

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 171205999–8274–02]

RIN 0648–BH45

**Pacific Halibut Fisheries; Catch Sharing Plan**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements the Pacific Halibut Catch Sharing Plan and codified regulations for the International Pacific Halibut Commission's Regulatory Area 2A (Area 2A), located off Washington, Oregon, and California. In addition, this final rule implements portions of the Catch Sharing Plan that are not implemented through the International Pacific Halibut Commission, specifically sport fishery allocations and management measures for Area 2A. These actions are intended to conserve Pacific halibut, provide angler opportunity where available, and minimize bycatch of overfished groundfish species.

**DATES:** This rule is effective on March 24, 2018.

**ADDRESSES:** Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way NE, Seattle, WA 98115. For information regarding all halibut fisheries and general regulations not contained in this rule contact the International Pacific Halibut Commission, 2320 W. Commodore Way, Suite 300, Seattle, WA 98199–1287. Electronic copies of the Regulatory Impact Review (RIR) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained by contacting Kathryn Blair, phone: 206–526–6140, email: [kathryn.blair@noaa.gov](mailto:kathryn.blair@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Kathryn Blair, phone: 206–526–6140, fax: 206–526–6736, or email: [kathryn.blair@noaa.gov](mailto:kathryn.blair@noaa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The Northern Pacific Halibut Act (Halibut Act) of 1982 gives the Secretary of Commerce responsibility for implementing the provisions of the Halibut Convention between the United

States and Canada. The Halibut Act requires that the Secretary adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act. The Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC) to govern the Pacific halibut catch in their corresponding U.S. Convention waters.

Since 1988, NMFS has implemented annual Catch Sharing Plans that allocate the IPHC Regulatory Area 2A Pacific halibut catch limit between treaty Indian and non-Indian harvesters, and among non-Indian commercial and sport fisheries. The Pacific Fishery Management Council (Council) develops Catch Sharing Plans in accordance with the Halibut Act. In 1995, the Council recommended, and NMFS implemented a long-term Area 2A Catch Sharing Plan (60 FR 14651; March 20, 1995). NMFS has been implementing adjustments to the Area 2A Catch Sharing Plan based on Council recommendations each year to address the changing needs of these fisheries.

For 2018, the Council recommended minor modifications to sport fisheries to better match the needs of the fishery, and changes to the incidental retention of halibut in the sablefish fishery. On January 30, 2018, NMFS published a proposed rule to approve the Council's recommended changes to the 2018 Catch Sharing Plan and recreational management measures for Area 2A (83 FR 4175). In the Area 2A proposed rule, NMFS also proposed changing the codified regulations to make them consistent with the current allocation threshold for incidental halibut caught in the sablefish fishery. This final rule includes these components of the proposed rule, as well as dates for the sport fisheries based on dates submitted by the states of California and Oregon following publication of the proposed rule (see Comments and Responses section).

In past years, NMFS has published the catch limits for the IPHC's Regulatory Areas, which were included in the IPHC's annual regulations. The IPHC did not reach consensus on 2018 Pacific halibut catch limits for any of the IPHC Regulatory Areas at its annual meeting held January 22–26, 2018. NMFS is implementing 2018 catch limits for all U.S. IPHC Regulatory Areas in separate rulemakings. Specifically, this final rule will implement Area 2A subarea allocations within the annual management measures that are based on the catch limits described in a separate

interim final rule for Area 2A and the framework set forth in the Catch Sharing Plan published elsewhere in this same issue of the **Federal Register**. The IPHC did reach agreement on annual regulations for matters other than the catch limits. On February 26, 2018, the Secretary of State, with the concurrence of the Secretary of Commerce, accepted the 2018 IPHC regulations. NMFS published a final rule to implement the 2018 management measures and season dates for all IPHC Regulatory Areas on March 9, 2018 (83 FR 10390).

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

The 2018 Area 2A Catch Sharing Plan allows incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, WA, when the Washington recreational TAC is 224,110 lb (101.7 mt) or greater, provided that a minimum of 10,000 lb (4.5 mt) is available. Because the IPHC was not able to reach consensus on an Area 2A catch limit for 2018, NMFS determined the catch limit, as described in a concurrent interim final rule published elsewhere in this same issue of the **Federal Register**. The Area 2A catch limit is great enough to allow the full allocation of 50,000 pounds for incidental halibut retention in the sablefish primary fishery. NMFS intends to publish the incidental halibut landing restrictions for the sablefish fishery in the **Federal Register** as an inseason action by April 1, 2018, or as soon as possible thereafter.

