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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 140724618-4618-01]

RIN 0648-BE41

### Pacific Halibut Fisheries; Revisions to Charter Halibut Fisheries Management in Alaska

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

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

**SUMMARY:** NMFS proposes regulations that would revise Federal regulations regarding sport fishing guide services for Pacific halibut in International Pacific Halibut Commission Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). The proposed regulations would remove the requirement that a guided sport (charter) vessel guide be on board the same vessel as a charter vessel angler to provide sport fishing guide services. This proposed rule would clarify that all sport fishing for halibut in which anglers receive assistance from a compensated guide would be managed under charter fishery regulations, and all harvest would accrue toward charter allocations. This proposed rule would align Federal regulations with State of Alaska regulations. Additional minor changes to the regulatory text pertaining to the charter halibut fishery would be required to maintain consistency in the regulations with these new definitions. This action is necessary to achieve the halibut fishery management goals of the North Pacific Fishery Management Council.

**DATES:** Comments must be received no later than January 2, 2015.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2014-0097, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/](http://www.regulations.gov/) #!docketDetail;D=NOAA-NMFS-2014-0097, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional

Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. 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 <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address), 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). Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only.

Electronic copies of the Categorical Exclusion and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site 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 and by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Julie Scheurer, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The International Pacific Halibut Commission (IPHC) and 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 adopts 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, 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 the Secretary of Commerce, NMFS publishes the IPHC regulations in the **Federal Register** as annual management

measures pursuant to 50 CFR 300.62. The final rule implementing IPHC regulations for the 2014 fishing season was published March 12, 2014 (79 FR 13906). IPHC regulations affecting sport fishing for halibut and vessels in the charter fishery in Areas 2C and 3A may be found in sections 3, 25, and 28 of that final rule.

The Halibut Act, at sections 773c(a) and (b), provides 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, currently the Department of Homeland Security.

The Halibut Act, at section 773c(c), also provides the North Pacific Fishery Management Council (Council) with authority to develop regulations, 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 has exercised this authority in the development of subsistence halibut fishery management measures, and sport halibut fishery management measures in waters in and off Alaska, codified at 50 CFR 300.61, 300.65, 300.66, and 300.67. The Council also developed the Individual Fishing Quota Program for the commercial halibut fishery, codified at 50 CFR part 679, under the authority of section 773 of the Halibut Act and section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

## Background

The proposed rule would align Federal regulations for charter halibut fishing with State of Alaska regulations for sport fishing to clarify the Council's and NMFS' intent for management of charter halibut fisheries in Areas 2C and 3A off Alaska. The proposed regulatory clarifications also would facilitate enforcement and clarify recordkeeping and reporting requirements for the charter halibut fishery. The proposed rule would not revise regulations for unguided sport halibut fishing in Alaska found in sections 3, 25, and 28 of the IPHC annual management measures (March 12, 2014, 79 FR 13906). The following sections of this preamble provide (1) a description of the halibut

fisheries; (2) the need for the proposed rule; and (3) the proposed rule.

#### *Description of Halibut Fisheries*

The harvest of halibut in Alaska occurs in three fisheries—the commercial, sport, and subsistence fisheries. The commercial halibut fishery is a fixed gear fishery managed under the Halibut Individual Fishing Quota Program. The sport fishery includes guided and unguided anglers. Guided anglers are commonly called “charter” anglers because they fish from chartered vessels. The subsistence fishery allows rural residents and members of certain Alaska Native tribes to retain halibut for personal use or customary trade. The Council and NMFS have developed specific management policies and programs for each halibut fishery based on participation and harvest in those fisheries.

Sport fishing activities for Pacific halibut in Areas 2C and 3A are subject to different regulations, depending on whether those activities are guided or unguided. Guided sport fishing for halibut is subject to charter restrictions under Federal regulations. These regulations apply if a charter vessel guide is on board the vessel with the charter vessel angler and is providing “sport fishing guide services” during the fishing trip. The term “sport fishing guide services” is defined in Federal regulations at § 300.61 as “assistance, for compensation, to a person who is sport fishing, to take or attempt to take fish by being on board a vessel with such person during any part of a charter vessel fishing trip. Sport fishing guide services do not include services provided by a crew member.” Unguided anglers typically use their own vessels and equipment, or they may rent a vessel and fish with no assistance from a guide.

The Council and NMFS developed specific management programs for the charter halibut fishery to achieve allocation and conservation objectives for the halibut fisheries. These management programs are also intended to maintain stability and economic viability in the charter fishery by establishing (1) limits on the number of participants, (2) allocations of halibut that vary with abundance, and (3) a process for determining charter angler harvest restrictions to limit charter fishery harvest to the established allocations. The charter halibut fisheries in Areas 2C and 3A are managed under the Charter Halibut Limited Access Program (CHLAP) and the Catch Sharing Plan (CSP). The CHLAP limits the number of operators in the charter

fishery, while the CSP establishes annual allocations to the charter and commercial fisheries and describes a process for determining annual management measures to limit charter harvest to the allocations in each management area. The CHLAP and the CSP are briefly summarized in the following sections. Section 1.3 of the RIR/IRFA prepared for this action provides additional detail on the charter halibut management programs that have been implemented in Areas 2C and 3A.

#### *Description of Charter Halibut Limited Access Program*

The CHLAP was adopted by the Council and implemented by NMFS in January 2010 (75 FR 554, January 5, 2010). The CHLAP established Federal charter halibut permits (CHPs) for operators in the charter halibut fishery in Areas 2C and 3A. Since 2011, all vessel operators in Areas 2C and 3A with charter anglers on board must have an original, valid permit on board during every charter vessel fishing trip on which Pacific halibut are caught and retained. CHPs are endorsed for the appropriate regulatory area and the number of anglers that may catch and retain halibut on a charter vessel fishing trip.

NMFS implemented the CHLAP, based on recommendations by the Council, to meet allocation objectives in the charter halibut fishery. This program provides stability in the fishery by limiting the number of charter vessels that may participate in Areas 2C and 3A. Vessel operators had to meet minimum participation requirements to receive an initial issuance of a CHP. Complete regulations for the CHLAP are published at §§ 300.65, 300.66, and 300.67. Additional details on the development and rationale for the CHLAP can be found in the final rule implementing the program and are not repeated here (75 FR 554, January 5, 2010).

