

DATES: Comments on the proposed rule should be submitted in writing at the address shown below on or before March 13, 1995, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Mr. Eric R. Mens, PDUSD(A&T)DP/DAR, IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 94-D007 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Mens, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed DFARS rule supplements an interim DFARS rule which the Director of Defense Procurement issued on December 29, 1994, to implement Section 818 of the National Defense Authorization Act for Fiscal year 1995 (Public Law 103-337). The interim DFARS rule imposed restrictions on the allowability of restructuring costs associated with a business combination undertaken by a defense contractor. While the interim rule provided policies and procedures for allowing appropriate contractor costs which involve external restructuring activities, it did not address the allowability of costs associated with internal restructuring activities.

This proposed DFARS rule states that contractor costs associated with internal restructuring activities are unallowable unless allowable in accordance with FAR Part 31 and DFARS Part 231; an audit of projected restructuring costs and savings is performed; and the ACO determines that overall reduced costs should result for DoD and negotiates an advance agreement with the contractor. Unlike restructuring costs associated with external restructuring activities, certification by the Under Secretary of Defense (Acquisition & Technology) concerning projected future savings for DoD is not required for reimbursement of the costs associated with internal restructuring activities.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because most small entities are not subject to the contract cost principles in FAR Part 31 or DFARS Part 231. The contract cost principles normally apply where contract award exceeds \$500,000 and the price is based on certified cost

or pricing data. This proposed DFARS rule applies only to defense contractors which incur restructuring costs coincident to internal restructuring activities and are subject to the contract cost principles. Most contracts awarded to small entities are awarded on a competitive, fixed-price basis. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small business entities and other interested parties. Comments from small entities concerning the affected DFARS Subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 94-D007 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because the proposed rule does not impose any additional reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 231

Government Procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, it is proposed that 48 CFR Part 231 be amended as follows:

1. The authority citation for 48 CFR Part 231 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 231.205-70 is amended by adding a new paragraph (c) (4) to read as follows:

231.205-70 Restructuring costs.

* * * * *

(c) Limitations on cost allowability.

* * *

(4) Restructuring costs associated with internal restructuring activities shall not be allowed unless—

(i) Such costs are allowable in accordance with FAR Part 31 and DFARS Part 231;

(ii) An audit of projected restructuring costs and restructuring savings is performed; and

(iii) The cognizant ACO reviews the audit report and the projected costs and projected savings, determines that overall reduced costs should result for

DoD, and negotiates an advance agreement with the contractor.

* * * * *

[FR Doc. 95-764 Filed 1-11-95; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 950106-003-5003-01; I.D. 121994A]

RIN 0648-AH01

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed rule and proposed catch sharing plan.

SUMMARY: NMFS proposes to approve and implement a 1995 Catch Sharing Plan (Plan) in accordance with the Northern Pacific Halibut Act of 1982 (Halibut Act) to allocate the total allowable catch (TAC) of Pacific halibut among treaty Indian, non-Indian commercial, and non-Indian sport fisheries off the coasts of Washington, Oregon, and California (International Pacific Halibut Commission (IPHC) Statistical Area 2A). This proposed Plan is based on the recommendations of the Pacific Fishery Management Council (Council). This action is necessary to allocate the harvestable resources among the states in a manner that responds to the dynamics and growth in a sport fishery and growth in a tribal fishery. The action is intended to allocate harvestable resources among user groups under the provisions of the Halibut Act to carry out the objectives of the IPHC and the Council.

DATES: Comments on the Plan must be received on or before January 19, 1995; comments on the remainder of the proposed rule must be received on or before February 20, 1995.

ADDRESSES: Send comments to William Stelle, Jr., Director, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206-526-6140.

SUPPLEMENTARY INFORMATION: 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 IPHC. Accordingly, the Council has developed Catch Sharing Plans since 1988 to allocate the TAC of Pacific halibut between treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A off Washington, Oregon, and California.

At its September 1993 public meeting, the Council decided to consider all aspects of the halibut allocation issue and to develop a multiyear Plan for 1995 and beyond. The Council requested that the Halibut Managers Group (HMG) and the Halibut Advisory Subpanel (HAS) develop a complete list of allocation issues for Council consideration. At its November 1993 public meeting, the Council adopted a number of issues identified by the HMG and HAS that would be considered in development of a Plan for 1995 and beyond. The issues adopted for public comment were: (1) Timeframe for the Plan (i.e., 2-5 years), (2) treaty Indian entitlement, (3) bycatch, (4) biomass-based or geographic allocation, (5) individual transferable quotas, (6) allocations within the commercial fishery (i.e., troll allocation), (7) geographic restrictions on the commercial fishery, (8) minimizing quota overages in non-Indian commercial fishery, (9) shifting the commercial fishery to a non-directed (incidental catch) fishery at lower quotas, (10) varying allocation shares based on varying TAC levels (i.e., sliding scale), (11) fixed timeframes for sport seasons based on expected catch (rather than quotas requiring monitoring), and (12) state shaping of sport fisheries. At its March 1994 public meeting, after receiving comments from the HMG, HAS, and the public on the issues and possible options for addressing the issues, the Council adopted a complex of options/alternatives for analysis. The Council also requested an analysis of the profile of the Area 2A halibut fisheries and how they have changed in recent years. This analysis is provided in the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared on the proposed Plan for 1995 and beyond.

A description and analysis of the options/alternatives, along with a description of the fisheries in Area 2A, were presented to the Council at its August 1994 public meeting. After review of the analysis and consideration of public comments, the Council developed four allocation options, three management measures, a tribal fishery structuring, and two sport fishery structuring framework alternatives (one for Washington and one for Oregon/California) for public comment. At its October 1994 public meeting, the Council received comments from the HAS and the public on the options and alternatives and took final action in selecting one allocation option and approving management measures and sport structuring that were combined into a proposed Plan for 1995 and beyond.

The Council considered four options for allocating Pacific halibut among non-Indian fisheries in Area 2A beginning in 1995. The options considered apply only to the non-Indian share of 65 percent of the Area 2A TAC after removing the treaty tribal share of 35 percent. The options, which are described in detail in the EA/RIR, were: (1) To maintain status quo allocation of 50 percent each to commercial and sport fisheries and allocate the sport fishery share 61 percent to areas north of Cape Falcon and 39 percent south, (2) to allocate evenly (one-third each) between the sport fisheries north and south of the Columbia River and the commercial fishery (the commercial fishery would be limited to the area south of the Columbia River), (3) to allocate 50 percent north and south of the Columbia River with differing sliding-scale sharing between sport/commercial fisheries in each area, and (4) to allocate 60 percent to the commercial fisheries and 40 percent to the sport fisheries, with a status quo sharing among the sport fisheries.

The Council adopted a modified Option 2 that divides the non-Indian harvest into three shares with the sport fishery north of the Columbia River receiving 36.6 percent, the sport fishery south of the Columbia River receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery would be confined to the area south of Subarea 2A-1 (south of the treaty Indian tribes' usual and accustomed fishing area). The rationale was to increase the allocation to the sport fisheries off Oregon to provide a better balance in sharing of the harvests between sport fisheries off Oregon and Washington. The commercial fishery allocation was reduced over status quo

by about 12 percent to provide for the increases in the sport fisheries.

