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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 160127057-6057-01]

RIN 0648-BF60

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve changes to the Pacific Halibut Catch Sharing Plan (Plan) and codified regulations for the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). In addition, NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC. These measures include the sport fishery allocations and management measures for Area 2A. These actions are intended to conserve Pacific halibut, provide angler opportunity where available, and minimize bycatch of overfished groundfish species.

DATES: Comments on the proposed changes to the Plan and the codified regulations, and on the proposed domestic Area 2A Pacific halibut management measures must be received by *[insert date 20 days after date of publication in the Federal Register]*.

ADDRESSES: Submit your comments, identified by NOAA-NMFS- 2015-0166, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0166, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to William Stelle, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Sarah Williams, phone: 206-526-4646, fax: 206-526-6736, or e-mail: sarah.williams@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at http://www.access.gpo.gov/su_docs/aces/aces140.html. Background information and documents are available at the NMFS West Coast Region Web site at http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html and at the Council’s Web site at <http://www.pcouncil.org>.

Background

The Northern Pacific Halibut Act (Halibut Act) of 1982, 16 U.S.C. 773-773K, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (Halibut Convention) (16 U.S.C. 773c). It requires the Secretary to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and the Halibut Act. Section 773c of the Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the IPHC to govern the Pacific halibut catch in their corresponding U.S. Convention waters.

Each year between 1988 and 1995, the Pacific Fishery Management Council (Council) developed and NMFS implemented a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-Indian harvesters and among non-Indian commercial and sport fisheries in Area 2A. In 1995, NMFS implemented the Pacific Council-recommended long-term Plan (60 FR 14651, March 20, 1995). Every year since then, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries.

For 2016, the Council recommendation includes minor modifications to sport fisheries to better match the needs of the fishery, and updates to the inseason procedures to reflect current practices. The Council also recommended changes to the codified regulations to remove coordinates that are described in groundfish regulations, match the changes to the Plan, and update descriptions of tribal treaty fishing areas. This rule does contain some dates for the sport fisheries based on the 2016 Plan as recommended by the Council because the affected states are holding public meetings to gather public input on final season dates given the final 2A TAC. The states will submit final season dates following their public meetings.

Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, WA

The Plan provides that incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, WA, will be allowed when the Area 2A TAC is greater than 900,000 lb (408.2 mt), provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). The 2016 TAC of 1,140,000 lb (517 mt) is sufficient to provide for this opportunity; therefore the Council will recommend landing restrictions at its March 2016 meeting. Following this meeting, NMFS will publish the restrictions in the **Federal Register**.

Opportunity for Public Comment

Through this proposed rule, NMFS requests public comments on the Pacific Council's recommended modifications to the Plan and the resulting proposed domestic fishing regulations by *[insert date 20 days after date of publication in the Federal Register]*. A 20 day comment period is necessary to allow adequate time for the final rule to be effective by April 1st when the incidental fisheries begin. The States of Washington, Oregon, and California will conduct public workshops in February to obtain input on the sport season dates. Following the proposed rule comment period, NMFS will review public comments and comments from the states, and issue a final rule. Either that final rule or an additional rule will include the IPHC regulations and regulations for the West Coast and Alaska.

Proposed Changes to the Plan

Each year, the Washington Department of Fish and Wildlife (WDFW), Oregon Department of Fish and Wildlife (ODFW), California Department of Fish and Game (CDFG), and the tribes with treaty fishing rights for halibut consider whether to pursue changes to the Plan to meet the needs of the fishery. In determining whether changes are needed, the state agencies hold public meetings prior to the Council's September meeting. Subsequently, they recommend

changes to the Council at its September meeting. In 2015, fishery managers from all three state agencies held public meetings on the Plan prior to the Council's September meeting. At the September 2015 Council meeting, NMFS, WDFW, and ODFW recommended changes to the Plan and codified regulations. The tribes and CDFW did not recommend changes to the Plan or regulations. The Council voted to solicit public input on all of the changes recommended by the state agencies, several of which were presented in the form of alternatives. WDFW and ODFW subsequently held public workshops on the recommended changes.

