

The Final Rule

In consideration of the foregoing, FRA amends part 234 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 234—GRADE CROSSING SAFETY, INCLUDING SIGNAL SYSTEMS, STATE ACTION PLANS, AND EMERGENCY NOTIFICATION SYSTEMS

■ 1. The authority citation for part 234 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20152, 21301, 21304, 21311, 22501 note; Pub. L. 110-432, Div. A, Secs. 202, 205; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 2. Section 234.311 is amended by revising paragraph (a)(2)(ii) and adding paragraph (c), to read as follows:

§ 234.311 ENS sign placement and maintenance.

(a) * * *

(2) * * *

(ii) At a railroad yard, or a port or dock facility that does not meet the definition of “plant railroad” in § 234.5, the responsible railroad shall place and maintain a minimum of one sign at each vehicular entrance to the yard, or the port or dock facility in accordance with § 234.309, in lieu of placing signs at each crossing within the yard, or the port or dock facility. Each sign must be placed so that it is clearly visible to a driver of a motor vehicle located at the vehicular entrance to the yard, or the port or dock facility.

* * * * *

(c) *Repair or replacement of ENS sign.* If an ENS sign required by this subpart is discovered by the responsible railroad to be missing, damaged, or in any other way unusable to vehicular or pedestrian traffic, the responsible railroad shall repair or replace the sign no later than 30 calendar days from the time of detection.

■ 3. Section 234.317 is amended by revising paragraphs (b), (c)(1)(i) and (ii), and (e) to read as follows:

§ 234.317 Compliance dates.

* * * * *

(b) *Railroads with nonconforming ENS telephone service.* If a railroad subject to this subpart already has its own ENS telephone service or is using a third-party ENS telephone service, and that telephone service does not conform to the requirements in § 234.303 or § 234.307, respectively, on August 13, 2012, the railroad shall comply with this subpart no later than March 1, 2014, pursuant to the exceptions in paragraphs (c), (d), and (e) of § 234.317.

(c) * * *

(1) * * *

(i) If the railroad’s sign size is greater than or equal to 60 square inches and the height of the lettering on the sign is greater than or equal to ¾ inch for the information required in § 234.309(b)(1) and (b)(3), and greater than or equal to ¾ inch for the information required in § 234.309(b)(2) on August 13, 2012, the railroad may maintain the sign for its useful life.

(ii) If the railroad’s sign size is greater than or equal to 60 square inches but the height of the lettering is either less than ¾ inch for the information required in § 234.309(b)(1) and (b)(3), or less than ¾ inch for the information required in § 234.309(b)(2) on August 13, 2012, the railroad’s sign must conform to § 234.309 no later than September 1, 2017.

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(e) *Railroads with nonconforming ENS recordkeeping.* If a railroad subject to this subpart already conducts recordkeeping as part of its ENS, and that recordkeeping does not conform to § 234.313 or § 234.315, the railroad’s recordkeeping shall conform to § 234.313 or § 234.315 no later than March 1, 2014.

Issued in Washington, DC, on March 11, 2013.

Joseph C. Szabo,
Administrator, Federal Railroad Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130123063-3207-02]

RIN 0648-BC75

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Final rule.

SUMMARY: The Assistant Administrator (AA) for Fisheries, National Oceanic and Atmospheric Administration (NOAA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures promulgated as regulations by the IPHC and approved by the Secretary of State

governing the Pacific halibut fishery. The AA also announces approval of the Area 2A (waters off the U.S. West Coast) Catch Sharing Plan (CSP), with modifications recommended by the Pacific Fishery Management Council (PFMC), along with implementing regulations for 2013, and provides notice of the guideline harvest levels (GHLs) for Areas 2C and 3A. These actions are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC) (Councils).

DATES: This rule is effective April 15, 2013. The IPHC’s 2013 annual management measures are effective March 15, 2013, except for the measures in section 26, which are effective April 15, 2013. The 2013 management measures are effective until superseded.

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting the International Pacific Halibut Commission, 2320 W. Commodore Way Suite 300, Seattle, WA 98199-1287; or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, Records Officer; or Sustainable Fisheries Division, NMFS Northwest Region, 7600 Sand Point Way NE., Seattle, WA 98115. This final rule also is accessible via the Internet at the Federal eRulemaking portal at <http://www.regulations.gov>. Electronic copies of the Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained from <http://www.regulations.gov> or from the Northwest Region Web site at <http://www.nwr.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: For waters off Alaska, Glenn Merrill, 907-586-7228, email at glenn.merrill@noaa.gov; or Julie Scheurer, 907-586-7228, email at julie.scheurer@noaa.gov; or, for waters off the U.S. West Coast, Sarah Williams, 206-526-4646, email at sarah.williams@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The IPHC has promulgated regulations governing the Pacific halibut fishery in 2013, pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979).

As provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary), may accept or reject, on behalf of the United States, recommendations made by the IPHC in accordance with the Convention (Halibut Act, Sections 773–773k.). The Secretary of State of the United States, with the concurrence of the Secretary, accepted the 2013 IPHC regulations as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773–773k.

The Halibut Act provides the Secretary with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. The Regional Fishery Management Councils may develop, and the Secretary may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. The NPFMC has exercised this authority most notably in developing a suite of halibut management programs that correspond to the three fisheries that harvest halibut in Alaska: The subsistence, sport, and commercial fisheries.

Subsistence and sport halibut fishery regulations are codified at 50 CFR part 300. Commercial halibut fisheries in Alaska operate within the Individual Fishing Quota (IFQ) Program and Community Development Quota (CDQ) Program (50 CFR part 679), and through area-specific catch sharing plans. Regulations for a commercial and sport fishery Halibut CSP in Areas 2C and 3A are being developed pursuant to the NPFMC authority under the Halibut Act. NMFS intends to publish proposed regulations to implement the CSP in 2013. Following review of public comments received on the proposed rule, NMFS will prepare a final rule to implement the CSP. If the final rule is approved, the Area 2C and Area 3A CSP could be implemented for the 2014 halibut fishing season.

The PFMC also exercises authority in a CSP allocating halibut among groups of fishermen in Area 2A, which is off the coasts of Washington, Oregon, and California. The CSP allocates the Area 2A catch limit among treaty Indian and non-Indian commercial and sport harvesters. The treaty Indian group includes tribal commercial, tribal ceremonial, and subsistence fisheries. In 1995, NMFS implemented the long-term catch sharing plan recommended by the PFMC (60 FR 14651; March 20, 1995, as amended by 61 FR 35548). In each of the intervening years between 1995 and

the present, minor revisions to the CSP have been made to adjust for the changing needs of the fisheries, in accordance with 50 CFR 300.62; these revisions are not codified. NMFS implements the CSP allocations through annual regulations for Area 2A. The proposed rule describing the changes the Council recommended to the CSP and resulting proposed Area 2A regulations for 2013 was published on February 11, 2013 (78 FR 9660). The final Area 2A regulations are in addition to the IPHC's annual management measures (see paragraph 26 of regulations included below). These management measures are superseded each year by new implementing regulations.

The NPFMC implemented a CSP among commercial IFQ and CDQ halibut fisheries in IPHC Areas 4C, 4D and 4E (Area 4) through rulemaking, and the Secretary approved the plan on March 20, 1996 (61 FR 11337). The Area 4 CSP regulations were codified at 50 CFR 300.65, and were amended on March 17, 1998 (63 FR 13000). New annual regulations pertaining to the Area 4 CSP also may be implemented through IPHC review and recommendation for Secretarial review.

This final rule announces that the U.S. Secretary of State has accepted the annual management measures recommended by the IPHC, adopts Area 2A regulations implementing the Area 2A CSP and supporting annual management measures recommended by IPHC, announces the adoption of the Area 2A CSP with modifications recommended by the PFMC, announces the GHs for Areas 2C and 3A, and makes minor changes to the codified halibut regulations.

Pursuant to regulations at 50 CFR 300.62, the approved IPHC regulations setting forth the 2013 IPHC annual management measures are published in the **Federal Register** to provide notice of their immediate regulatory effect, and to inform persons subject to the regulations of the restrictions and requirements. Because NMFS publishes the regulations applicable to the entire IPHC-managed area, these regulations include some provisions relating to and affecting Canadian fishing and fisheries. NMFS could implement more restrictive regulations for the sport fishery for halibut or components of it; therefore, anglers are advised to check the current federal or IPHC regulations prior to fishing.

The IPHC held its annual meeting in Victoria, British Columbia, January 21–25, 2013, and recommended a limited number of changes to the previous IPHC regulations (77 FR 16740, March 22,

2012). The Secretary of State approved the following changes to the previous IPHC regulations for 2013:

1. New halibut catch limits in all regulatory areas in Section 11; and
2. New commercial halibut fishery opening and closing dates in Section 8.

These are the only changes to the IPHC regulations for the 2013 fishing season. NMFS is publishing the 2013 IPHC regulations as the annual halibut management measures in this final rule to provide the public with the complete set of regulations.

Catch Limits

The IPHC recommended to the governments of Canada and the United States catch limits for 2013 totaling 31,028,000 lb (14,074 mt), an average 7.5 percent reduction from the 2012 catch limits for all areas, based on the most recent coast-wide stock assessment. The IPHC adopted area-specific catch limits for 2013 that were lower than 2012 in all of its management areas except Areas 2A and 2C. A description of the process the IPHC used to set these catch limits follows.

During 2012, IPHC staff conducted a full review of the data and the general approach used to assess the stock in recent years. A retrospective bias in recent assessments was found to occur because the model did not correctly account for variation in the availability of different sizes of fish in different areas. As a result of this retrospective bias, actual historical harvest rates were higher than the rates the IPHC used to inform its stock assessments. A peer review team, including the U.S. and Canadian Science Advisors, agreed that the more flexible model structure developed by the IPHC staff for use in the 2012 assessment could correct the retrospective bias. The 2012 assessment results are more consistent with observed fishery and survey results than past assessments. Based on the results derived from the new model, estimates of recent recruitment are lower than previously thought.

The Pacific halibut biomass has been declining over much of the last decade as a result of decreasing size-at-age and below-average recruitment. The 2012 stock assessment estimates that the population decline has now slowed and future stock abundance is projected to remain near current levels. Overall, the spawning biomass of halibut is at a level about 5 percent higher than would require a reduction in the target harvest rate. As part of an ongoing effort to provide Commissioners with greater flexibility when selecting catch limits, IPHC staff provided a decision table that

described the probabilities of risks and benefits associated with specific catch limit recommendations. This decision table allowed the Commissioners to compare alternative stock biomass and fishery outcomes at different increments of total removals as they set the annual catch limits.

