

the National Aeronautics and Space Administration's Langley Research Center for publication in the August, 1967 issue of the Journal of Astronautics and Aeronautics, the author stated:

Research indicates that grooved or treaded tires behave like bald or smooth tires when the groove depth is decreased by wear to about $\frac{1}{16}$ inch of tread remaining.

The same conclusion was reached in a study entitled *Vehicle-in-Use Limit Performance and Tire Factors—The Tire In Use*, prepared in March, 1975 for NHTSA by Paul S. Fancher and James E. Bernard, report no. DOT HS-801 438. The report stated in pertinent part:

Our recommendation, based on the results of this investigation * * *, is that tires should be replaced when they reach a groove depth of $\frac{2}{32}$ of an inch.

Those studies, among others, confirmed a long-standing practice in the tire industry that tires should be replaced when the tread reached a depth of $\frac{1}{16}$ inch (the "rule of thumb" was to place a penny in the tire groove and if you could see the top of Lincoln's head, it was time to replace or retread the tire). NHTSA adopted the industry practice in specifying the treadwear indicator height in Standard Nos. 109 and 119 at $\frac{1}{16}$ inch.

Herzlich cited his own forensic experience in asserting that a tread depth of $\frac{2}{32}$ inch is inadequate to maintain effective wet skid resistance. However, he cited no pertinent data in support of his forensic experience. Further, NHTSA is unaware of any data that would suggest that a tread depth of $\frac{2}{32}$ inch is unsafe or that treadwear indicators should be raised.

The petitioner asserted that tire technology must now service new tire needs such as ABS, but did not explain the implications of ABS technology and performance for tire technology and tire tread depths. NHTSA has issued extensive rulemaking in recent years on ABS technology (see e.g., final rule on heavy truck ABS, 60 FR 13216, March 10, 1995). Theoretically, by preventing wheel lockup, ABS should be able to prevent tires from "flat spotting" or developing bald areas, thereby increasing tire life. Further, based on its experience with ABS, NHTSA does not believe that increasing the height of the treadwear indicators would measurably improve any function associated with ABS.

Petitioner also stated that tire technology must help provide decreased rolling resistance. Again, petitioner did not elaborate on this, nor provide any data to suggest that raising the treadwear indicators would have any effect on rolling resistance. NHTSA

knows of no such correlation. Thus, although NHTSA agrees that tire technology must be responsive to new needs, the agency does not see how raising the treadwear indicators would contribute to the reduction of rolling resistance.

Petitioner alluded to the potential for improved recycling because there would be fewer landfill junk tires and by providing retreaders a better supply of usable casings. The January 1995 issue of *Modern Tire Dealer* magazine stated that approximately 228,200,000 passenger car tires are shipped nationwide per year, while only 5,850,000 retreaded passenger car tires are shipped. Thus, if tire life were shortened by removing tires from vehicles before reaching a tread depth of $\frac{2}{32}$ inch, there should logically be more rather than fewer tires in landfills. NHTSA does not know of any data suggesting that tire casings are sounder for retreading purposes with $\frac{3}{32}$ inch tread remaining than those with $\frac{2}{32}$ inch tread remaining, or that more tires would be retreaded if more tread remained on the casing prior to retreading. Even assuming that there might be a small increase in the number of tires retreaded if tires had more tread remaining when they were retired, the agency has no data, and the petitioner provided none, on how many additional tires could be expected to be retreaded compared to the additional number of tires that would be removed and discarded upon reaching a tread depth of $\frac{3}{32}$ inch.

In summary, NHTSA knows of no data suggesting either a safety or an environmental need to raise the treadwear indicators to $\frac{3}{32}$ inch, and the petitioner has presented none. Neither has the petitioner submitted any data to support his assertions that a tread depth of $\frac{3}{32}$ inch would improve ABS wet skid interaction, provide retreaders a better supply of undamaged tire casings, result in fewer scrap tires in landfills, or that tire safety enforcement would be improved. There is no reasonable probability that the requested amendments would be issued at the end of a rulemaking proceeding. Accordingly, the petition of Herzlich Consulting, Inc. is denied.

Authority: 49 U.S.C. 322, 30111, and 30162; delegation of authority at 49 CFR 1.50.

Issued on January 24, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 960111003-6008-02; I.D. 122095C]

RIN 0648-AI48

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed catch sharing plan; request for comment.

SUMMARY: NMFS proposes to approve and implement a catch sharing plan (CSP) in accordance with the Northern Pacific Halibut Act of 1982 (Halibut Act). The CSP would apportion the catch limit specified by the International Pacific Halibut Commission (IPHC) for Regulatory Area 4 among subareas 4A, 4B, 4C, 4D, and 4E in and off the State of Alaska. The proposed CSP is based on the recommendations of the North Pacific Fishery Management Council (Council). This action is necessary to provide a basis for allocating the Pacific halibut resources of the Bering Sea and Aleutian Islands area among U.S. fishers who harvest these resources in accordance with the Individual Fishing Quota (IFQ) Program and Community Development Quota (CDQ) Program. The action is intended to carry out the fishery management objectives of the Council under the provisions of the Halibut Act and is consistent with the resource management objectives of the IPHC.