#### *Description of the Catch Sharing Plan and Limits on Charter Anglers*

The CSP was adopted by the Council and implemented by NMFS in January 2014 (78 FR 75844, December 12, 2013). The CSP replaced the Guideline Harvest Level program that was in place from 2004 through 2013 (68 FR 47256, August 8, 2003) as the method for setting pre-season specifications of acceptable annual harvests in the charter fisheries in Areas 2C and 3A. The CSP defines an annual process for allocating halibut between the charter and commercial halibut fisheries in Areas 2C and 3A. The CSP establishes sector allocations that vary

proportionally with changing levels of annual halibut abundance and that balance the differing needs of the charter and commercial halibut fisheries over a wide range of halibut abundance in each area. The CSP describes a public process by which the Council develops recommendations to the IPHC for charter angler harvest restrictions that are intended to limit harvest to the annual charter halibut fishery catch limit in each area. The CSP also authorizes limited annual leases of commercial individual fishing quota for use in the charter fishery as guided angler fish (GAF). GAF authorizes individual charter operators in Area 2C and Area 3A to offer anglers the opportunity to retain additional halibut when charter vessel anglers are subject to a more restrictive daily harvest limit than unguided sport anglers in the same area. Charter vessel anglers have been subject to a more restrictive daily harvest limit than unguided sport anglers since 2007 in Area 2C. In 2014, charter vessel anglers in Area 3A were also managed under more restrictive harvest limits for the first time. Additional detail on the development and rationale for the CSP can be found in the final rule implementing the program and is not repeated here (78 FR 75844, December 12, 2013).

#### *IPHC Annual Management Measures*

Each year, through a transparent public process, the Council reviews and recommends annual management measures for implementation in the Area 2C and Area 3A charter halibut fishery. Each fall, the Council reviews an analysis of potential charter management measures for the charter halibut fisheries for the upcoming fishing year. The Council considers stakeholder input and the most current information regarding the charter fishery and its management. After reviewing the analysis and considering public testimony, the Council identifies the charter halibut management measures to recommend to the IPHC that will most likely constrain charter halibut harvest for each area to its catch limit, while considering impacts on charter operations. The IPHC considers the Council recommendations, along with the analyses on which those recommendations were based, and input from its stakeholders and staff. The IPHC then adopts charter halibut management measures designed to keep charter harvest in Area 2C and Area 3A to the catch limits specified under the CSP. 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 the IPHC annual management measures (79 FR 13906, March 12, 2014).

#### *Catch Monitoring and Estimation in the Sport Halibut Fisheries*

The Alaska Department of Fish and Game (ADF&G) Saltwater Charter Logbook (hereafter, logbook) is the primary reporting requirement for operators in the charter fisheries for all species harvested in saltwater in Areas 2C and 3A. ADF&G developed the logbook program in 1998 to provide information on participation and harvest by individual vessels and businesses in charter fisheries for halibut as well as other state-managed species. Logbook data are compiled to show where fishing occurs, the extent of participation, and the species and the numbers of fish caught and retained by individual charter anglers. This information is essential to estimate harvest for regulation and management of the charter halibut fisheries in Areas 2C and 3A. ADF&G collects logbook information from charter vessel guides on halibut harvested by charter vessel anglers to accommodate the information requirements for implementing and enforcing Federal charter halibut fishing regulations, such as the Area 2C one-halibut per day bag limit and the CHLAP.

ADF&G uses the Statewide Harvest Survey (SWHS) to estimate halibut harvests in the unguided sport halibut fishery. The SWHS is a mail survey of households containing at least one licensed angler. Survey respondents are asked to report the numbers of fish caught and kept by all members of the entire household, and the data are expanded to cover all households.

#### *Description of "Guide Assisted" Sport Fishing Services*

In April 2012, the Council received a report from NOAA's Office of Law Enforcement describing "guide-assisted" sport fishing services for halibut observed in Area 2C that are not subject to the Federal charter halibut fishery regulations. NOAA's Office of Law Enforcement staff first observed guide-assisted sport fishing services for halibut during 2011, the first year of CHLAP implementation. The report noted that a few companies offer guide-assisted sport fishing services in which guides provide assistance to halibut anglers, likely for compensation, from adjacent vessels or shore. A person providing assistance to an angler during a fishing trip, and who is not on board the vessel with the anglers, is not providing sport fishing guide services

under the current Federal definition. As a result, persons providing guide-assisted sport fishing services are not required to have CHPs, and guide-assisted anglers are not subject to Federal regulations that limit guided anglers. Guide-assisted anglers are able to retain halibut under the more liberal bag and size limits in place for unguided anglers, while still receiving assistance during the fishing trip from a guide on a nearby, sometimes tethered, vessel, or from shore. Additionally, Federal regulations do not require halibut harvested by guide-assisted anglers to be recorded in the logbook.

In contrast to Federal regulations, State of Alaska (State) regulations do not require a guide to be on board the same vessel as the angler for the trip to be considered guided fishing (Alaska Statute Sec. 16.40.299). If sport fishing guide services (as defined by the State) are provided to the angler during any portion of a sport fishing trip, the State considers those harvests as charter removals and requires harvests to be recorded in the logbook.

ADF&G examined logbook data from Area 2C in an effort to quantify the practice of guiding from a separate vessel or the shore during the period 2009 through 2012. This practice was identified by looking for instances of the harvest of two halibut per charter vessel angler per day in Area 2C as reported in the logbook. ADF&G's methods for quantifying this practice are explained in detail in Section 1.3.6.1.3 of the RIR/IRFA. A minimum of one to three businesses are estimated to have routinely hosted clients that exceeded the one-fish bag limit for charter anglers, suggesting they were offering guide-assisted sport fishing services between 2009 and 2013 in Area 2C that did not meet the Federal definition of sport fishing guide services. This practice may be more widespread than the analysis indicates because Federal regulations do not require a guide to complete a logbook for persons using guide-assisted sport fishing services. Logbook data regarding the numbers of retained halibut could not be used to identify businesses that may be offering guide-assisted sport fishing services in Area 3A because bag limits were identical for guided and unguided anglers until 2014. Instead, ADF&G attempted to identify such businesses by looking for businesses without CHPs that routinely had client harvest of halibut.

