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#### IV. Proposed Action

EPA is proposing to approve the changes to Regulation 1.11, *Control of Open Burning*, of the Jefferson County portion of the Kentucky SIP, submitted by the Commonwealth on May 30, 2023, for the reasons discussed above. The SIP revision updates the current SIP-approved version of Regulation 1.11 (Version 10) to Version 11.

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not proposing to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. EPA defines EJ as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The District did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for communities with EJ concerns.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: October 24, 2024.

**Jeaneanne Gettle,**

*Acting Regional Administrator, Region 4.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 300 and 679

[Docket No. 241025–0279]

RIN 0648–BN18

#### Fisheries of the Exclusive Economic Zone off Alaska; Pacific Halibut Recreational Quota Entity Program Fee Collection

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

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

**SUMMARY:** NMFS proposes regulations to require a charter halibut stamp (stamp) for charter vessel anglers, age 18 years or older, for each day and each trip they intend to catch and retain halibut on a charter vessel in International Pacific Halibut Commission (IPHC) regulatory area 2C (Southeast Alaska) and 3A (Southcentral Alaska). Persons who hold charter halibut permits (CHPs) would purchase stamps, which would be electronic, from NMFS. Charter vessel guides would be required to validate a stamp for each adult charter vessel angler intending to catch and retain halibut. NMFS would ultimately transfer the collected fees from the stamp purchases to the Recreational Quota Entity (RQE) to purchase halibut Quota Share (QS) issued in the Halibut and Sablefish Individual Fishing Quota (IFQ) Program on behalf of the charter halibut fishery. This proposed rule is necessary to promote stability and economic viability in the charter halibut fishery, and is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Northern Pacific Halibut Act of 1982 (Halibut Act), and other applicable laws.

**DATES:** Submit comments on or before December 2, 2024.

**ADDRESSES:** A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0099>. You may submit comments on this document,

identified by NOAA–NMFS–2024–0099, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2024–0099 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review (RIR), and the Categorical Exclusion prepared for this action are available from <https://www.regulations.gov> or from the NMFS Alaska Region website.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address and to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Kurt Iverson, 907–586–7228, [kurt.iverson@noaa.gov](mailto:kurt.iverson@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Authority for Action**

In December 2022, through the Consolidation Appropriations Act of 2023 (Pub. L. 117–328), the U.S. Congress (Congress) enacted the Driftnet Modernization and Bycatch Reduction Act. Public Law 117–328, 136 Stat. 4459, 5260–61 (Dec. 29, 2022). Section 106 of the Act authorizes the North Pacific Fishery Management Council (Council) to recommend, and the Secretary of Commerce to approve, “regulations necessary for the collection

of fees from charter vessel operators who guide recreational anglers who harvest Pacific halibut in IPHC regulatory areas 2C and 3A.” Under the Act, any fees collected shall be available for (1) financing administrative costs of the RQE Program; (2) the purchase of halibut QS in areas 2C and 3A by the RQE; (3) halibut conservation and research; and (4) promotion of the halibut resource by the RQE. This proposed rule would implement section 106 of the Act.

The IPHC and NMFS manage fishing for Pacific halibut (halibut, *Hippoglossus stenolepis*) through regulations established under authority of the Halibut Act. The IPHC adopts regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). For the United States, regulations developed by the IPHC are subject to acceptance by the Secretary of State with concurrence from the Secretary of Commerce. After acceptance by the Secretary of State and concurrence from the Secretary of Commerce, NMFS publishes notice of the efficacy of the IPHC regulations in the **Federal Register**. On March 18, 2024, NMFS published the IPHC regulations for the 2024 fishing year. IPHC regulations affecting sport fishing for halibut and vessels in the charter halibut fishery in IPHC regulatory areas 2C (Southeast Alaska) and 3A (South Central Alaska) may be found in that final rule (89 FR 19275, March 18, 2024).

Section 5 of the Halibut Act provide the Secretary of Commerce with general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary of Commerce is directed to consult with the Secretary of the department in which the U.S. Coast Guard is operating, which is currently the Department of Homeland Security.

The Halibut Act at 16 U.S.C. 773(c) also provides the Council with authority to develop regulations for waters off Alaska, including limited access regulations that are in addition to, and not in conflict with, approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary of Commerce. The Council

exercised this authority in the development of halibut fishery management measures, codified at 50 CFR 300.65 through 300.67 and part 600. The Council also developed the IFQ Program for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679. Management of halibut in the IFQ Program is authorized under section 5 of the Halibut Act.

#### **Background**

##### *The Halibut Fisheries in Alaska*

The harvest of halibut in Alaska occurs in three fisheries—the commercial, sport, and subsistence fisheries. The commercial halibut fishery is managed under the IFQ Program that assigns catch shares to qualified persons as described at 50 CFR 300.65. Sport fishing for halibut in IPHC regulatory areas 2C and 3A are subject to different regulations, depending on whether those activities are guided (i.e., charter) or unguided. The subsistence halibut fishery is a non-commercial fishery that provides opportunities for customary and traditional use of halibut to Alaska rural residents and members of qualified Alaska Native Tribes, as described at 50 CFR 300.65.

The following sections of the preamble summarize charter halibut fishery management and aspects of the commercial halibut IFQ fishery that are relevant for the proposed RQE Program fee collection.

##### *Charter Halibut Fishery*

Charter fishing is subject to restrictions under Federal regulations that are generally more restrictive than the regulations applicable to unguided anglers. Charter fishery regulations apply if a charter vessel guide is providing sport fishing guide services for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. Throughout this preamble, the terms “charter fishery”, “charter vessel operator”, “charter vessel”, “charter vessel angler”, “sport fishing guide services” and “charter vessel guide” refer to the guided sport fishery for halibut in Alaska. Unguided anglers typically use their own vessels and equipment, or they may rent a vessel and fish with no assistance from a charter vessel guide.

Over the years, NMFS has developed specific management programs for the charter fishery to achieve allocation and conservation objectives. NMFS has

developed these programs with the intent of maintaining stability and economic viability in the charter fishery. The first major action was the Charter Halibut Limited Access Plan (CHLAP), which established limits on the number of charter vessel operators beginning in 2011. Three years later, NMFS implemented the halibut Catch Sharing Plan (CSP). The CSP established annual halibut allocations to the charter and commercial fisheries that vary with abundance. It also developed a process for determining annual management measures to limit charter harvest to the annual halibut allocations in IPHC areas 2C and 3A. The CHLAP and the CSP are summarized below.

#### *Charter Halibut Limited Access Program*

NMFS promulgated the CHLAP in January 2010 (75 FR 554, January 5, 2010). The CHLAP established Federal CHPs which have been required for charter vessel guides in the charter halibut fishery in IPHC regulatory areas 2C and 3A since 2011. The CHLAP is intended to provide stability in the charter fishery by limiting the number of charter vessels operating in areas 2C and 3A. The CHLAP also issues a limited number of community charter halibut permits to Community Quota Entities (CQE), which are non-profit corporations representing specified rural communities, and Military charter halibut permits to the U.S. Military Morale, Welfare, and Recreation (MWR) program for its service members. In total, for all types of CHPs, NMFS has issued 1,066 CHPs: 578 in for area 2C and 488 for area 3A.

Since implementation of the CHLAP, all charter vessel guides and charter vessel operators in areas 2C and 3A with charter vessel anglers on board must have an original, valid CHP on board during charter vessel fishing trips on which halibut are caught and retained. CHPs are endorsed for a specific IPHC regulatory area (area 2C or 3A) and the maximum number of charter vessel anglers that may catch and retain halibut on a charter vessel fishing trip. Charter vessel angler endorsements on CHPs range from 4 to 38 anglers.