Annual catch limits that result in commercial catch equal to the current harvest rate policy of the IPHC for each regulatory area are referred to as the "Blue Line" apportionment. Although the overall catch limits are lower than

those in 2012, the IPHC adopted catch limits that were higher than the 2013 Blue Line apportionment recommendations for all areas except 2B. These catch limits allow slightly greater commercial harvest opportunities in 2013, but may require more conservative catch limits in future years to ensure that future harvest yields do not decrease relative to 2013. The catch limits adopted in Regulatory Areas 3A, 3B, 4A, 4B, and 4CDE are intended to reduce harvests in those areas because the stock assessment

indicated that exploitable biomass had decreased relative to 2012. Catch limits adopted for Areas 2A and 2B for 2013 are similar or the same as 2012. The catch limit recommendations in Areas 2A and 2B reflect the IPHC's decision to provide additional harvest opportunities in these areas relative to the IPHC harvest rate policy. The catch limit for Area 2C increased from 2012. The catch limits adopted in Area 2C equal the Blue Line apportionment. Catch limits in all other areas decreased from 2012 levels (Table 1).

TABLE 1—PERCENT CHANGE IN CATCH LIMITS FROM 2012 TO 2013 BY IPHC REGULATORY AREA

| Regulatory area | 2013 Catch limit (lb) | 2012 Catch limit (lb) | Percent change from 2012 |
|-----------------|-----------------------|-----------------------|--------------------------|
| 2A | 990,000 | 989,000 | 0.1 |
| 2B | 7,038,000 | 7,038,000 | 0.0 |
| 2C | 2,970,000 | 2,624,000 | 13.2 |
| 3A | 11,030,000 | 11,918,000 | -7.5 |
| 3B | 4,290,000 | 5,070,000 | -15.4 |
| 4A | 1,330,000 | 1,567,000 | -15.1 |
| 4B | 1,450,000 | 1,869,000 | -22.4 |
| 4C | 859,000 | 1,107,355 | -22.4 |
| 4D | 859,000 | 1,107,355 | -22.4 |
| 4E | 212,000 | 250,290 | -15.3 |

Commercial Halibut Fishery Opening Dates

The opening date for the tribal commercial fishery in Area 2A and for the commercial halibut fisheries in Areas 2B through 4E is March 23, 2013. The date takes into account a number of factors, including the timing of halibut migration and spawning, marketing for seasonal holidays, and interest in getting product to processing plants before the herring season opens. The closing date for the halibut fisheries is November 7, 2013. This date takes into account the anticipated time required to fully harvest the commercial halibut catch limits while providing adequate time for IPHC staff to review the complete record of 2013 commercial catch data for use in the 2014 stock assessment process.

In the Area 2A directed fishery, each fishing period shall begin at 0800 hours and terminate at 1800 hours local time on June 26, July 10, July 24, August 7, August 21, September 4, and September 18, 2013, unless the IPHC specifies otherwise. These 10-hour openings will occur until the quota is taken and the fishery is closed.

Reverse Slot Limit for Halibut Retained Onboard a Charter Vessel Fishing in Area 2C

This final rule does not amend the 2012 measures applicable to the charter vessel fishery in Area 2C. The 2012

measures prohibit a person onboard a charter vessel referred to in 50 CFR 300.65 and fishing in Area 2C from taking or possessing any halibut, with head on, that is greater than 45 inches (114.3 cm) and less than 68 inches (172.7 cm), as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail. This type of restriction is referred to as a "reverse slot limit."

The IPHC recognizes the role of the NPFMC to develop policy and regulations that allocate the Pacific halibut resource among fishermen in and off of Alaska, and that NMFS has developed numerous regulations to support the NPFMC's goals of limiting guided sport (charter) harvests over the past several years. In 2012, the IPHC specifically recommended this additional size limit as a management measure in the Area 2C charter fishery, based on guidance from the NPFMC to limit charter halibut harvests to the stated harvest policy of the United States for the charter fishery, which is the GHL.

The GHL was recommended by the NPFMC in February 2000, after several years of debate and refinement. NMFS published a final rule implementing the GHL on August 8, 2003 (68 FR 47256). The GHL establishes a pre-season estimate of the acceptable annual harvests for the charter fishery in Areas

2C and 3A. The GHLs are established as total maximum poundages, which are responsive to annual fluctuations in abundance. For example, in the event of a reduction in either area's halibut biomass, as determined by the IPHC, the area's GHL is reduced incrementally in a stepwise fashion in proportion to the reduction.

Regulations at § 300.65(c)(1) specify the GHLs based on the total constant exploitation yield (CEY) established annually by the IPHC. The CEY represents the target level for total halibut removals in an area for the coming year. The IPHC calculates the CEY in a given area by multiplying a target harvest rate by the estimate of exploitable biomass, or the portion of the biomass available to the fishery. The charter halibut fishery exceeded the GHL in Area 2C from 2004 through 2010, notwithstanding management measures designed by the NPFMC and implemented by NMFS to control sport halibut harvest to the GHL in this area. However, management measures to control harvest by the charter fishery in Area 2C kept harvest below the GHL in 2011 and 2012.

At the IPHC's annual meeting in January 2011, the IPHC became aware that charter halibut harvests in Area 2C were likely to exceed the 788,000 lb GHL, based on the well-established trend of charter harvests since 2004, and the demonstrated removals under

existing regulations. Therefore, the IPHC concluded that additional restrictions were necessary to limit that charter harvest to the GHL and achieve the IPHC's overall conservation objective and the NPFMC's allocation objective for Area 2C. The IPHC determined that limiting charter harvests in Area 2C to one fish of no more than 37 inches would likely meet the multiple objectives established by the IPHC in 2011. The Secretary of State, with the concurrence of the Secretary, accepted the IPHC's recommended daily bag limit for charter vessel anglers in Area 2C of one halibut with a maximum length of 37 inches (94.0 cm) per day (76 FR 14300, March 16, 2011).

In November 2011, the Alaska Department of Fish and Game (ADF&G) estimated that 2011 Area 2C charter harvests under the 37-inch maximum length rule totaled approximately 388,000 lb, which is significantly below the GHL of 788,000 lb. Based on the 2011 charter harvest estimate that was well below the GHL under the 37-inch maximum length limit regulation, the NPFMC determined that it would be appropriate for IPHC to consider management measures in addition to a maximum length limit to limit charter harvest to the GHL.

In November 2011, the Area 2C GHL for 2012 was increased to 931,000 lb. In December 2011, the NPFMC unanimously recommended that the IPHC implement a reverse slot limit with a lower limit of under 45 inches (U45) and an upper limit of over 68 inches (O68) to limit Area 2C charter harvest to the 2012 GHL. This U45/O68 reverse slot limit allowed the retention of halibut approximately ≤ 32 lb and ≥ 123 lb (headed and gutted). In considering charter management measures for 2012, the NPFMC sought to select a management measure that would enable the charter sector to harvest an amount of halibut close to the GHL without exceeding it. Charter harvest in 2012 was 645,000 lb, relative to its GHL of 931,000 lb.

In November 2012, the Area 2C GHL for 2013 decreased to 788,000 lb. The NPFMC evaluated alternative management measures to control charter harvest, but unanimously recommended that the IPHC not amend the U45/O68 reverse slot limit for 2013. The NPFMC received input from its Charter Implementation Committee and charter fishery participants indicating that the reverse slot limit would provide anglers with an opportunity to retain a "trophy" fish (halibut larger than 68 inches), whereas a maximum length limit would prohibit retention of any halibut larger than the maximum length limit. These

charter fishery stakeholders indicated that a reverse slot limit would be less likely to result in adverse economic impacts from reduced angler demand than a maximum length limit regulation. The NPFMC also considered a management measure for Area 2C that would allow anglers to retain one fish each year that exceeds the maximum size limit in place for charter anglers. The analysis indicated that there was much uncertainty in the projections of charter harvest under this management measure because it is difficult to predict the size and number of fish that would be retained under this maximum size limit exemption. Owing to this uncertainty, the maximum size limit that would have to be set for the non-exempted fish to keep the charter harvest within the GHL would be too low to be attractive to anglers and charter guides. This measure was therefore not recommended by the NPFMC.

The IPHC first recommended implementing the U45/O68 reverse slot limit for charter anglers in Area 2C for the 2012 halibut fishing season. The IPHC's recommendation was based on the NPFMC's objective to implement a management measure that would (1) restrict charter harvest to the GHL, and (2) be less likely to result in adverse economic impacts for charter operators from reduced angler demand than a maximum length limit regulation. The IPHC determined that the reverse slot limit should not be amended for the 2013 season.

Area 2C Carcass Retention

Current IPHC regulations prohibit the filleting, mutilation or other disfigurement of sport-caught halibut that would prevent the determination of the size or number of halibut possessed or landed. In Southeast Alaska Area 2C, the IPHC recommended maintaining the current regulation at section 28(2)(b) that a person onboard a charter vessel who possesses filleted halibut must also retain the entire carcass, with head and tail connected as a single piece, onboard the vessel until all the fillets are offloaded. This regulation was implemented in 2011 to facilitate enforcement of the 37-inch maximum size limit and accounting of each charter vessel angler's halibut bag limit. The IPHC recommended no changes to the carcass retention requirement in 2013 to facilitate enforcement of the U45/O68 reverse slot limit in Area 2C.

Changes to the Pacific Fishery Management Council's Area 2A Catch Sharing Plan

In addition to implementing the IPHC recommendations, this final rule approves several Council-recommended changes to the Pacific Fishery Management Council's Area 2A CSP and implements the CSP through annual management measures. For 2013 and beyond, the PFM Council has recommended several minor changes to the Plan that would: Modify the days of the week for the Columbia River subarea spring fishery; modify the trigger for closing the early season in the Columbia River subarea; reduce the open days per week in the nearshore fishery in the Oregon central coast subarea; include a poundage trigger for reallocating fish from the summer all-depth to the spring all-depth fishery in the Oregon central coast subarea; allow incidental catch of halibut in the salmon troll fishery beginning in April rather than May. This rule also adopts the annual domestic management measures for Area 2A. Changes to these management measures from 2012 are necessary to implement the IPHC's decision regarding the Area 2A TAC and the above-described changes to the Catch Sharing Plan.

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

The CSP provides that incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, Washington, will be allowed when the Area 2A TAC is greater than 900,000 lb (408.2 mt), provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). In 2013, the TAC is 990,000 lb (448.6 mt); therefore incidental halibut retention will be allowed in this fishery. Landing restrictions will be recommended by the PFM Council for public review at its March meeting and final recommendations will occur at its April meeting. Following this meeting NMFS will publish the restrictions in the **Federal Register**.

Area 2A Catch Sharing Plan and Annual Regulations; Comments and Responses

NMFS accepted comments through February 26, 2013, on the proposed rule for the Area 2A CSP and annual regulations and received 2 public comments: One comment letter each from Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife

(ODFW) recommending season dates for halibut sport fisheries in each state.