#### **Need for Action**

The Council recommended, and NMFS proposes, this rule to manage guide-assisted sport fishing services for

halibut under the CHLAP and the CSP. The following describes the rationale for this action. The Council made its recommendation because it considers guide-assisted sport fishing services for halibut to be a *de facto* form of guided or charter fishing, although this method is currently considered unguided fishing under Federal regulations. A guide who is not on the same vessel with an angler and who provides assistance for compensation to an angler meets the definition of guided fishing in all ways except for the requirement to be on board the same vessel. For example, the guide may still accompany the anglers from a separate vessel, lead them to the fishing location, instruct them in how to bait hooks and reel in the fish, etc. They may even assist in landing and filleting the halibut from a separate vessel, yet under the current Federal definition, these behaviors are not technically considered guiding. In contrast, the State of Alaska definition does not require the guide to be on board the same vessel as the angler to provide sport fishing guide services. The Council considered the State definition in making its recommendation for a change to the Federal definition. The Council was also concerned that guide-assisted sport fishing services may increase if no action is taken to define these fishing activities as charter fishing. This increase could occur because halibut harvest limits are more restrictive for charter vessel anglers than for unguided anglers, particularly in Area 2C. This discrepancy may provide an incentive for charter operators to modify their services to operate as guide-assisted sport fishing services to allow their anglers to fish under the more liberal size and bag limits in place for unguided anglers. Alternatively, it may serve as an incentive for new entrants to provide guide-assisted sport fishing services.

The Council also recommended clarifying that guide-assisted halibut harvests should accrue to the charter sector allocation under the CSP. The Council recognized that under the current Federal definition, halibut harvests by guide-assisted sport fishing services would not be considered guided. Thus, those harvests may currently be counted as unguided harvest instead of charter harvest in the SWHS, or not reported in the logbook. The Council reviewed information suggesting that a relatively small amount of halibut harvested by guide-assisted sport fishing services may be counted as unguided harvest (see Section 1.3.5.2 of the RIR/IRFA).

However, the Council recommended requiring that all guide-assisted halibut harvests be recorded in the logbook, and that harvest accrue to the charter allocation under the CSP, to prevent a potential increase in the amount of guide-assisted halibut harvest counted as unguided harvest. The following discussion provides additional detail on the accounting for halibut harvested by guide-assisted sport fishing services.

Under the status quo, there is potential for inconsistencies and misreporting of guide-assisted halibut harvests. As described in the "Catch Monitoring and Estimation in the Sport Halibut Fisheries" section of this preamble, charter and unguided sport halibut harvests are estimated using different methods. Under the CSP, charter harvests are estimated using logbooks, and all charter harvests must be recorded in the logbook. Unguided harvests are estimated using the SWHS. Guides who are providing guide-assisted sport fishing services for species other than halibut (under the State's definition) are required to complete logbooks for those State-managed species. Guides may also record halibut harvests occurring during these fishing trips in the logbook, even though it is not considered charter halibut harvest under current Federal regulations. In these instances, the harvest would be included in the charter halibut fishery harvest estimate and accrue toward the CSP catch limit for the charter halibut fishery. Likewise, anglers may be confused when responding to the SWHS as to whether they were halibut fishing with or without a charter vessel guide. Anglers can report halibut harvested on a guide-assisted sport fishing trip in the SWHS as either guided or unguided. This proposed rule would clarify logbook reporting requirements and improve harvest estimates by aligning the Federal and State definitions of sport fishing guide services so that halibut harvested by an angler who receives compensated assistance would be required to be recorded in the logbook, whether or not the person providing the assistance is physically present on board the vessel or not.

Despite the potential for reporting charter halibut harvests as unguided harvest, and vice versa, the Council did not identify a conservation concern with regard to sport halibut harvest accounting because all halibut harvests are being estimated based on information submitted in the logbooks and SWHS. See Section 1.3.6.1.3 of the RIR/IRFA prepared for this action for additional details on the anticipated impacts of the proposed rule on sport

halibut harvest estimates and fishery reporting requirements.

#### Proposed Rule

The Council initiated analysis of the proposed action in February 2013. In June 2013, the Council reviewed the analysis and clarified its recommended options for revising Federal halibut sport fishing regulations to be consistent with its intent for guide-assisted sport fishing services to be managed under the CHLAP and the CSP. In February 2014, the Council recommended aligning Federal regulations regarding sport fishing guide services for Pacific halibut with State regulations by removing the requirement that the charter vessel guide be on board the same vessel as the charter vessel angler. The Council recognized that NMFS would propose additional regulations necessary to implement the Council's recommendation. The Council's recommendation is available at [http://legistar2.granicus.com/npfmc/meetings/2014/2/876\\_A\\_North\\_Pacific\\_Council\\_14-02-03\\_Meeting\\_Agenda.pdf](http://legistar2.granicus.com/npfmc/meetings/2014/2/876_A_North_Pacific_Council_14-02-03_Meeting_Agenda.pdf).

The proposed regulations would align Federal regulatory text regarding sport fishing guide services for Pacific halibut with State regulations in a manner that is consistent with Council intent for management of charter halibut fisheries. The proposed revisions would enhance enforcement of sport fishing regulations by an authorized officer by clearly defining when a person is providing sport fishing guide services. This regulatory clarity will also aid anglers and operators providing sport fishing guide services to comply with regulations for the charter halibut fisheries.

This proposed rule would implement clear and consistent regulations that apply to all businesses providing, and all anglers receiving, sport fishing guide services, and improve the accuracy of the data collected on sport fishing harvest. Specifically, this proposed rule would require anglers receiving sport fishing guide services, whether or not a charter vessel guide is on board, to comply with the restrictions in place for charter vessel anglers. This proposed rule would require businesses that provide sport fishing guide services for halibut from separate vessels to obtain CHPs for the vessels on which the anglers are fishing and comply with the restrictions in place for the charter halibut fishery. This proposed rule would not increase the number of CHPs issued under the CHLAP.