CHPs were issued as either transferable or non-transferable permits, depending on the level of participation of the license applicant during the qualifying years for the specific IPHC regulatory area (area 2C or 3A). Non-transferable permits are intended to be phased out when the individual or entity that was issued the permit no longer participates in the charter fishery. Approximately 25 percent of the CHPs issued in the combined areas are non-transferable.

CHPs may be used by persons other than the permanent holder (*i.e.*, owner) of the CHP. Most commonly, this occurs when a CHP is used by a charter vessel guide who is an employee of the holder of the CHP. This is common at sport fishing lodges which use multiple boats, fishing guides, and CHPs. In other cases, a CHP may be temporarily leased, where the holder of the CHP is compensated by another party for the use of the permit. Due to this flexibility, and to ensure that non-transferable CHPs are correctly phased-out, a CHP holder must register their CHP(s) each calendar year to be valid.

Additional details on the development and rationale for the CHLAP can be found in the proposed rule for the CHLAP (74 FR 18178, April 21, 2009).

#### *Catch Sharing Plan for IPHC Regulatory Areas 2C and 3A*

NMFS implemented the CSP in January 2014 (78 FR 75844, December 12, 2013). The CSP replaced a Guideline Harvest Level that was in place from 2004 through 2013 for managing the charter fisheries in areas 2C and 3A. Under the CSP, a combined catch limit for areas 2C and 3A is divided into separate allocations for the commercial IFQ fisheries and the charter fisheries, pursuant to the CSP's allocation formulas. The CSP is intended to balance the differing needs of the commercial and charter fisheries over a wide range of halibut abundance. Additional detail on the development and rationale for the CSP can be found in the preamble for the CSP proposed rule (78 FR 39122, June 28, 2013), and in the final rule implementing the CSP (78 FR 75844, December 12, 2013).

#### *Commercial Individual Fishing Quota Fishery*

The commercial halibut fishery off Alaska is also commonly referred to as the "directed halibut fishery." Both the commercial halibut and sablefish fisheries off Alaska are managed under the IFQ Program, which was implemented in 1993 (58 FR 59375, November 9, 1993). The IFQ Program limits access to the commercial directed halibut fishery to those persons holding halibut QS in specific management areas. Halibut QS provides individual harvesting privileges that are allocated on an annual basis through the issuance of IFQ permits. Quota shares are classified by regulatory area and in one of four vessel size classes. Additionally, to constrain consolidation, QS were initially issued as either blocked or unblocked units. Persons received their QS in a block if their QS would have

resulted in less than 20,000 pounds of IFQ at initial allocation in 1994. Blocked QS must be sold as a unit, and cannot be separated. No person may hold more than three blocks of halibut QS in any IFQ regulatory area.

The specific amount of IFQ (in net pounds) is determined annually for each IFQ permit holder in a regulatory area by the number of QS units the person holds, the total number of QS units issued in the area, and the total pounds of halibut allocated to the directed commercial fishery. Therefore, if the abundance of halibut decreases, the catch limit will decrease and, subsequently, the number of pounds on a person's annual IFQ permit also will decrease.

Regulations allow QS to be transferred among initial recipients and to other individuals meeting specific eligibility requirements. When the initial RQE Program rules became effective in 2018 (83 FR 47819, September 21, 2018), the RQE became eligible to receive commercial halibut QS in IPHC regulatory area 2C or 3A by transfer.

#### *Process for Setting Annual Management Measures*

The CSP also describes a public process by which the Council develops recommendations to the IPHC for charter fishing regulations (annual management measures) that are intended to keep the charter fishery harvest within the allocations established for IPHC regulatory areas 2C and 3A.

Each October, the Council's Charter Halibut Management Committee (Charter Committee) reviews charter harvest in areas 2C and 3A during the current year in relation to the charter halibut catch limit. Staff from the Alaska Department of Fish and Game (ADF&G) provide an analysis and background information used to predict charter halibut harvest for the upcoming year under a range of alternative management measures. These measures may include those that would directly restrict the number or size of halibut that may be retained (*e.g.*, daily bag limits, trip limits, annual limits, and size limits), as well as measures that would indirectly restrict the number of halibut that may be retained (*e.g.*, day closures, limits on the number of charter vessel trips a charter vessel may make, or a prohibition on harvest by charter vessel operators, charter vessel guides, and crew members). After reviewing this analysis, the Charter Committee makes specific recommendations on possible management measures for areas 2C and 3A to be analyzed for the coming year.

Each December, the Charter Committee and the Council review the completed analysis. The Council considers the recommendations of the Charter Committee and also solicits public comments on the management measures. Ultimately, the Council selects management measures to recommend to the IPHC to keep charter harvests to within the charter fishery allocations in the respective regulatory areas.

At its annual meeting each January, the IPHC establishes coast wide and regulatory area mortality limits, which include mortality from all sources. This IPHC process also includes adopting allocation schemes for domestic catch sharing plans that have been developed by the respective contracting parties to the IPHC. Included in this process are the IPHC's consideration of the CSP commercial and charter allocations in areas 2C and 3A. Along with the CSP allocations, the IPHC also reviews the charter halibut management measures recommended by the Council for areas 2C and 3A, and adopts regulations designed to keep charter halibut harvests within their annual allocations in the respective areas. Once accepted by the Secretary of State, with the concurrence of the Secretary of Commerce, NMFS publishes in the **Federal Register** the charter halibut management measures for each area as part of its annual management measures.

#### *Examples of Charter Halibut Annual Management Measures*

As noted above, sport fishing for halibut in areas 2C and 3A is subject to different regulations, depending on whether those activities are guided (*i.e.*, charter) or unguided. Charter sport fishing regulations are generally more restrictive than the regulations for unguided anglers. While the unguided halibut daily bag limit regulations have remained unchanged for many years and allow two halibut of any size per day to be retained, the annual charter regulations are determined by an analysis of the performance of previous years' charter regulations combined with predictions of charter angling effort for the upcoming year. The Charter Committee seeks to balance effective harvest restrictions with mitigating economic harm, by recommending rules that reflect the differing halibut allocations for and angler effort in area 2C and area 3A, respectively, and that will be equitable across the many different charter business models in area 2C and area 3A.

For example, in area 2C, charter vessel anglers have been restricted to

harvesting a bag limit of one halibut per person, per day since 2009. A daily bag limit is the maximum number of halibut a person may retain in any calendar day. The initial implementation of a one-halibut daily bag limit was intended to keep charter fishery harvests to approximately the amount of the Guideline Harvest Level; then, after 2014, to stay within the allocations established under the CSP. Over the years, in addition to the one-fish daily bag limit, area 2C management measures have included limits on the maximum number of fishing lines that may be deployed from a charter vessel, day of the week closures, and reverse slot limits that allow charter vessel anglers to retain halibut that are either below or above a specific size range.

In area 3A, a 2-fish daily bag limit with no size limits was maintained during the Guideline Harvest Level years and has been maintained under the CSP. However, after the CSP became effective in 2014, the area 3A management measures have also employed other restrictions. These measures have included a maximum size limit on one of the two retained halibut, a 4-fish annual limit for each charter vessel angler, closures to halibut retention on specific days of the week, a limit of only 1 charter vessel fishing trip per day per charter vessel, and a limit of 1 charter vessel fishing trip in which halibut are caught and retained per day for a CHP.

