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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF681

Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit

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

ACTION: Notice; receipt of application for exempted fishing permit.

SUMMARY: This notice announces receipt of an exempted fishing permit (EFP) application from the International Halibut Commission (IPHC). If granted, this EFP would allow crew members on a selected hook-and-line vessel targeting Pacific cod in the western Aleutian Islands in winter to collect biological samples from incidentally caught halibut and release those fish back to the water in a timely manner to increase survivability. Biological samples collected would include a fork length measurement and a small tissue sample from the caudal fin for genetic analysis. A NMFS-trained fishery observer would assign a viability category for each sampled halibut as per existing IPHC/NMFS protocols. The objective of the EFP application is to confirm or reject results of a previous genetic stock structure study which indicated that Pacific halibut in the western Aleutian Islands are genetically distinct from the remainder of the eastern Pacific population. This experiment has the potential to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act.

DATES: Comments on this EFP application must be submitted to NMFS on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The North Pacific Fishery Management Council (Council) will consider the application at its meeting from October 2, 2017, through October 10, 2017, in Anchorage, AK.

ADDRESSES: The Council meeting will be held at the Anchorage Hilton Hotel, 500 W 3rd Ave, Anchorage, AK 99501. The agenda for the Council meeting is available at *http://www.npfmc.org*. You may submit comments on this document, identified by NOAA-NMFS-2017-0114, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0114*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the EFP application and the basis for a categorical exclusion under the National Environmental Policy Act are available from the Alaska Region, NMFS website at *http://alaskafisheries.noaa.gov/*.

FOR FURTHER INFORMATION CONTACT: Brandee Gerke, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI) under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP), which the Council prepared under the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing the BSAI groundfish fisheries appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at § 600.745(b) and § 679.6 allow the NMFS Regional Administrator to authorize, for limited experimental purposes, fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

The IPHC and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under the authority of the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention) and the Northern Pacific Halibut Act of 1982. The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary).

Background

The International Pacific Halibut Commission (IPHC) has a long history of studying population structure in Pacific halibut, including a population genetics research

program that was initiated in the late 1990s. Population genetics research is conducted to resolve stock components from one another and to identify barriers to gene flow that may (1) Limit the mixing of halibut among regions, (2) Warrant different halibut fishery management actions or strategies among regions, or (3) Suggest changes in the spatial structure of the numerical halibut stock assessment model. In 2016, a population genetic analysis was completed (Drinan et al., 2016 *Journal of Fish Biology* 89:2571-2594) using halibut tissue samples that had been collected from 10 sampling locations across the eastern Pacific Ocean: from British Columbia in the south; to Pribilof Canyon in the north; and westward into the Aleutian Islands region at Adak Island, Petrel Bank, and Attu Island. The Drinan et al. (2016) analysis is the most extensive population genetic analysis of the eastern Pacific halibut stock to-date. The results suggest that significant stock structure exists within the managed range; in particular, that halibut residing in the western Aleutian Islands are genetically distinct from the remainder of the eastern Pacific population. Of greatest potential importance to management is the implication that a boundary of significant stock segregation may bisect a single IPHC regulatory area: i.e., Area 4B, with significantly different population components residing on either side of Amchitka Pass.

However, these results may be called into question due to a weakness in the underlying sampling design: whereas the majority of study locations were surveyed in mid-winter, Attu Island and Petrel Bank (i.e., the two sites found to be genetically distinct) were sampled during the IPHC's summer setline survey. Ultimately, genetic population structure is established via the formation and maintenance of spatially segregated spawning populations. In the case of Pacific halibut, spawning occurs in

midwinter following the migration of the spawning stock from its summer feeding grounds to potentially distant spawning grounds. As such, summer-collected samples from any given location may be composed of individuals from multiple spawning groups that co-mingle on common feeding grounds. Although it is highly unlikely that such a process could result in the generation of spuriously significant genetic stock structure where none exists, best practices mandate that the results be re-tested using samples from the western Aleutian Islands that are collected during the winter spawning period.