As described in Section 1.2 of the RIR/IRFA, the proposed rule is intended only to address fishing activities for the charter halibut sector; no action is

proposed to regulate businesses that provide equipment for unguided (or self-guided) sport fishing. The following sections provide greater detail about the three categories of regulatory changes proposed in this rule: 1) Revisions to definitions at § 300.61; 2) revisions to CHLAP and CSP regulations; and 3) other regulatory revisions. The last section describes suggested changes to IPHC annual management measures to aid the implementation of this proposed rule. NMFS solicits public comments on the proposed changes to the regulations described in this preamble.

#### Proposed Revisions to Definitions at § 300.61

Most critically, this proposed rule would revise the definition of "sport fishing guide services," and add definitions for "compensation" and "charter vessel" at § 300.61. Technical revisions would be made to the definitions of "charter vessel angler," "charter vessel fishing trip," "charter vessel guide," and "charter vessel operator" at § 300.61 for added clarity and consistency among definitions. These changes are described in detail in section 2.7 of the RIR/IRFA for this action.

The proposed revision to the definition of "sport fishing guide services" would remove the requirement that a charter vessel guide be on board the same vessel as the charter vessel angler. The Council recommended that the definition be revised to read as follows: "Sport fishing guide services, for purposes of §§ 300.65 and 300.67, means assistance, 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. Sport fishing guide services do not include services provided by a crew member."

NMFS proposes the Council's recommendation with two minor changes. First, NMFS proposes to cite § 300.65(d) instead of § 300.65 to specifically reference the section of § 300.65 that pertains to charter halibut fishing. Second, NMFS proposes to revise the current definition of "sport fishing guide services" to clarify that services provided by a crew member working directly under the supervision of, and on the same vessel as, a charter vessel guide are not sport fishing guide services for purposes of CHLAP and CSP regulations.

Under the proposed rule, crew member services would continue to be

excluded from the definition of sport fishing guide services for purposes of CHLAP and CSP regulations, to clearly identify that the charter vessel guide, and not a crew member, is the person responsible for complying with the regulations. The Council and NMFS do not intend for an assistant, deckhand, or other crew member that works directly under the supervision of a charter vessel guide to be the person responsible to comply with CHLAP and CSP regulations. The proposed rule would maintain current requirements specifying that a person providing sport fishing guide services from a charter vessel would be responsible for complying with CHLAP and CSP regulations, whether or not that person has an ADF&G sport fishing guide license or registration on board that vessel. Therefore, NMFS proposes to revise the final sentence of the definition of sport fishing guide services to specify that “sport fishing guide services do not include services provided by a crew member, as defined at § 300.61.” This proposed revision would cite the definition of a crew member for added clarity.

The Council recommended, and NMFS proposes, revising the definition of sport fishing guide services as “accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip.” This proposed revision is consistent with the State definition for sport fishing guide services (Alaska Statute Sec. 16.40.299). The current Federal definition of charter vessel fishing trip at § 300.61 specifies that a charter vessel fishing trip begins when fishing gear is first deployed into the water and ends when one or more charter vessel anglers or any halibut are offloaded from that vessel. Assistance, under the proposed definition of sport fishing guide services, would therefore be restricted to activities that occur after gear has been deployed. Advice or assistance provided before gear is deployed would not be considered sport fishing guide services. What qualifies as assistance is further constrained by the words “accompanying or physically directing,” which likely would require that the charter vessel guide be in proximity to the charter vessel angler. NMFS assumes that while most assistance would be provided from a separate vessel, it is possible that assistance could also be provided from shore. NMFS notes that determination of guided assistance for purposes of Federal regulations likely would depend on a combination of factors that, taken together, would indicate that a charter

vessel guide was compensated for assisting an angler in a manner intended to result in the taking of halibut. Section 1.3.6 of the RIR/IRFA provides additional detail on the proposed revision to the definition of sport fishing guide services.

NMFS proposes adding a definition for “compensation” to § 300.61 that matches the State’s definition. Federal regulations currently do not define “compensation” in the context of the charter halibut fishery. The Council and NMFS intend for sport fishing to be considered charter fishing only if a person providing assistance to sport anglers is receiving compensation. Compensation would be defined as, “direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source . . . ‘benefits’ includes wages or other employment benefits given directly or indirectly to an individual or organization, and any dues, payments, fees, or other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides sport fishing guide services; and does not include reimbursement for the actual daily expenses for fuel, food, or bait.” This definition of compensation would also mean that payments made by a third party, and non-monetary exchanges of goods and services for taking someone halibut fishing, may also be considered compensation, as well as payments or non-monetary exchanges from a person aboard the charter vessel.

The proposed Federal definition would not consider reimbursement for “actual” daily expenses (e.g., bait, fuel, food) to be compensation. Section 1.3.6.2 of the RIR/IRFA provides additional detail on the proposed revision to the definition of compensation.

An interpretive rule (76 FR 19708, April 8, 2011) clarified that a charter vessel guide, operator, or crew member may fish for halibut from a charter vessel if he or she is not being compensated to provide assistance to persons catching and retaining halibut. No changes are proposed to this interpretation that allows guides, operators, and crew members to fish recreationally with friends and family, so long as no charter vessel anglers are on board and receiving sport fishing guide services.

NMFS proposes adding a definition for “charter vessel” to Federal regulations at § 300.61. A charter vessel would be defined as “a vessel used while providing or receiving sport fishing guide services for halibut.” Under this proposed definition, a

charter vessel guide would not be required to be on board the same vessel as the charter vessel angler to be providing sport fishing guide services. If an angler receives sport fishing guide services during a charter vessel fishing trip (i.e., the time between when gear is deployed and when one or more charter anglers or any harvested halibut are offloaded), even if it is from an adjacent or nearby vessel, that angler would be considered to be fishing from a charter vessel.

Charter vessels are required to be registered with the State and are issued identification decals and logbooks. Under this proposed rule, all charter vessels, including those that would not have charter vessel guides on board, would need to register with the State, display the charter vessel decal while operating as a charter vessel, and have the logbook on board during all charter vessel fishing trips. Each charter vessel from which anglers may catch and retain halibut would also need to have an original CHP on board during charter vessel fishing trips.