The Council took this action to allocate the harvestable resources among the states in a manner that responds to the dynamics and growth in a sport fishery and growth in a tribal fishery. Sport fisheries in both Washington and Oregon have been compressed due to reduced quotas for Area 2A and restrictive allocations that have not provided sufficient access and fishing opportunity for sport users. Sport fisheries consist primarily of small boats and charterboats that are tied to coastal communities. Many of the coastal communities in Washington and Oregon are dependent on revenues generated from sport fisheries. As such, these sport fisheries are not mobile (in contrast to commercial fishing vessels) and cannot move into other areas to conduct fishing operations. The dependence of these coastal communities, in contrast to the mobility of the vessels operating in the commercial fishery, was considered by the Council in reducing the commercial allocation in order to increase and better balance the sport allocations between Washington and Oregon.

The EA/RIR prepared for the Council indicates that the commercial halibut fishery in Area 2A is a small part of the average annual revenues for commercial fishers that have been involved in this fishery and that halibut fishers in Area 2A consist of a highly mobile fleet of vessels that have moved in and out of the Area 2A halibut fishery (of 1,153 commercial vessels that operated in the fishery between 1987 and 1993, only 2.5 percent landed halibut in each of those years), and that relatively few vessels account for most of the catch each year. The commercial fishery was restricted in the northern area to shift harvests to the south to provide a broader distribution of harvests in Area 2A and prevent the higher removals that were occurring in the northern area of Area 2A. In 1994, about 80 percent of the Area 2A harvest occurred off Washington. Commercial fishers that have been active in the Pacific halibut fishery are highly mobile and would have the option of fishing south of Area 2A-1. This shift in the open area for the commercial fishery would also have the effect of providing better control of a reduced harvest level by constraining the fishery to a smaller area. This geographic shifting of non-tribal catch is not intended to prejudice the treaty Indian share. The increased allocation to Oregon sport fisheries and the restriction of the commercial fishery to more southern areas of Area 2A is intended to shift the non-Indian

harvesting effort into southern areas of halibut biomass and is not based on a conservation concern.

The allocations recommended by the Council are intended to continue until new information becomes available such as new information on biomass distribution. Upon receipt of new information, the Council can decide if the information necessitates reconsidering the issue of halibut allocation.

The Council recommended dividing the commercial fishery into two sectors, with 85 percent of the non-Indian commercial fishery allocation for a directed halibut fishery and 15 percent for incidental harvests of halibut during the salmon troll fisheries. The Council acknowledged that salmon trollers traditionally harvested halibut during salmon fisheries, but have been excluded from their traditional halibut fishery because recent years' season structuring limited commercial halibut openings to 1 or 2 days in the summer that did not correspond with salmon troll openings. Therefore, the Council adopted a separate allocation to allow trollers to renew their traditional access to halibut incidentally caught during the May and June salmon troll fishery as described in the proposed Plan at § 301.23. In order to ensure that salmon trollers do not target on halibut and exceed their allocation, the Council adopted a ratio fishery whereby a salmon troller would not be allowed to retain halibut until a specified number of chinook salmon had been caught; the vessel would be limited to landing one halibut per that number of chinook. The initial ratio proposed by the Council is one halibut per 25 chinook, but this ratio would be adjusted annually after halibut and chinook quotas are determined, to ensure the fishery is viable without exceeding the halibut quota. Also, because the chinook quotas and harvest guidelines can affect whether this fishery can be prosecuted, the Council adopted rollover provisions that would allow the transfer of any quota remaining from this fishery on June 30 to the directed halibut fishery, which normally opens in July or August. In addition, if quota remained unharvested from the directed fishery, it would be transferred to the fall salmon troll fisheries.

The Council considered three new management measures that would apply to the commercial and sport fisheries. The first measure would prohibit commercial fishing for halibut from any vessel that participates in the sport fishery for halibut in Area 2A, and vice versa. The basis for this measure was concern that increased numbers of

charterboat vessels and private vessels operating in the sport fishery were obtaining commercial licenses and also participating in the commercial fishery in Area 2A. This "double-dipping" into both commercial and sport allocations was viewed as inconsistent with the Council's allocation intent to provide separate quotas and opportunity for each harvesting sector to utilize its allocation. Therefore, the Council recommended restrictions on the issuance of IPHC licenses to vessels operating in Area 2A.

The second management measure considered by the Council was possession limits on land. The current IPHC regulations on possession limits for halibut in Area 2A stipulate only that the possession limit on the water is the same as the daily bag limit and do not address possession limits on land. Because the three states have different regulations and interpretations on possession limits on land and condition of fish (e.g., frozen, fresh) as they relate to possession limits, enforcement has varied between states and ports. A possession limit on land is intended to restrict the number of halibut trips that sport fishers can make so that the sport allocation is better distributed among sport users. This would allow for longer seasons because the quotas would not be achieved as quickly. The Council adopted a measure that would ensure a consistent application of possession limits in the subareas north and south of Cape Falcon. These possession limits would apply to all halibut possessed, regardless of condition of fish (e.g., frozen, fresh). For the sport fisheries north of Cape Falcon, the Council adopted a possession limit on land of two daily bag limits. Because of the more remote locations of the sport halibut fishing ports (such as Neah Bay) in Washington, the Council adopted a possession limit on land of two daily bag limits to allow fishers more opportunity to fish in those remote locations that require more travel time to access. Further, this possession limit was proposed because it was consistent with Washington sport regulations and would be easier to enforce. For the sport fisheries south of Cape Falcon, the possession limit on land would be the same as the daily bag limit. This possession limit on land of one daily bag limit is consistent with Oregon sport regulations for all other species and would make enforcement easier.

The third management measure considered by the Council was an alternate approach to establishing sport fishery geographic subareas whereby "landing zones" would be created, consisting of the ports in the geographic

area, and regulation of and accounting for catch would be by area of landing rather than area of catch. The landing zone approach would prevent vessels out of other ports from utilizing a subquota intended for another subarea. It also would simplify enforcement and accounting by eliminating the need to verify area of catch. The Council adopted this measure and recommended that all sport fishing in 2A (except for fish caught in the north Washington coast area and landed in Neah Bay) be managed on a "port of landing" basis, whereby any halibut landed into a port would count toward the quota for the area in which that port is located, and the regulations governing the area of landing would apply, regardless of the specific area of catch. Neah Bay is treated differently because, although it is located in the Washington inside waters subarea, it is the principal port used by sport fishers to access the Washington north coast subarea.