As halibut abundance has decreased over the last 10 years, and management measures have generally become more restrictive in the charter halibut fishery, this has led to the development of four programs to allow interested CHP holders to harvest additional fish to meet their business needs. These four programs are discussed below.

#### *Guided Angler Fish Program*

As part of the 2014 CSP, NMFS implemented the Guided Angler Fish (GAF) Program to authorize limited annual transfers of commercial halibut IFQ as GAF to qualified CHP holders. Using GAF, qualified CHP holders who are issued a GAF permit may offer charter vessel anglers the opportunity to retain halibut up to the limit for unguided anglers when charter management measures limit charter vessel anglers to a more restrictive harvest limit. For example, if charter management regulations in area 2C restrict charter vessel anglers to a 1-halibut daily bag limit, a charter vessel angler could use GAF to retain a second halibut, bringing the angler's total retained amount to 2 halibut—the same

daily bag limit that applies to unguided anglers.

NMFS issues GAF in whole numbers of halibut based on a conversion factor from IFQ pounds. Conversion factors are based on the average net weights of GAF harvested in the applicable IPHC regulatory area (area 2C or 3A) during the previous year. Average weight is determined from data that charter vessel guides report directly to NMFS.

The GAF Program has three restrictions on GAF transfers. First, IFQ holders in area 2C are limited to transferring up to 1,500 pounds or 10 percent, whichever is greater, of their initially-issued halibut IFQ for use as GAF. In area 3A, IFQ holders may transfer up to 1,500 pounds or 15 percent, whichever is greater, of their initially-issued halibut IFQ for use as GAF. Second, no more than 400 GAF will be assigned during 1 year to a GAF permit assigned to a holder of a CHP that is endorsed for 6 or fewer anglers. Third, no more than a total of 600 GAF will be assigned during 1 year to a GAF permit assigned to a holder of a CHP endorsed for more than 6 anglers. The restrictions on transfers of GAF are intended to prevent a particular individual, corporation, or other entity from acquiring an excessive share of halibut fishing privileges as GAF.

The GAF Program is described in more detail in the proposed rule for the CSP (78 FR 39122, June 28, 2013).

#### *Community Quota Entity Program*

In 2004, the Council revised the IFQ Program to allow a distinct set of 46 remote Alaska coastal communities to form non-profit CQEs to purchase and hold catcher vessel halibut and sablefish QS in areas 2C, 3A, and 3B (69 FR 23681, April 30, 2004). That action was implemented to help promote access and sustained participation by those communities in the commercial halibut and sablefish fisheries. The IFQ resulting from the QS held by CQEs must be leased (*i.e.*, made available for fishing) to community residents annually. Currently, 28 communities have formed CQEs and have applied for and been approved to obtain QS by transfer. Of those 28 CQEs, four have purchased QS.

CQEs may also apply to NMFS to participate in the charter halibut fishery either by purchasing CHPs, or by being granted community charter halibut permits, which are similar to CHPs but are available only to CQEs. To date, NMFS has issued 48 community charter halibut permits for area 2C and 63 community charter halibut permits for area 3A to CQEs. Charter vessel anglers on vessels using community charter

halibut permits are subject to the same annual management measures and other regulations as other CHP holders.

#### *Military Morale, Welfare, and Recreation Program*

In addition to granting community charter halibut permits to CQEs, as noted above, the CHLAP also granted CHPs to charter vessels operated by any MWR program in Alaska. To operate a charter vessel, the MWR program must apply to NMFS to obtain a special military charter halibut permit. Each military charter halibut permit is non-transferable and valid only in the regulatory area designated on the permit. Currently the Alaska MWR program has been issued seven military charter halibut permits. Similar to the community charter halibut permits issued to CQEs, the military charter halibut permits are also subject to the same annual management measures and other regulations as other CHP holders.

#### *Recreational Quota Entity Program*

The RQE Program was established in 2018 as part of the IFQ Program in IPHC regulatory areas 2C and 3A. The program allows the RQE designated by NMFS to purchase and hold a limited amount of commercial halibut QS that would yield pounds of Recreational Fishing Quota (RFQ). RFQ is the pounds of halibut issued to a RQE on an annual basis to supplement the amount of halibut available for harvest in the charter halibut fishery (83 FR 47819, September 21, 2018). The RQE Program therefore provides a mechanism for compensated reallocation of a portion of commercial halibut QS to the charter fishery, which may result in less restrictive annual management measures for the charter fishery.

RQE regulations at § 679.42(f) establish limits on the amount of QS that the RQE can receive by transfer annually and hold in total. Additionally, the sum of QS held by the RQE, plus the QS associated with the charter halibut GAF program, may not exceed the total QS holding or use limits allowed in area 2C or 3A, respectively. RQE regulations at § 679.42(f) also limit the specific types of QS that the RQE may purchase. In general, the RQE is prohibited from purchasing smaller commercial holdings (*i.e.*, “blocks”) of commercial QS as well as QS that is assigned to smaller vessels (*e.g.*, QS assigned to vessel category D).

RQE regulations at § 679.40(c) call for a redistribution of QS under circumstances when the RQE might hold “excess” QS. If the RQE holds an amount of QS that allows charter vessel

anglers to harvest a daily limit of two halibut of any size in a regulatory area, then any poundage the RQE holds over that amount must be temporarily (for that fishing year) redistributed from the RQE back to the commercial fishery. Fifty percent of the redistributed poundage would be assigned to qualifying CQEs in the affected regulatory area (area 2C or area 3A), and the remaining 50 percent would be assigned to catcher vessel QS holders in the applicable area who hold relatively small amounts of QS; specifically, persons who hold not more than 32,333 QS units in area 2C, or 47,469 QS units in area 3A (the equivalent of 2,000 pounds of IFQ in the respective areas in 2015).

RQE regulations at § 679.41(g)(10)(iv) also allow the RQE to transfer its QS back to persons in the commercial halibut sector. This feature of the program requires that QS transferred to the RQE must retain its original vessel category and block designation.

The RQE is responsible for paying the IFQ fee liability for all RFQ issued to the RQE under regulations at § 679.45(a)(2). NMFS calculates the fee based on the RFQ pounds issued to the RQE and the IFQ standard ex-vessel value. To date, NMFS has not calculated an IFQ fee liability for the RQE because NMFS has not issued any RFQ.

RQE Program regulations at §§ 679.5 and 679.41(g) provide monitoring and transparency provisions. The RQE must maintain its non-profit and tax-exempt status and if the RQE entity does not do so, NMFS would not issue RFQ to the RQE. The RQE is also required to file an annual report with the Council by January 31 to provide details on its administration and business operations for each year it holds QS. This report allows the Council and NMFS to track the RQE’s development and activities to provide transparency and accountability. The RQE is required to include the following general information in its annual report: (1) any changes to the bylaws, board of directors, or other key management personnel of the RQE during the preceding year; (2) amounts and descriptions of the RQE’s annual administrative expenses; (3) amounts and descriptions of funds the RQE spent on conservation, research, and promotion of the halibut resource and a summary of the results of those expenditures; and (4) amounts and descriptions of all other RQE expenses. Additionally, the RQE is required to submit the following information in its report by regulatory area: (1) the total amount of halibut QS by vessel category and block held by the RQE at the start

of the calendar year, on October 1, and at the end of the calendar year; (2) a list of all transfers (purchases, sales, and any other transfers) of halibut QS, including transaction prices if applicable; and (3) the number of CHPs and associated charter vessel angler endorsements purchased and held by the RQE.

If the RQE holds QS in the previous year and has not submitted a timely and complete annual report by the January 31 deadline, NMFS would not approve any QS transfer nor issue any RFQ until the RQE submits the report. The RQE must submit the annual report to both the Council and to NMFS.