At its November 13-19, 2015, meeting the Council considered the results of state-sponsored workshops on the recommended changes to the Plan and public input provided at the September and November Council meetings, and made its final recommendations for modifications to the Plan. NMFS proposes to adopt all of the Council's recommended changes to the Plan as further discussed below. NMFS also proposed to make changes to the codified regulations.

Proposed Changes to the Plan

1. In section (b), Allocations, add a statement that all allocations and subquotas are described in net weight. The goal of this change is to clarify that the Plan allocations and subquotas are described in net weight consistent with the IPHC's use of net weight.
2. In section (d), Treaty Indian Fisheries, modify the description of subarea 2A-1 to account for a recent court order (United States v. Washington, 2:09-sp-00001-RSM (W.D. Wash. Sept. 3, 2015)) regarding boundaries of tribal usual and accustomed fishing grounds; specifically, the western boundary for the Quinault Tribe's fishing area and the northern boundary of the Quileute Tribe's fishing area;

3. In section (f)(1)(ii), Washington North Coast subarea, this rule proposes several changes. The changes would modify the opening day in this area from the first Thursday in May to the first Saturday in May with a second opening the following week on Thursday and Saturday and a closure during the third week of May. The goal of this change is to allow for a longer season while giving WDFW time to assess the catch and provide adequate time for public notice of any later reopenings.
4. In section (f)(1)(v), Oregon central coast subarea, this rule proposes several changes to the text to implement several measures. First, there is a change to the Central Coast allocation so that the Oregon sport allocation is divided clearly among the Columbia River, Central Coast, and Southern Oregon subareas, instead of allocating to the Columbia River subarea first then dividing the remaining allocation between the Southern Oregon and Central Coast subareas. Second, the Council is added to the list of consulting agencies consistent with inseason procedures. Third, the opening date for the nearshore fishery is changed from July 1 to June 1 to allow for a longer season.
5. In section (f)(1)(vi), Southern Oregon subarea, this rule proposes changes to the allocations for this subarea, as stated above for the Central Coast subarea. The allocation is modified from 4.0 to 3.91 percent of the Oregon sport allocation. Also, incidental retention of sablefish, Pacific cod, and flatfish species in areas closed to fishing targeting groundfish is allowed in this subarea, to make incidental retention rules consistent throughout Oregon.
6. In section (f)(5)(iii)(B), Notice procedures, this rule proposes to remove the Notice to Mariners requirement because these are not used in the halibut fishery. The proposed change to the Plan reflects current practice.

7. In section (f)(6), Sport fishery closure provisions, this rule proposes to modify this section to state that closure determinations made by IPHC are done after consultation with NMFS, Council, and the affected state agencies. The goal of this change is for the Plan to reflect current practice.

NMFS proposes to approve the Council's recommendations and to implement the changes described above. A version of the Plan including these changes can be found at http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html

Proposed Changes to the Regulations

1. Modify Tribal fishing area descriptions at §300.64(i) to account for a recent court order (United States v. Washington, 2:09-sp-00001-RSM (W.D. Wash. Sept. 3, 2015)) regarding boundaries of tribal usual and accustomed fishing grounds; specifically, the western boundary for the Quinault Tribe's fishing area and the northern boundary of the Quileute Tribe's fishing area;
2. Remove the coordinates for the 30 fm depth contour at §300.63(f) and 100 fm depth contour at §300.63(g) and refer to groundfish regulations at §660.71 for the 30 fm depth contour and §660.73 for the 100 fm depth contour. This change is necessary because the halibut and groundfish fisheries use the same coordinates and they should be listed in one location;
3. Update the shoreward boundary of the non-trawl Rockfish Conservation Area listed in §300.63(e) to the boundary line approximating the 30 fm depth contour. This closed area applies to commercial halibut fishing when retaining incidentally caught groundfish. The

shoreward boundary of this closed area was modified through the 2015-2016 groundfish harvest specifications; and

