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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

**[Docket No. 160127057-6280-02]**

**RIN 0648-BF60**

**Pacific Halibut Fisheries; Catch Sharing Plan**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule announces the approval of the Catch Sharing Plan (Plan) for halibut fishing in Area 2A (waters off the U.S. West Coast) with modifications recommended by the Pacific Fishery Management Council (Council), and establishes implementing regulations for 2016. These actions are intended to conserve Pacific halibut, provide angler opportunity where available, and minimize bycatch of overfished groundfish species. The sport fishing management measures in this rule are an additional subsection of the regulations for the International Pacific Halibut Commission (IPHC) published on March 16, 2016.

**DATES:** This rule is effective April 1, 2016. The 2016 management measures are effective until superseded.

**ADDRESSES:** Additional requests for information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way, NE, Seattle, WA 98115. For information regarding all halibut fisheries and general regulations not contained in this rule contact the International Pacific Halibut Commission, 2320 W. Commodore Way Suite 300, Seattle, WA 98199-1287; this final rule also is accessible via the

Internet at the Federal eRulemaking portal at <http://www.regulations.gov> identified by NOAA-NMFS-2015-0166. Electronic copies of the Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained by contacting Sarah Williams, phone: 206-526-4646, email: [sarah.williams@noaa.gov](mailto:sarah.williams@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Sarah Williams, 206-526-4646, email at [sarah.williams@noaa.gov](mailto: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](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](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 IPHC has promulgated regulations governing the Pacific halibut fishery in 2016, pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979). Pursuant to the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773b, the Secretary of State accepted the 2016 IPHC regulations as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773-773k. NMFS published these regulations on March 16, 2016 (81 FR 14000).

The Halibut Act provides that the Regional Fishery Management Councils may develop, and the Secretary may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. To that end, since 1988 the Council and NMFS have managed the halibut fisheries in Area 2A, which is off the coasts of Washington, Oregon, and California, through a Catch Sharing Plan (Plan). The Plan allocates the Area 2A Total Allowable Catch (TAC), which is set by the IPHC, among treaty Indian and non-Indian commercial and sport harvesters. The treaty Indian fisheries include tribal commercial, tribal ceremonial, and subsistence fisheries. Between 1988 and 1995, the Council developed and NMFS implemented annual catch sharing plans for Area 2A. In 1995, NMFS implemented the 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. These revisions are not codified.

NMFS implements the allocation framework in the Plan through annual regulations for Area 2A. The proposed rule describing the changes the Council recommended to the Plan and resulting proposed Area 2A regulations for 2016 was published on February 19, 2016 (81 FR 8466). The IPHC held its annual meeting January 25-29, 2016, and selected a TAC of 1,140,000 pounds for Area 2A.

For 2016, this final rule contains only those regulations implementing the Plan in Area 2A. NMFS published the complete IPHC regulations, which apply to commercial, treaty Indian, and recreational fisheries in addition to this rule, separately on March 16, 2016 (81 FR 14000). Therefore anyone wishing to fish for halibut in Area 2A should read both this final rule and the March 16, 2016 final rule that implements the IPHC regulations.

## **Changes to the Pacific Fishery Management Council's Area 2A Catch Sharing Plan and Codified Regulations**

This final rule announces the approval of several Council-recommended changes to the Pacific Fishery Management Council's Area 2A Plan and implements the Plan through annual management measures. For 2016, the Council recommended minor modifications to sport fisheries to better match the needs of the fishery, updates to the inseason procedures to reflect current practices, and an update to the description of the tribal fishing area. The Council also recommended changes to the codified regulations to remove coordinates that are described in groundfish regulations so that fishers have one location for closed areas coordinates, updates to Tribal fishing areas to account for a recent court order, updates to the description of non-trawl Rockfish Conservation Area to match modifications made through the 2015-2016 groundfish harvest specifications, and minor changes to match the changes to the Plan.