In March 2020, NMFS approved the application of the Catch Accounting Through Compensated Halibut (CATCH) Association to serve as the RQE. CATCH is currently eligible to purchase and permanently hold halibut QS, but to date, CATCH has not received any halibut QS transfers. More details on the RQE Program is provided in the RQE Program proposed (82 FR 46016, October 3, 2017) and final rules (83 FR 47819, September 21, 2018).

#### **Purpose and Need for This Proposed Rule**

During the development of the RQE Program, the Council did not recommend a specific means to fund the RQE’s purchase of commercial halibut QS or to pay for other RQE expenses because NMFS did not have the statutory authority to develop such rules. Under existing regulations, the RQE could administer its own means of generating funds to purchase commercial halibut QS. However, the RQE has not done so because the current regulations do not allow CHP holders or their charter vessel anglers who do not contribute to the RQE to be excluded from accessing the additional pounds of halibut available through RQE halibut QS holdings. Without an enforceable mechanism requiring all CHP holders to contribute money to the RQE, there would likely be charter fishing businesses that would benefit from, but not contribute to, the expenses of the RQE.

Based on the above findings, the Council agreed that a regulatory program would be necessary to establish a fee imposed on all CHP holders to fund RQE QS purchases. From 2019 through 2022, Congress considered legislation that would grant NMFS authority to establish such a program. As Congress developed this legislation, the Council simultaneously began the analytical process to examine the administrative requirements necessary

to implement an RQE Program fee collection.

As the Council analyzed alternatives for an RQE Program fee collection, the Council stated that its principal objective was to complete the development of the RQE Program so that it is fully functional. The Council indicated that would require the RQE to have access to sufficient funds to purchase meaningful amounts of commercial halibut QS and that enforceable rules would be necessary to establish a fee collection system that was fair and reasonable to all participants. A functioning RQE Program is intended to promote long-term efficiency in the use of the halibut resource by allowing compensated transfers of QS between commercial QS holders and the charter fishery, through the RQE, under a “willing buyer and willing seller” approach.

The Council, in April 2022, recommended to the Secretary a stamp program to fund the RQE as its preferred alternative. The program would require a stamp for anglers to sport fish from charter vessels, and the fees from selling the stamps would fund the RQE’s purchase of halibut QS. Part of the Council’s rationale for recommending a stamp as a funding mechanism for the RQE to the Secretary is that it would achieve equity among CHP holders (*i.e.*, charter fishing businesses would pay fees that are proportional to the number of charter vessel anglers that the business serves). Additionally, the Council noted that the stamp concept is used to access other fishing and hunting opportunities and should be familiar to sport fishing anglers, and therefore may increase acceptance of the fee.

As noted above, the Driftnet Modernization and Bycatch Reduction Act authorizes the Council to recommend, and the Secretary of Commerce to approve, regulations that would collect fees from CHP holders to provide funding to the RQE. NMFS developed these regulations and the necessary mechanisms to implement the RQE Program fee collection. In October 2024, the Council modified its recommendations from April 2022 to address NMFS’ specific recommended revisions to the earlier motion to clarify a simple and secure method of fee collection and adopt a single fee for halibut stamps instead of a tiered fee approach. Both changes maintain the overall intent for the program. These October 2024 recommendations are incorporated into this proposed rule and are discussed further below.

## This Proposed Rule

### *Summary of the Proposed Rule*

NMFS proposes regulations that would require a stamp for all charter vessel anglers 18 years of age or older for each calendar day they intend to catch and retain halibut on a charter vessel in IPHC regulatory areas 2C and 3A. The proposed fee for the daily stamp would be \$20.00. The proposed regulations specify that the stamps would be obtained from NMFS and paid for by CHP holders who also hold a valid registration with ADF&G to provide sport fishing guide services in Alaska on saltwater. All CHP holders would be subject to these regulations, including CQEs and MWR programs holding any type of CHP. The stamps would be electronic. CHP holders would be able to log in to their CHP holder account to purchase stamps at any time and in any quantity. After the CHP holder purchases the stamps, they would be held in secure, individual CHP holder accounts that would be maintained by NMFS. Stamps would reside in the account indefinitely until they are debited by the stamp validation process discussed below.

NMFS proposes that charter vessel guides, as defined at § 300.61, would be responsible for the validation of the stamps. Stamp validation means the action of the charter vessel guide to record the number of stamps that are required for a particular charter vessel fishing trip in the ADF&G saltwater charter logbook (ADF&G logbook). Validation would occur on ADF&G logbooks before each charter vessel fishing trip begins. A charter vessel guide will need to validate one stamp for each angler on board the charter vessel who intends to catch and retain halibut on that day. Current ADF&G regulations require charter vessel guides to upload or otherwise send their completed ADF&G logbook information to ADF&G on a regular schedule. The stamp validation information uploaded from ADF&G logbooks would be shared with NMFS. NMFS would compare stamp validation information from the ADF&G logbook with the individual CHP holder accounts. In this way, CHP holder accounts would contain a record of stamp purchases and validations. For example, if a logbook indicated that a total of 5 charter halibut stamps were required for a given trip, NMFS would look to the CHP holder’s account to verify that 5 stamps had been purchased to cover the stamps that were indicated as validated in the ADF&G logbook. CHP holders would be responsible for maintaining their accounts so that

stamp validations do not exceed stamp purchases at the end of a fishing year.

NMFS would transfer the collected stamp fees to a specific fund in the Federal Treasury, currently referred to as the RQE Fund, which has been created by Congress. From this account, Congress may make the money available to NMFS, to be used for the four purposes as specified in the Driftnet Modernization and Bycatch Reduction Act and described above. For the promotion of the halibut resource and the purchase of IFQ shares in IPHC areas 2C and 3A, NMFS intends to issue funds to the RQE through periodic grants. NMFS will also finance the administrative costs of the RQE program and support the halibut conservation and research with monies collected from the program and transferred from the RQE Fund to NMFS.

### *Charter Halibut Stamp Accounts*

Under these proposed regulations, NMFS would administer the fee collection and issue stamps to CHP holders through a NMFS-approved system. Currently, NMFS maintains an online platform, eFish, that is accessed by Alaska fishery participants for a variety of purposes, including the annual registration of CHPs, recording the harvest of GAF, and paying business fishery fees. This platform is secure. NMFS intends to use this platform to allow CHP holders to create online accounts for purchasing stamps. The stamps would not be year-specific. If they are not used in a given fishing year, they would carry over to the next fishing year. Post-season reimbursement of purchased stamps would not be authorized. Further discussion on this subject is provided below.

Each CHP holder, who holds one or more CHPs, would be responsible for creating an eFish online account and ensuring that fees are paid for the stamps. All CHPs held by a CHP holder would be added to a single eFish account, allowing stamps to be used freely across all CHPs on that account. For military charter halibut permits, the MWR would be considered the CHP holder. For community charter halibut permits, the CQE would be considered the CHP holder. Stamps would remain in the account until they are validated and debited from the account (*i.e.*, until they are used). If the CHP is sold, the CHP holders would be held responsible for stamp validations that occurred during their respective periods of ownership. CHP holders would also be responsible for ensuring that the number of validated stamps from charter vessels that used their CHP does not exceed the number of stamps that

have been purchased in a given fishing year. In situations where a person holds more than one CHP, the stamp purchases and validations would be pooled across all of the person's CHPs. If an uncorrected deficit of stamps exists from the previous fishing year for one or more CHPs, all other associated CHPs in that eFish account would be considered delinquent as well.