4. Remove Notice to Mariners notice procedures at §300.63(c)(3)(ii) to match modifications to Plan.

Proposed 2016 Sport Fishery Management Measures

NMFS also proposes sport fishery management measures, including season dates and bag limits that are necessary to implement the Plan in 2016. The annual domestic management measures are published each year through a final rule. For the 2015 fishing season, the final rule for Area 2A sport fisheries was published on April 1, 2015 (80 FR 17344) and the final rule for the commercial fisheries was published on March 17, 2015 (80 FR 13771) along with the IPHC regulations. Therefore, the section numbers for the commercial fisheries below refer to sections in the March 17 final rule, and the section numbers for the recreational fisheries refer to sections in the April 1 final rule. Where season dates are not indicated, those dates will be provided in the final rule, following consideration of the 2016 TAC and consultation with the states and the public.

In Section 8 of the annual domestic management measures published on March 17, 2015, “Fishing Periods,” paragraphs (2), (3), and (4) are proposed to read as follows:

(1) * * *

(2) Each fishing period in the Area 2A directed fishery shall begin at 0800 hours and terminate at 1800 hours local time on June 22, July 6, July 20, August 3, August 17, August 31, September 14, and September 28, unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (7) of section 11, an incidental catch fishery is authorized during the sablefish seasons in Area 2A in accordance with regulations promulgated by NMFS.

This fishery will occur between 1200 hours local time on March 19 and 1200 hours local time on November 7.

(4) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A in accordance with regulations promulgated by NMFS. This fishery will occur between 1200 hours local time on March 19 and 1200 hours local time on November 7.

In section 26 of the annual domestic management measures, “Sport Fishing for Halibut” paragraph (8) is proposed to read as follows:

(8) * * *

(a) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is not managed in-season relative to its quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lb (26.03 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is (season dates will be inserted when final rule is published). The fishing season in western Puget Sound (west of 123°49.50' W. long., Low Point) is open (season dates will be inserted when final rule is published).

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

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.) (North Coast subarea), is 108,030 lb (49 mt).

(i) The fishing seasons are:

(A) Fishing is open May 7, 12, and 14. Any openings after May 14 will be based on available quota and announced on the NMFS hotline.

(B) If sufficient quota remains the fishery will reopen until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. After May 14, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after May 14 unless the date is announced on the NMFS hotline.

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

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing with recreational gear in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at § 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.), and Leadbetter Point, WA (46°38.17' N. lat.)(South Coast subarea), is 42,739 lb (19.39 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to 46°58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area

is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

(1) 47°31.70' N. lat, 124°37.03' W. long;

(2) 47°25.67' N. lat, 124°34.79' W. long;

(3) 47°12.82' N. lat, 124°29.12' W. long;

(4) 46°58.00' N. lat, 124°24.24' W. long.

The south coast subarea quota will be allocated as follows: 40,739 lb (18.48 mt) for the primary fishery and 2,000 lb (0.91 mt) for the nearshore fishery. The primary fishery commences on May 1, and continues 2 days a week (Sunday and Tuesday) until May 17. If the primary quota is projected to be obtained sooner than expected, the management closure may occur earlier. Beginning on May 29 the primary fishery will be open at most 2 days per week (Sunday and/or Tuesday) until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 1, and continues 7 days per week. Subsequent to closure of the primary fishery, the nearshore fishery is open 7 days per week, until 42,739 lb (19.39 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

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

(iii) Seaward of the boundary line approximating the 30-fm depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360, subpart G.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(d). The Westport Offshore YRCA is defined at 50 CFR 660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.), and Cape Falcon, OR (45°46.00' N. lat.)(Columbia River subarea), is 11,009 lb (4.99 mt).

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 500 pounds of the subarea allocation. The nearshore fishery extends from Leadbetter Point (46°38.17' N. lat., 124°15.88' W. long.) to the Columbia River (46°16.00' N. lat., 124°15.88' W. long.) by connecting the following coordinates in Washington 46°38.17' N. lat., 124°15.88' W. long. 46°16.00' N. lat., 124°15.88' W. long and connecting to the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens May 2, and continues 3 days per week (Monday – Wednesday) until the nearshore

allocation is taken, or September 30, whichever is earlier. The all depth fishing season commences on May 1, and continues 4 days a week (Thursday – Sunday) until 10,509 lb (4.77 mt) are estimated to have been taken and the season is closed by the Commission, or September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

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

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed when halibut are on board the vessel, except sablefish, Pacific cod, and flatfish species when allowed by Pacific Coast groundfish regulations, during days open to the all depth fishery only.