The Council considered the structuring of the sport fisheries and suballocations among ports in geographic areas as described in the EA/RIR. The division of the sport allocation among geographic areas is intended to spread the sport fishing opportunity and allow it to occur in a manner that is most beneficial to the sport fishers in those areas. Some areas that have low halibut fishing effort and success are managed for seasons that allow fishers to retain incidental catches throughout the months when sport fishing is accessible, while other areas are characterized by high fishing effort and catch and are managed to allow maximum fishing opportunity while preventing quotas from being achieved too quickly. This approach results in differing bag limits and seasons in each subarea that are designed to maximize the sport fishing opportunity and fishing experience for anglers, based on the specific characteristics of fishing patterns and catches in the respective areas.

The Council divided the sport fisheries into seven areas that represent the principal ports areas that sport fishers use. The seven areas, which are defined below, are: (1) Washington inside waters, (2) Washington north coast, (3) Washington south coast, (4) Columbia River area, (5) Oregon central coast, (6) Oregon south coast, and (7) California coast. The management goals for the sport fishery in each subarea are described in the Plan proposed at § 301.23. The suballocations and season structuring recommended by the Council for each of these areas is as follows.

Washington Inside Waters Sport Fishery Subarea (Puget Sound Including Strait of Juan de Fuca).

The Council considered an allocation for this area that ranged between 17 and 32.5 percent of the Washington sport fishery subquota. In 1994, this area was allocated 32.4 percent of the sport fishery subquota, which equaled 6.42 percent of the Area 2A TAC. The Council recommends an allocation of 28.0 percent of the Washington sport allocation, which equals 6.66 percent of the Area 2A TAC. The Council made no changes to the season structuring approach, bag limits, or the geographic limits of this subarea. Due to inability to monitor the catch in this area inseason, the Council adopted a fixed season management approach, rather than a quota. The season would be established preseason based on projected catch per day and number of days to achievement of the subquota. No inseason adjustments would be made; estimates of actual catch would be made post season.

Washington North Coast Sport Fishery Subarea.

The Council considered an allocation for this area that ranged between 51 and 62.3 percent of the Washington sport fishery subquota. In 1994, this area was allocated 62.4 percent of the sport fishery subquota, which equaled 12.37 percent of the Area 2A TAC. The Council recommends an allocation of 57.7 percent of the Washington sport allocation, which equals 13.73 percent of the Area 2A TAC. The Council made no changes to the geographic limits of this subarea. The Council recommends a two-tier approach to the season structuring, which would maintain the traditional early May fishery intended to extend through the month; if sufficient quota remained after May 31, an early July fishery would be scheduled for the Fourth of July holiday when sport fishers have requested access to halibut. The Council made no changes to the one-fish with no minimum size bag limit in this area. Also, the Council maintained the closure in the area that is approximately 19.5 nm (36.1 km) southwest of Cape Flattery. High catches of large fish from this area in the past caused the fishery to close early, due to quota attainment. The Council adopted a closure of this area to provide for longer seasons and fishing opportunity in other parts of the sport fishery subarea.

Washington South Coast Sport Fishery Subarea.

The Council considered an allocation for this area that ranged between 10 and 25 percent of the Washington sport fishery subquota. In 1994, this area was allocated 5.2 percent of the sport fishery subquota, which equaled 1.03 percent of the Area 2A TAC. The Council recommends an allocation of 12.3 percent of the Washington sport allocation, which equals 2.93 percent of the Area 2A TAC. The southern limit of this geographic area was changed from Cape Falcon to Leadbetter Point to establish a separate Columbia River area. This area has changed from having a continuous 153-day opening prior to 1993, to a limit of a few days of fishing, due to a shift in fishing strategy to a fishery targeting on halibut as a result of fishers finding productive sport fishing areas. In order to provide longer seasons that start on May 1 as in years prior to 1993, the Council recommends a greater allocation to this subarea and established an area closure in the northern offshore portion of this subarea where high catches have occurred in the last 2 years. However, to allow access to this more productive area without reducing season length, the Council did adopt a provision for an opening in this closed area after September 1, if the fishery is still open as described in the proposed Plan. To maintain a longer season, the bag limit was set by the Council at one fish, with no minimum size limit.

Columbia River Sport Fishery Subarea.

This is a new sport fish subarea for which the Council considered a maximum allocation of 2.5 percent of the Washington sport fishery subquota, plus a maximum of 2.5 percent of the Oregon/California sport fishery subquota. The Council recommends an allocation of 2.0 percent of the Washington sport allocation plus 2.0 percent of the Oregon/California sport allocation, which equals 0.89 percent of the Area 2A TAC. In 1994, this area was included with the Washington south coast area and did not have a separate allocation. Because of high landings of sport catch in the Westport area, the south coast area has been limited to only a few days of fishing in the last 2 years. Sport fishers in the Columbia River area, who have caught halibut incidental to sport fishing for other bottomfish species, requested separation from the Westport area so that longer fixed-season incidental catch fisheries could be maintained for the Columbia River ports. The Council agreed with this need in establishing this new

subarea that extends from Leadbetter Point to Cape Falcon. As described in the proposed Plan, this area would 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. To maintain a longer season, the bag limit was set by the Council at one fish with a minimum size limit of 32 in (81.3 cm). However, the Council acknowledged that, based on the experience at other ports such as Westport, it is probable that the fishery in this area could shortly evolve into a directed halibut fishery. If so, the season length would need to be shortened considerably or the quota increased.

Central Oregon Coast Sport Fishery Subarea.

The Council considered an allocation for this area that ranged between 55 and 97.4 percent of the Oregon/California sport fishery subquota. In 1994, this area was allocated 97.4 percent of the Oregon/California sport fishery subquota, which equaled 12.35 percent of the Area 2A TAC. The Council recommends an allocation of 88.4 percent of the Oregon/California sport allocation (which is 18.21 percent of the Area 2A TAC) if the Area 2A TAC is 388,350 lb (176.2 mt) and above. At TACs above 388,350 lb (176.2 mt) the Council set the southern geographic limit of this subarea at the Siuslaw River, rather than the California border, so that a south coast subarea can be established. If the Area 2A TAC is below 388,350 lb (176.2 mt), the Council determined that there would be no south coast subarea and the allocation for this subarea, which would extend from Cape Falcon to the California border, would be 95.4 percent of the Oregon/California sport allocation. The Council recommends three seasons for this area: (1) Two periods of fishing opportunity in productive deeper water areas along the coast, principally for charter and larger private boat anglers in May and in August, and (2) a period of fishing opportunity in less productive nearshore waters (inside 30 fathoms (55 m)) in June and July, designed for incidental catches by small boat anglers as described in the proposed Plan. The Council maintained the past daily bag limits for all seasons of two halibut per person, one with a minimum 32-in (81.3 cm) size limit and the second with a minimum 50-in (127.0 cm) size limit.

Southern Oregon Coast Sport Fishery Subarea.

