

**SUMMARY:** This document corrects the docket number for a notice of proposed rulemaking (NPRM) published in the **Federal Register** (70 FR 77454) on December 30, 2005 to amend Federal motor vehicle safety standard (FMVSS) No. 108 on lamps, reflective devices, and associated equipment. That NPRM proposed to amend the standard by reorganizing the regulatory text so that it provides a more straight-forward and logical presentation of the applicable regulatory requirements.

**FOR FURTHER INFORMATION CONTACT:** David Hines, Office of Crash Avoidance Standards (NVS-121), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. (Telephone: (202) 493-0245) (Fax: (202) 366-7002).

#### Correction

In proposed rule FR Doc. 05-24421, beginning on page 77454 in the issue of December 30, 2005, on page 77454 in the first column, correct the "Agency Docket Number" to read: [Docket No. NHTSA-2006-23634].

Issued: February 3, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E6-1743 Filed 2-7-06; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 060127018-6018-01; I.D. 012506E]

**RIN 0648-AR96**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Control Date for the Charter Sport Fishery for Pacific Halibut

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

**ACTION:** Advance notice of proposed rulemaking; control date.

**SUMMARY:** This notice announces that anyone entering the charter sport fishery for Pacific halibut in and off Alaska after December 9, 2005 (control date) will not be assured of future access to that fishery if a management regime that limits the number of participants is developed and implemented under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). This notice is necessary to publish the intent of the

North Pacific Fishery Management Council (Council) that participation credit may not be granted for operating in the charter halibut fishery if initial entry into the fishery occurs after the control date. This notice is intended to promote public awareness of a potential eligibility criterion for future access to the charter halibut resource, and to discourage new entrants into the charter halibut fishery while the Council discusses whether and how access to the halibut resource by the charter sport fishery should be controlled. This announcement does not prevent any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed and implemented.

**FOR FURTHER INFORMATION CONTACT:** Jay Ginter at (907)586-7228 or [Jay.Ginter@noaa.gov](mailto:Jay.Ginter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Fishing for Pacific halibut (*Hippoglossus stenolepis*) is managed by the International Pacific Halibut Commission (IPHC) and NMFS under the authority of the Halibut Act (16 U.S.C. 773 - 773k). The IPHC is authorized by the Convention of the United States and Canada for the Preservation of the Halibut Fishery in the North Pacific Ocean and Bering Sea (Convention) to promulgate regulations for the conservation and management of the Pacific halibut fishery. Commission regulations are published as annual management measures pursuant to 50 CFR 300.62. Section 773c of the Halibut Act provides the U.S. Secretary of Commerce (Secretary) with general responsibility to carry out the Convention, and requires the Secretary to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the Assistant Administrator for Fisheries, NOAA. Additional management regulations that are in addition to and not in conflict with regulations adopted by the IPHC may be recommended by the Council and implemented by the Secretary through NMFS to allocate harvesting privileges among U.S. fishermen (section 773c(c)).

In the early 1990s, the rapid growth of the guided recreational (or charter) halibut fishery fleet led to increased concerns that unrestrained catch by the charter fishery would result in smaller allocations of halibut resources to the commercial sector. Accordingly, in 1993, the Council created a Halibut Charter Working Group (Work Group) and directed it to examine potential management alternatives for the charter

halibut fishery and to develop suitable elements and options for a regional or statewide moratorium on the entry of new charter vessels into the fishery.

Later that year, the Work Group presented various management options to the Council for consideration and the Council announced a control date of September 23, 1993, as the last day to qualify for a potential moratorium. The Council deferred further action on the issue until January 1995 because of staffing priorities. In January 1995, the Council reviewed the Work Group's findings, received public testimony, developed a problem statement, and discussed development of alternatives for managing harvests of halibut by the charter fishery. Again, staffing priorities and lack of funding for adequate research delayed formal analysis of the management alternatives until 1996.