*2018 Sport Fishery Management Measures*

The sport fishing regulations for Area 2A, included in section 27 (referring to the relevant section of the IPHC regulations) below, are consistent with the measures adopted by the IPHC and approved by the Secretary of State, but were developed by the Council and promulgated by the United States under the Halibut Act. Section 27 corresponds to the numbering in the IPHC regulations published on March 9, 2018 (83 FR 10390).<sup>1</sup> The changes to the Catch Sharing Plan are published in the **Federal Register**, but are not codified in the Code of Federal Regulations.

In section 27 of the annual domestic management measures, "Sport Fishing for Halibut—IPHC Regulatory Area 2A"

<sup>1</sup> In the proposed rule (83 FR 4175, Jan. 30, 2018), sport fishing regulations were listed under section 26, corresponding to the 2017 IPHC regulations (82 FR 12730, Mar. 7, 2017). Area 2A sport fishing regulations have been updated to section 27 in this final rule following publication of IPHC regulations for 2018.

paragraph (8) is revised to read as follows:

(8) \* \* \*

(a) The quota for the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N lat., 124°23.70' W long., north to 48°24.10' N lat., 124°23.70' W long., is 60,995 pounds.

(i) The fishing seasons are:

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

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

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N lat.) (North Coast subarea), is 111,632 pounds.

(i) The fishing seasons are:

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

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

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing with recreational gear in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at 50 CFR 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N lat.), and Leadbetter

Point, WA (46°38.17' N lat.) (South Coast subarea), is 46,341 pounds.

(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: 44,341 pounds for the primary fishery and 2,000 pounds to the nearshore fishery. Depending on available quota, the primary fishery season dates are May 11, 13, 25, and 27; June 7, 9, 16, 21, 23, 28, and 30, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed unless the date is announced on the NMFS hotline. The fishing season in the nearshore area commences the Saturday subsequent to the closure of the primary fishery, and continues 7 days per week until 46,341 pounds is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

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

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

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear

within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(d). The Westport Offshore YRCA is defined at 50 CFR 660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N lat.), and Cape Falcon, OR (45°46.00' N lat.) (Columbia River subarea), is 11,682 pounds.

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 500 pounds of the subarea allocation. The nearshore fishery extends from Leadbetter Point (46°38.17' N lat., 124°15.88' W long.) to the Columbia River (46°16.00' N lat., 124°15.88' W long.) by connecting the following coordinates in Washington 46°38.17' N lat., 124°15.88' W long. 46°16.00' N lat., 124°15.88' W long. and connecting to the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens May 7, and continues on Monday, Tuesday, and Wednesday each week until the nearshore allocation is taken, or September 30, whichever is earlier. The all-depth fishing season commences on May 3, and continues on Thursday, Friday and Sunday each week until 11,182 pounds are estimated to have been taken and the season is closed by the Commission, or September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

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

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed when halibut are on board the vessel, except sablefish, Pacific cod, flatfish species, and lingcod caught north of the Washington-Oregon border during the month of May, when allowed by Pacific Coast groundfish regulations,

during days open to the all-depth fishery only.

(iv) Taking, retaining, possessing, or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N lat.) and Humberg Mountain (42°40.50' N lat.) (Oregon Central Coast subarea), is 215,463 pounds.

