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Dated: December 30, 2010.

**Will Shafroth,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 110104009-1009-01]

RIN 0648-BA25

#### Pacific Halibut Fisheries; Catch Sharing Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes to approve and implement changes to the Pacific Halibut Catch Sharing Plan (Plan) for

the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC. This includes Tribal regulations and the sport fishery allocations and management measures for Area 2A. These actions are intended to enhance the conservation of Pacific halibut, to provide greater angler opportunity where available, and to protect overfished groundfish species from being incidentally caught in the halibut fisheries.

**DATES:** Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management

measures must be received no later than 5 p.m., local time on February 2, 2011.

**ADDRESSES:** Copies of the Plan and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) are available from William Stelle, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115-0070. Electronic copies of the Plan, including proposed changes for 2011 are also available at the NMFS Northwest Region Web site: <http://www.nwr.noaa.gov>, click on "Groundfish & Halibut" and then click on "Pacific Halibut".

You may submit comments, identified by 0648-BA25, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- *Fax:* 206-526-6736, Attn: Sarah Williams.

- *Mail:* 7600 Sand Point Way, NE., Seattle, WA 98115.

*Instructions:* No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:**

Sarah Williams, 7600 Sand Point Way, NE., Seattle, WA 98115. By phone at 206-526-4646 or fax at 206-526-6736.

**SUPPLEMENTARY INFORMATION:** The Northern Pacific Halibut Act (Halibut Act) of 1982, at 16 U.S.C. 773c, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (Halibut Convention). 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 authorizes the regional fishery management councils to develop regulations governing the Pacific halibut catch in their corresponding U.S. Convention waters that are in addition

to, but not in conflict with, regulations of the IPHC. Each year between 1988 and 1995, the Pacific Fishery Management Council (Pacific Council) developed 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-treaty harvesters and among non-treaty commercial and sport fisheries in Area 2A.

In 1995, NMFS implemented the Pacific Council-recommended long-term Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian Tribes in Subarea 2A-1 and 65 percent to non-Tribal fisheries in Area 2A.

The allocation to non-Tribal fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53.30' N. lat.), Oregon, and California. North of 46°53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry longline sablefish fishery when the overall Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into six geographic subareas, each with separate allocations, seasons, and bag limits.

The Area 2A TAC will be set by the IPHC at its annual meeting on January 25-28, 2011, in Victoria, B.C. Following the annual meeting the IPHC publishes the final TAC on their Web site and produces a news release. Through this proposed rule, NMFS requests public comments on the Pacific Council's recommended modifications to the Plan, codified regulations and the proposed domestic fishing regulations by February 2, 2011. This allows the public the opportunity to consider the final Area 2A TAC before submitting comments on the proposed rule. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the final Area 2A TAC is known and after NMFS reviews public comments and

comments from the States, NMFS will issue a final rule for Areas 2A, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, Pacific halibut fisheries concurrent with its publication of the IPHC regulations for the 2011 Pacific halibut fisheries. A 15-day public comment period is necessary to incorporate the final U.S. domestic regulations into the IPHC regulations in order to have the combined regulations in place as close to March 1 as possible. The regulations need to be in effect in early March because under the 2010 regulations most commercial fishing seasons started on March 6, and this date may need to be changed by the 2011 regulations to be consistent with the IPHC's decisions at its annual meeting in January. This rule cannot be published earlier because the preliminary TAC amounts are announced at the IPHCs interim meeting which is scheduled for early December of each year. The 2011 commercial season starting date(s) need to be published soon after the IPHC meeting to notify the public of that date so the industry can plan for the season.

Combining the IPHC regulations with the domestic regulations for Washington, Oregon, California in the final rule is in the best interest of the public because it results in publication of all the halibut regulations in one **Federal Register** notice. 50 CFR section 300.63(b)(1) provides that NMFS will publish the annual sport fishing regulations for Area 2A in the **Federal Register**, so this notice is where the fishermen get their information. This reduces confusion for fishery participants because they only have to reference one document for all Pacific halibut regulations on the West Coast and in Alaska. Combining these regulations also eliminates errors that may occur from trying to separate the halibut regulations into two different rules. The separation could be confusing to the public because many of the IPHC regulations apply to all West Coast and Alaska Pacific halibut fisheries in the U.S. Therefore if the regulations were split between two different rule making processes it would require many U.S. fishermen to refer to two separate **Federal Register** notices for one fishery.