(iv) Taking, retaining, possessing, or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.) (Oregon Central Coast subarea), is 206,410 lb (93.63 mt).

(i) The fishing seasons are:

(A) The first season (the “inside 40-fm” fishery) commences June 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon “inside 40-fm” fishery of 24,769 lb (11.24 mt), or any in-season revised subquota, is estimated to have been taken and the season is closed

by the Commission, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined at § 660.71(k).

(B) The second season (spring season), which is for the “all-depth” fishery, is open (season dates will be inserted when final rule is published). The allocation to the all-depth fishery is 181,641 lb (82.4 mt). If sufficient unharvested quota remains for additional fishing days, the season will re-open. Notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) If sufficient unharvested quota remains, the third season (summer season), which is for the “all-depth” fishery, will be open (season dates will be inserted when final rule is published) or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning (insert date of first back up dates) and ending October 31. If after September 7, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 9 and 10, and ending October 31. After September 4, the bag limit may be increased

to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, when halibut are on board the vessel, except sablefish, Pacific cod, and flatfish species, when allowed by Pacific Coast groundfish regulations.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at § 660.70(f).

(f) The quota for landings into ports in the area south of Humbug Mountain, OR (42° 40.50' N. lat.) to the Oregon/California Border (42° 00.00' N. lat.)(Southern Oregon subarea) is 8,605 lb (3.9 mt).

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(iii) No Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish, Pacific cod, and flatfish species, in areas closed to groundfish, if halibut are on board the vessel.

(g) The quota for landings into ports south of the Oregon/California Border (42°00.00' N. lat.) and along the California coast is 29,640 lb (13.44 mt).

(i) The fishing season will be open (season dates will be inserted when final rule is published), or until the subarea quota is estimated to have been taken and the season is closed by the Commission, or October 31, whichever is earlier. NMFS will announce any closure by the Commission on the NMFS hotline (206) 526-6667 or (800) 662-9825.

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

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) provides the Secretary of Commerce with the general responsibility to carry out the Convention between Canada and the United States for the management of Pacific halibut, including the authority to adopt regulations as may be necessary to carry out the purposes and objectives of the Convention and Halibut Act. This proposed rule is consistent with the Secretary of Commerce's authority under the Halibut Act.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Regulatory Flexibility Act (RFA), 5 U.S.C. 603 *et seq.*, requires government agencies to assess the effects that regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those effects. When an agency proposes regulations, the RFA requires the agency to prepare and make available for public comment an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. After the public comment period, the agency prepares a Final Regulatory Flexibility Analysis (FRFA) that takes into consideration any new information or public comments. A summary of the IRFA is provided below. The reasons why action by the agency is being considered, the objectives and legal basis for this rule are described above.

The main management objective for the Pacific halibut fishery in Area 2A is to manage fisheries to remain within the TAC for Area 2A. Another objective is to allow each commercial, recreational (sport), and tribal fishery to target halibut in the manner that is appropriate to meet both the conservation requirements for species that co-occur with Pacific halibut. A third objective is to meet the needs of fishery participants in particular fisheries and fishing areas.

Each year, the states of Washington, Oregon, California, and the treaty tribes that fish for halibut meet with their fishery participants to review halibut management under the Plan. Based on feedback from these meetings and experience from the previous year's fishing season, the states or the tribes may propose changes to the Plan. Proposed changes to the Plan are intended to remedy any problems encountered during the previous year's management, problems with

other fisheries with overlapping management jurisdiction (i.e., Pacific Coast groundfish), or other anticipated problems.

