

from the Act's "best scientific and commercial data" standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

The petitioners also requested that we designate critical habitat for the Mohave ground squirrel. If we determine in our 12-month finding that listing the Mohave ground squirrel is warranted, we will address the designation of critical habitat at the time of the proposed rulemaking.

#### References Cited

A complete list of all references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section above).

#### Author

The primary authors of this notice are staff members of the Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section above).

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 12, 2010

**Signed: Daniel M. Ashe**

*Deputy Director, U.S. Fish and Wildlife Service*

[FR Doc. 2010-9377 Filed 4-26-10; 8:45 am]

**BILLING CODE 4310-55-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 0911201413-0182-01]

RIN 0648-AY38

#### Pacific Halibut Fisheries; Guided Sport Charter Vessel Fishery for Halibut; Recordkeeping and Reporting

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

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

**SUMMARY:** NMFS proposes regulations to amend the recordkeeping and reporting requirements for the Pacific halibut guided sport fishery in International Pacific Halibut Commission Regulatory Area 2C (Southeast Alaska) and Area 3A (Central Gulf of Alaska). If approved, these regulations would revise federal requirements regarding the location and time period for submission of Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook data sheets and modify logbook recording requirements. This action is necessary because NMFS relies on the state logbook data for managing halibut and to improve consistency between federal and State of Alaska requirements for the submission of the logbook data sheets and the logbook reporting format. This action is intended to achieve the halibut fishery management goals of the North Pacific Fishery Management Council and to support the conservation and management provisions of the Northern Pacific Halibut Act of 1982.

**DATES:** Comments must be received no later than May 12, 2010.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-AY38, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>;
- Mail: P.O. Box 21668, Juneau, AK 99802;
- Fax: (907) 586-7557; or
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

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

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

Electronic copies of the Categorical Exclusion, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region website at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this rule may be submitted to NMFS at the above address, e-mailed to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or faxed to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Gabrielle Aberle, (907) 586-7228.

#### SUPPLEMENTARY INFORMATION:

##### Background and Need for Action

The International Pacific Halibut Commission (IPHC) and National Marine Fisheries Service (NMFS) manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979).

Regulations developed by the IPHC are subject to approval by the Secretary of State with concurrence of the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. The current IPHC annual management measures were published on March 19, 2009 (74 FR 11681). IPHC regulations affecting sport fishing for halibut and charter vessels in Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska) may be found in sections 3, 25, and 28 (74 FR 11681; March 19, 2009).

The Halibut Act also provides regulatory authority to the Secretary and the North Pacific Fishery Management Council (Council). The Secretary, under 16 U.S.C. 773c(a) and (b), has the 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 is directed to consult with the Secretary of the

department in which the U.S. Coast Guard is operating. Under 16 U.S.C. 773c(c), the Council may develop halibut fishery regulations, for its geographic area of concern, that apply to U.S. nationals or vessels. Such an action by the Council is limited to regulations that are in addition to, and not in conflict with, IPHC regulations. Council-developed regulations may be implemented by NMFS only after approval by the Secretary. Using its authority under the Halibut Act, the Council is developing a regulatory program to manage the guided sport charter vessel fishery for halibut. One step in the development of that program was the implementation of a one-halibut daily bag limit on charter vessel anglers in IPHC Area 2C in order to limit their overall harvest to approximately the established guideline harvest level (74 FR 21194; May 6, 2009).

The final regulations implementing the one-halibut daily bag limit program include recordkeeping and reporting measures codified at 50 CFR 300.65 that require the submission of Alaska Department of Fish and Game (ADF&G) Saltwater Sport Fishing Charter Trip Logbook (charter logbook) data sheets for halibut charter vessels operating in IPHC Areas 2C and 3A (74 FR 21194; May 6, 2009). The proposed action would revise these recordkeeping and reporting measures to (1) improve consistency between federal regulations and State of Alaska (State) logbook instructions for the submission of the data sheets, and (2) address recent State changes to the charter logbook reporting format. This proposed action is administrative in nature, would revise the recordkeeping and reporting burden on guided charter operators in IPHC Areas 2C and 3A, would reduce potential confusion by the regulated public, and would facilitate efficient reporting of halibut caught and retained in these areas.