This proposed rule would also remove from the codified halibut regulations at 50 CFR 300.63 the coordinates and references for the 30 and 100 fathom depth contours and instead direct readers to the Pacific coast groundfish regulations for these coordinates and references. The coordinates in the halibut regulations were intended to be the same as those in the groundfish regulations, but the groundfish regulations are updated

more regularly. This change reduces the possibility that there will be discrepancies between the descriptions of the depth contours in the halibut and groundfish regulations. In addition, this change will make it easier for participants in the fishery and law enforcement officers to access the definitions of the depth contours, as that information will be in one location in the regulations and many of the participants in the halibut fishery and enforcement officers also work with the groundfish regulations.

#### **Incidental Halibut Retention in the Primary Sablefish Fishery North of Pt. Chehalis, Washington**

Preliminary estimates of the 2011 Area 2A TAC are similar to the 2010 TAC. The preliminary IPHC TAC recommendation for area 2A is less than 900,000 lb (408.2 mt), which results in a Washington sport allocation that is less than 214,110 lb (97.1 mt).

According to the catch sharing plan, incidental halibut retention would not be allowed in the primary directed sablefish fishery north of Point Chehalis, WA, in 2011 under the current preliminary IPHC TAC recommendation. While the preliminary TAC recommendation for area 2A may change following the IPHC annual meeting, it is not anticipated that the TAC will change enough to allow for incidental halibut retention in the primary sablefish fishery.

#### **Pacific Council Recommended Changes to the Plan and Domestic Fishing Regulations**

Each year, the Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW) and the Tribes with treaty fishing rights for halibut consider whether changes to the Plan are needed or desired by their fishery participants. Fishery managers from the States hold public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September 2010 Pacific Council meeting, ODFW recommended several changes to the Plan. WDFW and the Tribes did not recommend any changes to the Plan. Following the meeting, ODFW again reviewed their proposal with the public and drafted their recommended revisions for review and recommendation by the Pacific Council.

At its November 2–9, 2010 meeting in Costa Mesa, CA, the Pacific Council considered the results of State-sponsored workshops on the proposed changes to the Plan and codified

regulations, and made its final recommendations for modifications to the Plan and to the implementing regulations. The following proposed changes include the Council's recommendations and one NMFS correction to its codified regulations:

1. In the Plan section (f)(1)(v), adjust the Oregon Central Coast subarea spring and summer fishery subquota percentages. For the spring fishery adjust the allocation from 69% to 67% of the subarea quota, for the summer fishery adjust the allocation from 23% to 25% of the subarea quota. The goal of these changes is to provide as many fishing days as possible during the summer season when participation is at its highest. The summer fishery was open only three days in 2010.

2. In the Plan section (e)(2), specify that the definitions of closed areas set forth in the groundfish regulations will apply to the non-Indian directed halibut commercial fishery.

3. In the Plan sections (e) and (f) update all references to groundfish regulation coordinates and direct readers to groundfish regulations for depth contour coordinates.

4. In the codified regulations at 50 CFR 300.63 in paragraph (e), replace the description of the groundfish RCA with specific reference to the closed areas and depth contours in the groundfish regulations.

5. In the codified regulations at 50 CFR 300.63 remove paragraphs (f) and (g), which list the coordinates for the 30-fm and 100-fm lines, and replace this information with references to the coordinates for the 30-fm and 100-fm lines in the groundfish regulations.

6. In the codified regulations at 50 CFR 300.63 update all references to the groundfish regulations to reflect changes made as a result of the groundfish regulation restructure occurring through the Trawl Individual Quota program.

7. In the codified regulations at 50 CFR 300.64 add "receipt and possession" to the list of management measures that treaty Indian fishers must comply with. This change is necessary to make the codified regulations consistent with the IPHC regulations. Receipt and possession management measures have not changed, this requirement was inadvertently removed from the codified regulations and this change corrects that error.

#### **Proposed Changes to the Plan**

NMFS is proposing to approve the Pacific Council recommendations and to implement the changes described above. A version of the Plan including these changes can be found at [http://](http://www.nwr.noaa.gov/Groundfish-Halibut/Pacific-Halibut/Index.cfm)

[www.nwr.noaa.gov/Groundfish-Halibut/Pacific-Halibut/Index.cfm](http://www.nwr.noaa.gov/Groundfish-Halibut/Pacific-Halibut/Index.cfm).