## **Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, Washington, and the Salmon Troll Fishery along the West Coast**

The Plan provides that incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, Washington, 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). In 2016, the TAC is 1,140,000 lb (517.10 mt); therefore, based on the formula set forth in the Plan (any amount of the Washington recreational TAC over 214,000 lbs, up to 70,000 lbs) the allocation for incidental halibut retention in the sablefish fishery is 49,686 lb (22.54 mt). Landing restrictions were recommended by the Council at its March 10-14, 2016, meeting. NMFS will publish the restrictions in the **Federal Register** as an inseason action in the groundfish fishery.

The Plan allocates 15 percent of the non-Indian commercial TAC to the salmon troll fishery in Area 2A. For 2016 the allocation is 34,126 lb (15.48 mt). The Council approved a range of landing restrictions for public review at its recent March meeting. The final landing restrictions will be addressed at the Council's April 2016 meeting and implemented in the annual salmon management measures.

### **Comments and Responses**

NMFS accepted comments on the proposed rule for the Area 2A Plan and annual management measures through March 10, 2016. NMFS received three public comment letters: one comment letter each from the Washington Department of Fish and Wildlife (WDFW), Oregon Department of Fish and Wildlife (ODFW), and California Department of Fish and Wildlife (CDFW) recommending season dates for halibut sport fisheries in each state.

*Comment 1:* The WDFW held a public meeting following the IPHC's final 2016 TAC decisions to review the results of the recent Puget Sound halibut fishery. Based on input from stakeholders and using a revised site weighting methodology which helps derive catch per unit effort (CPUE) estimations, WDFW recommended a 2016 season that is open 8 days, a reduction from 11 days in 2015. For 2016 WDFW has also recommended managing Puget Sound as one area rather than an Eastern and Western areas as was done in 2015. For the Puget Sound halibut sport fishery, WDFW recommended the following open dates: May 7, 12, 13, 14, 26, 27, 28, and 29.

*Response:* NMFS believes WDFW's recommended Puget Sound season dates will help keep this area within its quota, while providing for angler enjoyment and participation. Therefore, NMFS implements the dates for this subarea, as stated above, in this final rule.

*Comment 2:* The ODFW held a public meeting and hosted an online survey following the final TAC decision by the IPHC. Based on public comments received on Oregon halibut fisheries, the ODFW recommended the following days for the spring fishery in the Central Coast subarea, within this subarea's parameters for a Thursday-Saturday season and weeks of adverse tidal conditions skipped: regular open days May 12, 13, 14; 19, 20, 21; 26, 27, 28; and June 2, 3, 4. Back-up dates in case there is sufficient remaining quota will be June 16, 17, 18; 30, July 1, 2; 14, 15, 16; and 28, 29, 30. For the summer all-depth fishery in this subarea, ODFW recommended following the Plan's parameters of opening the first Friday in August, with open days to occur every other Friday-Saturday, unless modified in-season within the parameters of the Plan. Therefore, pursuant to the Plan, the ODFW recommended the 2016 summer all-depth fishery in Oregon's Central Coast Subarea to occur: August 5, 6; 19, 20; September 2, 3; 16, 17; 30, October 1; 14, 15; 28, 29 or until the total 2016 all-depth catch limit for the subarea is taken.

*Response:* NMFS believes ODFW's recommended Central Coast season dates will help keep this area within its quota, while providing for angler enjoyment and participation. Therefore, NMFS implements the dates in this final rule.

*Comment 3:* The CDFW submitted a letter describing the results of their 2015 fishery and recommendations for the 2016 fishery. Based on projected attainment of the subarea allocation, the CDFW recommended the following open days May 1-15; June 1-15; July 1-15, August 1-15; September 1-October 31.

*Response:* NMFS agrees with CDFW's recommended season dates. These dates will help keep this area within its quota, while providing for angler enjoyment and participation. Therefore, NMFS implements the dates in this final rule.

### **Changes From the Proposed Rule**

On February 19, 2016, NMFS published a proposed rule to modify the Plan and recreational management measures for Area 2A (81 FR 8466). The allocations in the proposed rule are consistent with the final Area 2A TAC of 1,140,000 lb (517.10 mt) and the 2016 Plan as recommended by the Council. The only substantive change from the proposed rule is that season dates as recommended by the states following their stakeholder meetings are included in the final rule.

