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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 171205999-8043-01]

RIN 0648-BH45

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 30 days after date of publication in the Federal Register]*.

ADDRESSES: Submit your comments, identified by NOAA-NMFS-2017-0157, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to www.regulations.gov#!docketDetail;D=NOAA-NMFS-2017-0157, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Attn: Kathryn Blair

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).

Docket: 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>. Other comments received may be accessed through [Regulations.gov](http://www.regulations.gov).

FOR FURTHER INFORMATION CONTACT: Kathryn Blair, phone: 206-526-6140, fax: 206-526-6736, or e-mail: kathryn.blair@noaa.gov.

SUPPLEMENTARY INFORMATION:

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 2018, the Council has recommended minor modifications to sport fisheries to better match the needs of the fishery, and changes to incidental retention in the sablefish fishery. This proposed rule contains some dates for the sport fisheries based on the 2018 Plan as recommended by the Council; however, affected states are holding public meetings to gather input on some final season dates that will be set after the final 2A TAC is determined by the IPHC at its annual meeting January 22-26, 2018. The states will submit final season dates to NMFS after stakeholders have had the availability to comment. These state-determined season

dates are included in the final rule because recreational halibut fishing takes place in state and federal waters.

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 Washington recreational TAC is 224,110 (101.7 mt) or greater, provided that a minimum of 10,000 lb (4.5 mt) is available. Because the IPHC has not yet set the 2018 Area 2A TAC, it is unclear at this point whether this incidental retention will be allowed in 2018. If it is, the Council will recommend landing restrictions at its March 2018 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 30 days after date of publication in the *Federal Register*]. The States of Oregon and California will conduct public workshops in February to obtain input on the sport season dates. The State of Washington has already determined season dates following input from the public. 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 Wildlife (CDFW), 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 annual September meeting. Subsequently, they recommend changes to the Council at its September meeting. In 2017, fishery managers from all three state agencies held public meetings on the Plan prior to the Council's September meeting. At the September 2017 Council meeting, WDFW and ODFW proposed changes to the Plan. NMFS, 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, a few of which were presented in the form of alternatives. WDFW and ODFW subsequently held public workshops on the recommended changes.

At its November 14-20, 2017, meeting the Council considered the results of state-sponsored workshops on the recommended changes to the Plan, along with public input provided at the 2017 September and November Council meetings, and made its final recommendations for modifications to the Plan. NMFS proposes to approve all of the Council's recommended changes to the Plan as further discussed below.

1. In section (e)(3), Incidental catch in the sablefish fishery north of Point Chehalis, modify the sablefish allocation from 70,000 pounds to 50,000 when Area 2A total allowable catch (TAC) is less than 1.5 million pounds. The goal of this change is to limit the amount of unused quota in the incidental sablefish fishery while providing more opportunity to the Washington recreational sector. Remove the requirement that the Area 2A TAC be at least 900,000 pounds in order for incidental catch in the sablefish fishery to be allowed, as this requirement is inconsistent with the current allocation structure in the Plan.
2. In sections (f)(1)(i-iii), Washington sport fisheries, modify the language used in setting open days, specifically: "seasons will open in early May and may be open up to two days

per week and may include one weekday and one weekend day. Season structure may include periodic closures to assess the remaining quota for the subarea.” This change provides flexibility in setting open fishing days.

3. In section (f)(1)(iv), Columbia River subarea, modify the open days to Thursday, Friday, and Sunday, to allow for the season to extend further into the summer.

These changes are explained in more detail in materials submitted to the Council at its September and November meetings, available at <https://www.pcouncil.org/council-operations/council-meetings/past-meetings/>. 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

NMFS proposes to make the following change to its codified regulations to the halibut fishery: in § 300.63, at the description of the allocation structure of the incidental halibut catch in the sablefish primary fishery, paragraph (b)(3), remove the 900,000 lb Area 2A TAC threshold. Changes to the allocation structure in the Catch Sharing Plan have made this threshold inaccurate, and the sablefish allocation is based solely on a Washington recreational TAC of 214,110 lbs (97.1 mt) or greater. This change to the regulations is consistent with the proposed change to the Plan described above.

Subarea Allocations

Prior to 2013, NMFS used the total allowable catch (TAC) recommended by IPHC staff at the IPHC’s interim meeting to calculate the Area 2A subarea allocations in its proposed rule.

