessary to keep the fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the *Federal Register* along with the annual salmon management measures.

(3) A portion of the Area 2A Washington recreational TAC is allocated as incidental catch in the primary directed longline sablefish fishery north of 46°53'18" N. lat. (Point Chehalis, Washington). In accordance with the catch sharing plan, this fishing opportunity is only available in years in which the Area 2A TAC is greater than 900,000 pounds, provided that a minimum of 10,000 pounds is available. Each year that this harvest is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the Federal Register. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings.

(i) In years when this incidental harvest of halibut in the directed sablefish fishery north of 46°53'18" N. lat. is allowed, it is allowed only by vessels using longline gear and possessing the appropriate incidental halibut harvest license issued by the IPHC.

(ii) It is unlawful for any person to possess or land halibut south of 46°53'18" N. lat that were taken and retained north of 46°53'18" N. lat in the directed sablefish fishery authorized under § 300.63(3)(i).

~~(4)(3)~~ The commercial longline fishery in area 2A is governed by the annual management measures published pursuant to §§ 300.62 and 300.63.

~~(5)(4)~~ The treaty Indian fishery is governed by § 300.64 and tribal regulations. The annual quota for the fishery will be announced with the Commission regulations under § 300.62

Proposed 2001 Management Restrictions

There are a number of regulatory approaches that may be taken to ensure that the incidental nature of the fishery is maintained while allowing opportunity for harvest up to the annual halibut allocation. The most obvious approaches utilize the establishment of a ratio between the amount of halibut landed and the amount of sablefish landed. This ratio can be determined from the number of tier endorsed vessels registering for the IPHC permits to take halibut in the incidental fishery, the allowed sablefish harvest for these vessels, and the available total allowable catch (TAC) for incidental halibut in the directed sablefish fishery. Based on preliminary data, an appropriate ratio in terms of pounds of halibut per pound of sablefish is 0.039 pounds of halibut per pound of sablefish. From this ratio there are a number of ways to construct the regulations.

Regulatory Approach	Concerns/Advantages
Pounds of halibut per pound of sablefish	Halibut are large fish making it difficult to comply with a poundage ratio.
Number of halibut per pounds of sablefish (Ratio)	Regulation has to be based on an assumed average size of halibut in the commercial fishery. Fishers may highgrade to obtain larger halibut. Enforcement will have to be at-sea or dockside. Halibut counts are not recorded on fish tickets.
Set ratios conservatively to minimize likelihood of need for inseason adjustment	If ratios are set conservatively to minimize the need for inseason adjustments, fishers may not be able to take the full amount of harvest allowed.
Set ratio more liberally and ensure conservation goal is achieved through inseason monitoring.	If ratios are based on the average size of commercial halibut, highgrading by fishers may result in harvest in excess of the allocation for the fishery. Some fishers may increase the intensity of their harvest effort to ensure they have an opportunity to retain halibut incidental catch before the end of the season. [A preliminary estimate of the worth of the halibut incidental catch for a Tier 1 vessel might be \$5,800. With stacking, this value could be substantially higher.]
Number of halibut per pounds of sablefish plus a cumulative limit for the season. (Cumulative limit for halibut based on amount of sablefish a vessel can land).	Reduces need for inseason adjustment. Ensures an opportunity for fishers to fully access the available incidental harvest allowed for the fishery. Ensures that regulations can be enforced after the season by auditing fish tickets in the same manner as will likely occur for the directed sablefish fishery. [Number of halibut are also recorded in the IPHC required logbook.]

An example of the annual restrictions for 2001, based just on a landing ratio (no cumulative poundage limit), could be as follows:

- (a) The incidental harvest of halibut in the directed sablefish fishery north of 46°53'18" (Point Chehalis) is allowed by vessels possessing groundfish limited entry fixed gear sablefish permits and the appropriate incidental halibut harvest license issued by the IPHC. ***Incidental harvest is not allowed for vessels fishing under daily trip limit regulations during the primary directed sablefish fishery.***
- (b) In 2001, this fishery will be restricted to a total harvest of 47,946 pounds (21.3 mt).
- (c) To maintain a purely incidental fishery, properly licensed vessels may retain and land 1 halibut for every 480 pounds (round weight) of sablefish landed and up to 2 additional halibut in excess of the 1 per 480 pound ratio per landing. (The additional 2 halibut provide some flexibility in meeting the ratio restriction.) The landing ratio may be adjusted inseason to help ensure access to the incidental harvest without exceeding the halibut allocation.
- (d) South of Point Chehalis Washington, it is unlawful for a vessel to fish for, *take, retain*, transport, *possess, land* or sell halibut caught incidentally in the sablefish fishery (even if the halibut were caught north of Point Chehalis).

PPMC
04/05/01

GROUND FISH ADVISORY SUBPANEL STATEMENT ON
PACIFIC HALIBUT MANAGEMENT

The Groundfish Advisory Subpanel (GAP) received a briefing from Council staff on a proposed framework to provide halibut incidental allowances to the longline fishery north of Pt. Chehalis.

The GAP generally supports the framework approach, but does caution the Council that this could cause an effort increase in this area, which should be monitored.

PPMC
04/04/01