

commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or man-made factors affecting the species' continued existence. The biologists also evaluated new information on hatchery programs to inform an updated assessment of which hatchery programs should be included as part of the listed species. They applied our Policy Addressing the Role of Artificially Propagated Pacific Salmon and Steelhead in Listing Determinations under the ESA (70 FR 37204) to complete this evaluation. The 5-year review reports, the science team report, and additional information are available on our Web site: <http://nwr.noaa.gov>.

Findings

After considering the best available information, we conclude that all 11 Pacific salmon species and 6 steelhead species in Oregon, Washington, and Idaho shall remain listed as currently classified.

We also conclude that, based on the best information available, no adjustments to species boundaries are necessary. We did conclude that the species membership of several hatchery programs will need to be revised, and we also identified several errors in our current species descriptions in the list of threatened and endangered species found at 50 CFR 17.11, 223.102, and 224.102. We will adjust the hatchery memberships and correct any listing inaccuracies through a subsequent rulemaking.

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

Dated: August 8, 2011.

Therese Conant,

*Deputy Chief, Endangered Species Division,
Office of Protected Resources, National
Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648-BB13

Fisheries off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Trawl Rationalization Program; Program Improvement and Enhancement; Amendment 21-1

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

ACTION: Availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 21-1 to the Pacific Coast Groundfish Fishery Management Plan (FMP) for review by the Secretary of Commerce (Secretary). Amendment 21-1 would further revise the FMP to support the trawl rationalization program, a catch share program, implemented in January 2011 through Amendments 20 and 21. Amendment 21-1 would modify the FMP to clarify that Amendment 21 supersedes the limited entry/open access allocations for groundfish species allocated through Amendment 21. Amendment 21-1 would also revise the formula in the FMP to allocate Pacific halibut bycatch to the limited entry trawl fishery.

DATES: Comments on Amendment 21-1 must be received no later than 5 p.m., local time on October 14, 2011.

ADDRESSES: You may submit comments, identified by RIN 0648-BB13 by any one of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

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

Mail: Barry Thom, Acting Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070, *Attn:* Jamie Goen.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business

Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Jamie Goen, *phone:* 206-526-4656, *fax:* 206-526-6736, and e-mail jamie.goen@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

Background information and documents are available at the Pacific Fishery Management Council's Web site at <http://www.pcouncil.org/>.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any FMP or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. NMFS will consider public comments received during the comment period described above in determining whether to approve Amendment 21-1 to the FMP.

Amendment 21-1 would further revise the FMP to support the trawl rationalization program, a catch share program, implemented in January 2011 through Amendments 20 and 21. Amendment 21-1 would modify the FMP to: (1) Clarify that Amendment 21 supersedes the limited entry/open access allocations for groundfish species allocated through Amendment 21; and (2) revise the formula in the FMP to calculate the Pacific halibut bycatch mortality limit for the limited entry trawl fishery.

Amendment 21 to the FMP established allocations to the limited entry trawl fishery participants. As part of Amendment 21, allocations were established between the trawl and non-trawl sectors for certain groundfish species in preparation for the trawl rationalization program (called Amendment 21 species). In a letter to the Council dated August 9, 2010, NMFS disapproved part of Amendment 21 because the FMP language available to the public and to the Council during its decision making did not clearly state that Amendment 21 allocations supersede the previous limited entry/open access allocations for Amendment

21 species. In other words, the partial disapproval of Amendment 21 was because of a concern over the public record and procedural issues regarding the record. This issue has since been addressed through the Council process by providing FMP and regulatory language at the Council's March, April, and June 2011 meetings.

Amendment 21-1 would modify the FMP to explicitly state that, for Amendment 21 species, allocations decided under Amendment 21 supersede allocations previously decided between limited entry and open access fisheries. Limited entry and open access allocations were initially decided under Amendment 6 to the FMP, which established the limited entry fishery.

Amendment 21-1 would also revise the formula in the FMP to calculate the amount of Pacific halibut bycatch available to the limited entry trawl fishery. The allocation of Pacific halibut to the trawl fishery was initially implemented through Amendment 21 to the FMP. Halibut allocations under Amendment 21 set a total catch limit of Pacific halibut in the limited entry trawl fishery for the trawl rationalization program in order to reduce trawl bycatch of halibut in future fisheries to provide more yield to directed Area 2A (Washington, Oregon, and California) halibut fisheries (i.e., primary use of halibut is to provide fish for the directed tribal, commercial, and recreational fisheries). However, as the start date of the trawl rationalization program, January 2011, was getting closer, the

Council and industry were concerned that the allocation established in Amendment 21 was too restrictive. In response, NMFS implemented interim measures for the 2011 groundfish fishery which interpreted the halibut allocation to be legal halibut of 130,000 lb net weight. This was in comparison to Amendment 21 language which stated legal and sub-legal halibut set at 15% of the International Pacific Halibut Commission's (IPHC's) constant exploitation yield (CEY) for legal sized halibut (over 32 inches in length), not to exceed 130,000 lbs annually for the first four years and not to exceed 100,000 lbs annually beginning in the fifth year. This resulted in a two part calculation of the limit by converting from net weight to round weight and by converting legal sized halibut to legal and sublegal sized halibut. This calculation reflects the difference between the total constant exploitation yield (TCEY) established by the IPHC (net weight of legal fish) and NMFS management of groundfish and halibut (round weight of legal and sublegal fish).

Because the interim measures are temporary and will expire at the end of 2011, the Council has recommended a long term solution by making further revisions to Amendment 21 for the calculation of halibut bycatch mortality available to the trawl fishery. For 2012 and beyond, the Council recommended amending the FMP through Amendment 21-1 to: (1) Specify that the total net

weight of legal sized halibut would then be expanded, converting to total round weight of legal and sublegal sized halibut, and (2) by making the percentage cap based on the best estimate of TCEY from the IPHC (i.e., preliminary IPHC estimate from their interim meeting of TCEY).

A proposed rule to implement the provisions of Amendment 21-1 has been submitted by the Council for Secretarial review and approval. NMFS expects to publish and request public review and comment on the proposed regulations to implement Amendment 21-1 in the near future. Public comments on the proposed rule must be received by the end of the comment period on the amendment to be considered in the approval/disapproval decision on the amendment. The decision on the amendment must occur within 30 days of the end of the comment period on the notice of availability for the amendment. All comments received by the end of the comment period for the amendment, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 10, 2011.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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