



**Billing Code: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 300 and 679**

**[Docket No. 190802-0009]**

**RIN 0648-BH94**

**Pacific Halibut Fisheries; Revisions to Catch Sharing Plan and Domestic Management Measures in Alaska**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations that would require Charter Halibut Permits (CHPs) to be registered annually with NMFS. In 2010, NMFS implemented a Charter Halibut Limited Access Program that issued a limited number of CHPs to persons who operate in the guided sport (charter) halibut fishery on the waters of International Pacific Halibut Commission Regulatory Areas 2C and 3A. The proposed annual registration of CHPs is intended to improve the enforcement of CHP transfer limitations and ownership caps, as well as provide additional information to NMFS and the North Pacific Fishery Management Council on any changes in CHP ownership and participation.

**DATES:** Comments must be received no later than *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2018-0076, by any of the following methods:

- *Federal eRulemaking Portal.* Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0076](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0076), 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: James Bruschi. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

*Instructions:* NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information 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 Categorical Exclusion and the Regulatory Impact Review (RIR) prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS at the above address and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-5806.

**FOR FURTHER INFORMATION CONTACT:** Doug Duncan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

## **Authority for Action**

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC adopts regulations governing the Pacific halibut fishery under the Convention between the United States and Canada 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). For the United States, regulations developed by the IPHC are subject to acceptance by the Secretary of State with concurrence from the Secretary of Commerce. After acceptance by the Secretary of State and the Secretary of Commerce, NMFS publishes the IPHC regulations in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62.

The Halibut Act, at sections 773c(a) and (b), provides the Secretary of Commerce with general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary of Commerce is directed to consult with the Secretary of the department in which the U.S. Coast Guard is operating, currently the Department of Homeland Security.

The Halibut Act, at section 773c(c), also provides the North Pacific Fishery Management Council (Council) with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only

after approval by the Secretary of Commerce. The Council has exercised this authority in the development of subsistence halibut fishery management measures, the Charter Halibut Limited Access Program (CHLAP), and a catch sharing plan and domestic management measures in waters in and off Alaska, codified at 50 CFR parts 300.61, 300.65, 300.66, and 300.67. The Council also developed the Individual Fishing Quota (IFQ) Program for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679, under the authority of section 773 of the Halibut Act and section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

### **Management of the Halibut Fishery**

#### *Description of the Action Area*

This proposed action would change regulations for the management of the sport halibut fishery in IPHC Regulatory Areas 2C (Southeast Alaska) and 3A (Southcentral Alaska). These regulatory areas are referred to as “IFQ regulatory areas” throughout the IFQ Program regulations at 50 CFR part 679 and as “Commission regulatory areas” throughout the halibut management regulations at 50 CFR parts 300.61, 300.65, 300.66, and 300.67. These terms are synonymous with “IPHC regulatory areas” and may be used interchangeably throughout this document. This preamble uses the term “Area 2C” and “Area 3A” to refer to IPHC Regulatory Areas 2C and 3A, respectively.

#### *Background on the Halibut Fishery*

The harvest of halibut in Alaska occurs in three fisheries—the commercial, sport, and subsistence fisheries. The commercial halibut fishery is managed under the IFQ Program. The sport fishery includes guided and unguided anglers. Guided anglers are commonly called “charter” anglers because they fish from chartered vessels. Throughout

this preamble, the term “charter fishery” is used to refer to the fishery prosecuted by guided anglers. The subsistence fishery provides an opportunity for rural residents and members of an Alaska Native tribe to retain halibut for personal use or customary trade.

The following sections of the preamble summarize charter fishery management. Sections 3.1 and 3.2 of the RIR prepared for this action provides additional detail on charter halibut management programs that have been implemented in Areas 2C and 3A.