Halibut management in U.S. Convention waters, which include State and federal waters, is an international and federal responsibility under the Convention and the Halibut Act. To manage halibut effectively, international and federal managers need information on halibut fishing effort and harvest by the guided sport charter sector of the fishery. To avoid duplicative surveys of, and reporting by, industry, NMFS depends on data gathered by the State through its ongoing surveys of sport charter fishermen. This information has been used by the IPHC to set annual catch limits, and by the Council and NMFS to evaluate the potential effects of alternative restrictions on Area 2C guided sport harvests, charter vessel

limited entry in Areas 2C and 3A, and a catch sharing plan. This information includes data gathered from the ADF&G charter vessel logbook program.

The ADF&G Division of Sport Fish initiated the mandatory charter vessel logbook program in 1998. The logbook program is based on Alaska Board of Fisheries regulations requiring logbook reporting and annual registration of sport fishing guides and businesses. The logbook program was developed to collect information on actual participation and harvest by individual charter vessels and businesses in various regions of the State.

Under the logbook program, ADF&G charter logbooks are issued to licensed sport fishing businesses. Each logbook contains pages on which to record data, along with detailed instructions, including an example of a completed logbook page. The pages are perforated to allow a copy of each page to be detached from the logbook and submitted to the ADF&G. Each data sheet is pre-printed with the ADF&G mailing address; however, the data sheets can be submitted to any regional or area ADF&G office. The instructions provide requirements and deadlines for submission. A schedule of charter logbook data sheet due dates is printed inside the front cover of each logbook.

Federal regulations at 50 CFR 300.65(d) require charter vessels operating in IPHC Areas 2C and 3A-and catching and retaining halibut-to complete and submit ADF&G charter logbook data sheets. Four minor modifications to federal regulations are necessary to improve consistency between the regulations and the logbook instructions and to respond to recent revisions to the logbook reporting format by the State.

#### **Proposed Changes to 50 CFR 300.65**

The first proposed revision would amend the logbook submission requirements at § 300.65(d)(1)(i) to improve federal consistency with State requirements. Currently, the federal regulation requires submission of the ADF&G charter logbook data sheets to the ADF&G Division of Sport Fish at 333 Raspberry Road in Anchorage, AK, and postmarked no more than seven days after the end of a charter vessel fishing trip. The location and time frame for submitting data sheets are more restrictive than the State requirements, which are printed in the logbook instructions and allow data sheets to be received by any regional or area ADF&G office with deadlines based on a schedule of specific dates for fishing trips completed during any given week. These dates, which vary depending on

the calendar year, fall a week after the closing date of each fishing week and, thus, 14 days after the start of each fishing week. The one exception is a mid-April deadline for fishing trips conducted before a date in early April.

The proposed action would revise the submission location and time period for logbook data sheets, and it would remove the requirement to submit data sheets to the ADF&G office on Raspberry Road and change "postmarked" to "postmarked or received" to mirror State regulations that allow data sheets to be mailed or delivered to any ADF&G office. The submission deadline for a charter vessel fishing trip ending April 5 through December 31, during which halibut were retained, would be extended from 7 to 14 days after the end of the trip. The submission deadline for data sheets for a charter vessel fishing trip ending February 1 through April 4, during which halibut were retained, would be submitted no later than April 12.

The remaining proposed revisions are necessary due to recent changes by the State to the ADF&G charter logbook data sheet format. These proposed revisions would eliminate potential confusion that could arise from inconsistent reporting requirements.

The signature requirement at § 300.65(d)(2)(iv)(A) for charter vessel anglers who retain halibut caught in IPHC Area 2C would be revised. Currently, the charter vessel angler is required to sign the back of the ADF&G charter logbook data sheet on the line number that corresponds to the angler's information on the front of the data sheet. State revisions to the data sheet format moved the signature line from the back of the sheet to the front, beneath the line for the angler's name. The proposed action would remove the direction to sign the back of the data sheet and instruct the charter vessel angler to sign the data sheet on the line that corresponds to the angler's information.

Section 300.65(d)(2)(iv)(B)(1), which requires the charter vessel guide to record the sport fishing operator business license number on the ADF&G charter logbook data sheet, would be removed. State revisions to the data sheet eliminated the line for this license number. The revised logbook, however, retained the line for this number on the sign-out sheet.

Regulations that instruct how to mark the IPHC regulatory area fished on the ADF&G charter logbook data sheet would either be amended or suspended. For IPHC Regulatory Areas 2C and 3A, the current regulations at § 300.65(d)(2)(iv)(B)(4) and

§ 300.65(d)(3), respectively, specify that the charter vessel guides must circle the regulatory area where halibut were caught and retained during each charter vessel fishing trip. This reflected previous logbook instructions that required charter vessel guides to circle the IPHC regulatory area fished, if halibut were kept, and to record the primary ADF&G statistical area where most bottomfish were caught. State revisions to the charter logbook data sheet eliminated the regulatory areas to be circled. The new State format, however, retained the instruction to record the primary statistical area.