Comment 1: “The WDFW held a public meeting following the IPHC’s final 2013 TAC decisions to review the results of the 2012 Puget Sound halibut fishery, and to develop season dates for the 2013 sport halibut fishery. Based on the 2013 Area 2A TAC of 990,000 lb (448.6 mt), the halibut quota for the Puget Sound sport fishery is 57,393 lb (26 mt). Because the catch in this area has exceeded the quota in recent years, WDFW has recommended a reduced season length for 2013 even through the allocation is the same as 2012. Within the Puget Sound sport halibut fishery, WDFW recommends they open as follows in the Eastern Region from May 2–31 (except closed May 5–15); between May 2–4 and May 16–18, open Thursday through Saturday; reopen May 23 through May 26, Thursday through Sunday; and reopen May 30–31. In the Western Region the WDFW recommends the fishery be open May 23–June 8; May 23–26, Thursday through Sunday; then reopen May 30–June 1, Thursday through Saturday; and open one day on Thursday June 8.”

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

Comment 2: “ODFW held a public meeting following the final TAC decision by the IPHC to gather comments on the open dates for the recreational all-depth fishery in Oregon’s Central Coast Subarea. Since 2004, the number of open fishing days that could be accommodated in the spring fishery has been roughly constant. The catch limit for this subarea’s spring season will be 191,780 lb (86.9 mt) in 2012, based on the IPHC’s 2012 TAC for Area 2A. Because of the increased TAC for 2012, ODFW recommends setting a Central Coast all-depth fishery of 12 days. ODFW recommends the following days for the spring fishery, within this subarea’s parameters, for a Thursday–Saturday season and with weeks of adverse tidal conditions skipped: Regular open days of May 10–12, 17–19, 24–26 and May 31–June 2; back-up open days of June 14–16, 28–30, July 12–14, and 26–28. For the summer fishery in this subarea, ODFW recommended following the CSP’s parameters of opening the first Friday in August, with open days to occur every other Friday–Saturday, unless modified in-season within the parameters of the CSP. Under the CSP,

the 2012 summer all-depth fishery in Oregon’s Central Coast Subarea occurs: August 3–4, 17–18, August 31–September 1, 14–15, 28–29, October 12–13, and 26–27.”

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

Changes From the Proposed Rule

On February 11, 2013, NMFS published a proposed rule to modify the CSP and recreational management measures for Area 2A (78 FR 9660). The provisions in the proposed rule were based on the final 2A TAC of 990,000 lb. The changes in this final rule are to simply add dates for sport fisheries which were not listed in the proposed rule. The proposed rule does not contain final season dates because the states do not submit their final season date recommendations until the final TAC decision is made by the IPHC (after the publication of the proposed rule) and the states have held their public meetings. There are no other substantive changes from the proposed rule.

Guideline Harvest Levels for Areas 2C and 3A

NMFS provides notice of the 2013 Pacific halibut GHLS for the charter fishery in IPHC Regulatory Areas 2C and 3A. This notice is necessary to meet the regulatory requirement at 50 CFR 300.65(c) to publish an announcement for the public about the 2013 GHLS for the charter fishery for halibut. The GHLS are benchmark harvest levels for participants in the charter fishery. Regulations at § 300.65(c)(1) specify the GHLS based on the total CEY that is established annually by the IPHC. The total CEY for 2013 is 5,000,000 lb (2,268.0 mt) in Area 2C and 15,130,000 lb (6,862.9 mt) in Area 3A. The corresponding GHLS are 788,000 lb (422.3 mt) in Area 2C, and 2,373,000 lb (1,076.4 mt) in Area 3A. The GHLS for 2013 declined in Area 2C and Area 3A due to the reduced total CEY for those areas.

Annual Halibut Management Measures

The following annual management measures for the 2013 Pacific halibut fishery are those recommended by the IPHC and accepted by the Secretary of State, with the concurrence of the Secretary. The sport fishing regulations for Area 2A, included in paragraph 26, are consistent with the measures adopted by the IPHC and approved by the Secretary of State, but were

developed by the Pacific Fishery Management Council and promulgated by the United States under the Halibut Act.

1. Short Title

These Regulations may be cited as the Pacific Halibut Fishery Regulations.

2. Application

(1) These Regulations apply to persons and vessels fishing for halibut in, or possessing halibut taken from, the maritime area as defined in Section 3.

(2) Sections 3 to 6 apply generally to all halibut fishing.

(3) Sections 7 to 20 apply to commercial fishing for halibut.

(4) Section 21 applies to tagged halibut caught by any vessel.

(5) Section 22 applies to the United States treaty Indian fishery in Subarea 2A–1.

(6) Section 23 applies to customary and traditional fishing in Alaska.

(7) Section 24 applies to Aboriginal groups fishing for food, social and ceremonial purposes in British Columbia.

(8) Sections 25 to 28 apply to sport fishing for halibut.

(9) These Regulations do not apply to fishing operations authorized or conducted by the Commission for research purposes.

3. Definitions

(1) In these Regulations,

(a) “authorized officer” means any State, Federal, or Provincial officer authorized to enforce these Regulations including, but not limited to, the National Marine Fisheries Service (NMFS), Canada’s Department of Fisheries and Oceans (DFO), Alaska Wildlife Troopers (AWT), United States Coast Guard (USCG), Washington Department of Fish and Wildlife (WDFW), and the Oregon State Police (OSP);

(b) “authorized clearance personnel” means an authorized officer of the United States, a representative of the Commission, or a designated fish processor;

(c) “charter vessel” means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

(d) “commercial fishing” means fishing, the resulting catch of which is sold or bartered; or is intended to be sold or bartered, other than (i) Sport fishing, (ii) treaty Indian ceremonial and subsistence fishing as referred to in section 22, (iii) customary and traditional fishing as referred to in section 23 and defined by and regulated pursuant to NMFS regulations

published at 50 CFR part 300, and (iv) Aboriginal groups fishing in British Columbia as referred to in section 24;

(e) "Commission" means the International Pacific Halibut Commission;

(f) "daily bag limit" means the maximum number of halibut a person may take in any calendar day from Convention waters;

(g) "fishing" means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

(h) "fishing period limit" means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

(i) "land" or "offload" with respect to halibut, means the removal of halibut from the catching vessel;

(j) "license" means a halibut fishing license issued by the Commission pursuant to section 4;

(k) "maritime area," in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea and internal waters of that Party;

(l) "net weight" of a halibut means the weight of halibut that is without gills and entrails, head-off, washed, and without ice and slime. If a halibut is weighed with the head on or with ice and slime, the required conversion factors for calculating net weight are a 2 percent deduction for ice and slime and a 10 percent deduction for the head;

(m) "operator," with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel;

(n) "overall length" of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

(o) "person" includes an individual, corporation, firm, or association;

(p) "regulatory area" means an area referred to in section 6;

(q) "setline gear" means one or more stationary, buoyed, and anchored lines with hooks attached;

(r) "sport fishing" means all fishing other than (i) commercial fishing, (ii) treaty Indian ceremonial and subsistence fishing as referred to in section 22, (iii) customary and traditional fishing as referred to in section 23 and defined in and regulated pursuant to NMFS regulations published in 50 CFR part 300, and (iv)

Aboriginal groups fishing in British Columbia as referred to in section 24;

(s) "tender" means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor;

(t) "VMS transmitter" means a NMFS-approved vessel monitoring system transmitter that automatically determines a vessel's position and transmits it to a NMFS-approved communications service provider.¹

(2) In these Regulations, all bearings are true and all positions are determined by the most recent charts issued by the United States National Ocean Service or the Canadian Hydrographic Service.

4. Licensing Vessels for Area 2A

(1) No person shall fish for halibut from a vessel, nor possess halibut on board a vessel, used either for commercial fishing or as a charter vessel in Area 2A, unless the Commission has issued a license valid for fishing in Area 2A in respect of that vessel.

(2) A license issued for a vessel operating in Area 2A shall be valid only for operating either as a charter vessel or a commercial vessel, but not both.

(3) A vessel with a valid Area 2A commercial license cannot be used to sport fish for Pacific halibut in Area 2A.

(4) A license issued for a vessel operating in the commercial fishery in Area 2A shall be valid for one of the following, but not both:

(a) the directed commercial fishery during the fishing periods specified in paragraph (2) of section 8 and the incidental commercial fishery during the sablefish fishery specified in paragraph (3) of section 8; or

(b) the incidental catch fishery during the salmon troll fishery specified in paragraph (4) of section 8.

(5) A license issued in respect to a vessel referred to in paragraph (1) of this section must be carried on board that vessel at all times and the vessel operator shall permit its inspection by any authorized officer.

(6) The Commission shall issue a license in respect to a vessel, without fee, from its office in Seattle, Washington, upon receipt of a completed, written, and signed "Application for Vessel License for the Halibut Fishery" form.

(7) A vessel operating in the directed commercial fishery or the incidental commercial fishery during the sablefish fishery in Area 2A must have its "Application for Vessel License for the

Halibut Fishery" form postmarked no later than 11:59 p.m. on April 30, or on the first weekday in May if April 30 is a Saturday or Sunday.

(8) A vessel operating in the incidental commercial fishery during the salmon troll season in Area 2A must have its "Application for Vessel License for the Halibut Fishery" form postmarked no later than 11:59 p.m. on March 31, or the first weekday in April if March 31 is a Saturday or Sunday.

(9) Application forms may be obtained from any authorized officer or from the Commission.

(10) Information on "Application for Vessel License for the Halibut Fishery" form must be accurate.

(11) The "Application for Vessel License for the Halibut Fishery" form shall be completed and signed by the vessel owner.

(12) Licenses issued under this section shall be valid only during the year in which they are issued.

(13) A new license is required for a vessel that is sold, transferred, renamed, or the documentation is changed.

(14) The license required under this section is in addition to any license, however designated, that is required under the laws of the United States or any of its States.

(15) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in Title 15, CFR part 904.

5. In-Season Actions

(1) The Commission is authorized to establish or modify regulations during the season after determining that such action:

(a) will not result in exceeding the catch limit established preseason for each regulatory area;

(b) is consistent with the Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and

(c) is consistent, to the maximum extent practicable, with any domestic catch sharing plans or other domestic allocation programs developed by the United States or Canadian governments.

(2) In-season actions may include, but are not limited to, establishing or modifying the following:

- (a) closed areas;
- (b) fishing periods;
- (c) fishing period limits;
- (d) gear restrictions;
- (e) recreational bag limits;
- (f) size limits; or
- (g) vessel clearances.

¹ Call NOAA Enforcement Division, Alaska Region, at 907-586-7225 between the hours of 0800 and 1600 local time for a list of NMFS-approved VMS transmitters and communications service providers.

(3) In-season changes will be effective at the time and date specified by the Commission.