### **Charter Halibut Fishery**

Sport fishing activities for halibut in Areas 2C and 3A are subject to different regulations, depending on whether those activities are guided or unguided. Guided sport fishing (charter fishing) for halibut is subject to charter restrictions under Federal regulations that are generally more restrictive than the regulations for unguided anglers. Charter fishery regulations apply if a charter vessel guide is providing assistance, for compensation, to a person who is sport fishing, to take or attempt to take fish during any part of a charter vessel fishing trip. Unguided anglers typically use their own vessels and equipment, or they may rent a vessel and fish with no assistance from a guide.

Over the years, the Council and NMFS have developed specific management programs for the charter fishery to achieve allocation and conservation objectives. These management programs maintain stability and economic viability in the charter fishery by 1) limiting the number of charter vessel operators, 2) allocating halibut to the charter fishery that varies with abundance, and 3) establishing a process for determining harvest restrictions for charter vessel anglers to keep the charter halibut fishery harvest within its allocations.

The charter fisheries in Areas 2C and 3A are currently managed under the CHLAP and the Catch Sharing Plan (CSP). The CHLAP limits the number of operators in the charter fishery, while the CSP establishes annual allocations to the charter and commercial fisheries and describes a process for determining annual management measures to limit charter harvest to the allocations in each management area. The CHLAP and the CSP are summarized below.

### **Description of the CHLAP**

The CHLAP established Federal charter halibut permits (throughout this preamble, “CHP” and “permit” are used synonymously) for operators in the charter halibut fisheries in Areas 2C and 3A (75 FR 554, January 5, 2010). Since 2011, all vessel operators in Areas 2C and 3A with charter anglers on board must have an original, valid permit on board during every charter vessel fishing trip on which Pacific halibut are caught and retained. CHPs are endorsed for the appropriate regulatory area and the number of charter anglers that may catch and retain halibut on a trip.

NMFS implemented this program, based on recommendations by the Council, to meet allocation objectives in the charter halibut fishery. The program provides stability in the fishery by limiting the number of charter vessels that may participate in Areas 2C and 3A. Several basic standards were required to initially receive a CHP. They included 1) a timely application for a permit; 2) documentation of participation in the charter vessel fishery during the qualifying and recent participation periods by Alaska Department of Fish and Game (ADF&G) logbooks; and 3) ownership of a business that was licensed by ADF&G to conduct the guided sport fishing that was reported in the logbooks. Licensed business owners that qualified for CHPs included individuals, corporations, firms, or

associations (50 CFR 300.61). NMFS issued both transferable and nontransferable CHPs depending on specific qualifying criteria detailed in the final rule implementing the CHLAP (75 FR 554, January 5, 2010), and summarized in this preamble.

To receive an initial issuance of a CHP, vessel operators had to meet minimum participation requirements. The basic unit of participation for receiving a CHP was a logbook fishing trip. A logbook fishing trip is an event that was reported in the ADF&G logbooks within a requisite period of time. The minimum participation qualifications included documentation of at least five logbook fishing trips during one of the qualifying years of 2004 or 2005, and at least five logbook fishing trips during 2008. Meeting the minimum participation qualifications could qualify an applicant for a nontransferable CHP. To qualify for a transferable CHP, the minimum participation qualifications included documentation of at least 15 logbook fishing trips during one of the qualifying years—2004 or 2005—and at least 15 logbook fishing trips during 2008.

At initial issuance, each CHP was endorsed with a maximum number of anglers authorized to catch and retain halibut onboard the charter vessel. The assigned number of anglers on a CHP was based on the highest number of anglers that the applicant reported on any logbook fishing trip in 2004 or 2005, subject to a minimum endorsement of four. Vessel operators are allowed to stack CHPs to increase the number of charter vessel anglers on board.