#### **Proposed 2011 Sport Fishery Management Measures**

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2011. The annual domestic management measures are published each year through a final rule. For the 2010 fishing season the final rule was published on March 18, 2010, (75 FR 13024) and the following section numbers refer to sections within that final rule. The final 2011 TAC for Area 2A will be determined by the IPHC at its annual meeting on January 25–28, 2011, in Victoria, BC. Because the final 2011 TAC has not yet been determined, these proposed sport fishery management measures use the IPHC staff's preliminary 2011 Area 2A TAC recommendation of 860,000 lb (390.1 mt) which is higher than the 2010 TAC of 810,000 lb (367.4 mt). Where season dates are not indicated, those dates will be provided in the final rule, following determination of the 2011 TAC and consultation with the States and the public. In Section 8 of the annual domestic management measures, "Fishing Periods", paragraph (2) is proposed to read as follows:

(1) \* \* \*

(2) Each fishing period in the Area 2A directed fishery shall begin at 0800 hours and terminate at 1800 hours local time on (*insert season dates*) unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A in accordance with regulations promulgated by NMFS. In Area 2A incidental catch of halibut in the primary sablefish fishery is not authorized in 2010.

(4) \* \* \*

(5) \* \* \*

In section 26 of the annual domestic management measures, "Sport Fishing for Halibut," paragraph 1(a)–(b) will be updated with 2011 total allowable catch limits in the final rule. In section 26 of the annual domestic management measures, "Sport Fishing for Halibut" paragraph (8) is proposed to read as follows:

(8) \* \* \*

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

a season that is projected to result in a catch of 54,348 lb (24.6 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is (*insert season dates*), and the fishing season in western Puget Sound (west of 123°49.50' W. long., Low Point) is (*insert season dates*), 5 days a week (Thursday through Monday).

(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.), is 104,985 lb (47.6 mt).

(i) The fishing seasons are:

(A) Commencing on May 12 and continuing 2 days a week (Thursday and Saturday) until 104,985 lb (47.6 mt) are estimated to have been taken and the season is closed by the Commission or until May 29.

(B) If sufficient quota remains the fishery will reopen on June 2 in the entire north coast subarea, continuing 2 days per week (Thursday and Saturday) until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. When there is insufficient quota remaining to reopen the entire north coast subarea for another day, then the nearshore areas described below will reopen for 2 days per week (Thursday and Saturday), until the overall quota of 104,985 lb (47.6 mt) is estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier. After May 29, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after May 29 unless the date is announced on the NMFS hotline. The nearshore areas for Washington's North Coast fishery are defined as follows:

(1) WDFW Marine Catch Area 4B, which is all waters west of the Sekiu River mouth, as defined by 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., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(2) Shoreward of the recreational halibut 30-fm boundary line, a modified line approximating the 30-fm depth contour from the Bonilla-Tatoosh line

south to the Queets River. The 30-fm depth contour is defined in groundfish regulations at 50 CFR 660.71(e).

(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 in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at § 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.), is 39,694 lb (18 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to 46°58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

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

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

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

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

The south coast subarea quota will be allocated as follows: 37,694 lb (17.09 mt) for the primary fishery and 2,000 lb (0.9 mt) for the nearshore fishery. The primary fishery commences on May 1 and continues 2 days a week (Sunday and Tuesday) until May 17. Beginning on May 22 the primary fishery will be open 1 day per week (Sunday). Beginning on May 29 the primary fishery will be open 2 days per week (Sunday and Tuesday) until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 1 and continues seven days per week. Subsequent to closure of the

primary fishery the nearshore fishery is open seven days per week, until 39,694 lb (18 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

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

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

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

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.) and Cape Falcon, OR (45°46.00' N. lat.), is 14,227 lb (6.5 mt).

(i) The fishing season commences on May 5, and continues 3 days a week (Thursday, Friday and Saturday) until 9,959 lb (4.5 mt) are estimated to have been taken and the season is closed by the Commission or until July 16, whichever is earlier. The fishery will reopen on August 5 and continue 3 days a week (Friday through Sunday) until 4,268 lb (1.9 mt) have been taken and the season is closed by the Commission, or until 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 in-season 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, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, when halibut are on board the vessel.

(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.), is 163,027 lb (73.9 mt).

(i) The fishing seasons are:

(A) The first season (the "inside 40-fm" fishery) commences May 1 and continues 7 days a week through October 31, 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 (13,042 lb (5.9 mt)) or any in-season revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined at § 660.71(k).