#### *Proposed Revisions to CHLAP and CSP Regulations*

As described above and in Section 2.7 of the RIR/IRFA, the Council recognized that its recommendation for the proposed rule would require NMFS to propose additional revisions to regulations governing the CHLAP and CSP. The following sections summarize these additional proposed regulatory revisions.

Under the proposed rule, the primary responsibility for compliance with charter halibut fishery regulations would continue to be with the charter vessel guide. However, some Federal regulations governing the charter halibut fishery put the burden of compliance on the charter vessel operator. The term “charter vessel operator” in § 300.61 currently refers to the person in charge of the charter vessel on which anglers are catching and retaining halibut. Under the proposed rule, if no charter vessel guide were on board the vessel with the charter anglers, as in guide-assisted sport fishing services, the charter vessel operator could also be a charter vessel angler. To facilitate compliance in these instances, NMFS proposes regulations at § 300.66(s) and (v) to hold the charter vessel operator and the charter vessel guide jointly or severally responsible for compliance with the requirement to have a valid CHP and a logbook on board the charter vessel with the charter vessel anglers if no charter vessel guide is on board the vessel with the charter anglers.

The CHP and logbook are critical enforcement tools used by an authorized officer to verify when anglers are on a charter vessel fishing trip and subject to CHLAP, CSP, and daily bag limit and size restrictions applicable to charter vessel anglers. If the charter vessel guide is on a separate charter vessel or on the shore, or is not in the vicinity of the charter vessel with anglers aboard (*i.e.*, “angler vessel”), an authorized officer must be able to identify a person on board the angler vessel that is responsible for ensuring that a valid CHP and the logbook are on the vessel to authorize that charter vessel fishing trip. NMFS proposes that if the charter vessel guide is on a separate vessel, or on the shore, the charter vessel operator should be the person on board the angler vessel that could be held jointly responsible with the charter vessel guide to ensure that a valid CHP and the logbook are on the angler vessel. NMFS notes that enforcement of this proposed provision would depend on the circumstances of a fishing trip.

Authorized agents would evaluate the specific circumstances to determine whether to hold the charter vessel operator and the charter vessel guide jointly or severally responsible for compliance with the requirement to have a valid CHP and a logbook on board the vessel. NMFS requests comments specific to this provision of the proposed rule.

Charter vessel guides would remain responsible for complying with the CHLAP and CSP reporting requirements at § 300.65(d), and the person whose business was assigned a logbook would remain responsible for ensuring that the charter vessel guide complies with those requirements. Under current regulations, before a charter vessel fishing trip begins, the charter vessel guide is required to record in the logbook the first and last names and license numbers of each charter vessel angler who will fish for halibut (exceptions apply for youth, senior, and disabled charter vessel anglers); ensure that the cover of the logbook lists the person named on the CHP(s) and the CHP number(s) being used during that charter vessel fishing trip; and ensure the name and State-issued vessel registration (AK number) or U.S. Coast Guard documentation number of the charter vessel is listed. NMFS proposes to modify regulations at § 300.65(d) to require that the logbook remain on the charter vessel with the anglers during the charter vessel fishing trip, even if the guide is on a separate vessel or on shore. With this proposed change, an authorized officer would be able to

verify that all anglers are licensed and listed in the logbook, and that the angler endorsement on the CHP has not been exceeded.

Under existing regulations at § 300.65(d), if halibut is retained during a charter vessel fishing trip, the charter vessel guide is responsible for completing the remainder of the logbook data fields by the end of the calendar day, or by the end of the charter vessel fishing trip, whichever comes first. The charter vessel guide is also responsible for ensuring that charter vessel anglers who retained halibut sign the logbook.

Under this proposed rule, charter vessel guides would remain responsible for complying with the provisions of the GAF program at § 300.65. A GAF permit authorizes a charter vessel angler to retain GAF, and GAF permits are assigned to a single CHP. Under current regulations at § 300.65(c)(5)(iii)(A)(5), a legible copy of the GAF permit must be kept on board the charter vessel with the CHP to enable an authorized officer to verify that any GAF retained on the charter vessel were authorized by a valid GAF permit. NMFS proposes to modify regulations at § 300.65(c)(5)(iii)(A)(5), to require the guide maintain control of a legible copy of the GAF permit, and require that the CHP and logbook remain on the same charter vessel as the charter vessel anglers.

Existing regulations at § 300.65(c)(5)(iv)(G) require that upon retention of a GAF halibut, the guide must immediately remove the upper and lower tips of the tail fin lobes to mark and identify that fish as a GAF halibut. NMFS proposes revising this regulation to add a requirement that the guide must be physically present when the GAF is harvested to mark the fish. NMFS anticipates that charter vessel anglers without a guide on board would need to summon the guide (*e.g.*, by cell phone or radio) to be in proximity of the charter vessel before any GAF are harvested. Accordingly, charter vessel guides not on charter vessels could not guide from the shore, if GAF fish are being harvested. Regulations at § 300.65(d)(4)(iii)(A)(1) require the charter vessel guide to immediately measure and record the total length of the GAF halibut in the GAF permit log on the back of the GAF permit. NMFS does not propose changing this requirement, but proposes adding regulations at § 300.65(d)(4)(iii)(A)(5) to require the charter vessel guide to immediately record in the logbook the GAF permit number under which the GAF was caught and retained, and the number of GAF retained by the charter vessel angler who caught and retained

it. The term “immediately,” for enforcement purposes, means that the stated activity (*e.g.*, marking the fish or recording the GAF in the logbook) must occur before the guide or angler moves on to another activity or resume fishing. For example, if a charter vessel angler harvests a GAF, the guide would need to mark and record it before the angler could continue fishing, transit to another location, etc. This proposed revision would improve the timely recording of GAF.

This proposed rule would revise regulations at § 300.65(d)(4)(iii)(A)(1) to require the guide to record harvested GAF immediately in the logbook so a record of the GAF harvest remains on board with the charter vessel angler if the guide leaves the area with the GAF permit and GAF log. If the guide could not be present at the time the GAF is harvested, the charter vessel angler would not be authorized to retain that fish.

Current regulations at § 300.65(d)(4)(iii)(B) through (E) require a charter vessel guide to electronically report GAF harvests at the end of a charter vessel fishing trip in which GAF is retained. This proposed rule would not revise these regulations and the charter vessel guide would continue to be responsible for electronically reporting GAF harvests.