#### *Special Military and Community Permits*

In addition to transferable and nontransferable CHPs, the CHLAP also authorizes NMFS to issue Military Charter Halibut Permits (Military CHPs). These permits are available for any U.S. Military Morale, Welfare, and Recreation program in Alaska

operating a halibut charter vessel. To obtain a Military CHP, the military program may apply through NMFS at no cost. Military CHPs are nontransferable, issued without angler endorsements, and may be used only in the regulatory area designated on the permit. NMFS reserves the right to limit the number of Military CHPs. Additional detail on Military CHPs is provided in the final rule implementing the CHLAP (75 FR 554, January 5, 2010).

Specific small rural communities in Areas 2C and 3A are eligible to form a Community Quota Entity (CQE) to provide additional harvesting opportunities for residents. Regulations at 50 CFR 679.1 describe the specific communities eligible to form CQEs and apply for Community Charter Halibut Permits (Community CHPs). Similar to Military CHPs, qualifying CQEs may obtain a limited number of Community CHPs at no cost by applying to NMFS. A charter vessel operator who is using a Community CHP is required to either begin or end the charter vessel fishing trip within the community designated on the permit. In addition, a CQE may also obtain and hold transferable CHPs that are separate from their Community CHPs. Operators using either a CHP held by a CQE or a Community CHP must have a current ADF&G Saltwater Sport Fishing Charter Trip Logbook. An eligible CQE in Area 2C may receive a maximum of four Community CHPs and an eligible CQE in Area 3A may receive a maximum of seven Community CHPs from NMFS. All Community CHPs issued to a CQE are nontransferable, designated for either Area 2C or 3A, and endorsed for six anglers. CQEs may not hold more than a maximum of eight permits in total, including both CHPs and Community CHPs, in Area 2C, or 14 permits in total (CHPs and Community CHPs) in Area 3A (50 CFR 300.67(k)).

### *Transferable and Nontransferable CHPs*

The issuance of transferable CHPs establishes a market-based system of access to the halibut charter fishery after the initial allocation of permits. It also provides a means to freely transfer the halibut charter fishing privilege to persons who have a close association to the current permit holder, such as family members or business associates. A person holding a transferable CHP may transfer the permit to another person (individual or non-individual entity) by submitting to NMFS an Application for Transfer of Charter Halibut Permit. NMFS approves the transfer if 1) the receiver is a U.S. citizen or 75-percent-owned U.S. business; 2) either party does not owe NMFS any fines, civil penalties, or other payments; and 3) the receiver would not exceed the excessive share limit (five CHPs). A formal CHP transfer is a change of CHP holder as named on the permit and must be approved by NMFS. All CHP transfers are considered permanent; NMFS does not approve limited-duration transfers.

Nontransferable CHPs were authorized as a means to allow a business with relatively low participation in the qualifying years established by the CHLAP to continue to operate, while reducing the size of the charter fleet over time. Nontransferable CHPs may not be transferred to another individual or business entity, and the permits are invalidated when a permit holder dies, or the business entity that holds the permit dissolves. Nontransferable CHPs are also invalidated when new shareholders or partners are added to a business, which, under the CHLAP regulations, creates a new business entity and would otherwise require the permit to be transferred. Business entities that hold nontransferable CHPs may continue to hold the permit if they reduce the number of individuals who were listed as owners of the permit at initial issuance; however, no new

individuals may be added to the ownership structure. Regulations describing CHP limitations, including ownership changes, are located at § 300.67(j).

### *Ownership Caps*

The CHLAP included regulations that prohibit a person or entity from holding more than five CHPs (under most conditions) to limit potential consolidation in the charter fishery and provide continuing opportunities to access the fishery. Existing businesses that initially qualified for more than five permits were allowed to continue their business at levels above this excessive share standard; however, they are prevented from acquiring more permits than their initial allocation. Permit transfers that will result in a person, business, or other entity receiving more than five permits are only approved by NMFS under limited exceptions. This preamble uses the term “ownership cap” to describe the limit on the number of CHPs that a person or entity is eligible to hold because it is commonly used by participants in the charter halibut fishery. The final rule implementing the CHLAP describes the factors that the Council and NMFS considered when establishing ownership caps. Regulations at 50 CFR 300.67 describe the limitations on the use of CHPs.