The Aleutian Islands winter hook-and-line fishery for Pacific cod provides a platform of opportunity to collect Pacific halibut length data and accompanying tissue samples from the western Aleutian Islands. Small numbers of halibut are caught as bycatch incidental to the Aleutian Islands Pacific cod hook-and-line fishery which would allow for the collection of biological samples that meet requirements of a supplementary genetic analysis to confirm or reject the results from the previous study.

Proposed Action

On August 31, 2017, the IPHC submitted an application for an EFP for 2018 to collect biological samples from incidentally caught halibut on a select hook-and-line vessel targeting Pacific cod in the western Aleutian Islands in winter and release those fish back to the water in a timely manner to increase survivability. The objective of the proposed 2018 EFP is to provide samples for genetic analyses that would be expected to confirm or reject conclusions about Pacific halibut spawning stock structure in the western Aleutian Islands inferred by data collected in summer by sampling during the

winter halibut spawning period. This project would allow crew to collect biological samples of incidentally caught halibut and return the fish to sea, alive.

The EFP would allow crew on board the selected vessel to measure fork length of approximately 20 to 30 incidentally caught halibut and collect a small tissue sample from the caudal fin of each sampled fish. Sampled halibut would be released back to the water after a NMFS-trained fishery observer conducted a viability assessment for each sampled halibut using existing IPHC protocols.

The applicant proposes to conduct sampling on a single vessel in the hook-and-line catcher/processor sector during the "A" season fishery for Pacific cod between January 1, 2018 and March 31, 2018 west of 180° W longitude (i.e., in NMFS Statistical Areas 542 and 543). The participating vessel would be selected on a voluntary basis and would carry a NMFS-trained fishery observer as required by regulation.

The applicant's proposed sampling protocol would consist of: a) bringing an incidentally-caught halibut aboard the vessel to be sampled; b) releasing the halibut from the hook using an approved Careful Release technique (i.e., either by hook twisting or cutting the gangion near the hook); c) measuring and recording the halibut's forklength; d) collecting a small (approximately one-quarter inch) tissue sample from the caudal fin; e) assigning the halibut to a viability category as per existing IPHC/NMFS protocols; and f) returning the halibut to the water without further delay.

All stages of the sampling process with the exception of e), above, would be conducted by a member of the fishing vessel's crew. Viability assignments would be conducted by the NMFS-trained fishery observer on the vessel. The sampling process is expected to require less than 2 minutes and have no impact on the probability of

survival of the sampled fish. The sampling protocol outlined above is quicker and less obtrusive than any of the protocols used by the IPHC for halibut tag-and-release that have been shown to yield excellent survival of the handled individuals.

Halibut is a prohibited species in the groundfish fishery, requiring immediate return to the sea with a minimum of injury. This proposed action would exempt the participating vessel from the requirement to return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition at § 679.21(b)(2)(ii). Under the EFP, the participating vessel would be limited to its groundfish allocations under the 2018 harvest specifications. No additional target or prohibited species catch (PSC) amounts beyond those authorized through regulation would be needed for this EFP; all groundfish catch will accrue against the Pacific cod sector's catch and PSC allowances. EFP-authorized fishing activities would not be expected to change the nature or duration of the Pacific cod hook-and-line fishery or the amount or species of fish caught by the participating vessel.

In 2018, the IPHC would be required to submit to NMFS a report of the EFP results after EFP experimental fishing has ended in 2018. The report would include: the number of halibut sampled and their recorded lengths.

The fieldwork that would be conducted under this EFP is not expected to have a significant impact on the human environment as detailed in the categorical exclusion prepared for this action (see **ADDRESSES**).

In accordance with § 679.6, NMFS has determined that the application warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its

October 2017 meeting, which will be held in Anchorage, AK. The EFP application will also be provided to the Council's Scientific and Statistical Committee for review at the October Council meeting. The applicant has been invited to appear in support of the application.

Public Comments

Interested persons may comment on the application at the October 2017 Council meeting during public testimony or until [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Information regarding the meeting is available at the Council's website at *http://www.npfmc.org*. Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**). Comments also may be submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**).

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

Dated: September 18, 2017.

Emily H. Menashes,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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