

*Instructions:* All submissions received must include the agency name and docket number or RIN for this proposed rulemaking.

**FOR FURTHER INFORMATION CONTACT:**

Laura Engleby, 727-824-5312, or Barb Zoodsma, 904-321-2806. Individuals who use telecommunications devices for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 4 p.m. eastern time, Monday through Friday, excluding Federal holidays.

*Electronic Access:* Regulations and background documents for the ALWTRP can be downloaded from the ALWTRP web site at <http://www.nero.noaa.gov/whaletrp/>.

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 15, 2006, NMFS published a proposed rule to revise the regulations implementing the ALWTRP by expanding the southeast U.S. restricted area and modifying regulations pertaining to gillnetting within the southeast U.S. restricted area (71 FR 66482). That proposed rule allowed for a NMFS' 30-day public comment period, which ended on December 15, 2006.

NMFS subsequently received requests from the State of North Carolina and the Marine Mammal Commission (MMC) to extend the comment period. These requests stated that more time is necessary for the North Carolina public and members of the MMC to more fully review and provide comments on the proposed rule. Therefore, NMFS is reopening the public comment period for 15 additional days to allow additional time for these requesters and other interested parties to provide comments while ensuring permanent protections are in place for right whales before the end of the calving season. In this notice, NMFS is reopening the public comment period for 15 days from January 16, 2007 until January 31, 2007.

**Authority:** 16 U.S.C. 1361 *et seq.*; § 229.32(f) also issued under 16 U.S.C. 1531 *et seq.*

Dated: January 8, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

[Docket No. 061229343-6343-01; I.D. 121406A]

RIN 0648-AV03

**Pacific Halibut Fisheries; Catch Sharing Plan**

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes to approve and implement changes to the Pacific Halibut Catch Sharing Plan (Plan) for the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC, which includes the sport fishery management measures for Area 2A. NMFS also proposes to revise the Area 2A non-treaty commercial fishery closed areas, codified at 50 CFR part 300, subpart E. These actions are intended to enhance the conservation of Pacific halibut, to provide greater angler opportunity where available, to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries, and to ensure consistency between Federal groundfish and halibut regulations and between State and Federal regulations.

**DATES:** Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management measures must be received no later than 5 p.m., local time on February 2, 2007.

**ADDRESSES:** Copies of the Plan, Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and/or Categorical Exclusion (CE) are available from D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070. Electronic copies of the Plan, including proposed changes for 2007, and of the CE and draft RIR/IRFA are also available at the NMFS Northwest Region website: <http://www.nwr.noaa.gov>, click on "Groundfish & Halibut."

You may submit comments on the proposed Plan and domestic Area 2A halibut management measures or supporting documents, identified by I.D.

121406A, by any of the following methods:

- E-mail:

*PHalibut2007.nwr@noaa.gov*. Include the I.D. number 121406A in the subject line of the message.

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

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

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

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** The Northern Pacific Halibut Act (Halibut Act) of 1982, at 16 U.S.C. 773c, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (Halibut Convention). It requires the Secretary to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and the Halibut Act. Section 773c of the Halibut Act authorizes the regional fishery management councils to develop regulations governing the Pacific halibut catch in their corresponding U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Each year between 1988 and 1995, the Pacific Fishery Management Council (Pacific Council) had developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in Area 2A.

In 1995, NMFS implemented the Pacific Council-recommended long-term Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC plus 25,000 lb (11.3 mt) to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent minus 25,000 lb (11.3 mt) to non-Indian fisheries in Area 2A. The annual shift of 25,000 lb (11.3 mt) from the non-tribal to the tribal fisheries has been made in response to a court order; 2007 is the final year that this shift must be made. The allocation to non-Indian fisheries is

divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53.30' N. lat.), Oregon, and California. North of 46°53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry longline sablefish fishery when the overall Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into seven geographic subareas, each with separate allocations, seasons, and bag limits.

The Area 2A TAC will be set by the IPHC at its annual meeting on January 16–19, 2007, in Victoria, BC. NMFS requests public comments on the Pacific Council's recommended modifications to the Plan and the proposed domestic fishing regulations by February 2, 2007. This allows the public the opportunity to consider the final Area 2A TAC before submitting comments on the proposed rule. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the Area 2A TAC is known and after NMFS reviews public comments and comments from the states, NMFS will issue a final rule for the Area 2A Pacific halibut fisheries concurrent with the IPHC regulations for the 2007 Pacific halibut fisheries.

**Pacific Council Recommended Changes to the Plan and Domestic Fishing Regulations**

Each year, the states (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW)) and tribes consider whether changes to the Plan are needed or desired by their fishery participants. Fishery managers from the states hold public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September 2006 Pacific Council meeting, WDFW recommended several changes to the Plan and ODFW and the tribes announced that they had no proposals for revising the Plan in 2007. Following the meeting, the states again reviewed their proposals with the public and drafted their recommended revisions for review by the Pacific Council.

At its November 13–17, 2006, meeting in Del Mar, CA, the Pacific Council considered the results of state-sponsored workshops on the proposed changes to the Plan, NMFS-proposed changes to the Plan, and public comments, and made final recommendations for modifications to the Plan as follows:

(1) Constrain the Washington North Coast subarea June fishery to two specific nearshore areas on the first Tuesday and Thursday following June 17;

(2) Reopen the Washington North Coast subarea June fishery in the entire north coast subarea on the first Saturday following June 17;

(3) If sufficient quota remains, reopen the entire Washington North Coast subarea for one day on the first Thursday following June 24, otherwise, reopen the nearshore areas on the first Thursday following June 24 for up to four days per week (Thursday-Sunday) until the quota is taken;

(4) Set aside 5 percent of the Washington South Coast subarea quota for the nearshore fishery once the primary fishery has closed;

(5) Set the Washington South Coast subarea nearshore fishery as a 2-day per week fishery, open Fridays and Saturdays;

(6) Implement additional closed areas (Yelloweye Rockfish Conservation Areas, or YRCAs) off the coast of Washington that would affect commercial and sport halibut fisheries;

(7) Remove latitude/longitude coordinates from the Plan but refer to the regulations in which they are published to reduce duplication;

(8) Remove language referring to salmon troll fishery July-September season;

(9) Add a definition of the Bonilla-Tatoosh line; and

(10) Decrease the California possession limit on land from two daily limits to one daily limit statewide to conform with state regulation.

#### **Proposed Changes to the Plan**

NMFS is proposing to approve the Pacific Council recommendations and to implement the above-described changes by making the following changes to the Plan:

In section (e) of the Plan, Non-Indian Commercial Fisheries, revise the last sentence of paragraph (1) to read as follows:

The secondary management objective is to harvest the remaining troll quota as an incidental catch during the remainder of the salmon troll fishery.

In section (e) of the Plan, Non-Indian Commercial Fisheries, revise paragraph (1)(iii) to read as follows:

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 until the end of the season date for commercial halibut fishing determined by the IPHC and implemented in IPHC regulation. 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. Halibut retention in the salmon troll fishery will be allowed after June only if the opening has been announced on the NMFS hotline.