To implement the ownership cap for corporations or other business entities, NMFS adopted a 10 percent ownership criterion that prevents a corporation from exceeding the excessive share standard by owning or controlling subsidiary businesses where the sum of CHPs held by the businesses exceed the maximum number of allowable permits. Under this definition, two entities are considered the same entity if one owns or controls 10 percent or more of the other. Ownership shares were initially accounted for on the applications for CHPs. If the initial applicant was not a sole individual, then the

corporation, partnership, or other business entity that made the application was required to submit the names of all the individual owners of the business entity, together with the percent of the business ownership for each individual.

If there is a change in the ownership of either transferable or nontransferable CHPs, the owner is required to notify NMFS. For an individual, a “change” might mean that the person has died, in which case, NMFS must be notified within 30 days of the individual’s death (§ 300.67(j)(5)(i)). For corporations, partnerships, or other non-individual entities, a “change” occurs when a new partner is added, unless it is a court appointed trustee acting on behalf of an incapacitated partner (§ 679.42(j)(4)(i)). Business entity changes must be registered with NMFS within 15 days of the effective date of the change. Many ownership changes occur when a CHP is transferred; however, other changes occur when a business entity simply adds partners or shareholders or an individual dies. In either case, whether there is a CHP transfer or not, CHP owners are required to notify NMFS if changes are made to the ownership structure of the permit.

Monitoring the ownership structure of CHPs is necessary for NMFS to implement and enforce features of the CHLAP, such as transfer provisions, ownership caps, and the retirement of nontransferable CHPs.

Complete regulations for the CHLAP are published at 50 CFR 300.65, 300.66, and 300.67.

#### *NMFS Administration of CHPs*

Currently, CHPs are indefinitely valid for the initial recipient or transferee until the permit is transferred, reissued, or subject to a qualifying change of ownership. Reissues most commonly occur when a CHP is lost or destroyed. To obtain a

replacement CHP, the CHP holder must submit an Application for Replacement of Certificates or Permits to NMFS or submit a written request that is signed by the CHP holder or an authorized representative. Upon transfer or reissuance, NMFS issues a different version of the CHP. Each CHP has a unique and ongoing serial number with a character to identify the version of the CHP that is currently in use. Initial permits were issued as version "A," while subsequent versions are identified with sequential characters (*e.g.*, "B," "C," "D"). In this respect, the character version of the CHP approximates the number of times the permit has been transferred or reissued. If a permit is not lost, destroyed, transferred, or subject to a reported change in ownership, then holder and contact information may fall out of date because there is no regular reporting requirement to NMFS.

### **Need for this Action**

This proposed rule would address the Council's intent to advance several of the Council's goals under the CHLAP. This rule would aid in the enforcement of CHP ownership caps and help ensure compliance through the annual registration and issuance of valid permits. By annually documenting the ownership structure of active CHPs, this proposed rule would also facilitate the retirement of nontransferable permits, and address the Council's intent to collect information on the use of CHPs by identifying whether the CHP holder received financial compensation for use of the permit in previous years.

The Council's intent was reflected in the purpose and need statement adopted at final action in April 2018. The Council's purpose and need, and final motion is available at:

*[http://legistar2.granicus.com/npfmc/meetings/2018/4/977\\_A\\_North\\_Pacific\\_Council\\_18-04-02\\_Meeting\\_Agenda.pdf](http://legistar2.granicus.com/npfmc/meetings/2018/4/977_A_North_Pacific_Council_18-04-02_Meeting_Agenda.pdf)*

Section 1.2 of the RIR also provides a summary of the history of this action.