(4) The Commission will announce in-season actions under this section by providing notice to major halibut processors; Federal, State, United States treaty Indian, and Provincial fishery officials; and the media.

6. Regulatory Areas

The following areas shall be regulatory areas (see Figure 1) for the purposes of the Convention:

(1) Area 2A includes all waters off the states of California, Oregon, and Washington;

(2) Area 2B includes all waters off British Columbia;

(3) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11'56" N. latitude, 136°38'26" W. longitude) and south and east of a line running 205° true from said light;

(4) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41'15" N. latitude, 155°35'00" W. longitude) to Cape Ikolik (57°17'17" N. latitude, 154°47'18" W. longitude), then along the Kodiak Island coastline to Cape Trinity (56°44'50" N. latitude, 154°08'44" W. longitude), then 140° true;

(5) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29'00" N. latitude, 164°20'00" W. longitude) and south of 54°49'00" N. latitude in Isanotski Strait;

(6) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in section 10 that are east of 172°00'00" W. longitude and south of 56°20'00" N. latitude;

(7) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of 56°20'00" N. latitude;

(8) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in section 10 which are east of 171°00'00" W. longitude, south of 58°00'00" N. latitude, and west of 168°00'00" W. longitude;

(9) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00'00" W. longitude; and

(10) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in section 10, east of 168°00'00" W. longitude, and south of 65°34'00" N. latitude.

7. Fishing in Regulatory Area 4E and 4D

(1) Section 7 applies only to any person fishing, or vessel that is used to fish for, Area 4E Community Development Quota (CDQ) or Area 4D CDQ halibut, provided that the total annual halibut catch of that person or vessel is landed at a port within Area 4E or 4D.

(2) A person may retain halibut taken with setline gear in Area 4E CDQ and 4D CDQ fishery that are smaller than the size limit specified in section 13, provided that no person may sell or barter such halibut.

(3) The manager of a CDQ organization that authorizes persons to harvest halibut in the Area 4E or 4D CDQ fisheries must report to the Commission the total number and weight of undersized halibut taken and retained by such persons pursuant to section 7, paragraph (2). This report, which shall include data and methodology used to collect the data, must be received by the Commission prior to November 1 of the year in which such halibut were harvested.

8. Fishing Periods

(1) The fishing periods for each regulatory area apply where the catch limits specified in section 11 have not been taken.

(2) Each fishing period in the Area 2A directed commercial fishery² shall begin at 0800 hours and terminate at 1800 hours local time on June 26, July 10, July 24, August 7, August 21, September 4, and September 18 unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (7) of section 11, an incidental catch fishery² is authorized during the sablefish seasons in Area 2A in accordance with regulations promulgated by NMFS. This fishery will occur between 1200 hours local time on March 23 and 1200 hours local time on November 7.

(4) 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. This fishery will occur between 1200 hours local time on March 23 and 1200 hours local time on November 7.

(5) The fishing period in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin at 1200 hours local time on March 23 and terminate at 1200 hours local

²The incidental fishery during the directed, fixed gear sablefish season is restricted to waters that are north of Point Chehalis, Washington (46°53'18" N. latitude) under regulations promulgated by NMFS at CFR 300.63. Landing restrictions for halibut retention in the fixed gear sablefish fishery can be found at CFR 660.231.

time on November 7, unless the Commission specifies otherwise.

(6) All commercial fishing for halibut in Areas 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours local time on November 7.

9. Closed Periods

(1) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in section 8 in respect of that area.

(2) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(3) Subject to paragraphs (7), (8), (9), and (10) of section 19, these Regulations do not prohibit fishing for any species of fish other than halibut during the closed periods.

(4) Notwithstanding paragraph (3), no person shall have halibut in his/her possession while fishing for any other species of fish during the closed periods.

(5) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(6) A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies an authorized officer or representative of the Commission prior to that retrieval.

(7) After retrieval of halibut gear in accordance with paragraph (6), the vessel shall submit to a hold inspection at the discretion of the authorized officer or representative of the Commission.

(8) No person shall retain any halibut caught on gear retrieved in accordance with paragraph (6).

(9) No person shall possess halibut on board a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

10. Closed Area

All waters in the Bering Sea north of 55°00'00" N. latitude in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36'00" N. latitude, 164°55'42" W. longitude) to a point at 56°20'00" N. latitude, 168°30'00" W. longitude; thence to a point at 58°21'25" N. latitude, 163°00'00" W. longitude; thence to Strogonof Point (56°53'18" N. latitude, 158°50'37" W. longitude); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his/her possession while in those waters, except in the

course of a continuous transit across those waters. All waters in Isanotski Strait between 55°00'00" N. latitude and 54°49'00" N. latitude are closed to halibut fishing.

11. *Catch Limits*

(1) The total allowable catch of halibut to be taken during the halibut fishing periods specified in section 8

shall be limited to the net weights expressed in pounds or metric tons shown in the following table:

CATCH LIMIT IN NET WEIGHT BY REGULATORY AREA

| Regulatory area | Catch limit—net weight | |
|--|------------------------|-------------|
| | Pounds | Metric tons |
| 2A: Directed commercial, and incidental commercial catch during salmon troll fishery | 203,990 | 92.5 |
| 2A: Incidental commercial during sablefish fishery | 21,410 | 9.7 |
| 2B ³ | 7,038,000 | 3,192.4 |
| 2C | 2,970,000 | 1,347.2 |
| 3A | 11,030,000 | 5,003.2 |
| 3B | 4,290,000 | 1,945.9 |
| 4A | 1,330,000 | 603.3 |
| 4B | 1,450,000 | 657.7 |
| 4C | 859,000 | 389.6 |
| 4D | 859,000 | 389.6 |
| 4E | 212,000 | 96.2 |

(2) Notwithstanding paragraph (1), regulations pertaining to the division of the Area 2A catch limit between the directed commercial fishery and the incidental catch fishery as described in paragraph (4) of section 8 will be promulgated by NMFS and published in the **Federal Register**.

(3) The Commission shall determine and announce to the public the date on which the catch limit for Area 2A will be taken.

(4) Notwithstanding paragraph (1), Area 2B will close only when all Individual Vessel Quotas (IVQs) assigned by DFO are taken, or November 7, whichever is earlier.

(5) Notwithstanding paragraph (1), Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E will each close only when all Individual Fishing Quotas (IFQ) and all CDQs issued by NMFS have been taken, or November 7, whichever is earlier.

(6) If the Commission determines that the catch limit specified for Area 2A in paragraph (1) would be exceeded in an unrestricted 10-hour fishing period as specified in paragraph (2) of section 8, the catch limit for that area shall be considered to have been taken unless fishing period limits are implemented.

(7) When under paragraphs (2), (3), and (6) the Commission has announced a date on which the catch limit for Area 2A will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

(8) Notwithstanding paragraph (1), the total allowable catch of halibut that may be taken in the Area 4E directed

commercial fishery is equal to the combined annual catch limits specified for the Area 4D and Area 4E CDQ fisheries. The annual Area 4D CDQ catch limit will decrease by the equivalent amount of halibut CDQ taken in Area 4E in excess of the annual Area 4E CDQ catch limit.

(9) Notwithstanding paragraph (1), the total allowable catch of halibut that may be taken in the Area 4D directed commercial fishery is equal to the combined annual catch limits specified for Area 4C and Area 4D. The annual Area 4C catch limit will decrease by the equivalent amount of halibut taken in Area 4D in excess of the annual Area 4D catch limit.

Area 2B includes combined commercial and sport catch limits which will be allocated by DFO.

12. *Fishing Period Limits*

(1) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(2) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut on board said vessel to that processor and ensure that all halibut is weighed and reported on State fish tickets.

(3) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut

on board said vessel and ensure that all halibut are weighed and reported on State fish tickets.

(4) The provisions of paragraph (3) are not intended to prevent retail over-the-side sales to individual purchasers so long as all the halibut on board is ultimately offloaded and reported.

(5) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on:

- (a) the vessel's overall length in feet and associated length class;
- (b) the average performance of all vessels within that class; and
- (c) the remaining catch limit.

(6) Length classes are shown in the following table:

| Overall length (in feet) | Vessel class |
|--------------------------|--------------|
| 1–25 | A |
| 26–30 | B |
| 31–35 | C |
| 36–40 | D |
| 41–45 | E |
| 46–50 | F |
| 51–55 | G |
| 56+ | H |

(7) Fishing period limits in Area 2A apply only to the directed halibut fishery referred to in paragraph (2) of section 8.

13. *Size Limits*

(1) No person shall take or possess any halibut that:

- (a) with the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with

³ Area 2B includes the combined commercial and sport catch limits which will be allocated by DFO.

the mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 2; or

(b) with the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in Figure 2.

(2) No person on board a vessel fishing for, or tendering, halibut caught in Area 2A shall possess any halibut that has had its head removed.

14. Careful Release of Halibut

(1) All halibut that are caught and are not retained shall be immediately released outboard of the roller and returned to the sea with a minimum of injury by:

(a) hook straightening;

(b) cutting the gangion near the hook; or

(c) carefully removing the hook by twisting it from the halibut with a gaff.

(2) Except that paragraph (1) shall not prohibit the possession of halibut on board a vessel that has been brought aboard to be measured to determine if the minimum size limit of the halibut is met and, if sublegal-sized, is promptly returned to the sea with a minimum of injury.

15. Vessel Clearance in Area 4

(1) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, or 4D must obtain a vessel clearance before fishing in any of these areas, and before the landing of any halibut caught in any of these areas, unless specifically exempted in paragraphs (10), (13), (14), (15), or (16).

(2) An operator obtaining a vessel clearance required by paragraph (1) must obtain the clearance in person from the authorized clearance personnel and sign the IPHC form documenting that a clearance was obtained, except that when the clearance is obtained via VHF radio referred to in paragraphs (5), (8), and (9), the authorized clearance personnel must sign the IPHC form documenting that the clearance was obtained.

(3) The vessel clearance required under paragraph (1) prior to fishing in Area 4A may be obtained only at Nazan Bay on Atka Island, Dutch Harbor or Akutan, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(4) The vessel clearance required under paragraph (1) prior to fishing in Area 4B may only be obtained at Nazan Bay on Atka Island or Adak, Alaska, from an authorized officer of the United States, a representative of the

Commission, or a designated fish processor.

(5) The vessel clearance required under paragraph (1) prior to fishing in Area 4C or 4D may be obtained only at St. Paul or St. George, Alaska, from an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(6) The vessel operator shall specify the specific regulatory area in which fishing will take place.

(7) Before unloading any halibut caught in Area 4A, a vessel operator may obtain the clearance required under paragraph (1) only in Dutch Harbor or Akutan, Alaska, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor.

(8) Before unloading any halibut caught in Area 4B, a vessel operator may obtain the clearance required under paragraph (1) only in Nazan Bay on Atka Island or Adak, by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor by VHF radio or in person.