In section (e) of the Plan, Non-Indian Commercial Fisheries, add paragraph (1)(v) to read as follows:

Under the Pacific Coast groundfish regulations at 50 CFR 660.383, fishing with salmon troll gear is prohibited within the Salmon Troll Yelloweye Rockfish Conservation Area (YRCA). The Salmon Troll YRCA is an area off the northern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the Salmon Troll YRCA are specified in groundfish regulations at 50 CFR 660.390 and in salmon regulations at 50 CFR 660.405.

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

Any such closed areas will be described annually in Federal halibut regulations published in the **Federal Register** and specifically defined at 50 CFR 300.63(e).

In section (e) of the Plan, Non-Indian Commercial Fisheries, add a third paragraph to paragraph (3) to read as follows:

Under Pacific Coast groundfish regulations at 50 CFR 660.382, fishing with limited entry fixed gear is prohibited within the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA) and the Non-Trawl Rockfish Conservation Area (RCA). The North Coast Commercial YRCA is an area off the northern Washington coast, overlapping the northern part of the North Coast Recreational YRCA. The Non-Trawl RCA is an area off the Washington coast. These closed areas are defined by

straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.390. Coordinates for the Non-Trawl RCA are specified in groundfish regulations at 50 CFR 660.393.

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

The fishery will then reopen for two days on the first Tuesday and Thursday following June 17, in the following nearshore areas only:

A. WDFW Marine Catch Area 4B, which is all waters west of the Sekiu River mouth, 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., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

B. Shoreward of the recreational halibut 30–fm boundary line, a modified line approximating the 30–fm depth contour from the Bonilla-Tatoosh line south to the Queets River. Coordinates for the closed area will be specifically defined annually in federal halibut regulations published in the **Federal Register**.

The fishery will reopen for one day on the first Saturday following June 17 in the entire north coast subarea. If sufficient quota remains, the fishery would reopen, as a first priority, in the entire north coast subarea for one day on the first Thursday following June 24. If there is insufficient quota remaining to reopen the entire north coast subarea for another day, then the nearshore areas described above would reopen on the first Thursday following June 24, up to four days per week (Thursday-Sunday), until the remaining subarea quota is projected to be taken. No sport fishing for halibut is allowed after September 30. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the nearshore areas for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline. The daily bag limit in all fisheries is one halibut per person with no size limit.

Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Recreational YRCA are specified in groundfish regulations at 50 CFR 660.390 and will be specifically defined annually in federal halibut regulations published in the **Federal Register**.

In section (f) of the Plan, Sport Fisheries, revise the fifth sentence through the remainder of paragraph (1)(iii) to read as follows:

The south coast subarea quota will be allocated as follows: 95 percent for the primary fishery, and 5 percent for the nearshore fishery, once the primary fishery has closed. 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 primary fishery will be open Sunday through Thursday in all areas, except where prohibited, and the nearshore fishery will be open 7 days per week in the area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. The primary fishery will continue until September 30, or until 95% of the quota is achieved, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining to reopen the primary fishery for another fishing day, then any remaining quota may be used to accommodate incidental catch in the nearshore area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. on Fridays, and Saturdays, until the remaining quota is projected to be taken. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the nearshore areas for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline. The daily bag limit is one halibut per person, with no size limit.

Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA. The South Coast Recreational YRCA is an area off the southern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the South Coast Recreational YRCA are specified in groundfish regulations at 50 CFR 660.390 and will be specifically defined annually in Federal halibut regulations published in the **Federal Register**.

In section (f) of the Plan, Sport Fisheries, replace the eighth sentence of paragraph (1)(v), including the coordinates, to read as follows:

Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the Stonewall Bank YRCA are specified in groundfish regulations at 50 CFR 660.390 and will be specifically defined annually in federal halibut regulations published in the **Federal Register**.

In section (f) of the Plan, Sport Fisheries, revise paragraph (3) to read as follows:

Possession limits. The sport possession limit on land in Washington is two daily bag limits, regardless of condition, but only one daily bag limit may be possessed on the vessel. The sport possession limit on land in Oregon is three daily bag limits, regardless of condition, but only one daily bag limit may be possessed on the vessel. The sport possession limit on land in California and on the vessel is one daily bag limit, regardless of condition.

#### **Proposed 2007 Sport Fishery Management Measures**

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2007. The 2007 TAC for Area 2A will be determined by the IPHC at its annual meeting on January 16–19, 2007, in Victoria, BC. Because the 2007 TAC has not yet been determined, these proposed sport fishery management measures use the IPHC's preliminary 2007 Area 2A TAC recommendation of 1,020,000 lb (463 mt), which is lower than the 2006 TAC of 1,380,000 lb (626 mt). The proposed sport fishery regulations are based on the preliminary 2007 Area 2A TAC of 1,020,000 lb (463 mt). Where season dates are not indicated, those dates will be provided in the final rule, following determination of the 2007 TAC and consultation with the states and the public. In Section 25 of the annual domestic management measures, "Sport Fishing for Halibut," paragraph (4)(b) is proposed to read as follows:

\* \* \* \* \*

(4) \* \* \*

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in § 300.63(c). All sport fishing in Area 2A is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in

which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(i) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of 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., is not managed inseason relative to its quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lb (26 mt).

(A) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is (season dates will be provided by NMFS in the final rule) and the fishing season in western Puget Sound (west of 123°49.50' W. long., Low Point) is (season dates will be provided by NMFS in the final rule), 5 days a week (Thursday through Monday). (The final determination of the season dates would be based on the allowable harvest level and projected 2007 catch rates after the 2007 TAC is set by the IPHC.)

(B) The daily bag limit is one halibut of any size per day per person.

(ii) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (4)(b)(i) of this section and north of the Queets River (47°31.70' N. lat.), is 108,030 lb (49 mt).

(A) The fishing seasons are:

(1) Commencing on May 15 and continuing 3 days a week (Tuesday, Thursday, and Saturday) until 77,782 lb (35 mt) are estimated to have been taken and the season is closed by the Commission.