(i) The fishing seasons are:

(A) The first season (the "inside 40-fm" fishery) commences June 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon "inside 40-fm" fishery of 25,856 pounds, 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 May 10, 11, 12; 24, 25, 26; June 7, 8, 9; and 21, 22, 23. The allocation to the all-depth fishery is 135,742 pounds. If sufficient unharvested quota remains for additional fishing days, the season will re-open July 5, 6, 7; and 19, 20, 21. Notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) If sufficient unharvested quota remains, the third season (summer season), which is for the "all-depth" fishery, will be open August 3, 4; 17, 18; 31; September 1; 14, 15; 28, 29; October 12, 13; and 26, 27; or until the combined spring season and summer season quotas in the area between Cape Falcon and Humberg Mountain, OR, are estimated to have been taken and the area is closed by the Commission. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every other Friday and Saturday,

beginning August 3 and 4 and ending when there is insufficient quota remaining, whichever is earlier. If after September 1, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 7 and 8, and ending October 31. After September 1, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

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

(iii) During days open to all-depth halibut fishing when the groundfish fishery is restricted by depth, no groundfish may be taken and retained, possessed or landed, when halibut are on board the vessel, except sablefish, Pacific cod, and flatfish species, when allowed by groundfish regulations, if halibut are onboard the vessel. During days open to all-depth halibut fishing when the groundfish fishery is open to all depths, any groundfish species permitted under the groundfish regulations may be retained, possessed or landed if halibut are on aboard the vessel. During days open to nearshore halibut fishing, flatfish species may be taken and retained seaward of the seasonal groundfish depths restrictions, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at § 660.70(f).

(f) The quota for landings into ports in the area south of Humberg Mountain, OR (42°40.50' N lat.) to the Oregon/California Border (42°00.00' N lat.) (Southern Oregon subarea) is 8,982 pounds.

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(iii) No Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish, Pacific cod, and flatfish species, in areas closed to groundfish, if halibut are on board the vessel.

(g) The quota for landings into ports south of the Oregon/California Border (42°00.00' N lat.) and along the California coast is 30,940 pounds.

(i) The fishing season will be open May 1 through June 15, July 1 through July 15, August 1 through August 15, and September 1 through October 31, or until the subarea quota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. NMFS will announce any closure by the Commission on the NMFS hotline (206) 526-6667 or (800) 662-9825.

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

#### Comments and Responses

NMFS accepted public comments on the Council's recommended modifications to the 2018 Area 2A Catch Sharing Plan and the resulting proposed domestic fishing regulations through March 1, 2018. NMFS also accepted comments regarding the 2018 catch limit for Area 2A, since the IPHC did not come to an agreement on catch limits for the IPHC Regulatory Areas at its annual meeting. NMFS responded to public comments on the Area 2A catch limits in the concurrent interim final rule published elsewhere in this same issue of the **Federal Register**.

*Comment 1:* Oregon Department of Fish and Wildlife (ODFW) submitted a comment that included final recreational season dates for the 2018 season. ODFW held a public meeting and hosted an online survey following the IPHC annual meeting. Based on public comments received on Oregon halibut fisheries, ODFW recommended the following days for the Spring fishery in the Central Oregon Coast subarea, within this subarea's parameters for a Thursday-Saturday season and with weeks of adverse tidal conditions skipped: Regular open days May 10, 11, 12; 24, 25, 26; June 7, 8, 9; and 21, 22, 23. Recommended backup dates for the

Spring fishery are July 5, 6, 7; and 19, 20, 21. For the summer all-depth fishery in this subarea, ODFW recommended following the Area 2A Catch Sharing Plan'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 Catch Sharing Plan. Therefore, the ODFW recommended the 2018 summer all-depth fishery in Oregon's Central Coast Subarea to occur: August 3, 4; 17, 18; 31; September 1; 14, 15; 28, 29; October 12, 13; and 26, 27; or until the total 2018 all-depth quota for the subarea has been attained.

*Response:* NMFS concurs that the ODFW-recommended season dates are appropriate, and has updated the Oregon Central Coast sport fishery season dates in this final rule.

*Comment 2:* California Department of Fish and Wildlife (CDFW) submitted a comment recommending final recreational fishing season dates for the 2018 season. Based on public comment and fishing performance in recent years, CDFW recommended season dates of May 1–June 15, July 1–July 15, August 1–August 15, and September 1–October 31, or until quota has been attained, whichever comes first.

*Response:* NMFS concurs that the CDFW-recommended season dates are appropriate, and has updated California sport fishery season dates in this final rule.

*Comment 3:* Washington Department of Fish and Wildlife (WDFW) recommended adding a four fish Pacific halibut bag limit to the Catch Sharing Plan. This change was developed through the state and Council stakeholder process, and approved at the November 2017 Council meeting.