(B) The second season (spring season), which is for the "all-depth" fishery, is open on (*insert dates beginning with May 1*). The projected catch for this season is 109,228 lb (49.5 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Dependent on the amount of unharvested catch available, the potential season re-opening dates will be: (*insert dates no later than July 31*). If NMFS decides in-season to allow fishing on any of these re-opening dates, 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 catch remains, the third season (summer season), which is for the "all-depth" fishery, will be open on (*insert dates beginning with August 5*) or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 149,985 lb (68 mt), 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 (*insert date following establishment of season dates*). If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning (*insert dates of next possible open period as established pre-season*), and ending October 31. If after September 5, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 9 and 10, and ending October 31. After September 5, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

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

(iii) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod, when allowed by Pacific Coast groundfish regulations, 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 be in possession of 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 area south of Humbug Mountain, Oregon (42°40.50' N. lat.) and off the California coast is not managed in-season relative to its quota. This area is managed on a season that is projected to result in a catch of 5,316 lb (2.4 mt).

(i) The fishing season will commence on May 1 and continue 7 days a week until October 31.

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

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

NMFS has prepared an RIR/IRFA on the proposed changes to the Plan, the codified regulations and the annual domestic Area 2A halibut management measures. Copies of these documents are available from NMFS (*see ADDRESSES*). NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The IRFA is available from NMFS (*SEE ADDRESSES*). A summary of the IRFA follows:

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$4.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts not in excess of \$6.5

million. All of the businesses that would be affected by this action are considered small businesses under Small Business Administration guidance.

In 2010, 565 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: The directed commercial fishery in Area 2A (192 licenses in 2010), including licenses issued to retain halibut caught incidentally in the primary sablefish fishery; incidental halibut caught in the salmon troll fishery (233 licenses in 2010); and the charterboat fleet (140 licenses in 2010). No vessel may participate in more than one of these three fisheries per year. Individual recreational anglers and private boats are the only sectors that are not required to have an IPHC license to retain halibut.

The IRFA analyzed the impacts of the changes to the Plan and regulations. For the 2011 fishing year the proposed changes to the Plan, which allocates the catch of Pacific halibut among users in Washington, Oregon and California, and the Federal regulations, would:

1. In Plan section (f)(1)(v), adjust the Oregon Central Coast subarea spring and summer fishery subquota percentages. For the spring fishery adjust the allocation from 69% to 67% of the subarea quota, for the summer fishery adjust the allocation from 23% to 25% of the subarea quota. The goal of these changes is to provide as many fishing days as possible during the summer season when participation is at its highest. The summer fishery was open only three days in 2010.

2. In Plan section (e)(2), specify that the definitions of closed areas set forth in the groundfish regulations will apply to the non-Indian directed halibut commercial fishery.

3. In Plan sections (e) and (f) update all references to groundfish regulation coordinates and direct readers to groundfish regulations for depth contour coordinates

4. In the codified regulations at 50 CFR 300.63 in paragraph (e), replace the description of the groundfish RCA with specific reference to the closed areas and depth contours in the groundfish regulations.

5. In the codified regulations at 50 CFR 300.63 remove paragraphs (f) and (g), which list the coordinates for the 30-fm and 100-fm lines, and replace this information with references to the coordinates for the 30-fm and 100-fm lines in the groundfish regulations.

6. In the codified regulations at 50 CFR 300.63 update all references to the groundfish regulations to reflect changes made as a result of the groundfish

regulation restructure occurring through the Trawl Individual Quota program.

7. In the codified regulations at 50 CFR 300.64 add "receipt and possession" to the list of management measures that treaty Indian fishers must comply with. This change is necessary to make the codified regulations consistent with the IPHC regulations. Receipt and possession management measures have not changed, this requirement was inadvertently removed from the codified regulations and this change corrects that error.

Because there is no new analysis or information available, the RIR/IRFA relies on the analysis in the 2009 RIR, which used information from the Pacific Fishery Management Council's DEIS on the 2009–2010 Groundfish Biennial Harvest Specifications and Management Measures to make income impact projections of the TAC on coastal communities. Using available analysis from the DEIS, the 2009 RIR estimated that the 2008 combined economic impact of commercial, recreational, and Tribal fisheries generated about \$8.8 million in income impacts to the coastal Tribal and non-Tribal communities. Income impacts are the amount of employee salaries and benefits, business owner (proprietor) income and property-related income (rents, dividends, interest, royalties, *etc* that result from commercial fishing and recreational expenditures). This 2008 estimate was based on a TAC of 1,220,000 lbs. For 2011, the TAC is projected to be 860,000 lbs or about 70 percent of the 2008 TAC. On a proportional basis, this decline would suggest that the income impacts for 2011 would be about \$6.0 million. This projection assumes that prices are constant. However, this is not the case. According the Pacific States Marine Fisheries Commission PacFIN data reports (Report 307), the halibut prices have varied significantly by year: 2008–\$3.57/lb, 2009–\$2.72/lb, and through November 2010–\$4.01 per lb. At \$4.01 per lb, the projected ex-vessel value of the 2011 commercial Tribal (270,572 lbs) and non-Tribal (177,203 lbs) fishery is worth ex-vessel (payments to commercial fishermen) basis about \$1.8 million. These ex-vessel price changes only affect the income estimates associated with commercial fishermen, and Tribal fishermen.