Current regulations at § 300.65(c)(5)(iv)(G) require that if GAF halibut are filleted on board a charter vessel, the carcasses of those GAF halibut must be retained until the end of the charter vessel fishing trip to enable an authorized officer to verify the recorded lengths. NMFS proposes to revise CSP regulations at § 300.65(c)(5)(iv)(G) to specify that if any GAF are harvested and filleted on board the charter vessel, those carcasses would also need to be retained on the charter vessel on which the GAF halibut were caught until the end of the charter vessel fishing trip. In other words, if a GAF halibut were harvested on a charter vessel without a guide on board, it would need to stay on the vessel with the angler who caught it until the end of the fishing trip; it could not be transferred to the vessel that the guide is on for filleting, storage, or otherwise. Similarly, IPHC annual management measures currently require that the carcasses of size-restricted halibut harvested in the charter fishery in Areas 2C and 3A be retained, if those size restricted halibut are filleted on board the charter vessel. NMFS proposes adding this carcass retention requirement to Federal regulations at § 300.65(d)(5).

NMFS notes that not all charter businesses participate in the GAF program, and that it is an optional use of individual fishing quota. There is no requirement that charter vessel guides make GAF available to their anglers.

#### Other Regulatory Changes

Charter vessel guides, operators, and crew are prohibited from harvesting halibut in Areas 2C and 3A during charter vessel fishing trips under existing regulations at § 300.65(d)(3). Under this proposed rule, the charter vessel operator could potentially be a charter vessel angler who is operating a vessel without a charter vessel guide onboard (e.g., the charter vessel guide is on a separate vessel). NMFS assumes that the Council would not want to prohibit charter vessel anglers who are operating charter vessels without a charter vessel guide on board from harvesting halibut. Therefore, NMFS proposes to revise § 300.65(d)(3) to specify that “a charter vessel guide, charter vessel operator, or crew member may not catch and retain halibut during a charter vessel fishing trip in Commission regulatory area 2C or 3A, except that charter vessel operators who are charter vessel anglers may catch and retain halibut during a charter vessel fishing trip if the charter vessel guide is on a separate charter vessel.” Minor additional changes are proposed to regulations at §§ 300.61, 300.65, 300.66, and 300.67 to maintain existing regulatory responsibilities applicable to specific persons and ensure consistency in the charter halibut regulations to meet the intent of this proposed rule. These changes and the rationale for them are outlined in detail in Section 2.7 of the RIR/IRFA for this action and are briefly summarized here.

As of January 1, 2015, several Alaska Statutes (A.S. 16.40.260 through 16.40.299) pertaining to sport fishing business and guide licensing and reporting through ADF&G are scheduled to expire. At that time, statewide regulations approved by the Board of Fisheries in 2004 to implement these statutes may lack statutory authority. ADF&G is working with the Alaska Board of Fisheries to modify existing statewide regulations to require business and guide registration and continue logbook reporting for the 2015 season. Federal regulations at § 300.65(d)(4)(ii)(B)(1), (d)(4)(ii)(D)(4), the definition of “charter vessel guide” at § 300.61, and § 300.67(a)(1) all refer to ADF&G sport fishing guide licenses. NMFS proposes changing these regulations to refer to “licenses or registrations” in the event that the licensing program is not reinstated.

The CSP implemented a regulation at § 300.66(h) to prohibit subsistence fishing for halibut while commercial fishing or sport fishing. The regulation was intended to prohibit only subsistence fishing for halibut and commercial or sport fishing for halibut from the same vessel on the same day. However, as written, the regulation could be interpreted to prohibit commercial or sport fishing for any species while subsistence fishing for halibut. NMFS proposes to change the prohibition at § 300.66(h) to clarify that it only prohibits subsistence fishing for halibut while commercial or sport fishing for halibut.

#### IPHC Annual Management Measures

If this proposed rule is approved by the Secretary, the IPHC may decide to change its annual management measures to implement and improve compliance for this proposed rule. See Section 2.7 of the RIR/IRFA.

IPHC annual management measures are designed to facilitate enforcement of charter halibut fishery regulations when halibut have been filleted on board the vessel (March 12, 2014, 79 FR 13906). The IPHC annual management measure at Section 28(1)(d) restricts filleting halibut into no more than two dorsal, two ventral, and two cheek pieces to ensure that an authorized officer can verify a charter vessel angler's daily bag and possession limits for halibut if the fish have been filleted on board the vessel. NMFS anticipates that this restriction on filleting halibut will continue to be implemented in future years. If the proposed rule is approved and implemented and the IPHC adopts halibut size restrictions for charter vessel anglers in the future, the IPHC may decide to change the annual management measures to require that all retained halibut, including GAF, remain on the charter vessel on which they are caught until the end of a charter vessel fishing trip. This would ensure that charter vessel anglers without a guide on board would not be allowed to transfer their harvested halibut to the guide's vessel for processing.

NMFS also notes that the 2014 annual management measures at Section 28(2)(d) and (3)(d) require the carcasses of size-restricted halibut be retained until the end of the charter vessel fishing trip to enable an authorized officer to enforce the size restrictions that are in place for charter vessel anglers in Area 2C and Area 3A. NMFS proposes to add a carcass retention requirement for size-restricted halibut to Federal regulations at § 300.65(d)(5). If this proposed rule is approved and implemented and the IPHC adopts

halibut size restrictions for charter vessel anglers in the future, the IPHC may decide to remove the annual management measures requiring carcass retention as unnecessary measures.

#### Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing fishing for halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. The Halibut Act at section 773c(a) and (b) provides the Secretary of Commerce with the general responsibility to carry out the Convention with the authority to, in consultation with the Secretary of the department in which the U.S. Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. This proposed rule is consistent with the Halibut Act and other applicable laws.

#### Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule also complies with the Secretary of Commerce's authority under the Halibut Act to implement management measures for the halibut fishery.

#### Regulatory Flexibility Act

An initial regulatory flexibility analysis (IRFA) was prepared as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and its legal basis may be found at the beginning of this preamble and are not repeated here. A summary of the IRFA follows. A copy of the IRFA is available from the NMFS (see **ADDRESSES**).