CHPs are commonly leased, and the charter vessel guide who leases, or otherwise uses, the CHP may not be the person who holds (*i.e.*, owns) the CHP. NMFS proposes that the CHP holder would be the person responsible for ensuring that an adequate number of stamps has been purchased to cover the number of stamp validations that are made by any person who leases, or otherwise uses, the CHP. This is consistent with other NMFS regulations, such as cost recovery fees, where fees are required to access fishing rights, and those rights may be leased to other persons. For example, IFQ lessees are not liable for IFQ program fees. The QS holder/lessor is responsible for fee payment.

If the number of stamp validations exceeds the number of stamps purchased on a CHP holder account, under these proposed regulations NMFS would notify the CHP holders and give them the opportunity to reconcile the account payments prior to the annual fee payment deadline. Should a CHP holder disagree that their account reflects a purchase and validation imbalance, they would have the right to request a hearing and at such a hearing to present evidence to support their position. If NMFS ultimately determines that an account purchase and validation imbalance has not been reconciled for the previous fishing year, NMFS may suspend the use and transfer of any CHPs associated with the CHP holder account and may refer the issue to proper authorities for collection.

#### *Charter Stamp Transferability*

As discussed above, once purchased, the stamps would be linked to the eFish account of the CHP holder who purchased them. Stamps would not expire and, if they have not been validated by the end of the fishing year, they would roll over into the next fishing year. If a CHP is revoked or invalidated, the stamps would remain linked to the account that held that CHP. Should another valid CHP be transferred to the person, or entity, associated with that eFish account, the stamps would be available for use by the valid CHP.

NMFS considered, but decided against, allowing for the transfer and

reimbursement of purchased stamps. Given the purchase-as-needed flexibility built into the RQE Program fee collection, NMFS determined that allowing stamp transfers and reimbursements would serve limited purposes and materially increase the complexity and administrative costs associated with fee collection without proportionate benefits. The proposed RQE Program fee collection allows CHP holders to purchase stamps at any time during the season, allowing CHP holders to maintain an operable amount of stamps without the need to stockpile stamps. Additionally, CHP holders could reconcile stamp deficits prior to the end of the fishing year without penalty. If a CHP holder is uncertain of how many stamps they may need to use, or how much longer a non-transferable CHP is valid, they would be able to monitor their eFish CHP holder account and purchase stamps in small increments throughout the fishing year as needed. A surplus of stamps associated with a CHP that will not be used by the CHP holder in the foreseeable future, the CHP holder could enter into private business agreements and lease their CHP to deplete previously purchased stamps prior to the formal transfer of the CHP to a new holder.

#### *Intention To Catch and Retain Halibut*

NMFS proposes that charter vessel anglers who intend to catch and retain halibut must have a stamp assigned to them by the charter vessel guide, and that the stamp must be validated before the charter vessel begins a charter vessel fishing trip on a fishing day. The charter vessel guide is responsible for ensuring that each angler intending to catch and retain halibut has a validated stamp. The individual angler is, in contrast, not responsible for purchasing, possessing, or validating the stamp that is otherwise associated with the angler's intention to catch and retain halibut.

When considering what defines intent to catch and retain halibut, the Council's motion aligns with the ADF&G king salmon stamp, which is a requirement for Alaska anglers "who fish for king salmon." NMFS understands there may be charter vessel fishing trips where charter vessel anglers do not intend to retain a halibut; for example, the anglers may decide to fish for other bottom fish on a day when halibut retention is not allowed. In that case, a stamp would not be required. There may be other occasions when a charter vessel angler catches a halibut unintentionally (*e.g.*, while fishing for salmon). Under these circumstances, if the charter vessel angler was assigned a

stamp on that day prior to departing on the charter vessel fishing trip, they would be allowed to retain the halibut; otherwise, the halibut would have to be released.

#### *Age Limit on Requirement for Charter Halibut Stamps*

NMFS proposes to exempt charter vessel guides from validating stamps for youth anglers, specifically minors under Alaska State law. The rationale for requiring stamps be validated only for anglers 18 years or older is consistent with analogous State of Alaska licensing requirements that require a king salmon stamp for all anglers 18 years or older.

#### *Charter Halibut Stamp Validation*

NMFS proposes, requiring that stamps be validated before each charter vessel fishing trip begins, and that charter vessel guides would be responsible for the validation of the stamps. For a given charter vessel fishing trip, a stamp would be valid from the time that it is validated, Alaska local time, through 2400 on the calendar day for which it was validated, Alaska local time, and would not be transferable between charter vessel anglers nor allowed to be used on any other charter vessel fishing trip. For the purposes of stamps, a charter vessel fishing trip that spans multiple days would treat each calendar day as an individual charter vessel fishing trip, meaning that a stamp would need to be validated for each angler on each calendar day. In the case of a charter vessel angler who goes on multiple charter vessel fishing trips in one calendar day, a stamp would be required to be validated for that angler for each charter fishing trip.

A charter vessel fishing trip, as defined at § 300.61, begins with the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler. Federal regulations require charter vessel guides to enter the name and sport fishing license number of each charter vessel angler in the ADF&G logbooks their business was assigned before a trip begins. Charter vessel guides would use the ADF&G logbook to validate the number of stamps that are needed for that charter trip at that same time. Pre-trip validation would also be an enforcement feature in that it would prevent charter vessel guides from opportunistically validating stamps only when they anticipate being contacted by law enforcement. Currently, NOAA Office of Law Enforcement inspections of charter vessels routinely include an inspection of the charter vessel's ADF&G logbook. The presence or absence of validated stamps for each

charter vessel angler in the ADF&G logbooks would be an efficient, non-intrusive means to ensure compliance with stamp requirements.

#### *The Fee for Charter Halibut Stamps*

After soliciting comments in a public outreach process, and analyzing tiered fees more closely, NMFS and the Council recommended a single, \$20.00 fee. The \$20.00 fee would apply to each day that a stamp is required for a charter vessel angler who intends to catch and retain halibut. The \$20.00 fee is expected to provide the RQE Program with meaningful funding to benefit the entire charter halibut fishery and halibut resource while limiting the cost burden experienced by the individual CHP holders that would pay the fee. Section 3.5.1.2 of the RIR describes expected fee collections across a range of stamp prices (see **ADDRESSES**). It is uncommon for a charter vessel angler to undertake multiple charter halibut fishing trips in a single day. Including the ability for a charter vessel angler to use a single stamp across multiple charter vessel fishing trips in a single day would add significant cost and complexity to the administration and enforcement of stamps for a situation that does not occur often. As such, a stamp is required for each charter vessel angler intending to catch and retain halibut for each charter vessel fishing trip in a day.

The Council and NMFS considered, but did not select, a tiered fee structure for several reasons. The Council's original motion in April 2022 called for a tiered fee structure for stamps, which would provide a discount for stamps that are valid for multiple days of halibut fishing. The motion called for a \$20.00 daily fee for persons who fish one or two days, \$40.00 for persons who fish up to three days, and \$60.00 for persons who fish seven or more days. Although tiered fees are common among other State of Alaska stamps and licenses, all the State of Alaska tiered fees that were analyzed for this action are linked to a specific person and must be purchased by the actual license holder. Additionally, during the outreach process, CHP holders pointed to a lack of equity among fishing businesses if tiered fees were implemented. Operations that cater almost exclusively to one or two-day trips would be responsible for paying fees at the highest level, while other operations that log the same number of angler days, but whose guests tend to fish for three or more days, would contribute proportionately less to the RQE.