(9) Before unloading any halibut caught in Area 4C and 4D, a vessel operator may obtain the clearance required under paragraph (1) only in St. Paul, St. George, Dutch Harbor, or Akutan, Alaska, either in person or by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearances obtained in St. Paul or St. George, Alaska, can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel.

(10) Any vessel operator who complies with the requirements in section 18 for possessing halibut on board a vessel that was caught in more than one regulatory area in Area 4 is exempt from the clearance requirements of paragraph (1) of this section, provided that:

(a) the operator of the vessel obtains a vessel clearance prior to fishing in Area 4 in either Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul, St. George, Adak, or Nazan Bay on Atka Island can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. This clearance will list the areas in which the vessel will fish; and

(b) before unloading any halibut from Area 4, the vessel operator obtains a vessel clearance from Dutch Harbor, Akutan, St. Paul, St. George, Adak, or Nazan Bay on Atka Island by contacting an authorized officer of the United States, a representative of the Commission, or a designated fish processor. The clearance obtained in St. Paul or St. George can be obtained by VHF radio and allowing the person contacted to confirm visually the identity of the vessel. The clearance obtained in Adak or Nazan Bay on Atka Island can be obtained by VHF radio.

(11) Vessel clearances shall be obtained between 0600 and 1800 hours, local time.

(12) No halibut shall be on board the vessel at the time of the clearances required prior to fishing in Area 4.

(13) Any vessel that is used to fish for halibut only in Area 4A and lands its total annual halibut catch at a port within Area 4A is exempt from the clearance requirements of paragraph (1).

(14) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (1).

(15) Any vessel that is used to fish for halibut only in Area 4C or 4D or 4E and lands its total annual halibut catch at a port within Area 4C, 4D, 4E, or the closed area defined in section 10, is exempt from the clearance requirements of paragraph (1).

(16) Any vessel that carries a transmitting VMS transmitter while fishing for halibut in Area 4A, 4B, 4C, or 4D and until all halibut caught in any of these areas is landed, is exempt from the clearance requirements of paragraph (1) of this section, provided that:

(a) the operator of the vessel complies with NMFS' vessel monitoring system regulations published at 50 CFR 679.28(f)(3), (4) and (5); and

(b) the operator of the vessel notifies NOAA Fisheries Office for Law Enforcement at 800-304-4846 (select option 1 to speak to an Enforcement Data Clerk) between the hours of 0600 and 0000 (midnight) local time within 72 hours before fishing for halibut in Area 4A, 4B, 4C, or 4D and receives a VMS confirmation number.

16. Logs

(1) The operator of any U.S. vessel fishing for halibut that has an overall length of 26 feet (7.9 meters) or greater shall maintain an accurate log of halibut fishing operations. The operator of a vessel fishing in waters in and off Alaska must use one of the following logbooks: the Groundfish/IFQ Daily Fishing Longline and Pot Gear Logbook

provided by NMFS; the Alaska hook-and-line logbook provided by Petersburg Vessel Owners Association or Alaska Longline Fisherman's Association; the Alaska Department of Fish and Game (ADF&G) longline-pot logbook; or the logbook provided by IPHC. The operator of a vessel fishing in Area 2A must use either the Washington Department of Fish and Wildlife (WDFW) Voluntary Sablefish Logbook, Oregon Department of Fish and Wildlife (ODFW) Fixed Gear Logbook, or the logbook provided by IPHC.

(2) The logbook referred to in paragraph (1) must include the following information:

(a) the name of the vessel and the State (ADF&G, WDFW, ODFW, or California Department of Fish and Game) or Tribal vessel number;

(b) the date(s) upon which the fishing gear is set or retrieved;

(c) the latitude and longitude coordinates or a direction and distance from a point of land for each set or day;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of halibut retained for each set or day.

(3) The logbook referred to in paragraph (1) shall be:

(a) maintained on board the vessel;

(b) updated not later than 24 hours after 0000 (midnight) local time for each day fished and prior to the offloading or sale of halibut taken during that fishing trip;

(c) retained for a period of two years by the owner or operator of the vessel;

(d) open to inspection by an authorized officer or any authorized representative of the Commission upon demand; and

(e) kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed.

(4) The log referred to in paragraph (1) does not apply to the incidental halibut fishery during the salmon troll season in Area 2A defined in paragraph (4) of section 8.

(5) The operator of any Canadian vessel fishing for halibut shall maintain an accurate log recorded in the British Columbia Integrated Groundfish Fishing Log provided by DFO.

(6) The logbook referred to in paragraph (5) must include the following information:

(a) the name of the vessel and the DFO vessel registration number;

(b) the date(s) upon which the fishing gear is set and retrieved;

(c) the latitude and longitude coordinates for each set;

(d) the number of skates deployed or retrieved, and number of skates lost; and

(e) the total weight or number of halibut retained for each set.

(7) The logbook referred to in paragraph (5) shall be:

(a) maintained on board the vessel;

(b) retained for a period of two years by the owner or operator of the vessel;

(c) open to inspection by an authorized officer or any authorized representative of the Commission upon demand;

(d) kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and until the offloading of all halibut is completed;

(e) mailed to the DFO (white copy) within seven days of offloading; and

(f) mailed to the Commission (yellow copy) within seven days of the final offload if not collected by a Commission employee.

(8) No person shall make a false entry in a log referred to in this section.

17. Receipt and Possession of Halibut

(1) No person shall receive halibut caught in Area 2A from a United States vessel that does not have on board the license required by section 4.

(2) No person shall possess on board a vessel a halibut other than whole or with gills and entrails removed, except that this paragraph shall not prohibit the possession on board a vessel of:

(a) halibut cheeks cut from halibut caught by persons authorized to process the halibut on board in accordance with NMFS regulations published at 50 CFR part 679;

(b) fillets from halibut offloaded in accordance with section 17 that are possessed on board the harvesting vessel in the port of landing up to 1800 hours local time on the calendar day following the offload;⁴ and

(c) halibut with their heads removed in accordance with section 13.

(3) No person shall offload halibut from a vessel unless the gills and entrails have been removed prior to offloading.

(4) It shall be the responsibility of a vessel operator who lands halibut to continuously and completely offload at a single offload site all halibut on board the vessel.

(5) A registered buyer (as that term is defined in regulations promulgated by NMFS and codified at 50 CFR part 679) who receives halibut harvested in IFQ and CDQ fisheries in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, directly from the vessel operator that harvested such halibut must weigh all the halibut received and record the following

information on Federal catch reports: date of offload; name of vessel; vessel number (State, Tribal or Federal, but not IPHC vessel number); scale weight obtained at the time of offloading, including the scale weight (in pounds) of halibut purchased by the registered buyer, the scale weight (in pounds) of halibut offloaded in excess of the IFQ or CDQ, the scale weight of halibut (in pounds) retained for personal use or for future sale, and the scale weight (in pounds) of halibut discarded as unfit for human consumption.

(6) The first recipient, commercial fish processor, or buyer in the United States who purchases or receives halibut directly from the vessel operator that harvested such halibut must weigh and record all halibut received and record the following information on State fish tickets: the date of offload; vessel number (State, Tribal or Federal, not IPHC vessel number); total weight obtained at the time of offload including the weight (in pounds) of halibut purchased; the weight (in pounds) of halibut offloaded in excess of the IFQ, CDQ, or fishing period limits; the weight of halibut (in pounds) retained for personal use or for future sale; and the weight (in pounds) of halibut discarded as unfit for human consumption.

(7) The individual completing the State fish tickets for the Area 2A fisheries as referred to in paragraph (6) must additionally record whether the halibut weight is of head-on or head-off fish.

(8) For halibut landings made in Alaska, the requirements as listed in paragraph (5) and (6) can be met by recording the information in the Interagency Electronic Reporting Systems, eLandings in accordance with NMFS regulation published at 50 CFR Part 679.

(9) The master or operator of a Canadian vessel that was engaged in halibut fishing must weigh and record all halibut on board said vessel at the time offloading commences and record on Provincial fish tickets or Federal catch reports the date; locality; name of vessel; the name(s) of the person(s) from whom the halibut was purchased; and the scale weight (in pounds) obtained at the time of offloading of all halibut on board the vessel including the pounds purchased, pounds in excess of IVQs, pounds retained for personal use, and pounds discarded as unfit for human consumption.

(10) No person shall make a false entry on a State or Provincial fish ticket or a Federal catch or landing report referred to in paragraphs (5), (6), and (9) of section 17.

⁴DFO has more restrictive regulations; therefore, section 17 paragraph (2)(b) does not apply to fish caught in Area 2B or landed in British Columbia.

(11) A copy of the fish tickets or catch reports referred to in paragraphs (5), (6), and (9) shall be:

(a) retained by the person making them for a period of three years from the date the fish tickets or catch reports are made; and

(b) open to inspection by an authorized officer or any authorized representative of the Commission.

(12) No person shall possess any halibut taken or retained in contravention of these Regulations.

(13) When halibut are landed to other than a commercial fish processor, the records required by paragraph (6) shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (11).

(14) No person shall tag halibut unless the tagging is authorized by IPHC permit or by a Federal or State agency.

18. Fishing Multiple Regulatory Areas

(1) Except as provided in this section, no person shall possess at the same time on board a vessel halibut caught in more than one regulatory area.

(2) Halibut caught in more than one of the Regulatory Areas 2C, 3A, or 3B may be possessed on board a vessel at the same time, provided the operator of the vessel:

(a) has a NMFS-certified observer on board when required by NMFS regulations⁵ published at 50 CFR 679.7(f)(4); and

(b) can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(3) Halibut caught in more than one of the Regulatory Areas 4A, 4B, 4C, or 4D may be possessed on board a vessel at the same time, provided the operator of the vessel:

(a) has a NMFS-certified observer on board the vessel as required by NMFS regulations published at 50 CFR 679.7(f)(4); or has an operational VMS on board actively transmitting in all regulatory areas fished and does not possess at any time more halibut on board the vessel than the IFQ permit holders on board the vessel have cumulatively available for any single Area 4 regulatory area fished; and

(b) can identify the regulatory area in which each halibut on board was caught by separating halibut from different areas in the hold, tagging halibut, or by other means.

(4) If halibut from Area 4 are on board the vessel, the vessel can have halibut caught in Regulatory Areas 2C, 3A, and 3B on board if in compliance with paragraph (2).

19. Fishing Gear

(1) No person shall fish for halibut using any gear other than hook and line gear, except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined in the Condition of Sablefish Licence can retain halibut caught as bycatch under regulations promulgated by the Canadian Department of Fisheries and Oceans.

(2) No person shall possess halibut taken with any gear other than hook and line gear, except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined by the Condition of Sablefish Licence can retain halibut caught as bycatch under regulations promulgated by the Canadian Department of Fisheries and Oceans.