(2) On June 19 and 21, the fishery will open only in the nearshore areas defined at the end of this paragraph. The fishery will open for one day on June 23 in the entire north coast subarea. If sufficient quota remains, the fishery would reopen, as a first priority, in the entire north coast subarea for one day on June 28. If there is insufficient quota remaining to reopen the entire north coast subarea on June 28, then the nearshore areas described below would reopen on June 28, up to four days per week (Thursday-Sunday), until the overall quota of 108,030 lb (49 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier. After June 23, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after June 23 unless the date is announced on the NMFS hotline. The nearshore areas for Washington's North Coast fishery are defined as follows:

(i) WDFW Marine Catch Area 4B, which is all waters west of the Sekiu

River mouth, 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., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(ii) Shoreward of the recreational halibut 30-fm boundary line, a modified line approximating the 30-fm depth contour from the Bonilla-Tatoosh line south to the Queets River. The recreational halibut 30-fm boundary line is defined by the following coordinates in the order listed:

(1) 48°24.79' N. lat., 124°44.07' W. long.;

(2) 48°24.80' N. lat., 124°44.74' W. long.;

(3) 48°23.94' N. lat., 124°44.70' W. long.;

(4) 48°23.51' N. lat., 124°45.01' W. long.;

(5) 48°22.59' N. lat., 124°44.97' W. long.;

(6) 48°21.75' N. lat., 124°45.26' W. long.;

(7) 48°21.23' N. lat., 124°47.78' W. long.;

(8) 48°20.32' N. lat., 124°49.53' W. long.;

(9) 48°16.72' N. lat., 124°51.58' W. long.;

(10) 48°10.00' N. lat., 124°52.58' W. long.;

(11) 48°05.63' N. lat., 124°52.91' W. long.;

(12) 47°56.25' N. lat., 124°52.57' W. long.;

(13) 47°40.28' N. lat., 124°40.07' W. long.;

and connecting back to 47°31.70' N. lat., 124°37.03' W. long.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast

intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

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

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

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

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

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

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

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

(8) 48°00.00' N. lat.; 125°18.00' W. long.;

and connecting back to 48°18.00' N. lat.; 125°18.00' W. long.

(iii) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.), is 42,739 lb (19 mt).

(A) The fishing season commences on May 1 and continues 5 days a week (Sunday through Thursday) in all waters (the primary fishery), except that in the area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. (the Washington South coast, northern nearshore area), the fishing season commences on May 1 and continues 7 days a week. The south coast subarea quota will be allocated as follows: 40,602 lb (18 mt), 95 percent, for the primary fishery, and 2,137 lb (1.0 mt), 5 percent, for the northern nearshore fishery, once the primary fishery has closed. The primary fishery will continue from May 1 until 40,602 lb (18 mt) are estimated to have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining to reopen the primary fishery for another fishing day, then any remaining quota may be used to accommodate incidental catch in the northern nearshore area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. on Fridays and Saturdays, until 42,739 lb (19 mt) is projected to be taken and the fishery is closed by the Commission. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA. A vessel fishing in the South Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA with or without halibut on board. The South Coast Recreational YRCA is an area off the southern Washington coast intended to protect yelloweye rockfish. The South Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 46°58.00' N. lat., 124°48.00' W. long.;

(2) 46°55.00' N. lat., 124°48.00' W. long.;

(3) 46°58.00' N. lat., 124°49.00' W. long.;

(4) 46°55.00' N. lat., 124°49.00' W. long.;

and connecting back to 46°58.00' N. lat., 124°48.00' W. long.

(iv) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.) and Cape Falcon, OR (45°46.00' N. lat.), is 16,060 lb (7.3 mt).

(A) The fishing season commences on May 1, and continues 7 days a week until 11,242 lb (5 mt) are estimated to have been taken and the season is closed by the Commission or until July 21, whichever is earlier. The fishery will reopen on August 3 and continue 3 days a week (Friday through Sunday) until 16,060 lb (7 mt) have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(v) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug

Mountain (42°40.50' N. lat.), is 186,066 lb (84 mt).

(A) The fishing seasons are:

(1) The first season (the "inside 40–fm" fishery) commences May 1 and continues 7 days a week through October 31, in the area shoreward of a boundary line approximating the 40–fm (73–m) depth contour, or until the subquota for the central Oregon "inside 40–fm" fishery (14,885 lb (6.8 mt)) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40–fm (73–m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 45°46.00' N. lat., 124°04.49' W. long.;

(2) 45°44.34' N. lat., 124°05.09' W. long.;

(3) 45°40.64' N. lat., 124°04.90' W. long.;

(4) 45°33.00' N. lat., 124°04.46' W. long.;

(5) 45°32.27' N. lat., 124°04.74' W. long.;

(6) 45°29.26' N. lat., 124°04.22' W. long.;

(7) 45°20.25' N. lat., 124°04.67' W. long.;

(8) 45°19.99' N. lat., 124°04.62' W. long.;

(9) 45°17.50' N. lat., 124°04.91' W. long.;

(10) 45°11.29' N. lat., 124°05.19' W. long.;

(11) 45°05.79' N. lat., 124°05.40' W. long.;

(12) 45°05.07' N. lat., 124°05.93' W. long.;

(13) 45°03.83' N. lat., 124°06.47' W. long.;

(14) 45°01.70' N. lat., 124°06.53' W. long.;

(15) 44°58.75' N. lat., 124°07.14' W. long.;

(16) 44°51.28' N. lat., 124°10.21' W. long.;

(17) 44°49.49' N. lat., 124°10.89' W. long.;

(18) 44°44.96' N. lat., 124°14.39' W. long.;

(19) 44°43.44' N. lat., 124°14.78' W. long.;

(20) 44°42.27' N. lat., 124°13.81' W. long.;

(21) 44°41.68' N. lat., 124°15.38' W. long.;

(22) 44°34.87' N. lat., 124°15.80' W. long.;

(23) 44°33.74' N. lat., 124°14.43' W. long.;

(24) 44°27.66' N. lat., 124°16.99' W. long.;

(25) 44°19.13' N. lat., 124°19.22' W. long.;

(26) 44°15.35' N. lat., 124°17.37' W. long.;

(27) 44°14.38' N. lat., 124°17.78' W. long.;

(28) 44°12.80' N. lat., 124°17.18' W. long.;

(29) 44°09.23' N. lat., 124°15.96' W. long.;

(30) 44°08.38' N. lat., 124°16.80' W. long.;

(31) 44°08.30' N. lat., 124°16.75' W. long.;

(32) 44°01.18' N. lat., 124°15.42' W. long.;

(33) 43°51.60' N. lat., 124°14.68' W. long.;

(34) 43°42.66' N. lat., 124°15.46' W. long.;

(35) 43°40.49' N. lat., 124°15.74' W. long.;

(36) 43°38.77' N. lat., 124°15.64' W. long.;

(37) 43°34.52' N. lat., 124°16.73' W. long.;

(38) 43°28.82' N. lat., 124°19.52' W. long.;

(39) 43°23.91' N. lat., 124°24.28' W. long.;

(40) 43°20.83' N. lat., 124°26.63' W. long.;

(41) 43°17.96' N. lat., 124°28.81' W. long.;

(42) 43°16.75' N. lat., 124°28.42' W. long.;

(43) 43°13.98' N. lat., 124°31.99' W. long.;

(44) 43°13.71' N. lat., 124°33.25' W. long.;

(45) 43°12.26' N. lat., 124°34.16' W. long.;

(46) 43°10.96' N. lat., 124°32.34' W. long.;

(47) 43°05.65' N. lat., 124°31.52' W. long.;

(48) 42°59.66' N. lat., 124°32.58' W. long.;