Beginning in 2013, the IPHC staff discontinued its prior practice of making a single catch limit recommendation at the interim meeting. Instead, the IPHC staff presented a range of total constant exploitation yield (TCEY) and fishery constant exploitation yield (FCEY) amounts. The goal of shifting from a single point estimate to a range, as stated by the IPHC, is to provide a more “transparent delineation between scientific results and management/policy decision, ultimately enabling a better understanding of the risks associated with different fishery harvest options.” The TCEY is a biologically-determined level for total removals from each regulatory area calculated by applying a fixed harvest rate to the estimate of exploitable biomass in that area, determined from the annual stock assessment. The TCEY is higher than the TAC, as the TCEY includes amounts of halibut taken as bycatch in the groundfish fishery and wastage.

At its interim meeting, the IPHC presented a decision table with 13 alternative harvest strategies and resulting TCEYs. This is a greater number of alternatives on a finer scale than has been presented in previous years, thus for purposes of informing the public’s consideration of this proposed rule, we describe the ends of the range under consideration and a mid-point based on historic harvest policy. The coast-wide TCEYs presented at the interim meeting range from 10 to 60 million pounds, with a finer grid presented between 20 and 40 million pounds, and a reference spawning potential ratio (SPR) value of 46% that would translate into a coast-wide TCEY of 31 million pounds. The reference value is consistent with the current harvest policy and, historically, IPHC staff advice.

The purpose of the following discussion is to inform the public’s consideration of this proposed rule. However, the IPHC may choose an Area 2A TCEY that is different from any of the numbers discussed here, and is outside the range considered at its November 2017 interim meeting. The determination of the TCEY level is not prescribed in regulation, rather the

commissioners make TCEY decisions based on the scientific and stock assessment information combined with input from advisory bodies and the public.

We assume for purpose of this discussion that the Commission will use the 1.9 percent TCEY distribution it used in 2017 to determine the amount of the 2018 coastwide TCEY for Area 2A, however, the Commission may depart from this practice. If the Commission were to adopt the SPR harvest rate reference value corresponding to a coast-wide TCEY of 31 million pounds, the 2018 Area 2A TCEY would be 0.59 million pounds following this assumption. Final adopted area allocations may be greater or less than reference values presented at interim meetings. For comparison, the 2017 Area 2A Reference SPR (46%) value put forth at the interim meeting resulted in an Area 2A TCEY of 0.96 million pounds, while the final value (SPR of 40%) adopted at the IPHC annual meeting resulted in an Area 2A TCEY of 1.47 million pounds. At the two ends of the range of TCEYs presented to the Commission at its interim meeting, a 2018 coast-wide TCEY of 10 or 20 million pounds would result in an Area 2A TCEY of 0.19 or 0.38 million pounds, respectively, while a TCEY of 40 or 60 million pounds would result in an Area 2A TCEY of 0.76 or 1.14 million pounds, respectively, based on preliminary estimates from the 2017 stock assessment, and past policies and approaches.

Proposed 2018 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 2018. The annual domestic management measures are published each year through a final rule. For the 2017 fishing season, the final rule for the commercial fisheries was published on March 7, 2017 (82 FR 12730) along with the IPHC regulations, and the final rule for Area 2A sport fisheries was published on April 20, 2017 (82 FR 18581). The section numbers below correspond to sections in the March 7 final rule.

Where season dates are not indicated, those dates will be provided in the final rule, following consideration of the 2018 TAC and consultation with the states and consideration of public comment. Where subarea allocations are not indicated, that information will be added once the Area 2A TAC is determined and quota distributed according to the Plan. The Plan is published in the Federal Register but is not codified in the Code of Federal Regulations.

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

(8) * * *

(a) The quota for 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 (subarea allocations will be inserted when final rule publishes).

(i) The fishing seasons are:

(A) Depending on available quota, fishing is open May 11, 13, 25, and 27; June 7, 9, 16, 21, 23, 28, and 30, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed unless the date is announced on the NMFS hotline.

(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 (subarea allocations will be inserted when final rule publishes).

(i) The fishing seasons are:

(A) Depending on available quota, fishing is open May 11, 13, 25, and 27; June 7, 9, 16, 21, 23, 28, and 30, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed 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 50 CFR 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 (subarea allocations will be inserted when final rule publishes).