This is a new sport fishery subarea for which the Council considered an allocation that ranged between 5 and 40 percent of the Oregon/California sport

fishery subquota for the area from the Siuslaw River to the California border. In 1994, this area was included with the central Oregon coast sport fishery area. The Council recommends an allocation to this new subarea of 7.0 percent of the Oregon/California sport allocation (which is 1.44 percent of the Area 2A TAC) if the Area 2A TAC is 388,350 lb (176.2 mt) and above. If the Area 2A TAC is below 388,350 lb (176.2 mt), this subarea will be included in the Oregon central sport fishery subarea. The Council agreed to create a south coast subarea to accommodate the needs of both charterboat and private boat anglers in this area to have additional fishing opportunity. In the past, the weather and bar conditions in the southern area often did not allow for access to fishing grounds on days when sport vessels out of Newport were fishing. Because the area quota applied to Newport and this southern area, the fishing opportunity in the southern area has been cut short due to quota achievement caused by vessels operating out of Newport. The Council acknowledged that at lower quotas for the Oregon/California sport fishery (less than 80,000 pounds (36.3 mt)), the quota would not be sufficient to split these two areas and still maintain viable sport fisheries. The Council recommends the same season and bag limits for this area as the central Oregon coast area.

California Sport Fishery Subarea.

The Council considered a maximum allocation of 3.0 percent of the Oregon/California sport fishery subquota for this area. In 1994, this area was allocated 2.6 percent of the sport fishery subquota, which equaled 0.33 percent of the Area 2A TAC. The Council recommended an allocation of 2.6 percent of the Oregon/California subquota, which is 0.54 percent of the Area 2A TAC. A separate subquota with a fixed-season fishery has occurred in this area since 1990 to allow for small numbers of halibut to be caught in this area of low halibut abundance incidental to other sport fishing activities throughout the summer. The Council agreed with maintaining this subarea sport fishery and recommends a continuous, fixed season fishery that would be open from May 1 through September 30 with a daily bag limit of one halibut per person with a minimum 32-in (81.3 cm) size limit. Due to inability to monitor the catch in this area inseason, the Council adopted a fixed-season management approach, rather than a quota. The season will be established pre-season based on projected catch per day and number of days to achievement of the

subquota. No inseason adjustments will be made; estimates of actual catch will be made post season.

The Council made no changes to the treaty Indian fisheries, which are allocated 35 percent of the Area 2A TAC. The Council adopted the treaty Indian tribes' request to maintain the 1994 structuring of the tribal commercial and ceremonial and subsistence (C&S) fisheries. These two fisheries are to be managed separately: the commercial fishery will be managed with a quota, and the C&S fishery will be open year round. The tribes will provide an estimate of the C&S harvest; the remainder of the allocation will be for the commercial fishery.

NMFS is publishing the proposed Plan together with the rationale provided by the Council for modifying the allocations and management measures for the halibut fisheries in Area 2A, and is requesting public comments on approval of the Council's recommended Plan for 1995 and beyond. Public comments are requested on the proposed Plan described in § 301.23 and the proposed regulations for implementing the Plan. Comments on the proposed Plan in § 301.23 are requested by January 19, 1995, so that a final Plan can be approved and notification provided to the IPHC prior to its annual meeting on January 23–26, 1995, when the final quotas will be adopted. The comment period on the remainder of the proposed regulations will extend past the IPHC annual meeting and close on February 20, 1995, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments. The IPHC, consistent with its responsibilities under the international convention, will implement the subquotas stipulated in the Plan based on its final determination of the Area 2A TAC to be made at its annual meeting. The actual amounts of halibut allocated to each group in 1995 will change if the IPHC establishes a TAC that is different from the assumed TAC of 500,000 lb (226.8 mt); however, the percentages specified in the Plan will not change. The proposed regulations also are based on an assumed TAC of 500,000 lb (226.8 mt) and will be modified dependent on the final TAC in accordance with the Plan.

The proposed rule includes all of the regulatory modifications to 50 CFR part 301 that are necessary to implement the proposed Plan at § 301.23. Some of these regulations will be implemented by the IPHC. However, to assist the public in commenting on the proposed Plan and implementing regulations, all of the regulatory changes necessary to

implement the Plan are published here as a proposed rule. After the Area 2A TAC is known, and after NMFS reviews public comments, NMFS and the IPHC will implement final rules for the halibut fishery. The final rule will stipulate which regulations are issued in international regulations and which in domestic regulations. 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.

Classification

The EA/RIR prepared by the Council for this proposed Plan indicates that, if approved, though the actions taken under this Plan would reduce the allocation and area available to commercial fisheries, it would not significantly affect a substantial number of commercial fishers because the commercial halibut fisheries in Area 2A are a small part of the average annual harvest for commercial fishers. As such, the Assistant General Counsel for Legislation and Regulation certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule would not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act. Copies of the 1995 EA/RIR are available (see ADDRESSES).

This action has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 301

Fisheries, Treaties.

Dated: January 6, 1995.

Charles Karnella,

*Acting Program Management Officer,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 301 is proposed to be amended as follows:

PART 301—PACIFIC HALIBUT FISHERIES

1. The authority citation for part 301 continues to read as follows:

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

2. In § 301.3, new paragraphs (l), (m), and (n) are added to read as follows:

§ 301.3 Licensing vessels.

* * * * *

(l) A license issued for a vessel operating in Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(m) A license issued for a vessel operating in the commercial fishery in

Area 2A shall be valid only for either the directed commercial fishery in Area 2A during the season set out in § 301.7(a) or the incidental catch fishery during the salmon troll fishery described in § 301.7(j), but not both.

(n) A vessel operating in a commercial fishery in Area 2A must obtain its license prior to May 1.

3. In § 301.7, paragraph (b) is revised and a new paragraph (j) is added to read as follows:

§ 301.7 Fishing periods.

* * * * *

(b) Each fishing period for directed halibut fishing in Area 2A shall begin at 0800 hours and terminate at 1800 hours Pacific Standard or Pacific Daylight Time, as applicable, on the dates set out in the table in paragraph (a) of this section, unless the Commission specifies otherwise.

* * * * *

(j) Notwithstanding paragraphs (a) and (b) of this section, an incidental catch fishery is authorized during salmon troll seasons implemented by NMFS. Vessels participating in the salmon troll fishery in Area 2A may retain halibut caught incidentally during authorized periods, in conformance with the NMFS regulations announced in the Federal Register with the annual salmon management measures. NMFS will specify the ratio of halibut to salmon that may be retained during this fishery.

4. In § 301.10, a new paragraph (j) is added to read as follows:

§ 301.10 Catch limits.

* * * * *

(j) Notwithstanding paragraph (i) of this section, the catch limit in Area 2A shall be divided between a directed halibut fishery to operate during the fishing periods set out in § 301.7(a) and an incidental halibut catch fishery during the salmon troll fishery in Area 2A described in § 301.7(j). Inseason actions to transfer catch between these fisheries may occur in conformance with § 301.23 of this part.

(1) The catch limit in the directed halibut fishery is 87,550 lb (39.71 mt).

(2) The catch limit in the incidental catch fishery during the salmon troll fishery is 15,450 lb (7.01 mt).

5. In § 301.11, a new paragraph (n) is added to read as follows:

§ 301.11 Fishing period limits.

* * * * *

(n) The fishing period limits in Area 2A apply only to the directed halibut fishery.