(3) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut, except that in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E, halibut heads, skin, entrails, bones or fins for use as bait may be possessed on board a vessel carrying pots capable of catching halibut, provided that a receipt documenting purchase or transfer of these halibut parts is on board the vessel.

(4) All setline or skate marker buoys carried on board or used by any United States vessel used for halibut fishing shall be marked with one of the following:

(a) the vessel's State license number; or

(b) the vessel's registration number.

(5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(6) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be:

(a) floating and visible on the surface of the water; and

(b) legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(7) No person on board a vessel used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the fishing period for the directed commercial halibut fishery shall catch or possess halibut anywhere in those waters during that

halibut fishing period unless, prior to the start of the halibut fishing period, the vessel has removed its gear from the water and has either:

(a) made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(8) No vessel used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the fishing period for the directed halibut commercial fishery may be used to catch or possess halibut anywhere in those waters during that halibut fishing period unless, prior to the start of the halibut fishing period, the vessel has removed its gear from the water and has either:

(a) made a landing and completely offloaded its catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(9) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either:

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either:

(a) made a landing and completely offloaded its entire catch of other fish; or

(b) submitted to a hold inspection by an authorized officer.

(11) Notwithstanding any other provision in these Regulations, a person may retain, possess and dispose of halibut taken with trawl gear only as authorized by Prohibited Species Donation regulations of NMFS.

20. Supervision of Unloading and Weighing

The unloading and weighing of halibut may be subject to the supervision of authorized officers to assure the fulfillment of the provisions of these Regulations.

⁵ Without an observer, a vessel cannot have on board more halibut than the IFQ for the area that is being fished, even if some of the catch occurred earlier in a different area.

21. Retention of Tagged Halibut

(1) Nothing contained in these Regulations prohibits any vessel at any time from retaining and landing a halibut that bears a Commission external tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by an authorized officer.

(2) After examination and removal of the tag by a representative of the Commission or an authorized officer, the halibut:

(a) may be retained for personal use; or

(b) may be sold only if the halibut is caught during commercial halibut fishing and complies with the other commercial fishing provisions of these Regulations.

(3) Externally tagged fish must count against commercial IVQs, CDQs, IFQs, or daily bag or possession limits unless otherwise exempted by State, Provincial, or Federal regulations.

22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in Subarea 2A–1 by members of United States treaty Indian tribes located in the State of Washington shall be regulated under regulations promulgated by NMFS and published in the **Federal Register**.

(2) Subarea 2A–1 includes all waters off the coast of Washington that are north of 46°53'18" N. latitude and east of 125°44'00" W. longitude, and all inland marine waters of Washington.

(3) Section 13 (size limits), section 14 (careful release of halibut), section 16 (logs), section 17 (receipt and possession of halibut) and section 19 (fishing gear), except paragraphs (7) and (8) of section 19, apply to commercial fishing for halibut in Subarea 2A–1 by the treaty Indian tribes.

(4) Regulations in paragraph (3) of this section that apply to State fish tickets apply to Tribal tickets that are authorized by Washington Department of Fish and Wildlife.

(5) Section 4 (Licensing Vessels for Area 2A) does not apply to commercial fishing for halibut in Subarea 2A–1 by treaty Indian tribes.

(6) Commercial fishing for halibut in Subarea 2A–1 is permitted with hook and line gear from March 23 through November 7, or until 314,300 pounds (142.5 metric tons) net weight is taken, whichever occurs first.

(7) Ceremonial and subsistence fishing for halibut in Subarea 2A–1 is permitted with hook and line gear from January 1 through December 31, and is

estimated to take 32,200 pounds (14.6 metric tons) net weight.

23. Customary and Traditional Fishing in Alaska

(1) Customary and traditional fishing for halibut in Regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall be governed pursuant to regulations promulgated by NMFS and published in 50 CFR part 300.

(2) Customary and traditional fishing is authorized from January 1 through December 31.

24. Aboriginal Groups Fishing for Food, Social and Ceremonial Purposes in British Columbia

(1) Fishing for halibut for food, social and ceremonial purposes by Aboriginal groups in Regulatory Area 2B shall be governed by the Fisheries Act of Canada and regulations as amended from time to time.

25. Sport Fishing for Halibut—General

(1) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(2) Any minimum overall size limit promulgated under IPHC or NMFS regulations shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(3) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(4) No person may possess halibut on a vessel while fishing in a closed area.

(5) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(6) No halibut caught in sport fishing shall be possessed on board a vessel when other fish or shellfish aboard said vessel are destined for commercial use, sale, trade, or barter.

(7) The operator of a charter vessel shall be liable for any violations of these Regulations committed by a passenger aboard said vessel.

26. Sport Fishing for Halibut—Area 2A

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

(a) 214,110 pounds (97.1 metric tons) net weight in waters off Washington; and

(b) 203,990 pounds (92.5 metric tons) net weight in waters off California and Oregon.

(2) The Commission shall determine and announce closing dates to the public for any area in which the catch

limits promulgated by NMFS are estimated to have been taken.

(3) When the Commission has determined that a subquota under paragraph (8) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

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

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

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

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

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

(a) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is not managed in-season relative to its quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lb (26 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is open for two 3-day periods on May 2–4 and May 16–18 (Thursday–Saturday); one four day period on May 23–26 (Thursday–Sunday); and one 2-day period on May 30–31 (Thursday and Friday). The fishing season in western Puget Sound (west of

123°49.50' W. long., Low Point) is open May 23–26 (Thursday–Sunday), May 30–June 1 (Thursday–Saturday), and Saturday, June 8.

(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 108,030 lb (49 mt).

(i) The fishing seasons are:

(A) Commencing on May 9 and continuing 2 days a week (Thursday and Saturday) until 108,030 lb (49 mt) are estimated to have been taken and the season is closed by the Commission or until May 18.

(B) If sufficient quota remains the fishery will reopen on May 30 and/or June 1 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 108,030 lb (49 mt) is estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier. After May 18, any fishery opening will be announced on the NMFS hotline at 800–662–9825. No halibut fishing will be allowed after May 18 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 42,740 lb (19.3 mt).

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

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

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

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

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

The south coast subarea quota will be allocated as follows: 40,740 lb (18.4 mt) for the primary fishery and 2,000 lb (0.9 mt) for the nearshore fishery. The primary fishery commences on May 5 and continues 2 days a week (Sunday and Tuesday) until May 21. If the primary quota is projected to be obtained sooner than expected, the management closure may occur earlier. Beginning on June 2 the primary fishery will be open at most 2 days per week (Sunday and/or Tuesday) until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 5 and continues seven days per week. Subsequent to closure of the primary fishery the nearshore fishery is open seven days per

week, until 42,740 lb (19.3 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 11,895 lb (5.3 mt).

(i) The fishing season commences on May 3, and continues 3 days a week (Thursday, Friday and, Saturday) until 9,516 lb (4.3 mt) are estimated to have been taken and the season is closed by the Commission or until July 28, whichever is earlier. The fishery will reopen on August 2 and continue 3 days a week (Friday through Sunday) until 2,379 lb (1.1 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 191,979 lb (87 mt).

(i) The fishing seasons are:

(A) The first season (the "inside 40-fm" fishery) commences May 2 and continues 3 days a week (Thursday through Saturday) 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 of 23,038 lb (10.4 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 from May 9–11, 16–18, 30–31, June 1, 6–8, 2013. The projected catch for this season is 120,947 lb (54.8 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Depending on the amount of unharvested catch available, the potential season re-opening dates will be: June 20–22, July 4–6, and July 18–20, 2013. 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 from August 2–3, 16–17, 30–31, September 13–14, 27–28, October 11–12 and 25–26, 2013, or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 191,979 lb (87.8 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 on August 3, 2013. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning August 9 and ending October 31. 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 6 and 7, 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, 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 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 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 6,063 lb (2.75 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.

27. Sport Fishing for Halibut—Area 2B

(1) In all waters off British Columbia:⁶

(a) the sport fishing season is from February 1 to December 31;

(b) the daily bag limit is two halibut of any size per day per person.

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

(3) The possession limit for halibut in the waters off the coast of British Columbia is three halibut.

28. Sport Fishing for Halibut—Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, 4E

(1) In waters in and off Alaska:⁷

(a) the sport fishing season is from February 1 to December 31;

(b) the daily bag limit is two halibut of any size per day per person, unless a more restrictive bag limit applies in Federal regulations at 50 CFR 300.65; and

(c) no person may possess more than two daily bag limits.

(2) No person on board a charter vessel⁸ referred to in 50 CFR 300.65 and fishing in Regulatory Area 2C shall take or possess any halibut that:

(a) with head on, is greater than 45 inches (114.3 cm) and less than 68 inches (172.7 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 3; and

(b) if the halibut is filleted the entire carcass, with head and tail connected as a single piece, must be retained on board the vessel until all fillets are offloaded.

(3) In Convention waters in and off Alaska, no person shall possess on

⁶DFO could implement more restrictive regulations for the sport fishery, therefore anglers are advised to check the current Federal or Provincial regulations prior to fishing.

⁷NMFS could implement more restrictive regulations for the sport fishery or components of it, therefore, anglers are advised to check the current Federal or State regulations prior to fishing.

⁸Charter vessels are prohibited from harvesting halibut in Area 2C and 3A during one charter vessel fishing trip under regulations promulgated by NMFS at CFR 300.66.

board a vessel, including charter vessels and pleasure craft used for fishing, halibut that has been filleted, mutilated, or otherwise disfigured in any manner, except that

(a) each halibut may be cut into no more than 2 ventral pieces, 2 dorsal

pieces, and 2 cheek pieces, with skin on all pieces; and

(b) halibut in excess of the possession limit in paragraph (1)(c) of this section may be possessed on a vessel that does not contain sport fishing gear, fishing rods, hand lines, or gaffs.

29. *Previous Regulations Superseded*

These Regulations shall supersede all previous regulations of the Commission, and these Regulations shall be effective each succeeding year until superseded.