(49) 42°54.97' N. lat., 124°36.99' W. long.;

(50) 42°53.81' N. lat., 124°38.58' W. long.;

(51) 42°50.00' N. lat., 124°39.68' W. long.;

(52) 42°49.14' N. lat., 124°39.92' W. long.;

(53) 42°46.47' N. lat., 124°38.65' W. long.;

(54) 42°45.60' N. lat., 124°39.04' W. long.;

(55) 42°44.79' N. lat., 124°37.96' W. long.;

(56) 42°45.00' N. lat., 124°36.39' W. long.;

(57) 42°44.14' N. lat., 124°35.16' W. long.;

(58) 42°42.15' N. lat., 124°32.82' W. long.;

and (59) 42°40.50' N. lat., 124°31.98' W. long.;

(2) The second season (spring season), which is for the "all-depth" fishery, is

open on (dates will be provided by NMFS in the final rule). The projected catch for this season is 128,386 lb (58 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Dependent on the amount of unharvested catch available, the potential season re-opening dates will be: (dates will be provided by NMFS in the final rule). If NMFS decides inseason to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline. (The final determination of the season dates would be based on the allowable harvest level and projected 2007 catch rates and on a public meeting held by ODFW after the 2007 TAC is set by the IPHC.)

(3) If sufficient unharvested catch remains, the third season (summer season), which is for the "all-depth" fishery, will be open on (dates will be provided by NMFS in the final rule), or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 171,181 lb (78 mt), are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if a certain amount of quota remains after August 5 and September 2. If after August 5, greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday through Sunday, beginning August 10 - 12, and ending October 26 - 28. If after September 2, greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday through Sunday, the fishery may re-open every Friday through Sunday, beginning September 7 - 9, and ending October 26 - 28. After September 2, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(B) The daily bag limit is one halibut of any size per day per person, unless

otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(C) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(D) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(E) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not be in possession of any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

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

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

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

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

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

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

(vi) The area south of Humbug Mountain, Oregon (42°40.50' N. lat.) and off the California coast is not managed inseason relative to its quota. This area is managed on a season that is projected to result in a catch of 6,067 lb (2.8 mt).

(A) The fishing season will commence on May 1 and continue 7 days a week until October 31.

(B) The daily bag limit is one halibut of any size per day per person.

#### **Area 2A Non-Treaty Commercial Fishery Closed Areas**

Since 2003, large closed areas have applied to commercial vessels operating in the directed non-treaty commercial fishery for halibut in Area 2A. The Area 2A non-treaty commercial fishery closed

areas implement the Plan and previously appeared in the annual halibut management measures published in the **Federal Register**. Beginning in 2006, this section was codified into regulatory language at 50 CFR part 300, subpart E. Coordinates for the boundary lines approximating the 30-fm and 100-fm depth contours for the closed areas are being revised to better approximate depth contours. Therefore, NMFS is proposing new coordinates for these boundary lines in this proposed rule.

#### **Classification**

NMFS has prepared an RIR/IRFA and a CE on the proposed changes to the Plan and annual domestic Area 2A halibut management measures. Copies of these documents are available from NMFS (see **ADDRESSES**).

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$4.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts not in excess of \$6.5 million. All of the businesses that would be affected by this action are considered small businesses under Small Business Administration guidance.

The proposed changes to the Plan, which allocates the catch of Pacific halibut among users in Washington, Oregon and California, would: constrain the Washington North Coast subarea June fishery to two specific nearshore areas on the first Tuesday and Thursday following June 17; reopen the Washington North Coast subarea June fishery in the entire north coast subarea on the first Saturday following June 17; if sufficient quota remains, reopen the entire Washington North Coast subarea for one day on the first Thursday following June 24, otherwise, reopen the nearshore areas on the first Thursday following June 24 for up to four days per week (Thursday-Sunday) until the quota

is taken; set aside 5 percent of the Washington South Coast subarea quota for the nearshore fishery once the primary fishery has closed; set the Washington South Coast subarea nearshore fishery as a 2-day per week fishery, open Fridays and Saturdays; implement additional closed areas (Yelloweye Rockfish Conservation Areas, or YRCAs) off the coast of Washington that would affect commercial and sport halibut fisheries; remove latitude/longitude coordinates from the Plan but refer to where in the regulations they are published to reduce duplication; remove language referring to salmon troll fishery July-September season; add a definition of the Bonilla-Tatoosh line; and decrease the California possession limit on land from two daily limits to one daily limit statewide to conform with state regulation. NMFS also proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC, which includes the sport fishery management measures for Area 2A and to revise Area 2A non-treaty commercial fishery closed areas specified at 50 CFR 300.63. These actions are intended to enhance the conservation of Pacific halibut, to provide greater angler opportunity where available, to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries, and to ensure consistency between Federal groundfish and halibut regulations and between State and Federal regulations.

As mentioned in the preamble, WDFW and ODFW held state meetings and crafted alternatives to adjust management of the sport halibut fisheries in their respective states. These alternatives were then narrowed down by the states and brought to the Council at the Council's September and November 2006 meetings. Generally, by the time the alternatives reach the Council, and because they have been through the state public review process, they are narrowed down into the proposed action and status quo. There were no alternatives that could have similarly improved angler enjoyment of and participation in the fisheries while simultaneously protecting halibut and co-occurring groundfish species from overharvest.

In 1995, NMFS implemented the Plan, when the TAC was 520,000 pounds (236 mt). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries, even though the TAC reached levels of over 1,000,000 pounds (454 mt), with a peak of 1,480,000 pounds

(671 mt) in 2004. Since 2004, there has been very little change in the total allowable catch and sector allocations. In 2005, the Area 2A Halibut TAC set by the IPHC was 1.33 million pounds (603 mt) and for 2006 it was 1.38 million pounds (626 mt). However, preliminary estimates of the 2007 TAC are lower than the TAC levels since 2001. The preliminary 2007 Area 2A TAC of 1.02 million pounds (463 mt) is lower than previous years due to the IPHC's new stock assessment information, revised selectivity assumptions and revised harvest policy. This is a 26-percent decline from the 2006 TAC. As this is a sizable decline, there may be changes to the regulations described in this proposed rule due to IPHC recommendations at their annual meeting in January 2007 or as an outcome of the state public workshops held after the IPHC meeting. Expectations are that any proposed changes in the regulations will be ones that seek to mitigate the adverse impacts of the decline of the TAC in order to maximize available fishing opportunities and benefits to fishing communities.

Six hundred sixty two vessels were issued IPHC licenses to retain halibut in 2006. IPHC issues licenses for: the directed commercial fishery in Area 2A, including licenses issued to retain halibut caught incidentally in the primary sablefish fishery (298 licenses in 2006); incidental halibut caught in the salmon troll fishery (224 licenses in 2006); and the charterboat fleet (140 licenses in 2006). No vessel may participate in more than one of these three fisheries per year. Individual recreational anglers and private boats are the only sectors that are not required to have an IPHC license to retain halibut.