In June 1996, the Council narrowed the scope of potential management alternatives by eliminating consideration of the unguided sport fishery and focusing alternatives exclusively on the guided segment of the halibut sport fishery, which includes lodges, outfitters, and charter vessel guides. The Council also reviewed the possibility of allowing charter vessel owners and operators to purchase or lease IFQ in the existing commercial halibut IFQ Program. The specific alternatives considered were: (1) status quo; (2) Federal reporting requirements; (3) annual allocation of the total allowable catch between guided sport and commercial fisheries and a moratorium on new entries into the charter sport fishery for Pacific halibut; and (4) purchase by the charter industry of halibut IFQ from the commercial fishery if the cap in (3) were exceeded by the charter halibut fishery.

In September 1997, the Council recommended that charter halibut harvests be managed under guideline harvest levels (GHLs) in IPHC statistical areas 2C (Southeast Alaska) and 3A (Southcentral Alaska). The Council envisioned GHLs as an initial step towards developing a management strategy that would limit charter halibut harvests while maintaining the historic length of the charter season and allowing growth in the charter halibut fishery. The GHL defines the level of harvests permissible in the charter halibut fishery without further reallocating halibut from the commercial sector; however, the GHL does not constrain harvests by itself. To limit harvests to the GHL, the Council recommended that NMFS implement one of several optional measures to constrain future halibut harvest if the end-of-season harvest data indicated

that the charter sector had reached or exceeded its area specific GHL.

In November 1997, NMFS informed the Council that regulations implementing the GHL could not be published unless they included a more specific, non-discretionary system for constraining harvests in the event the harvest limits were met or exceeded. In December 1997, the Council created a GHL Committee to identify and recommend such a system. The GHL Committee convened three times in 1998 and 1999 and produced a suite of management measure alternatives for the Council's consideration; including setting a new control date of June 24, 1998, for entry into the charter sport fishery for Pacific halibut (63 FR 34356, June 24, 1998). In February 2000, the Council recommended a redefined GHL and, for constraining harvests in a timely manner after the GHL is exceeded, a framework system of management measures to be implemented by notification in the **Federal Register** without NMFS discretion and without prior notice-and-comment rulemaking. NMFS proposed regulations that would implement the GHL framework system on January, 28, 2002 (67 FR 3867).

NMFS again notified the Council that its GHL framework could not be approved as recommended. Given the potential impacts of the management measures recommended by the Council, those measures could not be implemented by publishing a notification in the **Federal Register**, but would need to provide opportunity for public comment on specific regulatory measures as required by the Administrative Procedure Act (APA). NMFS suggested that the Council consider an alternative that would require a letter of notification from NMFS to the Council when a GHL is reached. The Council would then initiate an analysis to recommend harvest restrictions, which NMFS would publish as a proposed rule and invite public comment consistent with the APA. The Council accepted this suggested alternative and submitted it for Secretarial review. A final rule implementing this alternative GHL system was published August 8, 2003 (68 FR 47256). More information on the GHL may be found in the preamble to the proposed rule published on January 28, 2002 (67 FR 3867).

Concurrent with the adoption of the GHL Program in February 2000, the Council initiated an analysis for integrating the charter halibut fishery into the existing commercial halibut IFQ Program. To develop alternatives for analysis, the Council created a Halibut

Charter IFQ Committee comprised of representative charter operators, sport anglers, and commercial fishermen. The Council determined that participation in the charter halibut fishery would be based on catches reported in 1998 and 1999 in logbooks required by the State of Alaska. In addition, the Council decided not to proceed with a moratorium on entry into the charter fishery, but rather determined that a charter IFQ Program should replace GHL management of the fishery. The Council also removed lodges and outfitters from its problem statement, thus limiting analysis to guided charter vessels.