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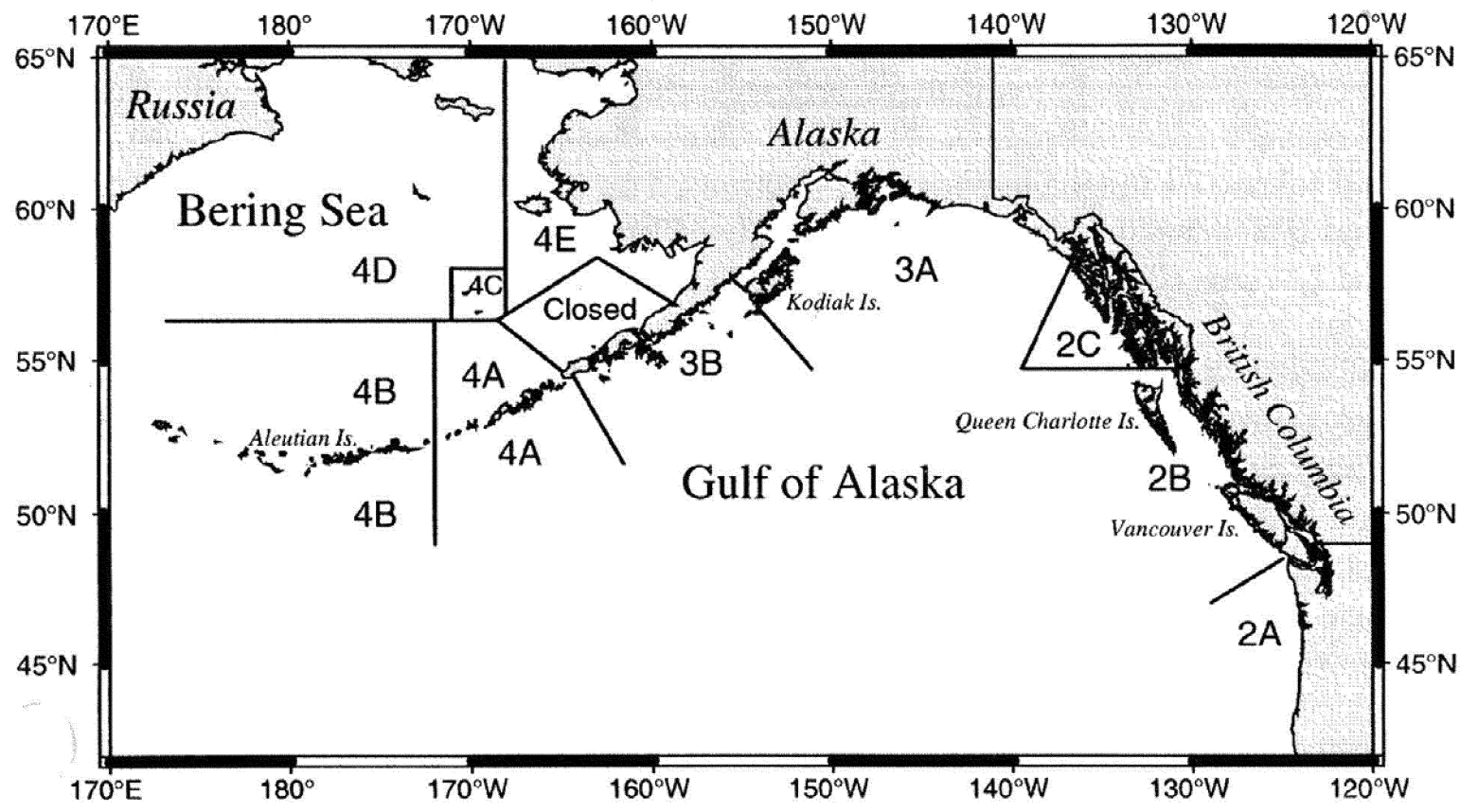


Figure 1. Regulatory areas for the Pacific halibut fishery.

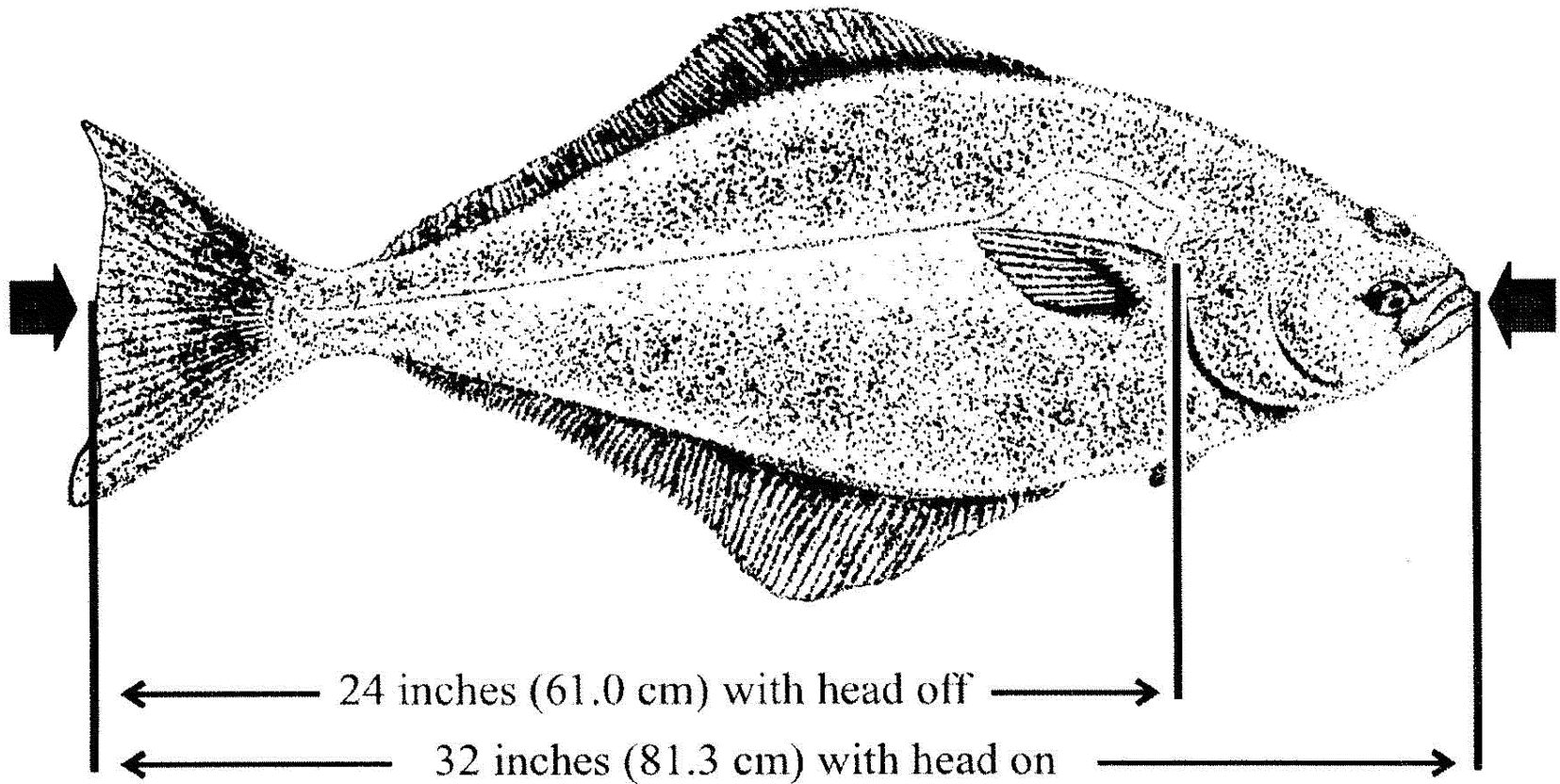


Figure 2. Minimum commercial size.

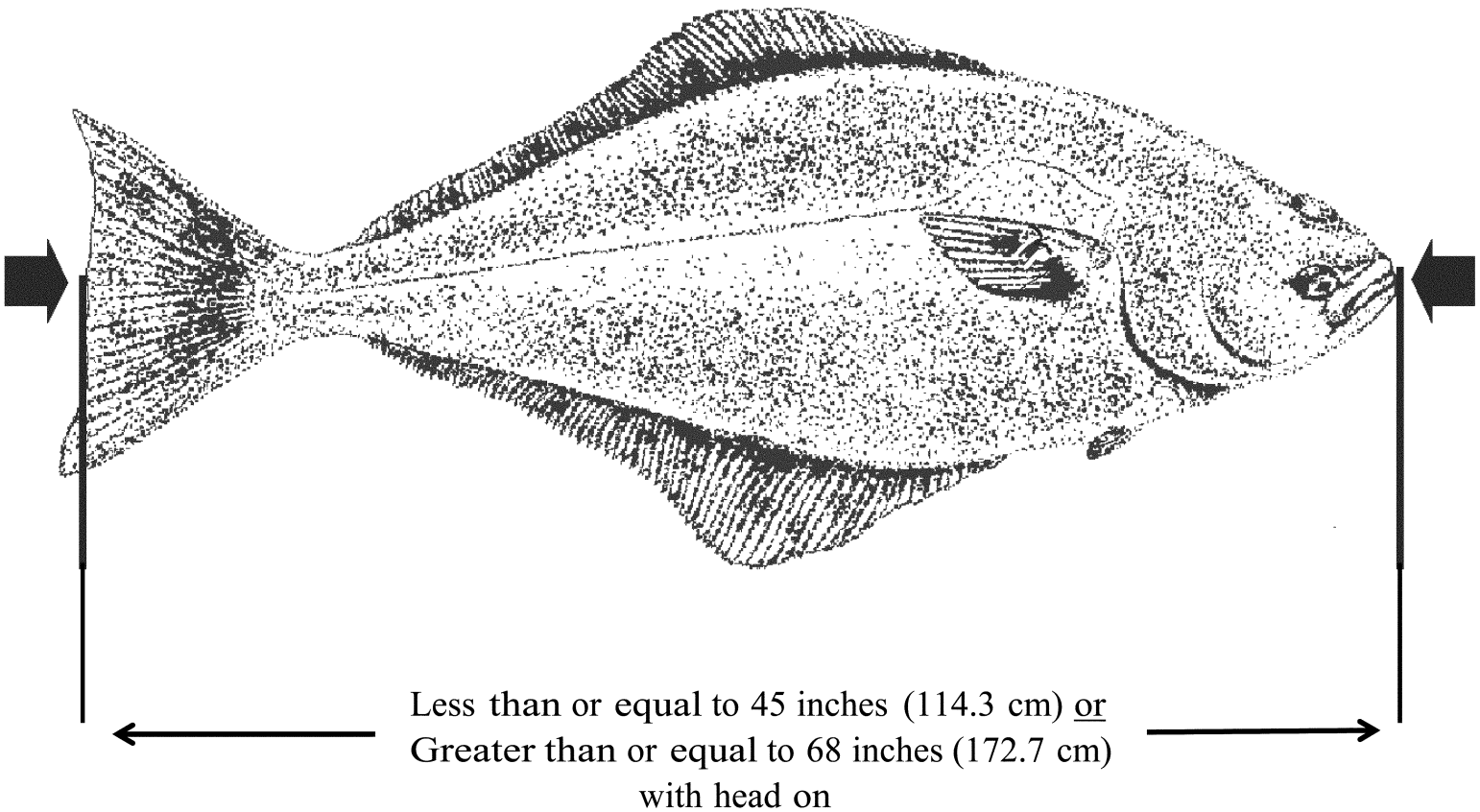


Figure 3. Recreational reverse slot limit for halibut onboard a charter vessel referred to in 50 CFR 300.65 and fishing in Regulatory Area 2C (see Section 28 paragraph 2(a)).