(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: (subarea allocations for the primary and nearshore fisheries will be inserted when final rule publishes). Depending on available quota, the primary fishery season dates are May 11, 13, 25, and 27; June 7, 9, 16, 21, 23, 28, and 30, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed unless the date is announced on the NMFS hotline. The fishing season in the nearshore area commences the Saturday subsequent to the closure of the primary fishery, and continues 7 days per week until (subarea allocations will be inserted when final rule publishes) 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 (subarea allocations will be inserted when final rule publishes).

(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 7, and continues on Monday, Tuesday, and Wednesday each week until the nearshore allocation is taken, or September 30, whichever is earlier. The all-depth fishing season commences on May 3, and continues on Thursday, Friday and Sunday each week until (subarea allocations will be inserted when final rule publishes) 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, flatfish species, and lingcod caught north of the Washington-Oregon border during the month of May, 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 (subarea allocations will be inserted when final rule publishes).

(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 (subarea allocations will be inserted when final rule publishes), 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 (subarea allocations will be inserted when final rule publishes). 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) and will continue 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 (the first back up date will be inserted when final rule publishes) and ending when there is insufficient quota remaining, whichever is earlier. If after September 1, 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 7 and 8, and ending October 31. After September 1, 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 when the groundfish fishery is restricted by depth, no 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 groundfish regulations, if halibut are onboard the vessel. During days open to all-depth halibut fishing when the groundfish fishery is open to all depths, any groundfish species permitted under the groundfish regulations may be retained, possessed or landed if halibut are on aboard the vessel. During days open to nearshore halibut fishing, flatfish species may be taken and retained seaward of the seasonal groundfish depths restrictions, if halibut are on board the vessel.

(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 (subarea allocations will be inserted when final rule publishes).

(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 (subarea allocations will be inserted when final rule publishes).

(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 Council, the North Pacific Fishery Management Council, and the Secretary. Section 5 of the Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) provides the Secretary with the general responsibility to carry out the Halibut 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's authority under the Halibut Act.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

For any rule subject to notice and comment rulemaking, the Regulatory Flexibility Act (RFA) requires Federal agencies to prepare, and make available for public comment, both an initial and final regulatory flexibility analysis (IRFA and FRFA), unless the agency can certify that the proposed and/or final rule would not have a "significant economic impact on a substantial number of small entities." These analyses describe the impact on small businesses, non-profit enterprises, local governments, and other small entities as defined by the RFA (5 U.S.C. 603). This analysis is to inform the agency and the public of the expected economic effects of the alternatives, and aid the agency in considering any significant regulatory alternatives that would accomplish the applicable objectives and minimize the economic impact on affected small entities. The RFA does not require the alternative with the least cost or with the least adverse effect on small entities be chosen as the preferred alternative.

The IRFA must only address the effects of a proposed rule on entities subject to the regulation (i.e., entities to which the rule will directly apply) rather than all entities affected by the regulation, which would include entities to which the rule will indirectly apply.

Part 121 of Title 13, Code of Federal Regulations (CFR), sets forth, by North American Industry Classification System (NAICS) categories, the maximum number of employees or average annual gross receipts a business may have to be considered a small entity for RFA purposes. See 13 CFR 121.201. Under this provision, the U.S. Small Business Administration

established criteria for businesses in the fishery sector to qualify as small entities. Standards are expressed either in number of employees, or annual receipts in millions of dollars. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small (13 CFR 121.201).

Provision is made under SBA's regulations for an agency to develop its own industry-specific size standards after consultation with SBA's Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (80 FR 81194, December 29, 2015). This standard is only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA.

NMFS's small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing is \$11 million in annual gross receipts. This standard applies to all businesses classified under North American Industry Classification System (NAICS) code 11411 for commercial fishing, including all businesses classified as commercial finfish fishing (NAICS 114111), commercial shellfish fishing (NAICS 114112), and other commercial marine fishing (NAICS 114119) businesses. (50 CFR 200.2; 13 CFR 121.201).

Description of the Reasons Why Action by the Agency Is Being Considered

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 for the upcoming year at the Council's September and November meetings. 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. For 2018, the Pacific Council has proposed changes to the Plan that affect the recreational (sport) and the incidental sablefish commercial fishery.

Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The legal authority for this action is The Northern Pacific Halibut Act of 1982 at 16 U.S.C. 773c. Under this Act, the Secretary of Commerce (Secretary) shall have general responsibility to carry out the Halibut Convention between the United States and Canada, and the Secretary shall adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. Section 773c(c) also authorizes the regional fishery management council having authority for the geographic area concerned (the Council) to develop regulations governing the Pacific halibut catch in United States portion of Convention waters that are in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission. The Council's 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 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.