In April 2000, the Council adopted a problem statement that noted that although the GHL is intended to stop the open-ended reallocation from the commercial to the charter sector, overcapitalization within the charter halibut fleet may continue to have a negative impact on charter vessel operators and anglers. The problem statement noted also that this concern could be addressed by a quota-based management such as an IFQ Program.

During its review in February 2001, the Council refined its alternatives for analysis to include: (1) status quo, (2) incorporate the charter halibut fishery into the existing IFQ Program, and (3) establish a moratorium in the charter halibut fishery in Areas 2C and 3A. Also in February 2001, the Council revised the problem statement that it had previously adopted in April 2000.

In April 2001, the Council adopted its preferred alternative that incorporated the charter sector into the existing commercial halibut IFQ Program. Under the preferred alternative, quota share would be issued only to a person who owned or leased a charter vessel that transported guided clients who caught halibut during 1998 or 1999 from IPHC regulatory areas 2C or 3A. In June 2001, the State of Alaska representative on the Council notified the Council of the State's plan to move to rescind the Council's April 2001 action recommending a charter halibut IFQ Program. At the next Council meeting in October 2001, a motion to rescind that program failed.

During the next several years, NMFS developed the proposed regulation and implementation plan for the recommended charter halibut IFQ Program. On August 3, 2005, the Assistant Administrator for Fisheries sent a letter to the Council in which NMFS requested that the Council confirm its support for the 2001 decision to incorporate the charter sector into the commercial halibut IFQ Program before NMFS published the

proposed rule in the **Federal Register**. At its October 2005 meeting, after receiving public testimony about the proposed charter halibut IFQ Program, the Council indicated its concern for the lengthy process, but neither confirmed nor denied its continued support of the proposed charter halibut IFQ Program. Also at the October 2005 meeting, a Council member announced that he would move to rescind the charter halibut IFQ Program at the December 2005 meeting of the Council.

In December 2005, the Council adopted a motion to amend its April 2001 action recommending a charter halibut IFQ Program. The preamble to the motion cited the following concerns about the time delay in implementing the charter halibut IFQ: "a lengthy delay in enacting this program has resulted in a large number of current participants that do not qualify for quota share. This has resulted in controversy and a lack of broad support for the program as well as potential legal vulnerabilities." In light of these concerns, the Council decided to form a stakeholder working group comprised of representatives of affected groups. The working group is responsible for developing alternatives that provide for the long-term management of the charter halibut fishery. Because these management alternatives may limit access to the charter halibut fishery, the Council set a control date of December 9, 2005, after which charter operators entering the charter halibut fishery will not necessarily be assured access to the halibut resource.

The Council and NMFS intend, in making this announcement, to discourage speculative entry into the charter sport fishery for Pacific halibut in convention waters off Alaska while potential entry or access control management measures are developed by the Council. The control date will help distinguish established participants from speculative entrants into the fishery. Although participants are notified that entering the charter sport fishery for Pacific halibut after the control date will not assure them of future access to the fishery based on participation, additional or other qualifying criteria may be applied. The Council may choose different and variably weighted methods to qualify participants based on the type and length of participation in the fishery or other methods of determining economic dependence on the fishery. For the purpose of this announcement, a person in the halibut charter fishery means the owner or operator of a vessel that carries passengers for hire to engage in

recreational fishing for Pacific halibut in convention waters off Alaska.

This announcement establishes December 9, 2005, as such a control date for determining historical or traditional participation in the charter sport fishery for halibut. This action does not commit the Council or Secretary to any particular management regime or criteria for entry to the charter halibut fishery. Charter vessel operators are not guaranteed future participation in the charter halibut fishery regardless of

their date of entry or intensity of participation in the fishery before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not make use of such a date. Finally, the Council may choose to take no further action to control entry or access to the charter halibut fishery.

#### **Classification**

This advance notice of proposed rulemaking has been determined to be

not significant for the purposes of Executive Order 12866.

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

Dated: February 2, 2006.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

[FR Doc. E6-1726 Filed 2-7-06; 8:45 am]

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