DATES: Comments on the CSP must be received before the close of business on February 1, 1996.

ADDRESSES: Send comments to Ronald J. Berg, Chief, Fishery Management Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attention: Lori Gravel. A copy of the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (IRFA) may be obtained from the North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252. **FOR FURTHER INFORMATION CONTACT:** Jay J. C. Ginter, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce (Secretary) is responsible for implementing the Halibut Convention

between the United States and Canada as provided by the Halibut Act, at 16 U.S.C. 773c. Section 773c(c) also authorizes the regional fishery management council for the geographical area concerned to develop regulations governing the allocation of Pacific halibut among U.S. fishers. Such regulations may be in addition to, but must not conflict with, regulations developed by the IPHC for primarily biological conservation purposes and must be approved by the Secretary before being implemented. Accordingly, the Council developed a halibut fishery management regime for IPHC Areas 2C through 4E establishing an IFQ limited access system and, for IPHC Areas 4B through 4E, a CDQ program for certain western Alaska communities. The IFQ and CDQ programs were designed to allocate specific harvesting privileges among U.S. fishers to resolve conservation and management problems that stem from "open access" management and to promote the development of the seafood industry in western Alaska. Both programs were approved by the Secretary on January 29, 1993, and were initially implemented by rules published in the Federal Register on November 9, 1993 (58 FR 59375). Fishing for halibut under the IFQ and CDQ programs began on March 15, 1995.

In February 1995, the IPHC informed the Council that there was no basis other than allocation for the historical distribution of the catch limits among Regulatory Areas 4C, 4D, and 4E. Further, the IPHC informed the Council of IPHC policy to distribute harvest in proportion to estimated biomass in each subarea because IPHC staff scientists perceived no stock separation among the subareas. Therefore, the IPHC staff recommended a harvest distribution for Area 4 based on estimated habitat and catch per unit of effort (CPUE) data. Alternatively, the IPHC suggested combining subareas 4C, 4D, and 4E. IPHC staff scientists recommended an equal exploitation rate strategy for the halibut resource in subareas 4A and 4B in which they perceive considerable stock separation. The IPHC staff presented this information to the Council because both alternatives would substantially affect the halibut catch limit allocations prescribed by the IFQ and CDQ programs.

The Council initially discussed the IPHC recommendations at the September 1995 meeting of the Council. The IPHC staff indicated at that meeting that it was reviewing its methods of calculating biomass based on habitat and CPUE estimates and that it was 1 to 2 years from making final

recommendations for a biological basis for apportioning the Area 4 catch limit among the subareas. The IPHC staff also acknowledged no evidence of harm to the Area 4 halibut resource due to the traditional method of apportioning the catch limit among subareas. Apportionment of the Area 4 catch limit in 1995, prescribed at 50 CFR 301.10, has been approximately the same since 1984.

The current subareas and historical apportionment of catch limits among them is important to achieve the socioeconomic objectives of the IFQ and CDQ programs. The Halibut Act authorizes the Council to develop regulations that have allocation of harvesting privileges as the primary objective. Hence, the Council began to develop the CSP during its meeting of September 27 through October 2, 1995, by directing its staff to draft the analysis of CSP alternatives. The alternatives included (1) the status quo or "do nothing" alternative, and (2) an alternative that would establish the same subarea proportions as were established in 1995. These proportions of the total Area 4 catch limit were 33 percent for subarea 4A, 39 percent for subarea 4B, 13 percent for subarea 4C, 13 percent for subarea 4D, and 2 percent for subarea 4E. The Council also included an option under Alternative 2 that would assign the first 80,000 lb (36.3 metric tons) of catch limit greater than the total Area 4 catch limit to Area 4E, and distribute any additional catch limit among all Area 4 subareas in proportion to the 1995 apportionments. The total catch limit of halibut in Area 4 in 1995 was 5,920,000 lb (2,685.3 mt). The purpose of the option was to provide CDQ fishermen in subarea 4E with additional harvesting opportunity. The entire subarea 4E catch limit is assigned to the CDQ reserve and subsequently allocated to qualifying CDQ groups. The Council agreed with representatives from some of these CDQ groups that the subarea 4E catch limit has been unreasonably constrained in recent years.

The analysis of CSP alternatives was made available by the Council staff for public review on November 9, 1995. At its meeting December 6 through 10, 1995, the Council decided to recommend Alternative 2, including the option, to NMFS for implementation.

The Proposed CSP

Introduction: This CSP would constitute a framework that would be applied to the annual Area 4 catch limit established by the IPHC. The purpose of the CSP is to establish subareas within Area 4, and to provide for the

apportionment of the Area 4 catch limit among the subareas as necessary to carry out the objectives of the IFQ and CDQ programs that allocate halibut among U.S. fishers. The IPHC, consistent with its responsibilities, is scheduled to implement the measures specified in this CSP at its annual meeting in January 1996, based on an assumption that the CSP will be approved by NMFS. If the CSP is not approved, then the IPHC will reconsider alternative ways to manage the Area 4 catch limit. If approved, this CSP would continue in effect until amended by the Council or superseded by action of the IPHC.