A Description and, Where Feasible, Estimate of the Number of Small Entities to Which the Proposed Rule will Apply

This rule may affect some charterboat operations in Area 2A and participants in the incidental sablefish fishery off the coast of Washington. Previous analyses determined 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 2016, 607 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: the 2A directed commercial fishery (159 licenses) and the incidental fishery in the sablefish primary fishery in Area 2A (8 licenses in 2016); incidental halibut caught in the salmon troll fishery (310 licenses in 2016); and the charterboat fleet (120 licenses in 2016). 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. 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.

Reporting and Recordkeeping Requirements

The proposed changes to the Plan and domestic management measures do not include any new reporting or recordkeeping requirements.

Description and Estimate of Economic Effects on Entities, by Entity Size and Industry

The major effect of halibut management on small entities will be from the internationally set TAC decisions made by the IPHC. That decision is independent from this proposed action. This proposed action only makes minor changes to the Plan to provide increased recreational opportunities under the allocations that result from the TAC. Commercial opportunities may be fewer with the incidental sablefish maximum allocation lowering to 50,000 pounds. However when the maximum of 70,000 pounds has been allocated, attainment greater than 50,000 pounds has not occurred since 2006. There are no large entities involved in the halibut fisheries;

therefore, none of these changes will have a disproportionately negative effect on small entities versus large entities. The proposed changes to the plan are considered minor, with minimal economic effects.

An Explanation of the Criteria Used to Evaluate Whether the Rule Would Impose “Significant” Economic Effects

The proposed sport and commercial management measures implement the Plan by managing the fisheries to meet the differing fishery needs of the various areas along the coast according to the Plan’s objectives. These changes were uncontroversial throughout the Council’s public process and are considered minor because the timing and level of participation are not expected to change. Washington has estimated that 60,000 pounds are needed for a season day, and the most the Washington recreational fishery will gain from the change to the incidental sablefish allocation is 20,000 pounds. The proposed changes to the plan are not expected to have a significant economic impact on a substantial number of small entities.

An Explanation of the Criteria Used to Evaluate Whether the Rule Would Impose Effects on “a Substantial Number” of Small Entities

The entirety of the United States’ halibut fishery will be impacted by these changes, all of the entities of which are considered small. However, the effects of the rule would be minimal as described above. As previously mentioned, in 2016 eight vessels were licensed to catch halibut in the sablefish fishery. For 2017, the average number of participants in the Columbia River subarea was 73, with the highest number on the first two days and last day. In Washington subareas, most participation occurred in the first two days of fishing, averaging 8,048 anglers.

A Description of, and an Explanation of the Basis for, Assumptions Used

In the description of the entities affected, estimates of the number of charterboats were based off a 2004 report by the Pacific States Marine Fisheries Commission. This report has not been updated and the number of entities is assumed to be similar.

Relevant Federal Rules That May Duplicate, Overlap or Conflict with the Proposed Rule

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

A Description of any Significant Alternatives to the Proposed Rule that Accomplish the Stated Objectives of Applicable Statutes and That Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

The status quo alternative would not achieve the objectives and requirements of the Convention and Halibut Act. And because the effects of the rule would be minimal, there are no other additional significant alternatives that would further minimize the impact of the proposed rule on small entities while achieving the goals and objectives of the Convention and Halibut Act. In addition, these changes were proposed by stakeholders to address the needs of the fisheries, and, as explained above, the proposed changes are not expected to have a significant economic impact on a substantial number of small entities.

A copy of this analysis is available from the Council or NMFS (see **ADDRESSES**).

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.

A consultation for the 2018-2022 Area 2A Pacific Halibut Catch Sharing Plan will be concluded at the time the final rule.

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. 1801 et seq.

Dated: January 25, 2018.

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 § 300.63, revise paragraph (b)(3) introductory text to read as follows:

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

* * * * *

(b) * * *

(3) A portion of the Area 2A Washington recreational TAC is allocated as incidental catch in the sablefish primary fishery north of 46°53.30' N. lat, (Pt. Chehalis, Washington), which is regulated under 50 CFR 660.231. This fishing opportunity is only available in years in which the Washington recreational TAC is 214, 110 lb (97.1 mt) or greater, provided that a

minimum of 10,000 lb (4.5 mt) is available to the sablefish fishery. Each year that this harvest is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the Federal Register. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings.

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