### **This Proposed Rule**

This proposed rule would implement an annual registration requirement for CHPs. To be valid, a CHP would need to be registered with NMFS each calendar year before use. This annual registration requirement would not apply to Military CHPs or Community CHPs, but would apply to CHPs held by CQEs. In determining whether to implement an annual registration requirement, and what information would be collected during registration, the Council and NMFS considered two alternatives, described in Sections 2.1 and 2.2 of the RIR prepared for this action. Under the preferred alternative (Alternative 2), the registration process would require submission of CHP holder name, CHP number, CHP holder address, CHP holder phone number and/or e-mail address, CHP ownership holdings including all partners and corporate entities, and a “yes” or “no” question that asks whether financial compensation for the use of the CHP was received in the preceding year. After approval of a CHP annual registration, NMFS would issue a new, original valid CHP to the permit holder and update the published list of CHP information. A CHP would be valid for the remainder of the calendar year in which it is registered and issued, unless it is transferred. Previous versions of the CHP would not be valid. Consistent with existing regulations at § 300.67, a charter vessel guide must have an original valid CHP onboard when catching and retaining halibut during a charter vessel fishing trip.

Under this proposed rule, the transfer of a CHP would be a separate process from the annual registration of a CHP. As noted above, if a CHP is not registered in a calendar year, it would not be valid for use until a complete registration form is submitted to and approved by NMFS. In a situation where a registered CHP is transferred in a year, if the new owner also intends to use that CHP in that year, they would also be required to submit a complete CHP registration form to be issued an original valid CHP. A new CHP would then be issued and imprinted with the new owner's information. The RIR indicates that, on average, there have been 41 transfers of CHPs each year.

This proposed rule would not require Community CHPs and Military CHPs to be annually registered. Community CHPs and Military CHPs are issued by NMFS to eligible entities and are nontransferable. Although the CHLAP defines Community and Military CHPs as nontransferable, these permits were issued not based on specific charter halibut landings during a qualifying period, but to provide access opportunities for military personnel and economic benefits to small rural communities. An annual registration process that could result in limiting the use of Community and Military CHPs would be inconsistent with the purpose of these special permits. Additional information on the rationale for issuing Community and Military CHPs is provided in the final rule implementing the CHLAP (75 FR 554, January 5, 2010). The RIR prepared for this rule indicates that there are a limited number of these special permits; 48 Community CHPs and one Military CHP have been issued for Area 2C, and 63 Community CHPs and 7 Military CHPs have been issued for Area 3A. Overall, this represents approximately 10 percent of the total number of CHPs in Areas 2C and 3A (Section 3.2.1 of the RIR). Additionally, Community CHPs are subject to an annual reporting requirement where

CQEs must report ownership and use information. Adding an annual registration to collect information similar to the existing annual report could create unnecessary duplication.

Currently, NMFS may receive updated CHP ownership and contact information when a transfer occurs, or when the death of the permit holder or an ownership change is reported. Implementing an annual registration requirement in § 300.67(a) would ensure annual reporting of active CHP holder information to NMFS, which would improve enforcement of these provisions and ensure that this information is updated annually for active CHPs. This is particularly important for nontransferable CHPs, which are no longer valid upon the holder's death or when a CHP holding entity dissolves, or when there is a change in ownership, as defined in § 300.67(j)(5). The annual registration and issuance of CHPs would simplify enforcement and reduce unintentional and intentional violations arising from unreported nontransferable CHP ownership changes.

The Council and NMFS considered two other options for annual registration information collections; one requiring submission of the natural person(s) and vessel(s) that would use the CHP during a fishing year, and the other requiring submission of where a nontransferable permit would be used during the fishing year. The Council and NMFS decided against implementing these registration information collections because a CHP holder may not know the specific person who will be harvesting charter halibut under that CHP, which vessel will be using that specific CHP, and specifically where a CHP would be used at the time of registration. Among other things, the Council wanted to avoid the possibility of limiting the operational flexibility of CHP holders.