Specific data on the economics of halibut charter operations is unavailable. However, in January 2004, the Pacific States Marine Fisheries Commission (PSMFC) completed a report on the overall West Coast charterboat fleet. In surveying charterboat vessels concerning their operations in 2000, the PSMFC estimated that there were about 315 charterboat vessels in operation off Washington and Oregon. In 2000, IPHC licensed 130 vessels to fish in the halibut sport charter fishery. Comparing the total charterboat fleet to the 130 and 140 IPHC licenses in 2000 and 2006, respectively, approximately 41 to 44 percent of the charterboat fleet could participate in the halibut fishery. The PSMFC has developed preliminary estimates of the annual revenues earned by this fleet and they vary by size class

of the vessels and home state. Small charterboat vessels range from 15 to 30 ft (4.572 to 9.144 m), and typically carry 5 to 6 passengers. Medium charterboat vessels range from 31 to 49 ft (9.44 to 14.93 m) in length and typically carry 19 to 20 passengers. (Neither state has large vessels of greater than 49 ft (14.93 m) in their fleet.) Average annual revenues from all types of recreational fishing, whalewatching and other activities ranged from \$7,000 for small Oregon vessels to \$131,000 for medium Washington vessels. Estimates from the RIR show the recreational halibut fishery generated approximately \$2.5 million in personal income to West Coast communities, while the non-tribal commercial halibut fishery generated approximately \$1.8 million in income impacts. Because these estimated impacts for the entire halibut fishery overall are less than the SBA criteria for individual businesses, these data confirm that charterboat and commercial halibut vessels qualify as small entities under the Regulatory Flexibility Act (RFA).

These changes are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 through 300.65, and the Pacific Council process of annually evaluating the utility and effectiveness of Area 2A Pacific halibut management under the Plan. Given the TAC, the proposed sport management measures implement the Plan by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The proposed commercial management measures will allow the fishery access to a portion of the Area 2A TAC while protecting overfished rockfish species that co-occur with halibut. The measures will be very similar to last year's management measures. The changes to the Plan and domestic management measures are minor changes and are intended to increase flexibility in management and opportunity to harvest available quota. There are no large entities involved in the halibut fisheries; therefore, none of these changes to the Plan and domestic management measures will have a disproportionate negative effect on small entities versus large entities.

These changes do not include any reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations. Consequently, these changes to the Plan and annual domestic Area 2A halibut management measures are not expected to meet any of the RFA tests of having a "significant" economic impact on a

“substantial number” of small entities. Nonetheless, NMFS has prepared a IRFA. Through this proposed rule, NMFS is requesting comments on these conclusions.

This action has been determined to be not significant for purposes of Executive Order 12866.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. At section 302(b)(5), the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 12 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes’ usual and accustomed (U and A) fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

#### List of Subjects in 50 CFR Part 300

Fishing, Fisheries, and Indian fisheries.

Dated: January 9, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

#### PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*

2. In § 300.63, paragraphs (e), (f) and (g) are revised to read as follows:

##### § 300.63 Catch sharing plan and domestic management measures in Area 2A.

\* \* \* \* \*

(e) *Area 2A Non-Treaty Commercial Fishery Closed Areas.*

(1) Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of a closed area,

known as the Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10' N. lat. Between the U.S./Canada border and 46°16' N. lat., the eastern boundary of the RCA is the shoreline. Between 46°16' N. lat. and 40°10' N. lat., the RCA is defined along an eastern boundary approximating the 30–fm (55–m) depth contour. Coordinates for the 30–fm (55–m) boundary are listed at § 300.63 (f). Between the U.S./Canada border and 40°10' N. lat., the RCA is defined along a western boundary approximating the 100–fm (183–m) depth contour. Coordinates for the 100–fm (183–m) boundary are listed at § 300.63 (g).

(2) Non-treaty commercial vessels operating in the incidental catch fishery during the sablefish fishery north of Pt. Chehalis, WA, in Area 2A are required to fish outside of a closed area. Under Pacific Coast groundfish regulations at 50 CFR 660.382, fishing with limited entry fixed gear is prohibited within the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA). It is unlawful to take and retain, possess, or land halibut taken with limited entry fixed gear within the North Coast Commercial YRCA. The North Coast Commercial Yelloweye Rockfish Conservation Area YRCA is an area off the northern Washington coast, overlapping the northern part of North Coast Recreational YRCA, and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.390.

(3) Non-treaty commercial vessels operating in the incidental catch fishery during the salmon troll fishery in Area 2A are required to fish outside of a closed area. Under the Pacific Coast groundfish regulations at 50 CFR 660.383, fishing with salmon troll gear is prohibited within the Salmon Troll Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for commercial salmon troll vessels to take and retain, possess, or land fish within the Salmon Troll YRCA. The Salmon Troll YRCA is an area off the northern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the Salmon Troll YRCA are specified in groundfish regulations at 50 CFR 660.390 and in salmon regulations at 50 CFR 660.405.

(f) The 30–fm (55–m) depth contour between 46°16' N. lat. and 40°10' N. lat. is defined by straight lines connecting all of the following points in the order stated:

- (1) 46°16.00' N. lat., 124°13.05' W. long.;
- (2) 46°16.00' N. lat., 124°13.04' W. long.;
- (3) 46°07.00' N. lat., 124°07.01' W. long.;
- (4) 45°55.95' N. lat., 124°02.23' W. long.;
- (5) 45°54.53' N. lat., 124°02.57' W. long.;
- (6) 45°50.65' N. lat., 124°01.62' W. long.;
- (7) 45°48.20' N. lat., 124°02.16' W. long.;
- (8) 45°46.00' N. lat., 124°01.86' W. long.;
- (9) 45°43.46' N. lat., 124°01.28' W. long.;
- (10) 45°40.48' N. lat., 124°01.03' W. long.;
- (11) 45°39.04' N. lat., 124°01.68' W. long.;
- (12) 45°35.48' N. lat., 124°01.90' W. long.;
- (13) 45°29.81' N. lat., 124°02.45' W. long.;
- (14) 45°27.97' N. lat., 124°01.90' W. long.;
- (15) 45°27.22' N. lat., 124°02.66' W. long.;
- (16) 45°24.20' N. lat., 124°02.94' W. long.;
- (17) 45°20.60' N. lat., 124°01.74' W. long.;
- (18) 45°20.25' N. lat., 124°01.85' W. long.;
- (19) 45°16.44' N. lat., 124°03.22' W. long.;
- (20) 45°13.63' N. lat., 124°02.69' W. long.;
- (21) 45°11.05' N. lat., 124°03.59' W. long.;
- (22) 45°08.55' N. lat., 124°03.47' W. long.;
- (23) 45°02.81' N. lat., 124°04.64' W. long.;
- (24) 44°58.06' N. lat., 124°05.03' W. long.;
- (25) 44°53.97' N. lat., 124°06.92' W. long.;
- (26) 44°48.89' N. lat., 124°07.04' W. long.;
- (27) 44°46.94' N. lat., 124°08.25' W. long.;
- (28) 44°42.72' N. lat., 124°08.98' W. long.;
- (29) 44°38.16' N. lat., 124°11.48' W. long.;
- (30) 44°33.38' N. lat., 124°11.54' W. long.;
- (31) 44°28.51' N. lat., 124°12.04' W. long.;
- (32) 44°27.65' N. lat., 124°12.56' W. long.;
- (33) 44°19.67' N. lat., 124°12.37' W. long.;
- (34) 44°10.79' N. lat., 124°12.22' W. long.;
- (35) 44°09.22' N. lat., 124°12.28' W. long.;