6. Section 301.20 is revised and implemented as a domestic regulation to read as follows:

§ 301.20 Fishing by U.S. treaty Indian tribes.

(a) Halibut fishing by members of treaty Indian tribes located in the State of Washington shall be governed by this section.

(b) For purposes of this part, treaty Indian tribes means the Hoh, Jamestown Klallam, Lower Elwha Klallam, Lummi, Makah, Port Gamble Klallam, Quileute, Quinault, Skokomish, Suquamish, Swinomish, and Tulalip tribes.

(c) Subarea 2A-1 includes all U.S. waters off the coast of Washington that are north of lat. 46°53'18" N. and east of long. 125°44'00" W., and all inland marine waters of Washington.

(d) Commercial fishing for halibut by treaty Indians is permitted only in subarea 2A-1 from March 1 through October 31, or until 159,000 lb (72.12 mt) is taken by treaty Indians, whichever occurs first.

(e) Commercial fishing periods and management measures to implement paragraph (d) of this section will be set by treaty Indian tribal regulations.

(f) Commercial fishing for halibut by treaty Indians shall comply with the provisions of §§ 301.12, 301.15, and 301.17, except that the 72-hour fishing restriction preceding the opening of a halibut fishing period shall not apply to treaty Indian fishing.

(g) Ceremonial and subsistence fishing for halibut in subarea 2A-1 is permitted with hook-and-line gear from January 1 to December 31, and is estimated to take 16,000 lb (7.3 mt).

(h) No size or bag limits shall apply to the ceremonial and subsistence fishery, except that when commercial halibut fishing is prohibited pursuant to paragraph (d) of this section, treaty Indians may take and retain not more than two halibut per person per day.

(i) Halibut taken for ceremonial and subsistence purposes shall not be offered for sale or sold.

(j) Any member of a U.S. treaty Indian tribe, as defined in paragraph (b) of this section, who is engaged in commercial or ceremonial and subsistence fishing under this part must have on his or her person a valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, and must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974).

(k) The following table sets forth the fishing areas of each of the 12 treaty Indian tribes fishing pursuant to this section. Within subarea 2A-1, boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

TRIBE***Boundaries

HOH***Between 47°54'18" N. lat. (Quillayute River) and 47°21'00" N. lat. (Quinault River), and east of 125°44'00" W. long.

JAMESTOWN KLALLAM***Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown Klallam Tribe may fish under rights secured by treaties with the United States.

LOWER ELWHA

KLALLAM***Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049 and 1066 and 626 F. Supp. 1443, to be places at which the Lower Elwha Klallam Tribe may fish under rights secured by treaties with the United States.

LUMMI***Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 384 F. Supp. 360, as modified in Subproceeding No. 89-08 (W.D. Wash. February 13, 1990) (decision and order re: cross-motions for summary judgement), to be places at which the Lummi Tribe may fish under rights secured by treaties with the United States.

MAKAH***North of 48°02'15" N. lat. (Norwegian Memorial), west of 123°42'30" W. long., and east of 125°44'00" W. long.

PORT GAMBLE KLALLAM***Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1442, to be places at which the Port Gamble Klallam Tribe may fish under rights secured by treaties with the United States.

QUILEUTE***Between 48°07'36" N. lat. (Sand Point) and 47°31'42" N. lat. (Queets River), and east of 125°44'00" W. long.

QUINAULT***Between 47°40'06" N. lat. (Destruction Island) and 46°53'18" N. lat. (Point Chehalis), and east of 125°44'00" W. long.

SKOKOMISH***Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1

and subsequent orders in *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 384 F. Supp. 377, to be places at which the Skokomish Tribe may fish under rights secured by treaties with the United States.

SUQUAMISH* * * Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Suquamish Tribe may fish under rights secured by treaties with the United States.

SWINOMISH* * * Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Swinomish Tribe may fish under rights secured by treaties with the United States.

TULALIP* * * Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1531-1532, to be places at which the Tulalip Tribe may fish under rights secured by treaties with the United States.

7. In § 301.21, paragraph (d)(2) is revised and paragraphs (n), (o), (p), and (q) are added to read as follows:

§ 301.21 Sport fishing for halibut.

* * * * *

(d) * * *

(2) The sport fishing subareas, subquotas, fishing dates, and daily bag limits implemented by NMFS are as follows, except as modified under the inseason actions in paragraph (d)(3) of this section. All sport fishing in 2A (except for fish caught in the North Washington coast area and landed into Neah Bay) 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) In Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line from the lighthouse on Bonilla Point on Vancouver Island, British Columbia (48°35'44" N. lat., 124°43'00" W. long.) to the buoy adjacent to Duntze Rock (48°24'55" N. lat., 124°44'50" W. long.) to Tatoosh Island lighthouse

(48°23'30" N. lat., 124°44'00" W. long.) to Cape Flattery (48°22'55" N. lat., 124°43'42" W. long.), there is no subquota. This area is managed by setting a season that is projected to result in a catch of 33,320 lb (15.11 mt).

(A) The fishing season is May 18 through July 22, 5 days a week (closed Tuesdays and Wednesdays).

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

(ii) In the area off the north Washington coast, west of the line described in paragraph (d)(2)(i) of this section and north of the Queets River (47°31'42" N. lat.), the subquota for landings into ports in this area is 68,663 lb (31.15 mt). Landings into Neah Bay of halibut caught in this area will count against this subquota and are governed by the regulations in this paragraph (d)(2)(ii).

(A) This area has two seasons.

(1) The first fishing season commences on May 2 and continues 5 days a week (Tuesday through Saturday) until May 27 or until 68,663 lb (31.15 mt) are estimated to have been taken and the season is closed by the Commission, whichever occurs first.

(2) If sufficient quota remains for this area, the second season commences on July 1 and continues until September 30, or the quota of 68,663 lb (31.15 mt) for this area is estimated to have been taken and the season is closed by the Commission, whichever occurs first.

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

(C) A portion of this area about 19.5 nm (36.1 km) southwest of Cape Flattery is closed to sport fishing for halibut. The closed area is within a rectangle defined by these four corners: 48°17'00" N. lat., 125°10'00" W. long.; 48°17'00" N. lat., 125°00'00" W. long.; 48°05'00" N. lat., 125°10'00" W. long.; and, 48°05'00" N. lat., 125°00'00" W. long.

(iii) In the area between the Queets River, WA and Leadbetter Point, WA (46°38'10" N. lat.), the subquota for landings into ports in this area is 14,637 lb (6.64 mt).

(A) The fishing season commences on May 1 and continues every day through September 30 or until 14,637 lb (6.64 mt) are estimated to have been taken and the season is closed by the Commission, whichever occurs first.

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

(C) The northern offshore portion of this area is closed to sport fishing for halibut. The closed area is west of 124°40'00" W. long. and north of 47°10'00" N. lat. If, on September 1, sufficient quota remains for at least 1 day of fishing, the Commission will, by inseason action as specified at § 301.4 of

this part, remove the geographical restriction on each Tuesday until the fishery is closed.