Since the State requires the primary statistical area to be recorded on the charter logbook data sheet, NMFS relies on the State to revise the statistical areas along the boundary between IPHC Regulatory Areas 2C and 3A so that the regulatory area where halibut were caught and retained can be identified. The boundary currently crosses multiple statistical areas; consequently, these statistical areas encompass portions of both regulatory areas. The State is revising the statistical areas along the segment of this boundary covered by the ADF&G charter logbook maps. Each new or modified statistical area will be specific to either IPHC Area 2C or Area 3A. ADF&G will update all Southeast Alaska charter logbook maps that include this boundary to show the new and modified statistical areas.

NMFS is requesting public comment on two options. First, if the updated charter logbook maps are available to charter vessel operators before the Secretary makes a decision to approve the final rule for this action and it is published, then, under the proposed action, § 300.65(d)(2)(iv)(B)(4) and § 300.65(d)(3) would be removed, and a new paragraph would be added at § 300.65(d)(1)(iii) that describes how to record halibut caught and retained in IPHC Regulatory Areas 2C and 3A. This paragraph would require the charter vessel guide to record on the charter vessel logbook data sheets the primary ADF&G statistical area where halibut were caught and retained. If halibut were caught and retained in IPHC Regulatory Area 2C and Area 3A during the same charter vessel fishing trip, then a separate data sheet must be used to record halibut caught and retained in each regulatory area. For example, on one data sheet, the charter vessel guide would record the halibut caught and retained in IPHC Area 2C, and the primary statistical area in Area 2C where the halibut were caught and retained. On a second data sheet, the charter vessel guide would record the halibut caught and retained in IPHC

Area 3A, and the primary statistical area in Area 3A where the halibut were caught and retained.

Second, if the updated charter logbook maps are not available to charter vessel operators before the Secretary makes a decision to approve the final rule for this action and it is published, then, under the proposed action, § 300.65(d)(2)(iv)(B)(4) and § 300.65(d)(3) would be suspended. These regulations would be amended after the maps are updated.

#### Classification

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

#### Executive Order 12866

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

#### Regulatory Flexibility Act

NMFS prepared an initial regulatory impact review (RIR) and regulatory flexibility analysis (IRFA) for this action. The RIR assesses all costs and benefits of available regulatory alternatives and describes the potential size, distribution, and magnitude of the expected economic impacts of this action. The IRFA, required by section 603 of the Regulatory Flexibility Act (RFA), describes the reasons why this action is being proposed; describes the objectives of, and legal basis for, the proposed rule; describes and estimates the number of small entities to which the proposed rule would apply; describes any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; and identifies any overlapping, duplicative, or conflicting federal rules. The IRFA also describes any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities. Copies of the RIR/

IRFA are available from NMFS (see ADDRESSES).

The description of the proposed action, its purpose, and its legal basis are described in the preamble and are not repeated in this Classification section. A summary of the RIR/IRFA follows.

The objectives of the proposed rule are to (1) improve consistency between federal and State requirements for the submission of the ADF&G charter logbook data sheets, and (2) address recent State changes to the logbook reporting format. This action will only affect halibut charters operating in IPHC Area 2C and Area 3A.

The changes would bring consistency to State and federal requirements and are expected to impose de minimus costs. The only substantive change (i.e., modification of regulatory limits on directly regulated entities) revises requirements on the location and time frame for submission of logbook data sheets, following charter vessel fishing trips during which halibut were caught and retained.

Based on State logbook data, NMFS estimates that 404 business entities would be directly regulated by this action in Area 2C, and that 450 business entities would be directly regulated by this action in Area 3A. The Secretary has published a final rule that will implement limited entry in the Pacific halibut guided sport charter fisheries in Areas 2C and 3A. NMFS expects that when the limited entry program is fully implemented in 2011, the number of business entities directly regulated by this action would be 231 in Area 2C and 296 in Area 3A.

The largest of these business entities, which are lodges, may be large entities under Small Business Act (SBA) standards, but that determination cannot be empirically confirmed at present. All the other charter operations would likely be considered small entities, based on SBA criteria, since they are believed to have gross revenues of less than \$7.0 million on an annual basis, from all sources, including affiliates.

The analysis did not identify any new "projected reporting, recordkeeping and other compliance requirements" associated with the proposed regulatory changes.