CHP holders would be required to indicate whether they had received financial compensation for use of their CHP in the preceding year on their annual registration application. There is no requirement that a CHP holder be present when the CHP is being used on a charter vessel, which effectively allows the leasing or lending of CHPs. Although this was a deliberate feature of the CHLAP, and this proposed regulation would not restrict lending or leasing, by collecting information on financial compensation, the Council and NMFS will be better informed about charter vessel operations, which would serve to inform program evaluations and decisions on potential future management actions.

The Council and NMFS considered another option that would have provided information about CHP leasing. The Council and NMFS considered one option that would have asked the annual applicant if a CHP was used by an operator who was not part of the CHP ownership structure; whether the owner of the CHP received compensation for the use of the CHP, and if so, to provide the details of compensation. The Council and NMFS recognized the diversity in potential leasing structures and compensation terms, and the possibility of significant confusion among annual registration applicants if detailed information was requested. Therefore, the Council recommended and this proposed rule would require only that the annual registration applicant indicate if financial compensation was received for use of the CHP in the preceding year, with a “yes” or “no” answer.

This proposed rule also establishes a standard process in the event a CHP annual registration is denied. A denial could occur due to an incomplete or inaccurate registration application, registration of a non-transferable permit by a non-eligible holder,

violation of a CHP holding limitation, or other reasons. If this occurs, NMFS would inform the applicant why the annual registration was denied and begin a 30 day period in which the applicant can correct the application. If NMFS determines that there is still sufficient reason to deny the application after corrections and evidence are received during the 30 day period, an Initial Administrative Determination (IAD) detailing the problems would be issued to the applicant. An applicant that has received an IAD could appeal the denial to the Office of Administrative Appeals. This is consistent with the process relating to the denial and appeal of other NMFS fishing permits.

Finally, this proposed rule makes a non-substantive update to the appeal process for a CHP application. It would revise the outdated reference for the Office of Administrative Appeals in order to bring it up to date with current regulations. This would not change how appeals are currently made or handled.

#### **Proposed Revisions to §§ 300.67 and 679.4**

This proposed rule would add new paragraph to § 300.67(a)(4) that would require annual registration of CHPs, describe the registration process, define what constitutes a complete annual registration, and identify an appeal process. Section 300.67(h)(6) would be revised to correct the reference to the appeals process.

The table in § 679.4(a)(1) would be revised to indicate that CHPs would be in effect until the expiration date shown on the permit, rather than indefinitely.

#### **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 Halibut Act (16 U.S.C. 773c)

allows the Regional Council having authority for a particular geographical area to develop regulations governing fishing for halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. The Halibut Act at section 773c(a) and (b) provides the Secretary of Commerce with the general responsibility to carry out the Convention with the authority to, in consultation with the Secretary of the department in which the U.S. Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. This proposed rule is consistent with the Halibut Act and other applicable laws.

*Executive Order 12866*

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866. This proposed rule also complies with the Secretary of Commerce's authority under the Halibut Act to implement management measures for the halibut fishery.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. NMFS requests comments on the decision to certify this proposed rule. The factual basis for this determination is as follows:

This proposed rule would directly regulate 1) individuals and entities holding CHPs, and 2) Community Quota Entities that hold CHPs. As of 2017, there were approximately 550 CHP holders. It is unlikely that the largest of the affected CHP holders would be considered large entities under SBA standards; however, that cannot be

confirmed because NMFS does not have or collect economic data on permit holders necessary to definitively determine total annual receipts. Thus, all CHP holders are considered small entities, based on SBA criteria.

Eligible CQEs may obtain CHPs; therefore, this proposed rule may directly regulate entities representing small, remote communities in Areas 2C and 3A. There are 34 communities in Area 2C and 14 in Area 3A eligible to obtain CHPs. Of these, all have populations less than 50,000 and are considered to be small government jurisdictions.