(iv) In the area between Leadbetter Point, WA and Cape Falcon, OR (45°46'00" N. lat.), the subquota for landings into ports in this area is 4,440 lb (2.01 mt).

(A) The fishing season commences on May 1 and continues every day through September 30 or until 4,440 lb (2.01 mt) are estimated to have been taken and the season is closed by the Commission, whichever occurs first.

(B) The daily bag limit is one halibut with a minimum overall size limit of 32 in (81.3 cm).

(v) In the area off Oregon between Cape Falcon and the Siuslaw River (44°01'08" N. lat.), the subquota for landings into ports in this area is 91,052 lb (41.3 mt).

(A) The fishing seasons are:

(1) Commencing May 4 and continuing 3 days a week (Thursday through Saturday) until 65,102 lb (29.53 mt) are estimated to have been taken and the season is closed by the Commission;

(2) Commencing the day following the closure of the season in paragraph (d)(2)(v)(A)(1) of this section, and continuing every day through August 2, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600, or until 3,187 lb (1.45 mt) or the area subquota is estimated to have been taken (except that any poundage remaining unharvested after the earlier season will be added to this season) and the season is closed by the Commission, whichever is earlier; and

(3) Commencing August 3 and continuing 3 days a week (Thursday through Saturday) through September 30, or until the combined subquotas for the areas described in paragraphs (d)(2)(v) and (vi) of this section totaling 98,262 lb (44.57 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier.

(B) The daily bag limit is two halibut, one with a minimum overall size limit of 32 in (81.3 cm) and the second with a minimum overall size limit of 50 in (127.0 cm).

(vi) In the area off Oregon between the Siuslaw River and the California border (42°00'00" N. lat.), the subquota for landings into ports in this area is 7,210 lb (3.27 mt).

(A) The fishing seasons are:

(1) Commencing May 4 and continuing 3 days a week (Thursday through Saturday) until 5,768 lb (2.62 mt) are estimated to have been taken

and the season is closed by the Commission;

(2) Commencing the day following the closure of the season in paragraph (d)(2)(vi)(A)(I) of this section, and continuing every day through August 2, in the area inside the 30-fathom (55 m) curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600, or until a total of 1,442 lb (0.65 mt) or the area subquota is estimated to have been taken (except that any poundage remaining unharvested after the earlier season will be added to this season) and the area is closed by the Commission, whichever is earlier.

(3) Commencing August 3 and continuing 3 days a week (Thursday through Saturday) through September 30, or until the combined subquotas for the areas described in paragraphs (d)(2)(v) and (vi) of this section totaling 98,262 lb (44.57 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier.

(B) The daily bag limit is two halibut, one with a minimum overall size limit of 32 in (81.3 cm) and the second with a minimum overall size limit of 50 in (127.0 cm).

(vii) In the area off the California coast, there is no subquota. This area is managed on a season that is projected to result in a catch of less than 2,678 lb (1.21 mt).

(A) The fishing season will commence on May 1 and continue every day through September 30.

(B) The daily bag limit is one halibut with a minimum overall size limit of 32 in (81.3 cm).

* * * * *

(n) The possession limit for halibut on land in Area 2A north of Cape Falcon, OR is two daily bag limits.

(o) The possession limit for halibut on land in Area 2A south of Cape Falcon, OR is one daily bag limit.

(p) A vessel licensed to fish for halibut in the Area 2A sport fishery shall not be used to fish for halibut in the Area 2A commercial fishery in the same calendar year.

(q) A vessel licensed to fish for halibut in the Area 2A commercial fishery shall not be used to fish for halibut in the Area 2A sport fishery during the same calendar year.

8. Sections 301.22 and 301.23 are redesignated 301.24 and 301.25 respectively, and new §§ 301.22 and 301.23 are added to read as follows:

§ 301.22 Fishery election in Area 2A.

(a) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(1) The recreational fishery under § 301.21;

(2) The commercial directed fishery for halibut during the fishing period(s) established in § 301.7(b); or

(3) The incidental catch fishery during the salmon troll fishery as authorized in § 301.7(j).

(b) No person shall fish for halibut in the recreational fishery in Area 2A under § 301.21 from a vessel that has been used during the same calendar year for commercial fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial fishery in Area 2A.

(c) No person shall fish for halibut in the directed halibut fishery in Area 2A during the fishing periods established in § 301.7(b) from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in § 301.7(j).

(d) No person shall fish for halibut in the directed commercial halibut fishery in Area 2A from a vessel that, during the same calendar year, has been used in the recreational halibut fishery in Area 2A or that is licensed for the recreational halibut fishery in Area 2A.

(e) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under § 301.7(j) taken on a vessel that, during the same calendar year, has been used in the recreational halibut fishery in Area 2A or that is licensed for the recreational halibut fishery in Area 2A.

(f) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under § 301.7(j) taken on a vessel that, during the same calendar year, has been used in the directed commercial fishery during the fishing periods established in § 301.7(b) for Area 2A or that is licensed to participate in the directed commercial fishery during the fishing periods established in § 301.7(b) in Area 2A.

§ 301.23 Catch sharing plan for Area 2A

(a) This Plan constitutes a framework that shall be applied to the annual Area 2A total allowable catch (TAC) approved by the Commission each January. The framework shall be implemented in both Commission regulations and domestic regulations (implemented by NMFS) as published in the **Federal Register** as rulemaking in §§ 301.1 through 301.22 of this part.

(b) This 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-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 sport fishery in the Columbia River area (Leadbetter Point to Cape Falcon) will receive 2 percent of the Washington sport allocation plus 2 percent of the Oregon/California sport allocation. The California sport fishery is allocated 2.6 percent of the Oregon/California sport allocation.

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**.

(c) 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 section.

(d) 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. Halibut taken for ceremonial and subsistence purposes may not be offered for sale or sold.

(2) The tribal commercial fishery begins on March 1 and continues through October 31 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 Commission regulations on size limits for the non-Indian fishery.

(e) The non-Indian commercial fishery is allocated 20.6 percent of the Area 2A TAC. The commercial fishery is divided into two components: A directed fishery targeting on halibut, and an incidental catch fishery during the salmon troll fisheries off Washington, Oregon, and California.

(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 the May through June salmon fisheries. The subquota for this incidental catch fishery is 3.1 percent of the Area 2A TAC. One halibut (in compliance with the Commission minimum size limit of 32 in (81.3 cm)) may be landed for each 25 chinook landed by a salmon troller. A salmon troller must have 25 chinook onboard before retaining a halibut. NMFS may adjust this ratio preseason, after the halibut and chinook quotas are established. NMFS will publish adjustments to the ratio annually in the **Federal Register**, along with the salmon management measures. A salmon troller may participate in this fishery or in the directed commercial fishery targeting on halibut, but not in both. Any poundage remaining in the subquota for this fishery after the May through June salmon troll season will be made available inseason to the directed halibut fishery. If the Commission determines that poundage remaining in the subquota for the directed fishery is insufficient to allow an additional day of directed halibut fishing, the remaining directed harvest subquota will be made available inseason for the fall salmon troll fisheries.