### **Annual Halibut Management Measures**

The sport fishing regulations for Area 2A, included in section 26 below, are consistent with the measures adopted by the IPHC and approved by the Secretary of State, but were developed by the Pacific Fishery Management Council and promulgated by the United States under the Halibut Act. Section 26 refers to a section that is in addition to and corresponds to the numbering in the IPHC regulations published on March 16, 2016 (81 FR 14000).

#### **26. Sport Fishing for Halibut—Area 2A**

(1) The total allowable catch of halibut shall be limited to:

- (a) 214,110 pounds (97.1 metric tons) net weight in waters off Washington;
- (b) 220,077 pounds (99.8 metric tons) net weight in waters off Oregon; and
- (c) 29,640 pounds (13.4 metric tons) net weight in waters off California.

(2) The Commission shall determine and announce closing dates to the public for any area in which the catch limits promulgated by NMFS are estimated to have been taken.

(3) When the Commission has determined that a subquota under paragraph (8) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a

reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(4) In California, Oregon, or Washington, no person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(5) The possession limit on a vessel for halibut in the waters off the coast of Washington is the same as the daily bag limit. The possession limit on land in Washington for halibut caught in U.S. waters off the coast of Washington is two halibut.

(6) The possession limit on a vessel for halibut caught in the waters off the coast of Oregon is the same as the daily bag limit. The possession limit for halibut on land in Oregon is three daily bag limits.

(7) The possession limit on a vessel for halibut caught in the waters off the coast of California is one halibut. The possession limit for halibut on land in California is one halibut.

(8) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the in-season actions in 50 CFR 300.63(c). All sport fishing in Area 2A is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(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 Puget Sound is May 7, 12, 13, 14, 26, 27, 28, and 29.

(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 Washington-

Oregon Border (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 May 12, 13, 14; 19, 20, 21; 26, 27, 28; and June 2, 3, 4. Back-up dates will be June 16, 17, 18; 30, July 1, 2; 14, 15, 16; 28, 29, 30. 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 August 5, 6; 19, 20; September 2, 3; 16, 17; 30, October 1; 14, 15; 28, 29 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 August 6 and ending October 31. If after September 4, 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 May 1-15, June 1-15, July 1-15, August 1-15, September 1 – October 31, or until the subarea quota is estimated to have been taken and the season is closed by the Commission. 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 action is consistent with the Pacific Council's authority to allocate halibut catches among fishery participants in the waters in and off the U.S. West Coast.

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

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) in association with the proposed rule for the 2016 Area 2A Catch Sharing Plan. The final regulatory flexibility analysis (FRFA) incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, if any, and NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS received no comments on the IRFA. A copy of the FRFA is available from the NMFS West Coast Region (see **ADDRESSES**) and a summary of the FRFA follows.

This rule implements changes to the Halibut Catch Sharing Plan (CSP) that addresses the commercial and recreational fisheries within Area 2A (waters off the U.S. West Coast). The International Pacific Halibut Commission (IPHC) sets the overall Total Allowable Catch (TAC) and the CSP governs the allocation of that TAC between tribal and non-tribal fisheries, and among non-tribal fisheries. The Council, with input from industry, the states, and the tribes, may recommend changes to the CSP. (Note that the IPHC also sets the commercial fishery opening date(s), duration, and vessel trip limits to ensure that the quota for the non-tribal fisheries is not exceeded.) For non-tribal fisheries, the CSP governs allocations of the TAC between various components of the commercial fisheries and recreational fisheries, and these allocations may

vary depending on the level of the TAC. Seasons, gear restrictions, and other management measures implemented through domestic regulations are then used to meet the allocations and priorities of the CSP.

There were no significant issues raised by the public comments in response to IRFA. The IPHC increased the Area 2A TAC by 17.5% from 970,000 lbs (2015) to 1,140,000 lbs (517.10 mt). Within this 17.5% increase, different subgroups are being affected differently because of the CSP allocation formula.