The proposed annual registration of CHPs is intended to improve the enforcement of existing permit transfer limitations, ownership caps, and provide additional information to NMFS and the North Pacific Fishery Management Council on any changes in permit ownership and participation in the charter halibut sector. The estimated annual cost burden is less than \$20 per application. This proposed action, therefore, is not expected to have a significant economic impact on a substantial number of the small entities directly regulated by this proposed action. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

#### *Regulatory Impact Review*

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. A copy of the RIR is available from NMFS (see **ADDRESSES**). The Council recommended this proposed action based on those measures that maximized net benefits to the Nation.

#### *Collection-of-Information Requirements*

This proposed rule mentions but would not change the following collection-of-information-requirements: ADF&G Saltwater Sport Fishing Charter Trip Logbook (OMB

Control Number 0648-0575); Application for Replacement of Certificates or Permits (OMB Control Number 0648-0272); the CQE Annual Report (OMB Control Number 0648-0665); and the Application for Transfer of CHP and the Application for Transfer Between IFQ and GAF (OMB Control Number 0648-0592).

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). NMFS has submitted these requirements to OMB for approval under OMB Control Number 0648-0592, Pacific Halibut Fisheries: Charter Permits. Public reporting burden is estimated to average 15 minutes per response for the application for annual registration of a CHP and 4 hours per response for appeal of a denied application. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collections of information to NMFS (see **ADDRESSES**), and by email to *OIRA\_Submission@omb.eop.gov*, or fax to (202) 395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at

*[http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html)*.

**List of Subjects**

*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.

*50 CFR Part 679*

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: August 2, 2019.

---

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR parts 300 and 679 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 § 300.67:

a. Add paragraph (a)(4); and

b. Revise paragraph (h)(6) introductory text to read as follows:

**§ 300.67 Charter halibut limited access program.**

\* \* \* \* \*

(a) \* \* \*

(4) *Annual registration.* A charter halibut permit holder must register a charter halibut permit with NMFS during the calendar year when it will be used to be valid.

(i) *Application and submittal.* An application for a charter halibut permit annual registration will be made available by NMFS. A completed registration application may be submitted using the NMFS-approved electronic reporting system on the Alaska Region Web site at <http://alaskafisheries.noaa.gov>. Completed applications may also be submitted by mail, hand delivery, or facsimile at any time to the address(s) listed on the application.

(ii) *Complete annual registration.* To be complete, a charter halibut permit registration application must have all required fields accurately completed and be signed and dated by the applicant.

(iii) *Denied registration applications.* If NMFS does not approve an annual charter halibut permit registration application, NMFS will inform the applicant of the basis for its disapproval and provide the applicant with a 30-day evidentiary period in which to correct any application deficiencies.

(A) *Initial Administration Determination (IAD).* NMFS will send an IAD to the applicant following the expiration of the 30-day evidentiary period if NMFS determines there is sufficient reason to deny the application. The IAD will indicate the deficiencies in the application and the deficiencies with the information submitted by the applicant in support of its claim.

(B) *Appeal.* An applicant that receives an IAD may appeal to the Office of Administrative Appeals (OAA) pursuant to 15 CFR part 906.

\* \* \* \* \*

(h) \* \* \*

(6) *Appeal.* An applicant that receives an IAD may appeal to the Office of Administrative Appeals (OAA) pursuant to 15 CFR part 906.

\* \* \* \* \*

**PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF  
ALASKA**

3. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447; Pub. L. 111-281.

4. In § 679.4, revise paragraph (a)(1)(xv)(A) as follows:

**§ 679.4 Permits.**

(a) \* \* \*

(1) \* \* \*

<b>If program permit or card type is:</b>	<b>Permit is in effect from issue date through the end of:</b>	<b>For more information, see...</b>
* * * * *		
(xv) * * *		
(A) Charter halibut permit	Until expiration date shown on permit	§ 300.67 of this title
* * * * *		

\* \* \* \* \*

[FR Doc. 2019-16979 Filed: 8/7/2019 8:45 am; Publication Date: 8/8/2019]