Finally, NMFS and the Council identified concerns with the cost and complexity of administering tiered fees, where electronic stamps and their respective validation dates would have to be tied to individual anglers over multiple days. The burden to issue unique stamps and track their use for individual anglers would likely be particularly difficult among large operations where guests commonly fish for varying numbers of days and move between boats during their stay, or to accommodate anglers who change their intentions for halibut fishing daily. Compared with a single-fee approach, this added administrative complexity would significantly undermine the Council's and NMFS's goal of enacting a simple, inexpensive fee collection strategy. Given the trade-offs of greater complexity, higher costs, information collection burdens, and equity in fee collections, the Council revised its recommendation to endorse a single \$20.00 fee and NMFS proposes a single-fee approach to issuing stamps.

#### *Changes to the Fee*

Under this proposed rule, the RQE could petition NMFS to increase, decrease, or suspend the fee for the stamp beginning in 2028. The fee for the stamp could not increase by more than 10 percent of the fee in the previous fishing year. After 2028, NMFS would provide the Council with an update on any fee increase requests and any fee increases would be implemented in regulations. The limitation on fee increases, including the limitation on changes to the fee prior to 2028, was recommended by the Council to protect the interests of CHP holders who might be concerned with significant, and immediate, fee increases.

NMFS also proposes regulations that would allow for suspension of the stamp requirement and fee collection, if necessary. As noted in this preamble, the RQE has limits on the amount of commercial halibut QS it may purchase. The proposed regulations would authorize NMFS to temporarily or permanently suspend fee collection if a petition from the RQE is received.

Additionally, NMFS proposes regulations that would allow the Regional Administrator to suspend the stamp requirement if the RQE is determined to be out of compliance with regulations, the RQE's own by-laws, or other applicable law; the Regional Administrator approves a petition by the RQE to suspend the RQE fee collection; or Congress no longer provides authorization for the Secretary of Commerce to collect and spend the fees.

NMFS also proposes regulations that would prohibit charter vessels from fishing for halibut in IPHC area 2C or 3A unless the charter vessel guide has validated a stamp for all charter vessel anglers 18 years or older who are on board the charter vessel and who intend to catch and retain halibut for each charter vessel fishing trip on that day. Additionally it would be prohibited to validate a stamp after the charter vessel fishing trip has begun, validate a stamp if the charter vessel guide does not have a valid CHP, or be a charter halibut permit holder and fail to purchase or hold a number of charter halibut stamps equal to or greater than the number of charter halibut stamp validations that were performed in a given fishing year.

#### **Classification**

The NMFS Assistant Administrator has determined that this proposed rule is consistent with section 106 of the Driftnet Modernization and Bycatch Reduction Act, the Magnuson-Stevens Act, the Halibut Act, and other applicable law, subject to further consideration of comments received during the public comment period.

This proposed rule has been determined to not be significant for the purposes of Executive Order 12866.

#### *Regulatory Impact Review (RIR)*

An RIR was prepared to assess costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). NMFS recommends this proposed rule based on its assessment of the net benefits to the Nation of these measures. Specific aspects of the economic analysis are discussed below in the Initial Regulatory Flexibility Analysis (IRFA) section.

#### *Initial Regulatory Flexibility Analysis*

This IRFA was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), to describe the economic impact this proposed rule, if adopted, would have on small entities. This IRFA describes the action; the reasons why this proposed rule is proposed; the objectives and legal basis for this proposed rule; the number and description of directly regulated small entities to which this proposed rule would apply; the recordkeeping, reporting, and other compliance requirements of this proposed rule; and the relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule. This IRFA also describes significant alternatives to this proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act,



and any other applicable statutes, and that would minimize any significant economic impact of this proposed rule on small entities. The description of the proposed action, its purpose, and the legal basis are explained above in the **SUPPLEMENTARY INFORMATION** section of this proposed rule and are not repeated here.

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). The Small Business Administration has established a small business size standard applicable to charter fishing vessels (North American Industry Classification System (NAICS) code 487210; size standards effective 11.17.2022) of 14 million dollars.

#### *Number and Description of Small Entities Regulated by This Proposed Rule*

This action requires a charter halibut stamp for each charter vessel angler, 18 years of age or older, for each day and each charter vessel fishing trip on which the charter vessel angler intends to catch and retain halibut on a charter vessel in IPHC regulatory area 2C or 3A. Charter vessel guides, as defined at § 300.61, would be obligated to ensure that there are validated stamps for each charter vessel angler fishing for halibut on a charter vessel. CHP holders would be ultimately responsible for purchasing a sufficient quantity of stamps each fishing year.

Thus, for RFA purposes, those entities that are directly regulated by the action are operators of charter halibut businesses (*i.e.*, Sportfishing Guide Business Owners), charter vessel guides, CHP holders (including CHPs issued under the CQE and MWR programs), and the RQE. The thresholds applied to determine if an entity or group of entities is considered a “small” business under the RFA depends on the industry classification for the entity or entities.

The ADF&G logbook data shows that between 2017 and 2022 there were as many as 478 charter halibut businesses, with the low count of 342 occurring in 2021. The most recent data available shows 368 directly regulated charter halibut businesses in 2022. The count of directly regulated charter halibut guides was lowest in 2020, at 820 and highest in 2019 when 1,240 charter vessel guides participated in the affected fishery. Data for the most recent year, 2022, identified 1,037 directly regulated charter vessel guides. Guides that are employees of charter halibut businesses are not directly regulated entities under the RFA. However, guides that are

independent contractors are directly regulated by this action and would be considered directly regulated entities under the RFA.

There is no annual census data collection of gross revenues for charter businesses or guides with which to compare to the \$14 million threshold. A voluntary Alaska Saltwater Sport Fishing Charter Business Survey has been conducted by the Alaska Fisheries Science Center, which has gathered information on expenses, revenues, and business characteristics for the 2011, 2013, 2015, and 2017 fishing years. As demonstrated in the most recent Cost and Earnings Report, as detailed in the RIR for this action, the mean gross revenue for the population of charter businesses was between \$200,894 (in 2012) and \$302,609 (in 2013). These estimates are based on self-reported sales and revenues of charter trips (not necessarily charter vessel fishing trips for halibut) and include client referrals/booking commission revenue as well as revenue accrued by leasing a CHP. These estimates do not account for values derived from additional accommodations or food/beverage service.

Based on the difference between the Small Business Administration (SBA) threshold (\$14 million) and the mean revenue for charter businesses reported in the RIR, the available evidence indicates that all directly regulated businesses and associated charter halibut guides are considered “small.” If a business was large enough, potentially including lodging and multiple recreational activities, it is possible it could exceed the SBA threshold. However, there is no data to identify if or how many businesses may fit into this category, thus all businesses are considered “small.”

Moreover, there is no available data to determine the relationship charter guides have to the business (*e.g.*, owner/operator, hourly or salaried employee, contracted partnership, *etc.*). However, given the relative difference between estimated gross revenue at the business level and the \$14 million threshold, those guides that represent a separate entity are very likely still considered a small entity by SBA standards. Similarly, CQEs, MWRs and the RQE are considered to be small entities due to their relationship to the charter fishery. Analysis of the QS purchase limitations of one percent annually and ten percent total are estimated to produce total value of just over \$2 million in annual revenue by year ten in IPHC regulatory area 2C, and approximately \$5.6 million in total value annual value after ten years in IPHC regulatory area 3A. Thus,

the CQE and RQE entities are considered to be directly regulated small entities.