Classification

IPHC Regulations

These IPHC annual management measures are a product of an agreement between the United States and Canada and are published in the **Federal Register** to provide notice of their effectiveness and content. The notice-and-comment and delay-in-effectiveness date provisions of the Administrative Procedure Act (APA), 5 U.S.C. 553, are inapplicable to IPHC management measures because this regulation involves a foreign affairs function of the United States, 5 U.S.C. 553(a)(1). Furthermore, no other law requires prior notice and public comment for this rule. Because prior notice and an opportunity for public comment are not required to be provided for these portions of this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this portion of the rule and none has been prepared.

2013 Area 2A Catch Sharing Plan, Annual Management Measures and Federal Regulations

Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Pacific Council's authority to allocate halibut catches among fishery participants in the waters in and off the U.S. West Coast.

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

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) in association with the proposed rule for the *2013 Area 2A Catch Sharing Plan*. The final regulatory flexibility analysis (FRFA) incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, if any, and NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS received no comments on the IRFA. A copy of the FRFA is available from the NMFS Northwest Region (see **ADDRESSES**) and a summary of the FRFA follows.

The main management objective for the Pacific halibut fishery in Area 2A is to manage fisheries to remain within the TAC for Area 2A, while also allowing each commercial, recreational (sport),

and tribal fishery to target halibut in the manner that is appropriate to meet both the conservation requirements for species that co-occur with Pacific halibut and the needs of fishery participants in particular fisheries and fishing areas.

The changes to the CSP, which allocates the catch of Pacific halibut among users in Washington, Oregon and California, are as follows:

1. In the Plan, sections (e)(1) and (e)(1)(iii), incidental halibut catch in the salmon troll fishery, adjust the months for the incidental take fishery from May–June to April–June. The goal of this change is to allow salmon fishers access to the incidental halibut allocation earlier in the year.

2. In the Plan, section (f)(1)(iv) Columbia River subarea adjusts the spring season schedule from Thursdays–Saturdays to Fridays–Sundays and replaces the automatic regulatory closure for the spring fishery with a closure that would occur upon reaching 80 percent of the subarea allocation. The goal of the days of the week change is to allow better access to the spring fishery and to make the spring and summer season open days consistent. The goal of removing the regulatory closure is to allow the spring fishery to stay open longer in the spring, when effort is generally higher. The summer season has often underutilized the allocation. Allowing the spring fishery to stay open longer is designed to better utilize the allocation for the whole subarea. Since 2008, the summer fishery has harvested less than 20 percent of the subarea quota, even though the allocation was 30 percent, leaving a portion of the allocation unharvested that could be harvested in the spring since the summer fishery occurs after the spring fishery.

3. In the Plan, section (f)(1)(v), Oregon Central Coast subarea, several changes are proposed. This subarea consists of three fisheries, nearshore, spring, and summer. Changes are proposed to all three fisheries. The goal is to better align the allocations for the nearshore and spring fisheries with recent increasing effort. The proposed modifications to each fishery's allocation changes the allocations from fixed percentages to percentages that depend on the 2A TAC. This change is proposed to maximize the number of days the entire subarea can be open. The effort in the nearshore fishery has increased in recent years, requiring the fishery to close early. Eliminating the summer fishery and increasing the nearshore and spring allocations will allow more fishing days overall. Eliminating the summer fishery when the Area 2A TAC is below

700,000 lb is necessary because if the TAC is at that level, the resulting summer fishery allocation is not enough to allow one day of fishing.

a. For the nearshore fishery, adjust the open days from daily to 3 days per week Thursday–Saturday and adjust the allocation to this fishery from 12 percent of the subarea quota to 12 percent of the subarea quota if the 2A TAC is 700,000 lb or greater and 25 percent of the subarea quota if the 2A TAC is less than 700,000 lb.

b. For the spring fishery, adjust the allocation from 63 percent of the subarea allocation to 63 percent of the subarea quota if the 2A TAC is 700,000 lb or greater and 75 percent of the subarea quota if the 2A TAC is less than 700,000 lb. Also, adjust the closure date for this fishery if the TAC is less than 700,000 lb from July 31st to October 31st or attainment of the fishery allocation.

c. For the summer fishery, adjust the allocation from 25 percent of the subarea allocation to 25 percent of the subarea quota if the 2A TAC is 700,000 lb or greater and 0 percent of the subarea quota if the 2A TAC is less than 700,000 lb. This closes the summer fishery if the TAC is less than 700,000 lb.

Under the Regulatory Flexibility Act (RFA), NMFS must identify the small entities impacted by this rule, describe the impact, and describe any alternative actions considered. This action will affect fishing entities, including commercial and charter or party boats, and towns or communities in the fishing areas. Under the Small Business Administration's (SBA) regulations implementing the RFA, a fishing entity is considered "small" if it has gross annual receipts of less than \$4.0 million. A governmental jurisdiction (i.e., town or community) is considered a small entity if it has fewer than 50,000 people. For marinas and charter or party boats, a small business is one with annual receipts not in excess of \$7.0 million. Although many small and large nonprofit enterprises track fisheries management issues on the West Coast, the changes to the Plan, codified regulations and annual management measures, will not directly affect those enterprises. Similarly, although many fishing communities are small governmental jurisdictions, no direct regulations for those governmental jurisdictions will result from this rule. However, charter boat operations and participants in the non-treaty directed commercial fishery off the coast of Washington, Oregon, and California, are small businesses that are directly regulated by this rule. These businesses

are vessels that are issued IPHC licenses. In 2012, a total of 604 vessels were issued IPHC licenses to retain halibut: The directed commercial fishery in Area 2A (147 licenses in 2012); incidental halibut caught in the salmon troll fishery (316 licenses in 2012); and the charter boat fleet (141 licenses in 2012). No vessel may participate in more than one of these three fisheries per year.

NMFS analyzed the Pacific States Marine Fisheries Commission PacFIN data for the years 2010–2012. In 2010, 202 non-trawl vessels landed 1.6 million lb of Pacific halibut, and earned \$6.5 million in ex-vessel revenues from prices that averaged just over \$4.00 per pound. In 2011, 196 non-trawl vessels fishing in the non-tribal commercial fleets (excluding trawlers), landed about 1.1 million lb, earning \$6.0 million in ex-vessel revenues, from prices that averaged \$5.30 per pound. Preliminary data, complete through November of 2012, shows 234 vessels landing 1.0 million lb, earning \$5.0 million in ex-vessel revenues, at an average price of \$4.70 per pound. Total ex-vessel revenues, including tribal revenues, were \$7.8 million in 2010, \$8.0 million in 2011, and \$7.0 million through November 2012.

The PFMC analyzed 2006–2010 recreational activity (see discussion under 3.2.1.4 “Recreational Fisheries,” in the Final Environmental Impact Statement (FEIS) for Proposed Harvest Specifications and Management Measures for the 2013–2014 Pacific Coast Groundfish Fishery and Amendment 21–2 to the Pacific Coast Fishery Management Plan, available at <http://www.pcouncil.org>). The PFMC’s analysis indicates that the total number of directed charter and private halibut trips has ranged from 19,000 (2009) to 26,000 (2007 and 2008) from the trips recorded as recreational activity from Northern California to the Canadian border. Anglers also take halibut in conjunction with salmon and bottomfish recreational trips. From 2006–2010, the total number of directed recreational trips including directed halibut trips has ranged from 216,000 (2008) to 354,000 (2009). Over these years, directed halibut trips had averaged about 8% of all trips, but have been as high as 12% in 2008, when there was a significant decline in salmon trips. In 2010, charterboat vessels undertook about 5,500 directed halibut trips. The highest charter boat rate found on the internet was \$285 per angler trip. Using this rate suggests that charter boat halibut rate revenues were on the order of \$1.6 million. This estimate does not include revenues

associated with halibut caught in conjunction with salmon, bottomfish, or other recreational trips.

The FEIS provides information to project the economic impact of halibut fisheries. Estimates of groundfish revenues and recreational trips can be related to personal income projections. Based on these relationships, NMFS estimated that \$8 million in halibut ex-vessel revenues and 26,000 recreational trips led to an estimated \$14 million in personal income.

Personal income is considered a key indicator of economic activity, and is used in economic analyses to evaluate distributional effects on local and regional economies associated with changes in regulations. Income impacts include 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. The proposed 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 total allowable catch (TAC). The major effect of halibut management on small entities will be from the internationally set TAC decisions made by IPHC. Based on the recommendations of the states and the PFMC, NMFS is making minor changes to the Plan to provide increased recreational and commercial opportunities under the allocations that result from the TAC. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionate negative effect on small entities versus large entities. These minor changes to the Plan are not expected to have a significant economic impact on a substantial number of small entities.

As mentioned in the preamble, WDFW and ODFW held public meetings and crafted alternatives to adjust management of the sport halibut fisheries in their states. The states then narrowed the alternatives under consideration and brought the resulting subset of alternatives to the PFMC at the PFMC’s September and November 2012 meetings. The PFMC and the states considered a range of alternatives that

could have similarly improved angler enjoyment and participation in the fisheries while simultaneously protecting halibut and co-occurring groundfish species from overharvest. One of the alternatives considered, but ultimately rejected, includes alternate fishery structures, such as opening the sport fisheries on different days of the week than the final preferred alternative. Generally, because they have been through the state public review process by the time the alternatives reach the PFMC, there are not a large number of alternatives. Rather, the range of alternatives has generally been reduced to the proposed action and the status quo. Because the goal of this action is to maximize angler participation, and thus to maximize the economic benefits of the fishery, and the action is not expected to have a significant economic impact, NMFS did not analyze alternatives other than the proposed changes and the status quo alternative. The status quo alternative was rejected because it wouldn’t align subarea quotas with recent participation nor adjust season subarea quota splits to better match participation.

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 PFMC for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The U.S. Government formally recognizes that 13 Washington tribes have treaty rights to fish for Pacific halibut. 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 changes to the CSP, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

NMFS Northwest Region initiated consultation on the halibut fishery under Section 7 of the Endangered Species Act (ESA) following the listing of yelloweye, canary, and bocaccio rockfish of the Puget Sound/Georgia Basin. Area 2A partially overlaps with the Distinct Population Segments (DPSs) for listed rockfish. At this time the consultation is not completed. NMFS

has prepared a 7(a)(2)/7(d) determination memo under the ESA finding that bycatch in the 2013 fishery is not likely to result in a significant impact on listed species, that direct effects of the fishery (e.g., direct takes) are not likely to jeopardize the

continued existence of any listed species, and that in no way will the 2013 fishery make an irreversible or irretrievable commitment of resources by the agency.

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

Dated: March 12, 2013.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

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