This analysis did not reveal any federal rules that duplicate, overlap, or conflict with the proposed action.

There is no alternative to the proposed action with a smaller burden on directly regulated small entities.

*Collection of Information*

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget (OMB) under control number 0648-0575. The public reporting burden for charter vessel guide respondents to fill out and submit logbook data sheets is estimated to average four minutes per response. The public reporting burden for charter vessel anglers to sign the logbook is estimated to be one minute per response. These estimates include the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 22, 2010.

**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 proposed to be amended as follows:

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

1. The authority citation for 50 CFR part 300, subpart E, continues to read as follows:

**Authority:** 16 U.S.C. 773-773k.

2. In § 300.65:

a. Remove paragraphs (d)(2)(iv)(B)(1), (d)(2)(iv)(B)(4), and (d)(3);

b. Redesignate paragraphs (d)(2)(iv)(B)(2), (d)(2)(iv)(B)(3), (d)(2)(iv)(B)(5), (d)(2)(iv)(B)(6), (d)(2)(iv)(B)(7), and (d)(2)(iv)(B)(8), as (d)(2)(iv)(B)(1), (d)(2)(iv)(B)(2), (d)(2)(iv)(B)(3), (d)(2)(iv)(B)(4), (d)(2)(iv)(B)(5), and (d)(2)(iv)(B)(6), respectively;

c. Revise paragraphs (d)(1)(i), (d)(2)(iv)(A), and (d)(2)(iv)(B) introductory text; and

d. Add paragraph (d)(1)(iii) to read as follows:

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

\* \* \* \* \*

(d) *Charter vessels in Area 2C and Area 3A* -(1) *General requirements* -(i) *Logbook submission*. For a charter vessel fishing trip ending April 5 through December 31, during which halibut were caught and retained, Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook data sheets must be submitted to the Alaska Department of Fish and Game and postmarked or received no more than 14 calendar days after the end of that trip. Logbook sheets for a charter vessel fishing trip ending February 1 through April 4, during which halibut were retained, must be submitted to the Alaska Department of Fish and Game and postmarked or received no later than April 12.

\* \* \* \* \*

(iii) In the Alaska Department of Fish and Game (ADF&G) Saltwater Sport Fishing Charter Trip Logbook, record the primary ADF&G statistical area where halibut were caught and retained during each charter vessel fishing trip. If halibut were caught and retained in IPHC Regulatory Area 2C and Area 3A during the same charter vessel fishing trip, then a separate logbook data sheet must be used for each regulatory area to record the halibut caught and retained within that regulatory area.

(2) \* \* \*

(iv) \* \* \*

(A) *Charter vessel angler signature requirement*. At the end of a charter vessel fishing trip, each charter vessel angler who retains halibut caught in Area 2C must acknowledge that his or her information and the number of halibut retained (kept) are recorded correctly by signing the Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook data sheet on the line that corresponds to the angler's information.

(B) *Charter vessel guide requirements*. For each charter vessel fishing trip in Area 2C, during which halibut were caught and retained, the charter vessel guide must record the following information (see paragraphs (d)(2)(iv)(B)(1) through (6) of this section) in the Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook:

\* \* \* \* \*

[FR Doc. 2010-9737 Filed 4-26-10; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 100107011-0168-01]

RIN 0648-AY43

**Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 21**

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

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

**SUMMARY:** NMFS proposes regulations to implement Framework Adjustment 21 (Framework 21) to the Atlantic Sea Scallop Fishery Management Plan (FMP), which was developed by the New England Fishery Management Council (Council). Framework 21 proposes the following management measures for the 2010 scallop fishery: Total allowable catch (TAC); open area days-at-sea (DAS) and Sea Scallop Access Area (access area) trip allocations; DAS adjustments if an access area yellowtail flounder (yellowtail) TAC is caught; limited access general category (LAGC) access area trip allocations; management measures to minimize impacts of incidental take of sea turtles as required by the March 14, 2008, Atlantic Sea Scallop Biological Opinion (Biological Opinion); minor adjustments to the limited access general category (LAGC) individual fishing quota (IFQ) program; and minor adjustments to the industry-funded observer program. This action also proposes changes to regulatory language to eliminate duplicative and outdated text, and to clarify provisions in the regulations that are currently unclear.

**DATES:** Comments must be received by 5 p.m., local time, on May 12, 2010.

**ADDRESSES:** An environmental assessment (EA) was prepared for Framework 21 that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of Framework 21, the EA, and the Initial Regulatory Flexibility Analysis (IRFA), are available upon request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.