

keeping with their traditional belief that the fish, as well as the stock of fish to which a captured fish is returned, is irreparably harmed by its capture and release.

In September 1996, the Council received a NMFS report about enforcement issues related to halibut fishing practices of Western Alaska Natives. In October 1996, staff from the Council, NMFS, NOAA General Counsel, and the Alaska Department of Fish and Game met with Alaska Native tribal representatives to exchange information on the Council process for developing fishing regulations that would recognize traditional fishing customs. In December 1996, the Council established a Halibut Subsistence Committee (Committee) to review undersized halibut retention and other issues related to subsistence fishing for halibut. The Committee met in January 1997 and provided its recommendations to the Council in February 1997. After receiving the Committee's recommendations, the Council initiated preparation of an EA/RIR for a regulatory amendment to allow for subsistence fishing for halibut. In April 1997, the Council approved release of the EA/RIR for public review. In June 1997, although the Council tabled the majority of halibut subsistence issues until February 1998, it recommended that regulations be developed that would allow the retention of undersized halibut caught with authorized commercial gear in Regulatory Area 4E for personal use.

Size limits for Pacific halibut in Area 4E

Current regulations require that all undersized halibut caught with authorized commercial gear be released. This requirement conflicts with the customary and traditional halibut fishing practices of Western Alaska Natives of Yupik descent. The proposed action would revise current halibut fishing regulations to allow the retention of undersized halibut caught with authorized commercial gear in Regulatory Area 4E for personal use. Staff for the IPHC informed the Council that the IPHC would probably not object to the proposed action because the limited amount of removals retained for personal use from the commercial CDQ fishery in Regulatory Area 4E has little effect on the halibut resource. In 1997, the total allowable catch (TAC) of halibut for Regulatory Area 4E was 260,000 lb (117.9 mt). This amount was less than 3 percent of the combined TAC for Regulatory Area 4A through E (9,000,000 lb (4,082.3 mt), and less than .0005 percent of the combined TAC for

all regulatory areas in and off Alaska (53,000,000 lb) (24,040.4 mt). These percentages illustrate the negligible impact the retention of undersized halibut in Regulatory Area 4E would have on the stock.

Also, all halibut in Regulatory Area 4E are allocated to the CDQ Program, unlike other areas where the TAC is divided between the Individual Fishing Quota (IFQ) Program and the CDQ Program. The exclusive nature of the Regulatory Area 4E allocation will eliminate potential difficulties in distinguishing between IFQ and CDQ halibut when enforcing the minimum size limit for IFQ halibut.

At its annual meeting in Anchorage, AK during the week of January 26, 1998, the IPHC relaxed its existing regulations on the minimum size retention limit to allow CDQ fishers in Area 4E to land undersized halibut caught with commercial gear for subsistence use. This proposed rule would allow the retention of undersized halibut in Area 4E as recommended by the Council in accordance with the Halibut Act and adopted by the IPHC.

Classification

The Council prepared an EA/RIR for this rule that describes the management background, the purposes and need for action, the management action alternatives, and the environmental and the socio-economic impacts of the alternatives. A copy of the EA/RIR can be obtained from NMFS (see ADDRESSES).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed action would allow current Community Development Quota (CDQ) participants in Area 4E (88 fishermen), all of whom are small entities, to retain halibut that now must be discarded because of size limitations. This revision would provide a benefit to the 88 fishermen who participate in Area 4E CDQ fisheries. Without this revision, undersized halibut caught while prosecuting the CDQ halibut fishery in Area 4E would have to be discarded. This result would pose a hardship on Area 4E participants for two reasons. First, most participants are indigenous inhabitants of Yupik descent who believe that discarding fish captured indicates ingratitude to the causal agent that provided the fish. Second, most participants live a subsistence lifestyle and could use discarded fish for personal use. Allowing participants to keep undersized halibut during the prosecution of CDQ fisheries reduces the need for these

same participants to prosecute a separate subsistence fishery for personal use fish. This proposed action would have no effect on participants fishing in other regulatory areas or other fisheries.

As a result, a regulatory flexibility analysis was not prepared.