Changes to the Plan

The 2A Halibut Catch Sharing Plan, as outlined above, allocates the TAC at various levels. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation of the Pacific halibut TAC, and the other 15 percent is allocated for incidental catch in the salmon troll fishery. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53.30' N. lat.), Oregon, and California. North of 46°53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the sablefish primary fishery when the overall Area 2A halibut TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into seven geographic subareas, each with separate allocations, seasons, and bag limits. The non-tribal allocation is divided into four shares. At the first level, there are specific percentage allocations for tribal and non-tribal fisheries. The non-tribal portion is then allocated to commercial components and to recreational components. The commercial component is then apportioned into directed, incidental troll, and incidental sablefish fisheries. The recreational portions for Oregon and Washington are further apportioned into area subquotas, and these subquotas are further split into seasonal or depth fisheries (nearshore vs all depths). There may be gear restrictions and other management measures established as necessary to minimize the potential of exceeding these allocations.

At the September meeting, the Council adopted a range of Plan alternatives for public review. For 2016, the Council adopted two types of changes that are discussed separately below. The first were the routine recreational fishery adjustments to the Plan proposed by the states each year to accommodate the needs of their fisheries. The second were changes to the Plan and

codified regulations proposed by NMFS which do not have alternatives, because they are either mandated by a recent court decision or are administrative in nature. At its November meeting, the Council made final Plan change recommendations from the range of alternatives for the recreational fishery adjustments; which is described in detail below.

The proposed changes to the Plan are expected to slightly increase fishing opportunities in some areas and at some times and to slightly decrease fishing opportunities in other areas and at other times. The Council's recommended changes to the Plan modify the opening dates for the sport fisheries in Washington and Oregon with the goal of extending the seasons and increasing opportunity. The change to the tribal Usual & Accustomed (U&A) boundaries is made to comply with a court order, and NMFS has no discretion to do otherwise. Thus this change is not analyzed here. The Council considered changes to the Washington North Coast, Columbia River, Oregon Central Coast, and Southern Oregon subareas:

- 1) For the Washington North Coast the Council considered two opening dates, the first Thursday in May or the first Saturday in May. The Council recommended and NMFS proposes opening this fishery on the first Saturday in May. This is a minor change that will not reduce overall fishing opportunity in this area.
- 2) For the Columbia River subarea the Council considered two season structures, status quo (4 days per week Thursday through Sunday) and a seven day a week fishery. The Council recommended the status quo season structure because ODFW did not receive definitive public support for this change and felt it was not necessary at this time; therefore this rule does not propose changes to the Columbia River subarea.
- 3) For the Oregon Central Coast subarea the Council considered two season allocation alternatives, status quo (12 percent nearshore, 63 percent spring, 25 percent summer) and

Alternative 1 (81.75 percent spring and summer combined, 18.25 percent nearshore).

The Council recommended the status quo season allocations because ODFW felt given the magnitude of this change more time was needed to allow public input; therefore this rule does not propose any change to the Oregon Central Coast season allocations.

- 4) For the Oregon Central Coast nearshore fishery the Council considered a change to the season dates: 1) status quo fishery opens July 1, seven days per week until October 31; 2) fishery opens May 1, seven days per week, until October 31; 3) fishery opens May 1, seven days per week until October 31 or quota attainment, with 25 percent of the nearshore fishery allocation set-aside and available beginning July 1; and 4) fishery opens May 1, seven days per week until October 31 or quota attainment, with 50 percent of the nearshore fishery allocation set-aside and available beginning July 1. The Council recommended and NMFS proposes an alternative that is within the range listed above that would open the fishery on June 1, seven days per week, until October 31. This is a minor change that will not reduce overall fishing opportunity in this area.
- 5) For the Southern Oregon subarea the Council considered two incidental retention alternatives, status quo (no bottomfish species retention outside of 30 fathoms) and Alternative 1 (allow retention of other species of flatfish, Pacific cod, and sablefish outside 30 fathoms, when fishing for halibut) and an allocation modification from 4 percent to 3.91 percent of the Oregon sport allocation. The Council recommended and NMFS proposes to implement the change to the subarea allocation and Alternative 1 with a slight modification to describe this allowance as allowed when groundfish retention is closed not at a specific depth. The changes to the Southern Oregon incidentally landed

species allowances are expected to increase recreational opportunities by turning previously discarded incidental flatfish catch into landed catch.