(36) 44°08.30' N. lat., 124°12.30' W. long.;

(37) 44°00.22' N. lat., 124°12.80' W. long.;

(38) 43°51.56' N. lat., 124°13.18' W. long.;

(39) 43°44.26' N. lat., 124°14.50' W. long.;

(40) 43°33.82' N. lat., 124°16.28' W. long.;

(41) 43°28.66' N. lat., 124°18.72' W. long.;

(42) 43°23.12' N. lat., 124°24.04' W. long.;

(43) 43°20.83' N. lat., 124°25.67' W. long.;

(44) 43°20.48' N. lat., 124°25.90' W. long.;

(45) 43°16.41' N. lat., 124°27.52' W. long.;

(46) 43°14.23' N. lat., 124°29.28' W. long.;

(47) 43°14.03' N. lat., 124°28.31' W. long.;

(48) 43°11.92' N. lat., 124°28.26' W. long.;

(49) 43°11.02' N. lat., 124°29.11' W. long.;

(50) 43°10.13' N. lat., 124°29.15' W. long.;

(51) 43°09.26' N. lat., 124°31.03' W. long.;

(52) 43°07.73' N. lat., 124°30.92' W. long.;

(53) 43°05.93' N. lat., 124°29.64' W. long.;

(54) 43°01.59' N. lat., 124°30.64' W. long.;

(55) 42°59.72' N. lat., 124°31.16' W. long.;

(56) 42°53.75' N. lat., 124°36.09' W. long.;

(57) 42°50.00' N. lat., 124°38.39' W. long.;

(58) 42°49.37' N. lat., 124°38.81' W. long.;

(59) 42°46.42' N. lat., 124°37.69' W. long.;

(60) 42°46.07' N. lat., 124°38.56' W. long.;

(61) 42°45.29' N. lat., 124°37.95' W. long.;

(62) 42°45.61' N. lat., 124°36.87' W. long.;

(63) 42°44.27' N. lat., 124°33.64' W. long.;

(64) 42°42.75' N. lat., 124°31.84' W. long.;

(65) 42°40.50' N. lat., 124°29.67' W. long.;

(66) 42°40.04' N. lat., 124°29.20' W. long.;

(67) 42°38.09' N. lat., 124°28.39' W. long.;

(68) 42°36.73' N. lat., 124°27.54' W. long.;

(69) 42°36.56' N. lat., 124°28.40' W. long.;

(70) 42°35.77' N. lat., 124°28.79' W. long.;

(71) 42°34.03' N. lat., 124°29.98' W. long.;

(72) 42°34.19' N. lat., 124°30.58' W. long.;

(73) 42°31.27' N. lat., 124°32.24' W. long.;

(74) 42°27.07' N. lat., 124°32.53' W. long.;

(75) 42°24.21' N. lat., 124°31.23' W. long.;

(76) 42°20.47' N. lat., 124°28.87' W. long.;

(77) 42°14.60' N. lat., 124°26.80' W. long.;

(78) 42°13.67' N. lat., 124°26.25' W. long.;

(79) 42°10.90' N. lat., 124°24.56' W. long.;

(80) 42°07.04' N. lat., 124°23.35' W. long.;

(81) 42°02.16' N. lat., 124°22.59' W. long.;

(82) 42°00.00' N. lat., 124°21.81' W. long.;

(83) 41°55.75' N. lat., 124°20.72' W. long.;

(84) 41°50.93' N. lat., 124°23.76' W. long.;

(85) 41°42.53' N. lat., 124°16.47' W. long.;

(86) 41°37.20' N. lat., 124°17.05' W. long.;

(87) 41°24.58' N. lat., 124°10.51' W. long.;

(88) 41°20.73' N. lat., 124°11.73' W. long.;

(89) 41°17.59' N. lat., 124°10.66' W. long.;

(90) 41°04.54' N. lat., 124°14.47' W. long.;

(91) 40°54.26' N. lat., 124°13.90' W. long.;

(92) 40°40.31' N. lat., 124°26.24' W. long.;

(93) 40°34.00' N. lat., 124°27.39' W. long.;

(94) 40°30.00' N. lat., 124°31.32' W. long.;

(95) 40°28.89' N. lat., 124°32.43' W. long.;

(96) 40°24.77' N. lat., 124°29.51' W. long.;

(97) 40°22.47' N. lat., 124°24.12' W. long.;

(98) 40°19.73' N. lat., 124°23.59' W. long.;

(99) 40°18.64' N. lat., 124°21.89' W. long.;

(100) 40°17.67' N. lat., 124°23.07' W. long.;

(101) 40°15.58' N. lat., 124°23.61' W. long.;

(102) 40°13.42' N. lat., 124°22.94' W. long.; and

(103) 40°10.00' N. lat., 124°16.65' W. long.;

(g) The 100–fm (183–m) depth contour used between the U.S. border with Canada and 40°10' N. lat. is

defined by straight lines connecting all of the following points in the order stated:

(1) 48°15.00' N. lat., 125°41.00' W. long.;

(2) 48°14.00' N. lat., 125°36.00' W. long.;

(3) 48°09.50' N. lat., 125°40.50' W. long.;

(4) 48°08.00' N. lat., 125°38.00' W. long.;

(5) 48°05.00' N. lat., 125°37.25' W. long.;

(6) 48°02.60' N. lat., 125°34.70' W. long.;

(7) 47°59.00' N. lat., 125°34.00' W. long.;

(8) 47°57.26' N. lat., 125°29.82' W. long.;

(9) 47°59.87' N. lat., 125°25.81' W. long.;

(10) 48°01.80' N. lat., 125°24.53' W. long.;

(11) 48°02.08' N. lat., 125°22.98' W. long.;

(12) 48°02.97' N. lat., 125°22.89' W. long.;

(13) 48°04.47' N. lat., 125°21.75' W. long.;

(14) 48°06.11' N. lat., 125°19.33' W. long.;

(15) 48°07.95' N. lat., 125°18.55' W. long.;

(16) 48°09.00' N. lat., 125°18.00' W. long.;

(17) 48°11.31' N. lat., 125°17.55' W. long.;

(18) 48°14.60' N. lat., 125°13.46' W. long.;

(19) 48°16.67' N. lat., 125°14.34' W. long.;