(2) *Directed fishery targeting on halibut.* Eighty-five percent of the non-Indian commercial fishery allocation is allocated to the directed fishery targeting on halibut (e.g., longline fishery) in southern Washington, Oregon, and California. The subquota for this directed catch fishery is 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 for this fishery, as necessary to ensure that the subquota for this fishery is not exceeded, will be determined by the Commission and implemented in Commission regulations. If the Commission determines that poundage remaining in

the subquota for this fishery is insufficient to allow an additional day of directed halibut fishing, the remaining subquota will be made available for incidental catch of halibut in the fall salmon troll fisheries.

(3) *Commercial license restrictions/declarations.* Commercial fishers must obtain a license to fish for halibut in Area 2A by May 1 of each year. Commercial fishers must choose either to operate in the directed commercial fishery in Area 2A, or to retain halibut caught incidentally during the salmon troll fishery. Fishing vessels that are issued Commission licenses to fish commercially in Area 2A are prohibited from obtaining a Commission charterboat license for Area 2A. Sport fishing for halibut is prohibited from a vessel licensed to fish commercially for halibut in Area 2A.

(f) *Sport fisheries.* The non-Indian sport fisheries are allocated 68.3 percent of the non-Indian share, which is 44.4 percent of the Area 2A TAC. The Washington sport fishery (north of the Columbia River) is allocated 53.6 percent of the non-Indian sport allocation and Oregon/California is allocated 46.4 percent. The allocations are further subdivided as subquotas among seven geographic subareas as described in paragraph (f)(1) of this section.

(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 subarea.* This sport fishery subarea is allocated 28.0 percent of the Washington sport allocation, which equals 6.66 percent of the Area 2A TAC. This subarea is defined as all U.S. waters east of the Bonilla-Tatoosh line, defined as follows: From Bonilla Point (48°35'44" N. lat., 124°43'00" W. long.) to the buoy adjacent to Duntze Rock (48°24'55" N. lat., 124°44'50" W. long.) to Tatoosh Island lighthouse (48°23'30" N. lat., 124°44'00" W. long.) to Cape Flattery (48°22'55" N. lat., 124°43'42" 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 subquota. No inseason adjustments will be made, and estimates of actual catch will be made post season. The fishery opens on either May 18 or 25 and continues at least through

July 4 until a date established preseason when the subquota is predicted to be taken, or until September 30, whichever is earlier. If May 18 and 25 falls on a Tuesday or Wednesday, the fishery will open on the following Thursday. The season opens

5 days per week (closed on Tuesdays and Wednesdays). The daily bag limit is one fish per person, with no size limit.

(ii) *Washington north coast subarea.* This sport fishery subarea is allocated 57.7 percent of the Washington sport allocation, which equals 13.73 percent of the Area 2A TAC. This subarea is defined as all U.S. waters west of the Bonilla-Tatoosh line, as defined in paragraph (f)(1)(i) of this section, and north of the Queets River (lat. 47°31'42" N.). 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 (closed on Sundays and Mondays). 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 utilizing the quota for this subarea, the next priority is to open the May fishery 7 days per week and extend it into June as long 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°17'00" N. lat., 125°10'00" W. long.; 48°17'00" N. lat., 125°00'00" W. long.; 48°05'00" N. lat., 125°10'00" W. long.; and, 48°05'00" N. lat., 125°00'00" W. long.

(iii) *Washington south coast subarea.* This sport fishery subarea is allocated 12.3 percent of the Washington sport allocation, which equals 2.93 percent of the Area 2A TAC. 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 providing for a limited halibut fishery. The fishery opens on May 1 for 7 days

per week until the subquota is estimated to have been taken, or September 30, whichever is earlier. The daily bag limit is one halibut per person, with no size limit. Sport fishing for halibut is prohibited in the area south of the Queets River (47°31'42" N. lat.), west of 124°40'00" W. long. and north of 47°10'00" N. lat. This closure may be removed through inseason action by NMFS under § 301.21(b)(3) of this part after September 1, for 1 day each week on Tuesday only, if NMFS determines that sufficient subarea quota remains to allow for 1 day of fishing without geographic restriction.

(iv) *Columbia river subarea.* This sport fishery subarea is allocated 2.0 percent of the Washington sport allocation plus 2.0 percent of the Oregon/California sport allocation, which combined equals 0.89 percent of the Area 2A TAC. 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 structuring objective for this subarea is to provide for a non-directed halibut sport fishery of not more than 5 months duration out of the Columbia River ports. 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 one halibut per person, with a 32-in (81.3 cm) minimum size.

(v) *Oregon central coast subarea (Applicable through December 31, 1995).* If the Area 2A TAC is 388,350 lb (176.2 mt) and above, this subarea extends from Cape Falcon to the Siuslaw River at the Florence north jetty (44°01'08" N. lat.) and is allocated 88.4 percent of the Oregon/California sport allocation which is 18.21 percent of the Area 2A TAC. If the Area 2A TAC is below 388,350 lb (176.2 mt), this sport fishery subarea extends from Cape Falcon to the California border and is allocated 95.4 percent of the Oregon/California sport allocation. The structuring objectives for this subarea are to provide one or two periods of fishing opportunity in productive deeper water areas along the coast, principally for charter and larger private boat anglers; and provide a period of fishing opportunity in nearshore waters in June and July, especially for small boat anglers. Any poundage remaining in this subarea quota from earlier seasons will be added to the last season in this subarea. This subarea has three seasons as set out in paragraphs (f)(2)(v)(A) through (C) of this section. The daily bag limit for all seasons is two halibut per person, one with a minimum 32-in (81.3 cm) size limit and the

second with a minimum 50-in (127.0 cm) size limit.

(A) The first season is an all-depth fishery that begins on May 4, and continues 3 days per week (Thursday through Saturday) until 71.5 percent of the subarea quota is taken.

(B) The second season opens the day following closure of the first season, only in waters inside the 30-fathom (55 m) curve, and continues every day until 3.5 percent of the subarea quota is taken, or August 2, whichever is earlier.

(C) The last season begins on August 3, with no depth restrictions, and continues 3 days per week (Thursday through Saturday), until the combined Oregon subarea quotas south of Falcon are estimated to have been taken, or September 30, whichever is earlier.

(vi) *Oregon south coast subarea (Applicable through December 31, 1995).* If the Area 2A TAC is 388,350 lb (176.2 mt) and above, this subarea extends from the Siuslaw River at the Florence north jetty (44°01'08" N. lat.) to the California border (42°00'00" N. lat.) and is allocated 7.0 percent of the Oregon/California sport allocation which is 1.44 percent of the Area 2A TAC. If the Area 2A TAC is below 388,350 lb (176.2 mt), this subarea will be included in the Oregon Central sport fishery subarea. The structuring objective for this subarea is to create a south coast management zone designed to accommodate the needs of both charterboat and private boat anglers in this area where weather and bar conditions very often do not allow scheduled fishing trips. This subarea has three seasons as set out in paragraphs (f)(2)(vi)(A) through (C) of this section. The daily bag limit for all seasons is two halibut per person, one with a minimum 32-in (81.3 cm) size limit and the second with a minimum 50-in (127.0 cm) size limit.