The changes to the Plan and regulations do not include any reporting or recordkeeping requirements. These changes will not duplicate, overlap or conflict with other laws or regulations. These changes to the Plan and annual domestic Area 2A halibut management measures are not expected to meet any

of the RFA tests of having a "significant" economic impact on a "substantial number" of small entities because the changes will not affect overall allocations. They are designed to provide the best fishing opportunities within the overall TAC. Nonetheless, NMFS has prepared an IRFA. Through this proposed rule, NMFS requests comments on these conclusions.

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 (U and A) 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.

#### List of Subjects in 50 CFR Part 300

Fisheries, Fishing, and Indian fisheries.

Dated: January 12, 2011.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

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

#### PART 300—INTERNATIONAL FISHERIES REGULATIONS

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

**Authority:** 16 U.S.C. 773 *et seq.*

2. In § 300.63, paragraphs (d)(1)(i), (d)(1)(ii), and (e), are revised to read as follows:

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

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(j) The sport fishery under section 26 of the annual domestic management measures and IPHC regulations;

(ii) The commercial directed fishery for halibut during the fishing period(s) established in section 8 of the annual domestic management measures and IPHC regulations and/or the incidental retention of halibut during the primary sablefish fishery described at 50 CFR 660.231; or

\* \* \* \* \*

(e) Area 2A Non-Treaty Commercial Fishery Closed Areas.

(1) Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of a closed area, known as the Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10' N. lat. Between the U.S./Canada border and 46°16' N. lat., the eastern boundary of the RCA, is the shoreline. Between 46°16' N. lat. and 43°00' N. lat., the RCA is defined along an eastern boundary by a line approximating the 30-fm (55-m) depth contour. Coordinates for the 30-fm (55-m) boundary are listed at 50 CFR 660.71(e). Between 43°00' N. lat. and 42°00' N. lat., the RCA is defined along an eastern boundary by a line approximating the 20-fm (37-m) depth contour. Coordinates for the 20-fm (37-m) boundary are listed at 50 CFR 660.71(b).

Between 42°00' N. lat. and 40°10' N. lat., the RCA is defined along an eastern boundary by the 20-fm (37-m) depth contour. Between the U.S./Canada border and 40°10' N. lat., the RCA is defined along a western boundary approximating the 100-fm (183-m) depth contour. Coordinates for the 100-fm (183-m) boundary are listed at 50 CFR 660.73(a).

(2) Non-treaty commercial vessels operating in the incidental catch fishery during the sablefish fishery north of Pt. Chehalis, Washington, in Area 2a are required to fish outside of a closed area. Under Pacific Coast groundfish regulations at 50 CFR 660.230, fishing with limited entry fixed gear is prohibited within the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA). It is unlawful to take and retain, possess, or land halibut taken with limited entry fixed gear within the North Coast Commercial YRCA. The North Coast Commercial YRCA is an area off the northern Washington coast, overlapping the northern part of the North Coast Recreational YRCA, and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.70(b).

(3) Non-treaty commercial vessels operating in the incidental catch fishery during the salmon troll fishery in Area

2A are required to fish outside of a closed area. Under the Pacific Coast groundfish regulations at 50 CFR 660.330(10), fishing with salmon troll gear is prohibited within the Salmon Troll YRCA. It is unlawful for commercial salmon troll vessels to take and retain, possess or land fish within the Salmon Troll YRCA. The Salmon Troll YRCA is an area off the northern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the Salmon Troll YRCA are specified in groundfish regulations at 50 CFR 660.70(c), and in salmon regulations at 50 CFR 660.405.

4. In § 300.64, paragraph (d) is revised to read as follows:

**§ 300.64 Fishing by U.S. treaty Indian Tribes.**

\* \* \* \* \*

(d) Commercial fishing for halibut by treaty Indians shall comply with the Commission's management measures governing size limits, careful release of halibut, logs, receipt and possession and fishing gear (published pursuant to § 300.62), except that the 72-hour fishing restriction preceding the opening of a halibut fishing period shall not apply to treaty Indian fishing.

\* \* \* \* \*

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