*Response:* Because of ambiguity in the proposed changes to the Catch Sharing Plan and regulations NMFS received, NMFS did not include the four fish bag limit in the Catch Sharing Plan or in the regulations in the proposed rule. To ensure that the Catch Sharing Plan is in place for the start of the 2018 fishing year, and because this proposed change was not clearly identified for the public in the proposed rule, NMFS will not include the Washington state bag limit in the Catch Sharing Plan or federal regulations for 2018. However, NMFS will work with Washington as necessary to implement the bag limits in state regulations, rather than in federal regulations.

#### *Changes From the Proposed Rule*

NMFS implemented the total Area 2A catch limit of 1,190,000 pounds in a separate interim final rule published elsewhere in this same issue of the

**Federal Register**, and is publishing the Area 2A subarea allocations for the first time in this final rule, as the total Area 2A catch limit was not available when the proposed rule was published. The allocations in this rule are consistent with the 2018 Area 2A Catch Sharing Plan as recommended by the Council. In addition, NMFS included CDFW and ODFW's recommended season dates (as described in the Comments and Responses section) in this final rule.

#### **Classification**

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Council, the North Pacific Fishery Management Council, and the Secretary. Section 5 of the Halibut Act (16 U.S.C. 773c) provides the Secretary with the general responsibility to carry out the Halibut Convention between Canada and the United States for the management of Pacific halibut, including the authority to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and the Halibut Act. This action is consistent with the Secretary's authority under the Halibut Act.

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

This final rule is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

This final rule does not contain policies with federalism or "takings" implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective on March 24, 2018, in time for the start of incidental Pacific halibut fisheries, pursuant to 5 U.S.C. 553(d)(3). The 2018 Catch Sharing Plan provides the framework for the annual management measures and subarea allocations based on the 2018 Area 2A catch limit for Pacific halibut. This rule would implement a change to the Catch Sharing Plan allocation for the sablefish primary fishery, which starts on April 1, 2018.

Allowing the 2017 measures to remain in place could harm the halibut stock because those measures are based on the 2017 catch limit for Area 2A, which does not reflect the most current scientific information. The 2018 Area 2A catch limit is lower than the 2017 catch limit. Because of the overall reduction in the 2018 Area 2A catch limit, halibut allocations for all of the halibut fisheries in Area 2A are reduced

in 2018 compared to 2017. Maintaining the 2017 Catch Sharing Plan and management measures could necessitate management changes later in the year to prevent exceeding the lower 2018 allocations once the 2018 Catch Sharing Plan is effective. Those management changes may reduce revenue for fishery participants by causing them to curtail effort or change business plans. For all of these reasons, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities by reducing fishing opportunity later in the year to keep catch within the lower 2018 allocations, or could result in halibut catch greater than the level supported by best available scientific information. To prevent the potential harm to the halibut stock and fishing communities that could result from delaying the effectiveness of this final rule, NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make this rule effective on March 24, 2018.

#### **Final Regulatory Flexibility Analysis**

Section 604 of the RFA, 5 U.S.C. 604, requires Federal agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for each final rule. The FRFA describes the economic impact of this action on small entities. The FRFA includes a summary of significant issues raised by public comments, the analyses contained in the accompanying Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA), the IRFA summary in the proposed rule, as well as the summary provided below. A statement of the necessity for, and the objectives of this action are contained in proposed rule and in the preamble to this final rule, and is not repeated here. A copy of the FRFA is available on request (see **ADDRESSES**), and a summary of the FRFA is provided below.

#### *A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments*

There were no issues raised about the IRFA in the public comments.

#### *Description and Estimate of the Number of Small Entities to Which the Rule Applies*

The SBA defines a small business as one that is:

- Independently owned and operated;
- Not dominant in its field of operation;

- Has annual receipts that do not exceed—
  - \$20.5 million in the case of commercial finfish harvesting entities (NAIC<sup>2</sup> 114111);
  - \$5.5 million in the case of commercial shellfish harvesting entities (NAIC 114112);
  - \$7.5 million in the case of for-hire fishing entities (NAIC 114119); or
  - Has fewer than—
    - 750 employees in the case of fish processors; or
    - 100 employees in the case of fish dealers.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

This rule may affect some charterboat operations in Area 2A and participants in the incidental sablefish fishery off the coast of Washington. Previous analyses determined that charterboats and the non-treaty directed commercial fishing vessels are small businesses (see 77 FR 5477; February 3, 2012, and 76 FR 2876; January 18, 2011).