The Small Business Administration defines a “small” harvesting business as one with annual receipts, not in excess of \$20.5 million. For related fishprocessing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts, not in excess of \$7.5 million. This rule directly affects charterboat operations, and participants in the non-treaty directed commercial fishery off the coast of Washington, Oregon, and California. Applying the SBA’s size standard for small businesses, NMFS considers all of the charterboat operations and participants in the non-treaty directed commercial fishery affected by this action as small businesses.

Specific data on the economics of halibut charter operations is unavailable. However, in January 2004, the Pacific States Marine Fisheries Commission (PSMFC) completed a report on the overall West Coast charterboat fleet. In surveying charterboat vessels concerning their operations in 2000, the PSMFC estimated that there were about 315 charterboat vessels in operation off Washington and Oregon. In 2000, IPHC licensed 130 vessels to fish in the halibut sport charter fishery. Comparing the total charterboat fleet to the 130 and 142 IPHC licenses in 2000 and 2007, respectively, approximately 41 to 45 percent of the charterboat fleet could participate in the halibut fishery. The PSMFC has developed preliminary estimates of the annual revenues earned by this fleet and they vary by size class of the vessels and home state. Small charterboat vessels range from 15 to 30 feet and typically carry 5 to 6 passengers. Medium charterboat vessels range from 31 to 49 feet in length and typically carry 19 to 20 passengers. (Neither state has large vessels of greater than 49 feet in their fleet.) Average annual revenues

from all types of recreational fishing, whalewatching and other activities ranged from \$7,000 for small Oregon vessels to \$131,000 for medium Washington vessels. These data confirm that charterboat vessels qualify as small entities under the Regulatory Flexibility Act. This analysis continues the main conclusions developed in previous analyses that charterboats and the non-treaty directed commercial fishing vessels are small businesses See 77 FR 5477 (Feb 3, 2012) and 76 FR 2876 (Jan 18, 2011). In 2015, 512 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: the directed commercial fishery and the incidental fishery in the sablefish primary fishery in Area 2A (22 licenses in 2015); incidental halibut caught in the salmon troll fishery (363 licenses in 2015); and the charterboat fleet (127 licenses in 2013, the most recent year available). No vessel may participate in more than one of these three fisheries per year. These license estimates overstate the number of vessels that participate in the fishery. IPHC estimates that 60 vessels participated in the directed commercial fishery, 100 vessels in the incidental commercial (salmon) fishery, and 13 vessels in the incidental commercial (sablefish) fishery. Although recent information on charterboat activity is not available, prior analysis indicated that 60 percent of the IPHC charterboat license holders may be affected by these regulations.

Commercial harvest vessels in West Coast fisheries are generally “small businesses,” unless they are associated with a catcher-processor company or affiliated with a large shorebased processing company. Catcher-processors cannot target halibut or keep halibut as bycatch. NOAA is unaware that any “large” seafood processing companies are affiliated with any of the IPHC permit holders.

The major effect of halibut management on small entities will be from the Area 2A TAC which is set by the IPHC, an international body. Based on the recommendations of the states, the

Council and NMFS are proposing minor changes to the Plan to provide increased recreational and commercial opportunities under the allocations that result from the TAC. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionate negative effect on small entities versus large entities. These minor proposed changes to the Plan are not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule does not contain a collection of information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA).

There are no projected reporting or recordkeeping requirements associated with this action.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly,

tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

In 2014, a Biological Opinion (BiOp) was completed for the 2014-2016 Area 2A Pacific Halibut Catch Sharing Plan. The BiOp concluded that the continued implementation of the Plan was not likely to adversely affect southern resident killer whales, leatherback sea turtles, humpback whales, blue whales, fin whales, Guadalupe fur seals, north Pacific right whales, sei whales, sperm whales, and steller sea lions. Further the BiOp concluded that continuing implementation of the Plan was likely to adversely affect but not likely to jeopardize Puget Sound/Georgia basin bocaccio, canary rockfish, and yelloweye rockfish, southern green sturgeon, lower Columbia River Chinook, and Puget Sound Chinook. The BiOp also concluded that the continued implementation of the Plan was not likely to adversely modify critical habitat of southern resident killer whales, leatherback sea turtles, Puget Sound/Georgia basin bocaccio, canary rockfish, and yelloweye rockfish, southern green sturgeon, lower Columbia River Chinook, and Puget Sound Chinook. Because the halibut fishery does not overlap with the critical habitat for the remaining listed species it was determined that, an evaluation of the effects on critical habitat was not applicable. Finally, in a letter dated March 12, 2014, NMFS determined that fishing activities conducted under the Plan would have no effect on eulachon. None of the Council's recommended changes to the Plan proposed in this rule change the determinations made in the BiOp because they do not result in changes to fishing behavior such that the impacts to listed species is anticipated to change. NMFS is currently conducting informal consultation with the US Fish and Wildlife Service regarding the ongoing

implementation of the Catch Sharing Plan and its effects on short-tailed and black-footed albatross, California least tern, marbled murrelet, bull trout, and sea otters.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

Authority: 16 U.S.C. 951 *et seq.*, 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 5501 *et seq.*, 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

Dated: February 9, 2016

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart E, is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E – Pacific Halibut Fisheries

1. The authority citation for part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773-773k.

2. In § 300.61 in alphabetical order, revise the definition of “Subarea 2A-1” to read as follows:

§ 300.61 Definitions

* * * * *

Subarea 2A-1 includes all waters off the coast of Washington that are north of the Quinault River, WA (47°21.00’ N. lat) and east of 125°44.00’ W. long; all waters off the coast of Washington that are between the Quinault River, WA (47°21.00’ N. lat) and Point Chehalis, WA (46°53.30’ N. lat.), and east of 125°08.50’ W. long.; and all inland marine waters of Washington.

* * * * *

3. In § 300.63, revise paragraphs (c)(3)(ii), and (e)(1), and remove paragraphs (f) and (g) to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in area 2A.

* * * * *

(c) * * *

(3) * * *

(ii) Actual notice of inseason management actions will be provided by a telephone hotline administered by the West Coast Region, NMFS, at 206-526-6667 or 800-662-9825. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor the telephone hotline for current information for the area in which they are fishing.

* * * * *

(e) * * *

(1) Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of a closed area, known as the Rockfish

Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10' N. lat. Between the U.S./Canada border and 46°16' N. lat., the eastern boundary of the RCA, is the shoreline. Between 46°16' N. lat. and 40°10' N. lat., the RCA is defined along an eastern boundary by a line approximating the 30-fm (55-m) depth contour. Coordinates for the 30-fm (55-m) boundary are listed at 50 CFR 660.71(e). Between the U.S./Canada border and 40°10' N. lat., the RCA is defined along a western boundary approximating the 100-fm (183-m) depth contour. Coordinates for the 100-fm (183-m) boundary are listed at 50 CFR 660.73(a).

* * * * *

4. In § 300.64, revise paragraph (i) to read as follows:

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

(i) The following table sets forth the fishing areas of each of the 13 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	The area between 47°54.30' N. lat. (Quillayute River) and 47°21.00' N. lat. (Quinault River) and east of 125°44.00' W. long.
JAMESTOWN S'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 S'Klallam Tribe may fish under rights secured by treaties with the United States.
LOWER ELWHA S'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 S'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	The area north of 48°02.25' N. lat. (Norwegian Memorial) and east of 125°44.00' W. long.
NOOKSACK	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 Nooksack Tribe may fish under rights secured by treaties with the United States.
PORT GAMBLE S'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 S'Klallam Tribe may fish under rights secured by treaties with the United States.
QUILEUTE	The area between 48°10.00' N. lat. (Cape Alava) and 47°31.70' N. lat. (Queets River) and east of 125°44.00' W. long
QUINAULT	The area between 47°40.10' N. lat. (Destruction Island) and 46°53.30' N. lat. (Point Chehalis) and east of 125°08.50' 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.

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