#### *Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities*

The action alternative analyzed two options for funding the RQE. The first, and the basis of this action, is the stamp paid for by CHP holders with the stamp fees potentially passed on to individual charter vessel anglers. The second alternative is an annual CHP holder fee collection. Note that charter vessel anglers are considered individuals and not directly regulated small entities under the RFA definition. However, as demonstrated in this IRFA, based on the information that is available, all charter halibut businesses and charter vessel guides are considered to be directly regulated small entities. Charging an annual CHP holder-based fee that did not vary depending on the number of charter vessel anglers served may disproportionately impact some directly regulated small entities. The stamp method of fee collection would utilize a market-based approach to fund the RQE that is proportional to each CHP holder’s use of the resource. There would be costs associated with this action; however, development of the administrative elements of this action selected options designed to maximize efficiency and benefits to the directly regulated entities. These choices include allowing holders of multiple CHPs to pool their stamps for use on any of those CHPs, rolling unused stamps over to the next fishing year, disallowing transfers of stamps, and utilizing preexisting electronic systems for purchasing stamps. Furthermore, this action was supported by charter halibut fishery stakeholders. The analysis of benefits of the stamp fee collection funding mechanism indicates that this is a generally beneficial action in that it provides individual charter vessel anglers with potential opportunities for eased restrictions on halibut retention and greater business opportunities for charter halibut businesses and charter vessel guides. Thus, based upon the best available scientific data, it appears that there are no significant alternatives to the action that have the potential to accomplish the stated objectives of the section 106 of the Driftnet Modernization and Bycatch Reduction Act, the Magnuson-Stevens Act, the Halibut Act, and any other statutes, and minimize any significant adverse economic impact of the action on small entities while preventing overfishing.

*Duplicate, Overlapping, or Conflicting Federal Rules*

NMFS has not identified any duplication, overlap, or conflict between this proposed rule and existing Federal rules.

*Recordkeeping, Reporting, and Other Compliance Requirements*

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This proposed rule revises the existing requirements for the collection of information for OMB Control Number 0648–0575 (Alaska Halibut Fisheries: Charter) by adding the purchase of charter halibut stamps, adding one new field to the existing ADF&G logbook to record the number of stamps validated on each charter vessel fishing trip, and adding appeals for an Initial Administrative Determination (IAD) received for incomplete payment of the charter halibut stamp fee liability. NMFS expects that every CHP holder would purchase stamps at least once per season, and likely at some periodic monthly or weekly interval. This proposed rule would not change the number of respondents or the responses for the ADF&G logbook. The ADF&G logbook is already completed for every charter vessel fishing trip, and the stamp validation field would be required to be completed for every charter vessel fishing trip that intends to catch and retain halibut. These information collections are necessary to collect fees, and administer, and enforce the RQE Program that was requested by the charter halibut fishery stakeholders. Public reporting burden is estimated to average 5 minutes to purchase charter halibut stamps; 5 minutes for the ADF&G logbook, which includes 1 minute for completing the additional field in the logbook; and 4 hours for appeals. The public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated

collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at <https://www.reginfo.gov/public/do/PRAMain>. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

**List of Subjects**

*50 CFR Part 300*

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

*50 CFR Part 679*

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 25, 2024.

**Samuel D. Rauch III,**

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

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

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

**Subpart E—Pacific Halibut Fisheries**

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

**Authority:** 16 U.S.C. 773–773k.

■ 2. Amend § 300.61 by revising the definitions of “Charter halibut permit,” “Charter vessel,” “Charter vessel angler,” “Charter vessel fishing trip,” and “Charter vessel guide” to read as follows:

**§ 300.61 Definitions.**

\* \* \* \* \*

*Charter halibut permit* means a permit issued by the National Marine Fisheries Service pursuant to § 300.67, and subject to requirements in §§ 300.65, 300.66, and 300.67 and 50 CFR 679.7(q) and 679.46.

*Charter vessel*, for purposes of §§ 300.65, 300.66, and 300.67 and 50 CFR 679.7(q) and 679.46, means a vessel used while providing or receiving sport fishing guide services for halibut, and, for purposes of § 300.63, means a vessel used for hire in recreational (sport) fishing for Pacific halibut, but not

including a vessel without a hired operator.

*Charter vessel angler*, for purposes of §§ 300.65, 300.66, and 300.67 and 50 CFR 679.7(q) and 679.46, means a person, paying or non-paying, receiving sport fishing guide services for halibut.

*Charter vessel fishing trip*, for purposes of §§ 300.65, 300.66, and 300.67 and 50 CFR 679.7(q) and 679.46, means the time period between the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler and the offloading of one or more charter vessel anglers or any halibut from that vessel.

*Charter vessel guide*, for purposes of §§ 300.65, 300.66, and 300.67 and 50 CFR 679.7(q) and 679.46, means a person who holds an annual sport fishing guide license or registration issued by the Alaska Department of Fish and Game, or a person who provides sport fishing guide services.

\* \* \* \* \*

■ 3. Amend § 300.65 by revising paragraphs (d)(1)(ii) and (d)(4)(ii)(B) introductory text and adding paragraph (d)(4)(ii)(B)(1) to read as follows:

**§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) The charter vessel guide is responsible for complying with the reporting requirements of this paragraph (d) and 50 CFR 679.46. The person whose business was assigned an Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook is responsible for ensuring that the charter vessel guide complies with the reporting requirements of this paragraph (d) and 50 CFR 679.46.

\* \* \* \* \*

(4) \* \* \*

(ii) \* \* \*

(B) *Charter vessel guide requirements.* If halibut were caught and retained in Commission regulatory area 2C or 3A, the charter vessel guide must record the following information (see paragraphs (d)(4)(ii)(B)(1) through (10) of this section and 50 CFR 679.46) in the Alaska Department of Fish and Game Saltwater Charter Logbook:

\* \* \* \* \*

(1) *Validation of charter halibut stamps.* The charter vessel guide is responsible for complying with the charter halibut stamp validation requirements at 50 CFR 679.46.

\* \* \* \* \*

■ 4. Amend § 300.67 by revising paragraph (a)(1) to read as follows:

§ 300.67 Charter halibut limited access program.

\* \* \* \* \*

(a) \* \* \* (1) Requirements. In addition to other applicable permit, licensing, or registration requirements, any charter vessel guide of a charter vessel during a charter vessel fishing trip with one or more charter vessel anglers catching and retaining Pacific halibut on board must have on board the vessel an original valid charter halibut permit or permits endorsed for the regulatory area in which the charter vessel is operating and endorsed for at least the number of charter vessel anglers who are catching and retaining Pacific halibut. Each charter halibut permit holder must ensure that the charter vessel operator and charter vessel guide of the charter vessel comply with all requirements of §§ 300.65 and 300.66, this section, and 50 CFR 679.46.

\* \* \* \* \*

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

■ 6. Amend § 679.2 by adding in alphabetical order the definitions of “Charter halibut permit,” “Charter halibut permit holder,” “Charter halibut stamp,” “Charter halibut stamp validation,” “Charter vessel,” “Charter vessel angler,” “Charter vessel fishing trip,” “Charter vessel guide,” “Community charter halibut permit,” and “Military charter halibut permit” to read as follows:

§ 679.2 Definitions.

\* \* \* \* \*

Charter halibut permit (see § 300.61 of this title).

Charter halibut permit holder, for purposes of § 300.67 of this title and § 679.46, means the person identified on a charter halibut permit, community charter halibut permit, or military charter halibut permit.

Charter halibut stamp means an electronic stamp that is required for each charter vessel angler, 18 years of age or older, for each day and each charter vessel fishing trip on which the charter vessel angler intends to catch and retain halibut on a charter vessel in International Pacific Halibut Commission (IPHC) regulatory area 2C or 3A.