(20) 48°18.73' N. lat., 125°14.41' W. long.;

(21) 48°19.67' N. lat., 125°13.70' W. long.;

(22) 48°19.70' N. lat., 125°11.13' W. long.;

(23) 48°22.95' N. lat., 125°10.79' W. long.;

(24) 48°21.61' N. lat., 125°02.54' W. long.;

(25) 48°23.00' N. lat., 124°49.34' W. long.;

(26) 48°17.00' N. lat., 124°56.50' W. long.;

(27) 48°06.00' N. lat., 125°00.00' W. long.;

(28) 48°04.62' N. lat., 125°01.73' W. long.;

(29) 48°04.84' N. lat., 125°04.03' W. long.;

(30) 48°06.41' N. lat., 125°06.51' W. long.;

(31) 48°06.00' N. lat., 125°08.00' W. long.;

(32) 48°07.08' N. lat., 125°09.34' W. long.;

(33) 48°07.28' N. lat., 125°11.14' W. long.;

- (34) 48°03.45' N. lat., 125°16.66' W. long.;
- (35) 47°59.50' N. lat., 125°18.88' W. long.;
- (36) 47°58.68' N. lat., 125°16.19' W. long.;
- (37) 47°56.62' N. lat., 125°13.50' W. long.;
- (38) 47°53.71' N. lat., 125°11.96' W. long.;
- (39) 47°51.70' N. lat., 125°09.38' W. long.;
- (40) 47°49.95' N. lat., 125°06.07' W. long.;
- (41) 47°49.00' N. lat., 125°03.00' W. long.;
- (42) 47°46.95' N. lat., 125°04.00' W. long.;
- (43) 47°46.58' N. lat., 125°03.15' W. long.;
- (44) 47°44.07' N. lat., 125°04.28' W. long.;
- (45) 47°43.32' N. lat., 125°04.41' W. long.;
- (46) 47°40.95' N. lat., 125°04.14' W. long.;
- (47) 47°39.58' N. lat., 125°04.97' W. long.;
- (48) 47°36.23' N. lat., 125°02.77' W. long.;
- (49) 47°34.28' N. lat., 124°58.66' W. long.;
- (50) 47°32.17' N. lat., 124°57.77' W. long.;
- (51) 47°30.27' N. lat., 124°56.16' W. long.;
- (52) 47°30.60' N. lat., 124°54.80' W. long.;
- (53) 47°29.26' N. lat., 124°52.21' W. long.;
- (54) 47°28.21' N. lat., 124°50.65' W. long.;
- (55) 47°27.38' N. lat., 124°49.34' W. long.;
- (56) 47°25.61' N. lat., 124°48.26' W. long.;
- (57) 47°23.54' N. lat., 124°46.42' W. long.;
- (58) 47°20.64' N. lat., 124°45.91' W. long.;
- (59) 47°17.99' N. lat., 124°45.59' W. long.;
- (60) 47°18.20' N. lat., 124°49.12' W. long.;
- (61) 47°15.01' N. lat., 124°51.09' W. long.;
- (62) 47°12.61' N. lat., 124°54.89' W. long.;
- (63) 47°08.22' N. lat., 124°56.53' W. long.;
- (64) 47°08.50' N. lat., 124°57.74' W. long.;
- (65) 47°01.92' N. lat., 124°54.95' W. long.;
- (66) 47°01.08' N. lat., 124°59.22' W. long.;
- (67) 46°58.48' N. lat., 124°57.81' W. long.;
- (68) 46°56.79' N. lat., 124°56.03' W. long.;
- (69) 46°58.01' N. lat., 124°55.09' W. long.;
- (70) 46°55.07' N. lat., 124°54.14' W. long.;
- (71) 46°59.60' N. lat., 124°49.79' W. long.;
- (72) 46°58.72' N. lat., 124°48.78' W. long.;
- (73) 46°54.45' N. lat., 124°48.36' W. long.;
- (74) 46°53.99' N. lat., 124°49.95' W. long.;
- (75) 46°54.38' N. lat., 124°52.73' W. long.;
- (76) 46°52.38' N. lat., 124°52.02' W. long.;
- (77) 46°48.93' N. lat., 124°49.17' W. long.;
- (78) 46°41.50' N. lat., 124°43.00' W. long.;
- (79) 46°34.50' N. lat., 124°28.50' W. long.;
- (80) 46°29.00' N. lat., 124°30.00' W. long.;
- (81) 46°20.00' N. lat., 124°36.50' W. long.;
- (82) 46°18.40' N. lat., 124°37.70' W. long.;
- (83) 46°18.03' N. lat., 124°35.46' W. long.;
- (84) 46°17.00' N. lat., 124°22.50' W. long.;
- (85) 46°16.00' N. lat., 124°20.62' W. long.;
- (86) 46°13.52' N. lat., 124°25.49' W. long.;
- (87) 46°12.17' N. lat., 124°30.74' W. long.;
- (88) 46°10.63' N. lat., 124°37.96' W. long.;
- (89) 46°09.29' N. lat., 124°39.01' W. long.;
- (90) 46°02.40' N. lat., 124°40.37' W. long.;
- (91) 45°56.45' N. lat., 124°38.00' W. long.;
- (92) 45°51.92' N. lat., 124°38.50' W. long.;
- (93) 45°47.20' N. lat., 124°35.58' W. long.;
- (94) 45°46.40' N. lat., 124°32.36' W. long.;
- (95) 45°46.00' N. lat., 124°32.10' W. long.;
- (96) 45°41.75' N. lat., 124°28.12' W. long.;
- (97) 45°36.95' N. lat., 124°24.47' W. long.;
- (98) 45°31.84' N. lat., 124°22.04' W. long.;
- (99) 45°27.10' N. lat., 124°21.74' W. long.;
- (100) 45°20.25' N. lat., 124°18.54' W. long.;
- (101) 45°18.14' N. lat., 124°17.59' W. long.;
- (102) 45°11.08' N. lat., 124°16.97' W. long.;
- (103) 45°04.39' N. lat., 124°18.35' W. long.;
- (104) 45°03.83' N. lat., 124°18.60' W. long.;
- (105) 44°58.05' N. lat., 124°21.58' W. long.;
- (106) 44°47.67' N. lat., 124°31.41' W. long.;
- (107) 44°44.54' N. lat., 124°33.58' W. long.;
- (108) 44°39.88' N. lat., 124°35.00' W. long.;
- (109) 44°32.90' N. lat., 124°36.81' W. long.;
- (110) 44°30.34' N. lat., 124°38.56' W. long.;
- (111) 44°30.04' N. lat., 124°42.31' W. long.;
- (112) 44°26.84' N. lat., 124°44.91' W. long.;
- (113) 44°17.99' N. lat., 124°51.04' W. long.;
- (114) 44°12.92' N. lat., 124°56.28' W. long.;
- (115) 44°00.14' N. lat., 124°55.25' W. long.;
- (116) 43°57.68' N. lat., 124°55.48' W. long.;
- (117) 43°56.66' N. lat., 124°55.45' W. long.;
- (118) 43°56.47' N. lat., 124°34.61' W. long.;
- (119) 43°42.73' N. lat., 124°32.41' W. long.;
- (120) 43°30.92' N. lat., 124°34.43' W. long.;
- (121) 43°20.83' N. lat., 124°39.39' W. long.;
- (122) 43°17.45' N. lat., 124°41.16' W. long.;
- (123) 43°07.04' N. lat., 124°41.25' W. long.;
- (124) 43°03.45' N. lat., 124°44.36' W. long.;
- (125) 43°03.91' N. lat., 124°50.81' W. long.;
- (126) 42°55.70' N. lat., 124°52.79' W. long.;
- (127) 42°54.12' N. lat., 124°47.36' W. long.;
- (128) 42°50.00' N. lat., 124°45.33' W. long.;
- (129) 42°44.00' N. lat., 124°42.38' W. long.;
- (130) 42°40.50' N. lat., 124°41.71' W. long.;
- (131) 42°38.23' N. lat., 124°41.25' W. long.;
- (132) 42°33.02' N. lat., 124°42.38' W. long.;
- (133) 42°31.90' N. lat., 124°42.04' W. long.;
- (134) 42°30.08' N. lat., 124°42.67' W. long.;
- (135) 42°28.28' N. lat., 124°47.08' W. long.;
- (136) 42°25.22' N. lat., 124°43.51' W. long.;
- (137) 42°19.23' N. lat., 124°37.91' W. long.;
- (138) 42°16.29' N. lat., 124°36.11' W. long.;