(A) The first season is an all-depth fishery that begins on May 4, and continues 3 days per week (Thursday through Saturday) until 80 percent of the subarea quota is taken.

(B) The second season opens the day following closure of the first season, only in waters inside the 30-fathom (55 m) curve, and continues every day until the subarea quota is estimated to have been taken, or August 2, whichever is earlier.

(C) The last season begins on August 3, with no depth restrictions, and continues 3 days per week (Thursday through Saturday), until the combined Oregon subarea quotas south of Falcon are estimated to have been taken, or September 30, whichever is earlier.

(vii) *California subarea.* This sport fishery subarea is allocated 2.6 percent

of the Oregon/California subquota, which is 0.54 percent of the Area 2A TAC. This area is defined as the area south of the California border (42°00'00" N. lat.). The structuring objective for this subarea is to provide anglers in California the opportunity to fish in a continuous, fixed season that is open from May 1 through September 30. The daily bag limit is one halibut per person, with a minimum 32-in (81.3 cm) size limit. Due to inability to monitor the catch in this area inseason, a fixed season will be established by NMFS, pre-season, 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 (except for fish caught in the Washington north coast subarea and landed in Neah Bay) 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. The one exception is for halibut caught west of the Bonilla-Tatoosh line and landed in Neah Bay, which are counted against the Washington north coast subarea quota, and are governed by the regulations governing the Washington north coast subarea.

(3) *Possession limits.* The sport possession limit on land north of Cape Falcon, OR 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 Cape Falcon is the same as the bag limit.

(4) *Ban on sport vessels in the commercial fishery.* Vessels operating in the sport fishery are prohibited from operating in the commercial fishery. Charterboat operators must choose, prior to May 1 of each year, whether they will obtain a charterboat license from the Commission or a commercial license, but cannot obtain both. Sport fishing for halibut is prohibited from a vessel licensed to fish commercially for halibut in Area 2A.

(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 Commission's 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. Inseason actions in the sport fisheries as stipulated in this Plan will be accomplished in accordance with § 301.21(d)(4).

[FR Doc. 95-805 Filed 1-9-95; 1:32 pm]

BILLING CODE 3510-22-F

50 CFR Part 676

[Docket No. 941266-4366; I.D. 121594B]

RIN 0648-AG45

Limited Access Management of Federal Fisheries In and Off of Alaska; Improve IFQ Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to amend portions of the regulations implementing the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska. This action is necessary because the IFQ Program needs further refinement prior to implementation in 1995, and is intended to improve the ability of NMFS to manage the halibut and sablefish fisheries.

DATES: Comments must be received by February 13, 1995.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 W. 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) for this action may be obtained from the above address.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The IFQ Program is a regulatory regime designed to promote the conservation and management of the halibut and sablefish fisheries, and to further the objectives of the Magnuson Fishery Conservation and Management Act and the Northern Pacific Halibut Act.

Beginning in 1995, the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in the areas defined in 50 CFR 676.10 (b) and (c) will be managed in accordance with the regulations codified at 50 CFR part 676. Further information on the implementation of this management program, and the rationale supporting it, is contained in the preamble to the final rule implementing the IFQ program published in the **Federal Register**, November 9, 1993 (58 FR 59375).

This action amends various portions of the regulations implementing the IFQ Program. Some of the changes are intended to clarify regulations that may be ambiguous. Other changes would add provisions intended to increase the efficacy of the IFQ program. All the changes are designed to make the IFQ Program more responsive to the conservation and management goals for the fishery resources.

Geographic Locations of Primary Ports

Geographic location descriptions would be added to § 676.17(a)(4) for the listed primary ports where vessel operators can obtain vessel clearances from clearing officers. If a vessel is required to be boarded prior to receiving clearance, the clearing officer will direct the person operating that vessel to a convenient docking facility within a reasonable distance of the geographic location provided in the regulations. When the final rule implemented the IFQ Program, a portion of the regulations was specifically reserved for geographic location descriptions. They would provide vessel operators with notification of the approximate locations where boardings may occur, if these are deemed necessary by a clearing officer.

Vessel Clearance in Alaska

Paragraph (a)(5) would be added to § 676.17, requiring a vessel operator to obtain vessel clearance from a clearing officer located at a primary port in the State of Alaska before that vessel operator lands IFQ species in a foreign port. This requirement would provide necessary information to NMFS Enforcement, so that it may thwart the landing of unreported IFQ species in foreign ports. This requirement is especially necessary for the designated Canadian ports, which are located between the primary ports of Ketchikan, AK, and Bellingham, WA. If vessel operators planning to land at the designated Canadian ports were permitted to clear in Bellingham, they would be able to land unreported fish in any Canadian port prior to clearing their

vessel in Bellingham. This potential for nonreporting of IFQ product would be corrected by requiring vessel clearance in an Alaskan primary port prior to landing IFQ species in a foreign port.

Canadian Ports

Paragraph (a)(6) would be added to § 676.17, describing Port Hardy, Prince Rupert, and Vancouver, British Columbia, as the only Canadian ports where IFQ species may be landed. Designating these three ports would assist NMFS Enforcement in its task of ensuring that all IFQ species landed are properly recorded. Two issues, the multiplicity of ports on the coast of Canada that will not have enforcement presence, and the similarity between the Canadian Individual Vessel Quota (IVQ) Program and the U.S. IFQ Program, were determining factors in limiting the Canadian landing ports where IFQ species could be landed to three. Also, the three-port limit would be similar to the provisions of the agreement between the United States and Canada pertaining to the IVQ Program, under which IVQ product may be landed only at the following U.S. ports: Ketchikan, AK; Bellingham and Blaine, WA.

Definition of Clearing Officer

A definition of "clearing officer" would be added to § 676.11 to mean a NMFS special agent, a NMFS fishery enforcement officer, or a NMFS enforcement aide who is authorized to provide vessel clearances and perform other duties as described in part 676. A clearing officer should not be confused with an authorized officer, as defined in § 620.2 of this title. Changes would be made throughout part 676 consistent with the new definition of a clearing officer. Creating a definition, and using it throughout the regulations, would assist in uniform interpretation of the regulations and consistent behavior based on that interpretation. Also, the proposed term would help prevent confusion with other terms already defined (e.g., authorized officer).

Landing Requirements

Paragraph (a)(7) would be added to § 676.17, requiring a vessel operator having any IFQ species onboard to land and weigh all species onboard at the same time and place as the first landing of any species onboard. For example, if a vessel had Pacific halibut (IFQ species), sablefish (IFQ species), and Pacific cod (non-IFQ species) onboard, and the operator wanted to offload the Pacific cod to a tender, the operator also would be required to offload and weigh the Pacific halibut and sablefish. This provision would ensure that all IFQ