### **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 incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. 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 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 for the allocations to be exceeded.

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 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 this final rule implements an opening day for 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 implement 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 implement 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 this rule implements 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 this final rule implements 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.

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. All of these estimated 173 commercial vessels are considered small entities. 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.

The major effect of halibut management on small entities is from the internationally set TAC decisions made by the IPHC. Based on the recommendations of the states, the Council recommended and NMFS is implementing in this final rule 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 changes to the Plan are not expected to have a significant economic impact on a substantial number of small entities.

This final 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 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 13 Washington tribes have treaty rights to fish for Pacific halibut. The Plan allocates 35 percent of

the Area 2A TAC to U.S. treaty Indian tribes in the State of Washington. 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 changes to the Plan, have been developed with the affected tribe(s) and, insofar as possible, with tribal consensus.

In 2014, an Environmental Assessment (EA) was prepared analyzing the continuing implementation of the Catch Sharing Plan for 2014-2016. The Plan changes for 2016 are not expected to have any effects on the environment beyond those discussed in the EA and in the finding of no significant impact (FONSI).

NMFS conducted a formal section 7 consultation under the Endangered Species Act for the Area 2A Catch Sharing Plan for 2014-2016 addressing the effects of implementing the Plan on ESA-listed yelloweye rockfish, canary rockfish, and bocaccio in Puget Sound, the Southern Distinct Population Segment (DPS) of green sturgeon, salmon, marine mammals, and sea turtles. In the biological opinion the Regional Administrator determined that the implementation of the Catch Sharing Plan for 2014-2016 is not likely to jeopardize the continued existence of Puget Sound yelloweye rockfish, Puget Sound canary rockfish, Puget Sound bocaccio, Puget Sound Chinook, Lower Columbia River Chinook, and green sturgeon. It is not expected to result in the destruction or adverse modification of critical habitat for green sturgeon or result in the destruction or adverse modification of proposed critical habitat for Puget Sound yelloweye rockfish, canary rockfish, or bocaccio. In addition, the opinion concluded that the implementation of the Plan is not likely to adversely affect marine mammals, the remaining listed salmon species and sea turtles, and is not likely to adversely affect critical habitat for Southern resident killer whales, stellar sea lions, leatherback sea turtles, any listed salmonids,

and humpback whales. Further, the Regional Administrator determined that implementation of the Catch Sharing Plan will have no effect on southern eulachon; this determination was made in a letter dated March 12, 2014. The 2016 Plan and regulations do not change the conclusions from the biological opinion.

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. NMFS has prepared a 7(a)(2)/7(d) determination memo under the ESA concluding that any effects of the 2016 fishery on listed seabirds are expected to be quite low, and are not likely to jeopardize the continued existence of any listed species. Further, in no way will the 2016 fishery make an irreversible or irretrievable commitment of resources by the agency.

NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective on April 1, 2016, pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective on April 1, 2016, when incidental halibut retention in the sablefish primary fishery begins. The 2016 TAC is higher than the 2015 TAC, resulting in increased allocations to the salmon troll and sablefish primary fisheries. Therefore, allowing the 2015 measures to remain in place could unnecessarily restrict the fisheries with incidental landing limits that do not match the increased allocations. Finally, this final rule approves the Council's 2016 Plan that responds to the needs of the fisheries in each state and approves the portions of the Plan allocating incidentally caught halibut in the salmon troll and sablefish primary fisheries, which start April 1. Therefore, allowing the 2015 subarea allocations and Plan to remain in place would not respond to the needs of the fishery and would be in conflict with the Council's final recommendation for 2016. For all of these reasons, a delay in effectiveness could ultimately

cause economic harm to the fishing industry and associated fishing communities by reducing fishing opportunity at the start of the fishing year to keep catch within the lower 2015 allocations or result in harvest levels inconsistent with the best available scientific information. As a result of the potential harm to fishing communities that could be caused by delaying the effectiveness of this final rule, NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective on April 1, 2016.

### **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.

Dated: March 29, 2016

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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 is 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, 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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