- (139) 42°13.67' N. lat., 124°35.81' W. long.;
- (140) 42°05.66' N. lat., 124°34.92' W. long.;
- (141) 42°00.00' N. lat., 124°35.27' W. long.;
- (142) 41°47.04' N. lat., 124°27.64' W. long.;
- (143) 41°32.92' N. lat., 124°28.79' W. long.;
- (144) 41°24.17' N. lat., 124°28.46' W. long.;
- (145) 41°10.12' N. lat., 124°20.50' W. long.;
- (146) 40°51.41' N. lat., 124°24.38' W. long.;
- (147) 40°43.71' N. lat., 124°29.89' W. long.;
- (148) 40°40.14' N. lat., 124°30.90' W. long.;
- (149) 40°37.35' N. lat., 124°29.05' W. long.;
- (150) 40°34.76' N. lat., 124°29.82' W. long.;
- (151) 40°36.78' N. lat., 124°37.06' W. long.;
- (152) 40°32.44' N. lat., 124°39.58' W. long.;
- (153) 40°30.00' N. lat., 124°38.13' W. long.;
- (154) 40°24.82' N. lat., 124°35.12' W. long.;
- (155) 40°23.30' N. lat., 124°31.60' W. long.;
- (156) 40°23.52' N. lat., 124°28.78' W. long.;
- (157) 40°22.43' N. lat., 124°25.00' W. long.;
- (158) 40°21.72' N. lat., 124°24.94' W. long.;
- (159) 40°21.87' N. lat., 124°27.96' W. long.;
- (160) 40°21.40' N. lat., 124°28.74' W. long.;
- (161) 40°19.68' N. lat., 124°28.49' W. long.;
- (162) 40°17.73' N. lat., 124°25.43' W. long.;
- (163) 40°18.37' N. lat., 124°23.35' W. long.;
- (164) 40°15.75' N. lat., 124°26.05' W. long.;
- (165) 40°16.75' N. lat., 124°33.71' W. long.;
- (166) 40°16.29' N. lat., 124°34.36' W. long.; and
- (167) 40°10.00' N. lat., 124°21.12' W. long.;

[FR Doc. E7-420 Filed 1-12-07; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 061227341-6341-01; I.D. 120406A]

RIN 0648-AU99

#### Fisheries in the Western Pacific; Hawaii Shallow-set Longline Fishery

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This proposed rule would permanently remove the 7-day delay in effectiveness when closing the Hawaii-based shallow-set longline fishery as a result of reaching interaction limits for sea turtles. This action would allow immediate closure of the fishery, and would enhance protection of sea turtles.

**DATES:** Comments on the proposed rule must be received by January 31, 2007.

**ADDRESSES:** You may submit comments, identified by "AU99" by any of the following methods:

- E-mail: [AU99Swordfish@noaa.gov](mailto:AU99Swordfish@noaa.gov). Include "AU99" in the subject line of the message.
- Federal e-Rulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.
- Mail: William L. Robinson, Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd. 1110, Honolulu, HI 96814.

In accordance with the Endangered Species Act, a Biological Opinion, dated February 23, 2004, was prepared for the longline fishery, which operates under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). Copies of the Biological Opinion are available from William L. Robinson (see **ADDRESSES**).

Copies of the regulatory amendment may be obtained from Kitty M. Simonds, Western Pacific Fishery Management Council (WPFMC), 1164 Bishop St. 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Bob Harman, NMFS PIR, 808-944-2271.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This **Federal Register** document is also accessible via the World Wide Web at the Office of the **Federal Register**: [www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html).

## Background

The Hawaii-based pelagic longline fishery for swordfish, tunas, and related species is managed under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP). The Pelagics FMP was developed by the WPFMC under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the Pelagics FMP appear at 50 CFR part 665 and subpart H of 50 CFR part 600.

The regulations at § 665.33(b)(1) establish maximum annual limits on the numbers of interactions that occur between longline fishing operations and sea turtles. These limits apply to physical interactions experienced by vessels registered under Hawaii longline limited-access permits while engaged in shallow-set longline fishing. There are calendar-year annual limits on physical interactions for two species of sea turtles, one for leatherback sea turtles set at 16, and one for loggerhead sea turtles set at 17.

NMFS is required by the 2004 Biological Opinion to maintain 100-percent observer coverage in the Hawaii shallow-set longline fishery. Interactions with turtles are monitored using data from scientific observers placed by NMFS aboard all vessels engaged in shallow-set longline fishing.

The current regulations at § 665.33(b)(2) prescribe that as soon as the physical interaction limit for either of the two turtle species has been determined to have been reached in a given year, the shallow-set component of the Hawaii-based longline fishery must be closed by NMFS for the remainder of the calendar year, after giving permit holders at least seven days advance notice. Once that component of the fishery is closed, no vessel registered under a Hawaii longline limited-access permit may engage in shallow-set longline fishing north of the Equator.

The 7-day delay was intended to give NMFS adequate time to notify permit holders and vessel operators of the fishery closure. Based on the best information available on fishing activity levels and anticipated turtle interaction rates at the time when the regulations were first implemented, the 7-day delay in effectiveness offered by the advance notice provision was thought to provide adequate protection to sea turtles, while also providing adequate notice of the fishery closure to vessels at sea. At the time when the current regulations were implemented, NMFS observers placed aboard longline vessels were not issued