Charter halibut stamp validation means, with respect to the Recreational Quota Entity Program fee collection, as

described at § 679.46, the charter vessel guide, as defined at § 300.61 of this title, recording the number of charter halibut stamps required for each charter vessel fishing trip the charter vessel guide provides sport fishing guide services, as defined at § 300.61, in the ADF&G saltwater charter logbook that is required by § 300.65(d) of this title.

Charter vessel (see § 300.61 of this title).

Charter vessel angler (see § 300.61 of this title).

Charter vessel fishing trip (see § 300.61 of this title).

Charter vessel guide (see § 300.61 of this title).

\* \* \* \* \*

Community charter halibut permit (see § 300.61 of this title).

\* \* \* \* \*

Military charter halibut permit (see § 300.61 of this title)

\* \* \* \* \*

■ 7. Amend § 679.4 by revising paragraphs (a)(1)(xv)(A) through (C) to read as follows:

§ 679.4 Permits.

(a) \* \* \*

(1) \* \* \*

Table with 3 columns: If program permit or card type is:, Permit is in effect from issue date through the end of:, For more information, see . . .

■ 8. Amend § 679.7 by adding paragraph (q) to read as follows:

§ 679.7 Prohibitions.

\* \* \* \* \*

(q) Recreational Quota Entity Program. (1) Be a charter vessel guide and use a charter vessel to fish for Pacific halibut in IPHC regulatory area 2C or 3A unless the charter vessel guide has completed a charter halibut stamp validation for each charter vessel angler who is 18 years or older on board the charter vessel and intends to catch and retain Pacific halibut for each charter vessel fishing trip on that day.

(2) Be a charter vessel guide and perform a charter halibut stamp

validation after the charter vessel fishing trip has begun.

(3) Be a charter halibut permit holder and fail to purchase or hold by the fee liability notice deadline specified in § 679.46(a)(1)(v) a number of charter halibut stamps equal to or greater than the number of charter halibut stamp validations that were performed in a given fishing year.

■ 9. Add § 679.46 to read as follows:

§ 679.46 Recreational Quota Entity (RQE) Program fee collection.

(a) Fee collection—(1) Charter halibut stamp. A charter halibut stamp is required for charter vessel anglers, 18 years of age or older, for each day and each charter vessel fishing trip they

intend to catch and retain halibut on a charter vessel in IPHC regulatory area 2C or 3A. This includes charter vessel anglers on charter vessels operated under a charter halibut permit, community charter halibut permit, or military charter halibut permit issued pursuant to § 300.67 of this title. A charter halibut permit holder is responsible for purchasing the required number of charter halibut stamps and for complying with all other requirements of this section. The required number of charter halibut stamps is equal to or greater than the number of charter halibut stamp validations (as defined at § 679.2) performed in a given fishing year for each charter halibut permit(s),

community charter halibut permit(s), or military charter halibut permit(s).

(i) *Validation of stamps.* After determining the number of charter halibut stamps required under this paragraph (a)(1), the charter vessel guide must perform a charter halibut stamp validation as defined at § 679.2.

(ii) *Duration of validation.* The charter halibut stamp that has received a charter halibut stamp validation, as defined at § 679.2, is in effect from the time, A.l.t., that it is validated until 2400 hours, A.l.t., the same day. For the purposes of charter halibut stamp validation, if a charter vessel fishing trip lasts more than one calendar day, a charter halibut stamp is required for each charter vessel angler who is 18 years of age or older, for each calendar day that the charter vessel angler intends to catch and retain halibut.

(iii) *Non-transferability.* Charter halibut stamps are not transferable. This includes:

(A) After charter halibut stamp validation for an individual charter vessel angler, the charter halibut stamp may not be transferred to or used by any other person.

(B) Charter halibut stamps may only be used for associated charter halibut permits in a given NMFS-approved account and may not be transferred between approved accounts.

(iv) *Rollover.* A charter halibut stamp that has been purchased and has not received charter halibut permit validation does not expire. Such charter halibut stamps may be validated in a future fishing year.

(v) *Fee liability.* If, by 2400 A.l.t. on December 31 of a given fishing year, a charter halibut permit holder, for one or more associated charter halibut permits in a NMFS-approved account, has not purchased a number of charter halibut stamps equal to or greater than the number of charter halibut stamps validated under that account for that same fishing year, the Regional Administrator will send a fee liability notice to the charter halibut permit

holder. The fee liability notice will state the estimated fee liability, as determined by the number of charter halibut stamps validated for that fishing year in excess of the number of charter halibut stamps that have been purchased. A charter halibut permit holder has 30 days from the date of the notice to either pay the outstanding fee liability or demonstrate how the fee liability determination is in error.

(vi) *Underpayment of fee liability.* If a charter halibut permit holder does not pay the fee liability or demonstrate how the fee liability determination is erroneous within 30 days as outlined in this paragraph (a)(1)(vi), the Regional Administrator may:

(A) Issue an Initial Administrative Determination (IAD) upholding the fee liability determination;

(B) Disapprove any transfer application of the charter halibut permit, and all associated charter halibut permits in a NMFS approved account, GAF, IFQ, or QS to or from the charter halibut permit holder until the charter halibut stamp fee liability is paid, except that NMFS may return unused GAF to the charter halibut permit holder's account from which it was derived on or after the automatic GAF return date;

(C) Disapprove the annual registration application of a charter halibut permit, and all associated charter halibut permits in a NMFS-approved account, in accordance with § 300.67(a) of this title, until the charter halibut stamp fee liability is paid; and

(D) Invalidate a community charter halibut permit or military charter halibut permit until the charter halibut stamp fee liability is paid.

(vii) *Appeals.* A charter halibut permit holder who receives an IAD for incomplete payment of the charter halibut stamp fee liability may appeal the IAD pursuant to 15 CFR part 906.

(2) [Reserved]

(b) *Fee amount.* (1) The fee for a charter halibut stamp is \$20.

(2) The RQE may petition NMFS to increase, decrease, or suspend the fee

for a charter halibut stamp beginning on January 1, 2028. The fee for the charter halibut stamp may not increase by an amount more than 10 percent of the fee in the previous fishing year.

(c) *Fee payment to NMFS—(1) Obtaining charter halibut stamps.* Charter halibut stamps must be obtained and applicable fees paid by persons who:

(i) Have or are required to have a valid registration with ADF&G to provide sport fishing guide services (§ 300.61 of this title) in IPHC regulatory area 2C or 3A; and

(ii) Are a charter halibut permit holder.

(2) *Charter vessel guide responsibilities.* Before each charter vessel fishing trip begins, the charter vessel guide is responsible for ensuring there is a charter halibut stamp that has received charter halibut stamp validation for each charter vessel angler, 18 years of age or older, on board the charter vessel who intends to catch and retain halibut.

(3) *Fee payment.* Fee payment must occur prior to the end of the fishing year.

(d) *RQE fee collection suspension.*

The Regional Administrator may suspend the RQE fee collection indefinitely, or until such a time that any identified RQE operational deficiencies are corrected, if:

(1) Through the issuance of an IAD and the opportunity to appeal the IAD under 15 CFR part 906, the Regional Administrator determines that the RQE is out of compliance with regulations in this title, the RQE's own by-laws, or other applicable law;

(2) The Regional Administrator approves a petition by the RQE to suspend the RQE fee collection; or

(3) Congress no longer provides authorization for the Secretary of Commerce to collect and spend fees.

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