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

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: March 3, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For 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.*; 16 U.S.C. 951–961 and 971 *et seq.*; 16 U.S.C. 973–973r; 16 U.S.C. 2431 *et seq.*; 16 U.S.C. 3371–3378 *et seq.*; 16 U.S.C. 3636(b); 16 U.S.C. 5501 *et seq.*; and 16 U.S.C. 1801 *et seq.*

2. In § 300.63, paragraph (c) is proposed to be added to read as follows:

§ 300.63 Catch sharing plans and domestic management measures.

* * * * *

(c) A person may take and retain halibut in Area 4E that are smaller than the size limit specified in the annual management measures published pursuant to § 300.62, provided that no person may sell or barter such halibut.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[030398C]

Magnuson Act Provisions; Essential Fish Habitat

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

ACTION: Proposed recommendations for Essential Fish Habitat; notice of public hearings and request for public comments.

SUMMARY: NMFS requests public comments on proposed

recommendations for Essential Fish Habitat (EFH) to the Pacific Fishery Management Council (Council) for its Fishery Management Plans (FMP) for salmon, groundfish, and coastal pelagics. NMFS also announces public hearings on the proposed recommendations in Washington, Oregon, California and Idaho.

DATES: Comments must be received by May 8, 1998. The public hearings will be held at 7:00 p.m. on:

April 6, 1998, at the Doubletree Hotel, Columbia River, 1401 N. Hayden Island Drive, Portland, OR (503-283-2111);

April 14, 1998, at the NOAA Auditorium, 7600 Sand Point Way NE, Seattle, WA (206-526-6140);

April 15, 1998, at the Park Plaza International Hotel, 1177 Airport Blvd., Burlingame, CA (415-342-9200); and

April 16, 1998; at the Owyhee Plaza Hotel, 1109 Main St., Boise, ID (208-343-4611).

ADDRESSES: Send comments or requests for a copy of the proposed EFH recommendations for the salmon and groundfish FMPs to NMFS Northwest Region, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115. Send comments or requests for a copy of the proposed EFH recommendations for the coastal pelagics FMP to NMFS Southwest Region, Sustainable Fisheries Division, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, NMFS-Northwest Region,

206-526-6143, on salmon EFH; Yvonne deReynier, NMFS-Northwest Region, 206-526-6120, on groundfish EFH; Mark Helvey, NMFS-Southwest Region, 707-575-7585, on coastal pelagics EFH.

SUPPLEMENTARY INFORMATION: The Sustainable Fisheries Act of 1996 amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to establish new requirements for EFH descriptions in FMPs and require consultation between NMFS and Federal agencies on activities that may adversely impact EFH for species managed under FMPs. The Magnuson-Stevens Act requires all Councils to amend their FMPs by October 1998 to describe and identify EFH for each managed fishery. In accordance with the Magnuson-Stevens Act, NMFS published an interim final rule in the **Federal Register** on December 19, 1997 (62 FR 66531) providing guidelines to assist the Councils in description and identification of EFH in FMPs (including adverse impacts on EFH) and consideration of actions to ensure conservation and enhancement of EFH. The Magnuson-Stevens Act also requires NMFS to provide each Council with recommendations and information regarding EFH for each fishery under that Council's authority.

NMFS has developed proposed EFH recommendations for the Pacific Council's three FMPs through a process that has involved input from the Council, its advisory bodies, and the

fishing industry at the Council's public meetings in September 1997, November 1997, and March 1998. NMFS also formed a technical team consisting of fishing industry, state, tribal, university and Federal individuals to provide technical input and advice on the development of the NMFS recommendations.

The proposed EFH recommendations for each FMP include a description of EFH for the managed species, a description of adverse effects to EFH including fishing and non-fishing threats, and a description of measures to ensure the conservation and enhancement of EFH. Copies of the proposed EFH recommendations are available (see **ADDRESSES**). Public comments are requested by May 8, 1998.

Special Accommodations

The public hearings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be requested at least 5 working days prior to the hearing date.

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

Dated: March 3, 1998.

Garry F. Mayer,

Acting Director, Office of Habitat Conservation, National Marine Fisheries Service.

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