#### Number and Description of Small Entities Regulated by the Proposed Rule

On June 12, 2014, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647, June 12, 2014). The new size standards were used to prepare the IRFA for this proposed rule.

The Small Business Administration (SBA) specifies that for charter fishing vessel operations, a small business is one with annual receipts less than \$7.5 million. The largest of these charter vessel operations, which are lodges, may be considered large entities under SBA standards, but that cannot be confirmed because NMFS does not have or collect economic data on lodges necessary to definitively determine total annual receipts. Thus, all charter vessel operations are considered small entities, based on SBA criteria, because NMFS cannot confirm if any entities have gross revenues greater than \$7.5 million on an annual basis.

This proposed rule would directly regulate all CHP holders, and businesses offering sport fishing guide services that NMFS believes should hold CHPs. As of July 7, 2014, the date of the most recent information available, there were 975 CHPs issued to 580 permit holders in Areas 2C and 3A. Data on business affiliations among permit holders are not available; therefore, the number of CHP holders that are directly regulated cannot be accurately determined, but would not exceed 580. NMFS notes that because there is little incentive for a business that already holds one or more CHPs to offer sport fishing guide services without a guide on board to anglers, the number of CHP holders (*i.e.*, small entities) affected by this proposed regulation is likely to be very small. The proposed rule is not expected to adversely impact small entities that possess CHPs.

The proposed rule, however, may adversely impact those entities that do not hold CHPs and who provide sport fishing guide services using guides that are not on board the vessel with the anglers (*i.e.*, guide-assisted sport fishing services). A review of logbook data suggests that only a few such entities can be documented. For Area 2C, a minimum of one to three businesses are estimated from logbook data to have routinely offered guide-assisted sport fishing services for halibut that did not meet the Federal definition of sport fishing guide services between 2009 and 2013. Logbook data for Area 3A did not clearly identify any businesses that routinely reported trips in which halibut were harvested and no CHP was recorded as used for the charter vessel fishing trip. It is difficult to estimate how many businesses may be providing guide-assisted sport fishing services because some of these businesses may not be registered as charter businesses with the State and may not be completing logbooks. Under the proposed rule, businesses that provide guide-assisted sport fishing services, but

do not hold CHPs, would have to either purchase CHPs or change the services they provide so that they refrain from accompanying or physically assisting anglers in the taking of halibut during any part of a charter vessel fishing trip. Information on availability and price of CHPs is presented in Section 1.3.1.2 of the RIR/IRFA. NMFS does not have or collect data to determine the exact number of guide-assisted sport fishing services or total annual receipts for these entities. NMFS considers all guide-assisted sport fishing services as small entities, based on SBA criteria, because NMFS cannot confirm if any of these entities have gross revenues greater than \$7.5 million on an annual basis.

Community quota entities may apply for and receive community CHPs; therefore, this proposed rule may directly regulate entities representing small, remote communities in Areas 2C and 3A. There are 20 communities in Area 2C and 14 in Area 3A eligible to receive community CHPs. Of these 34 communities, 21 hold community CHPs. The proposed action is not expected to adversely impact communities that hold CHPs.

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

An IRFA is required to describe significant alternatives to the proposed rule that accomplish the stated objectives of the Halibut Act and other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities.

The status quo alternative (Alternative 1) would continue to require that a guide be on board a charter vessel with a charter vessel angler to be providing sport fishing guide services. Maintaining these regulations is believed to result in an unknown, but relatively small number of anglers fishing under unguided sport fishing regulations, rather than the more restrictive charter fishing regulations. The status quo may result in continued inaccuracies in accounting of sport removals by sector and continued confusion by the angling public as to how to report their halibut harvest. The status quo alternative would not accomplish the Council's objective that guide-assisted fishing for halibut be managed under charter halibut fishery regulations.

The Council considered one alternative with three options to the status quo. The first option under Alternative 2 would change the definition of "sport fishing guide

services" to remove the requirement that a guide be on board the charter vessel with the charter vessel angler to be providing those services. The second option would add a Federal definition for "compensation" and contained two suboptions. The first suboption would add a Federal definition for compensation that matches the State definition. The second suboption would add a Federal definition that substitutes the word "reasonable" for "actual" expenses from the State definition. These suboptions are described in more detail in Section 1.3.6.2 of the RIR/IRFA. The third option under Alternative 2 would add a Federal definition for "assistance" to describe which types of activities fall under sport fishing guide services. Alternative 2 would better align Federal regulations regarding sport fishing guide services for Pacific halibut with State regulations, would incorporate guide-assisted sport fishing services under the umbrella of charter regulations, and would improve the accuracy of unguided sport and charter halibut harvest estimates.

The Council recommended, and NMFS proposes a preferred alternative (*i.e.*, this proposed rule) that would better align the State and Federal definitions of "sport fishing guide services" (Alternative 2, Option 1), and add a definition for "compensation" (Alternative 2, Option 2) to Federal regulations. Instead of separately defining "assistance" as described in Alternative 2, Option 3, the preferred alternative would add language to the definition of sport fishing guide services to define assistance as "accompanying or physically directing the sport fisherman in sport fishing activities." The preferred alternative incorporates the recommendations developed cooperatively by State and NMFS enforcement and management staff and supported by the discussion of the effects of Alternative 2, Options 1, 2, and 3 in Section 1.3.6 of the RIR/IRFA. The preferred alternative incorporates a description of assistance consistent with State regulations without specifying a list of fishing activities. Broadly defining assistance in this way would eliminate the need to identify all potential activities that could be considered as providing assistance to an angler and the risk that a relevant activity would be inadvertently excluded from the list.

NMFS proposes the Council's preferred alternative, with one exception. Instead of proposing the suboption to Alternative 2, Option 2 that would add a Federal definition for "compensation" that differs from the

State's definition by referring to "reasonable" expenses rather than "actual" expenses, NMFS proposes the suboption that would add a Federal definition that matches the State's definition. The preferred alternative for this option initially incorporated the recommendations developed cooperatively by State and NMFS enforcement and management staff, but upon further discussion, these entities determined that matching the State and Federal definitions for compensation would be more enforceable. Additionally, adopting matching definitions would further the Council's objectives of aligning Federal and State of Alaska regulations.