In 2017, 574 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: The 2A directed commercial fishery (192 licenses in 2017), the incidental fishery in the sablefish primary fishery in Area 2A (8 licenses in 2017), incidental halibut caught in the salmon troll fishery (222 licenses in 2017) and the charterboat fleet (136 licenses in 2017). A number of vessels were issued IPHC licenses for both the 2A directed commercial fishery and the incidental fishery in the sablefish primary fishery (16 licenses in 2017). These license estimates overstate the number of vessels that participate in the fishery. IPHC estimates that only half of the licensed vessels participated in the directed commercial fishery, 100 vessels participated in the incidental commercial (salmon) fishery, and 13 vessels participated in the incidental commercial (sablefish) fishery. Recent information on charterboat activity is not available, but prior analysis

indicated that 60 percent of the IPHC charterboat license holders may be affected by these regulations.

#### *Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements*

The changes to the Catch Sharing Plan and domestic management measures do not include any new reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations.

#### *Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes*

There were no significant alternatives to the final rule that would minimize any significant impact on small entities. The effects of the rule are minimal, and there are no other additional significant alternatives that would further minimize the impact of the rule on small entities while achieving the goals and objectives of the Convention and Halibut Act. The minor changes, including updates to sport fishery season dates, modification of the quota for incidental halibut in the sablefish fishery, and changes to the open days in the Columbia River subarea, were proposed by stakeholders and recommended by the Council to address the needs of the fishery. Commercial opportunities may be fewer with the incidental sablefish maximum allocation lowering to 50,000 pounds. However, even when the maximum of 70,000 pounds has been allocated, attainment greater than 50,000 pounds has not occurred since 2006. Reducing the number of open days in the Columbia River subarea from four open days (status quo—open Thursday through Sunday), to three open days (open Thursday, Friday, and Sunday), is expected to allow the season to stay open through the summer. Allowing the season to remain open for four days could result in the season ending at an earlier date, which would ultimately decrease sport fishing opportunities.

The changes to the Catch Sharing Plan are expected to slightly increase fishing opportunities in some areas at some times, and to slightly decrease fishing opportunities in other areas at other times. None of these changes are controversial, and none are expected to result in substantial environmental or economic impacts. These actions are intended to enhance the conservation of Pacific halibut, and to provide angler opportunity where available.

NMFS does not consider that the changes to the Catch Sharing Plan considered by the Council constituted significant alternatives, therefore NMFS did not analyze alternatives to those changes to the Catch Sharing Plan, other than the proposed changes and the status quo, for purposes of the FRFA. Effects of the status quo and the final changes are similar, because the changes to the Catch Sharing Plan for 2018 are not substantially different from the 2017 Catch Sharing Plan. For these reasons, the changes to the Catch Sharing Plan are not expected to have a significant economic impact.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Catch Sharing Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

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

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

**Authority:** 16 U.S.C. 951 *et seq.*, 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 5501 *et seq.*, 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

Dated: March 21, 2018.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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

<sup>2</sup>The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

**Subpart E—Pacific Halibut Fisheries**

■ 1. The authority citation for part 300, subpart E, continues to read as follows:

**Authority:** 16 U.S.C. 773–773k.

■ 2. In § 300.63, revise the introductory text of paragraph (b)(3) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(3) A portion of the Area 2A Washington recreational TAC is allocated as incidental catch in the sablefish primary fishery north of 46°53.30' N lat. (Pt. Chehalis, Washington), which is regulated under 50 CFR 660.231. This fishing opportunity is only available in years in which the Washington recreational TAC is 214, 110 lb (97.1 mt) or greater, provided that a minimum of 10,000 lb (4.5 mt) is available to the sablefish fishery. Each year that this harvest is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the

Pacific Fishery Management Council at its spring meetings, and will be published in the **Federal Register**. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings.

\* \* \* \* \*

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