Area 4 subareas: Regulatory Areas 4A, 4B, 4C, 4D, and 4E would be established as they are defined currently at paragraphs (f), (g), (h), (i), and (j), respectively, at 50 CFR 301.6. For the convenience of the reader, definitions of these subareas are set out as follows:

Area 4A includes all waters in the Gulf of Alaska west of Area 3B defined in § 301.6(e) and in the Bering Sea west of the closed area, defined in § 301.9, that are east of 172°00'00" W. long. and south of 56°20'00" N. lat.

Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20'00" N. lat.

Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in § 301.9, that are east of 171°00'00" W. long., south of 58°00'00" N. lat., and west of 168°00'00" W. long.

Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00'00" W. long.

Area 4E includes all waters in the Bering Sea north and east of the closed area defined in § 301.9, east of 168°00'00" W. long., and south of 65°34'00" N. lat.

Catch limit apportionments: Apportionment of the Area 4 catch limit specified annually by the IPHC would be as follows:

subarea 4A—33 percent
subarea 4B—39 percent
subarea 4C—13 percent
subarea 4D—13 percent
subarea 4E—2 percent

An exception to this CSP apportionment schedule is provided when the Area 4 catch limit is greater than 5,920,000 lb (2,685.3 mt) and less than or equal to 6,000,000 lb (2,721.6 mt). In this event, the amount of the Area 4 catch limit that is greater than 5,920,000 lb (2,685.3 mt) but less than or equal to 6,000,000 lb (2,721.6 mt) would be assigned to subarea 4E. The

amount of the Area 4 catch limit that is greater than 6,000,000 lb (2,721.6 mt) would be distributed among all Area 4

subareas according to the CSP apportionment schedule.

Example 1: If the IPHC specifies the Area 4 catch limit to be 5,980,000 lb (2,712.5 mt),

then 5,920,000 lb (2,685.3 mt) would be distributed among the Area 4 subareas according to the CSP apportionment schedule, and 60,000 lb (27.2 mt) would be added to subarea 4E as follows:

Subarea			lb	Mt
4A	.33 ×	5,920,000	= 1,953,600	886.1
4B	.39 ×	5,920,000	= 2,308,800	1,047.3
4C	.13 ×	5,920,000	= 769,600	349.1
4D	.13 ×	5,920,000	= 769,600	349.1
4E	.02 ×	5,920,000 + 60,000	= 178,400	80.9
Totals	1.00		5,980,000	2,712.5

Example 2: If the IPHC specifies the Area 4 catch limit to be 6,100,000 lb (2,766.9 mt), then 5,920,000 lb (2,685.3 mt) plus the amount that is greater than

6,000,000 lb (2,721.6 mt) (i.e. 100,000 lb (45.4 mt)) would be distributed among the Area 4 subareas according to the CSP apportionment schedule, and the

80,000 lb (36.3 mt) remainder would be added to subarea 4E as follows:

Subarea			lb	Mt
4A	.33 ×	6,020,000	= 1,986,600	901.1
4B	.39 ×	6,020,000	= 2,347,800	1,064.9
4C	.13 ×	6,020,000	= 782,600	355.0
4D	.13 ×	6,020,000	= 782,600	355.0
4E	.02 ×	6,020,000 + 80,000	= 200,400	90.9
Totals	1.00		6,100,000	2,766.9

Classification

The IRFA prepared by the Council for this proposed CSP indicates that, if approved, the CSP could cause IFQ and CDQ halibut fishers in subareas 4A through 4D to forego up to an average of \$143 each due to the potential 80,000 lb (36.3 mt) that would be redistributed from these areas to subarea 4E. About 88 CDQ halibut fishermen in subarea 4E would gain an average of \$1,559 each from landing up to 80,000 lb (36.3 mt) more than otherwise would be possible if Area 4 apportionments did not change from 1995. The analysis indicated that the potentially foregone amounts of halibut from subareas 4A through 4D would amount to less than 5 percent of the annual gross revenues for fishers in these subareas. The proposed CSP would not increase compliance costs for any IFQ or CDQ fisher. Therefore, the

Assistant General Counsel for Legislation and Regulation certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed CSP 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 IRFA are available (see ADDRESSES).

This CSP would have been published in December 1995, but the government shutdown delayed publication until now. Consequently, the public comment period is reduced for this action to assure that the NMFS decision on whether to approve the CSP is made, and, if approved, a final CSP is effective before the Area 4 halibut fishery that is likely to begin in March 1996. Further, the affected public was notified and had

opportunity to comment on the proposed CSP alternatives at the December 1995 meeting of the Council. The proposed CSP allocation scheme for the Area 4 catch limit is scheduled for discussion at the public IPHC meeting in January 1996. Furthermore, the timely issuance of IFQ shares necessitates a shortened comment period. Additional time for public comment would be redundant and potentially counterproductive.

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

Dated: January 24, 1996.
 Gary Matlock,
Program Management Officer, National Marine Fisheries Service.
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