The entities directly regulated under this action are assumed to be small under the SBA definition. Because the proposed rule serves to benefit the small entities that are directly regulated under the proposed rule by clarifying Federal fishery regulations to better align with Council intent and State fishery regulations, no significant negative economic impacts are expected on directly regulated entities who are CHP holders; however, charter vessel guides who provide sport fishing guide services and are not on board the same charter vessel as the charter vessel angler would be required to change their fishing practices under the proposed rule. These directly regulated entities are also assumed to be small entities. Thus, NMFS is not aware of any alternatives, in addition to the alternatives considered, that would more effectively meet these Regulatory Flexibility Act criteria at a lower economic cost to directly regulated small entities.

#### **Projected Reporting, Recordkeeping Requirements, and Other Compliance Requirements**

This action does not impose any additional reporting requirements on the participants of the charter halibut fishery. Although the public reporting burden will not change, additional participants would be required to comply with existing requirements. The new participants would be subject to the same recordkeeping and reporting requirements as existing participants.

#### **Duplicate, Overlapping, or Conflicting Federal Rules**

NMFS has not identified other Federal rules that may duplicate, overlap, or conflict with the proposed rule.

#### *Collection-of-Information Requirements*

This proposed rule contains collection-of-information requirements subject to review and approval by the

Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. The collections are listed below by OMB control number.

#### **OMB Control No. 0648-0575**

The ADF&G Saltwater Sport Fishing Charter Trip Logbook, GAF Electronic Landing Report, and GAF Permit Log are mentioned in this proposed rule. This rule may require a few more businesses that currently do not complete reports and logbooks to do so; however, the public reporting burden for these items in this collection-of-information are not directly affected by this proposed rule.

#### **OMB Control No. 0648-0592**

Applications for CHPs and applications for GAF transfers are mentioned in this proposed rule. This rule may result in a few more businesses that currently do not have CHPs and GAF transfers to purchase and apply for them, respectively; however, the public reporting burden for these applications in this collection-of-information are not directly affected by this proposed rule.

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 these proposed collections of information are 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.

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 by email to *OIRA\_Submission@omb.eop.gov*, or fax to 202-395-5806.

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. All currently approved NOAA collections of information may be

viewed at: [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

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

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

Dated: November 26, 2014.

**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 part 300 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. In § 300.61:
  - a. Revise the definitions of "Charter vessel angler", "Charter vessel fishing trip", "Charter vessel guide", "Charter vessel operator", and "Sport fishing guide services"; and
  - b. Add definitions for "Charter vessel" and "Compensation" in alphabetical order to read as follows:

#### **§ 300.61 Definitions.**

\* \* \* \* \*

*Charter vessel*, for purposes of §§ 300.65, 300.66, and 300.67, means a vessel used while providing or receiving sport fishing guide services for halibut.

*Charter vessel angler*, for purposes of §§ 300.65, 300.66, and 300.67, 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, 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, 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.

*Charter vessel operator*, for purposes of § 300.65, means the person in control of the charter vessel during a charter vessel fishing trip.

\* \* \* \* \*

*Compensation*, for purposes of sport fishing for Pacific halibut in Commission regulatory areas 2C and 3A, means direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source; for this definition, “benefits” includes wages or other employment benefits given directly or indirectly to an individual or organization, and any dues, payments, fees, or other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides sport fishing guide services; and does not include reimbursement for the actual daily expenses for fuel, food, or bait.

\* \* \* \* \*

*Sport fishing guide services*, for purposes of §§ 300.65(d) and 300.67, means assistance, 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. Sport fishing guide services do not include services provided by a crew member, as defined at § 300.61.

\* \* \* \* \*

- 3. In § 300.65,
- a. Revise paragraphs (c)(5)(iii)(A)(5); (c)(5)(iv)(A) and (G); (d)(3); (d)(4)(i); (d)(4)(ii)(B); (d)(4)(ii)(B)(1) through (4); and (d)(4)(iii)(A)(1);
- b. Add paragraph (d)(4)(iii)(A)(5);
- c. Revise paragraph (d)(4)(iii)(D)(4); and
- d. Add paragraph (d)(5) to read as follows:

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

\* \* \* \* \*

- (c) \* \* \*
- (5) \* \* \*
- (iii) \* \* \*
- (A) \* \* \*

(5) If a charter vessel angler harvests GAF from a charter vessel with a charter vessel guide on board, a legible copy of a GAF permit and the assigned charter halibut permit, community charter halibut permit, or military charter halibut permit appropriate for the Commission regulatory area (2C or 3A) must be carried by the charter vessel operator on board the charter vessel used to harvest GAF at all times that such fish are retained on board and must be presented for inspection on request of any authorized officer. If a charter vessel angler harvests GAF from a charter vessel without a charter vessel guide on board, the charter vessel guide

must retain the GAF permit and the assigned charter halibut permit, community charter halibut permit, or military charter halibut permit must be on the charter vessel with the charter vessel angler.

\* \* \* \* \*

(iv) \* \* \*

(A) If a charter vessel angler harvests GAF from a charter vessel with a charter vessel guide on board, the charter vessel guide must have on board a valid GAF permit and the valid charter halibut permit, community charter halibut permit, or military charter halibut permit assigned to the GAF permit for the area of harvest. If a charter vessel angler harvests GAF from a charter vessel without a charter vessel guide on board, the valid GAF permit must be on board the same vessel as the charter vessel guide, and the original charter halibut permit, community charter halibut permit, or military charter halibut permit assigned to the GAF permit for the area of harvest must be on the charter vessel with the charter vessel angler.

\* \* \* \* \*

(G) The charter vessel guide must be physically present when the GAF halibut is harvested and must immediately remove the tips of the upper and lower lobes of the caudal (tail) fin to mark all halibut caught and retained as GAF. If the GAF halibut is filleted, the entire carcass, with head and tail connected as a single piece, must be retained on board the charter vessel on which the halibut was caught until all fillets are offloaded.

\* \* \* \* \*

(d) \* \* \*

(3) *Charter vessel guide and crew restriction in Commission regulatory areas 2C and 3A.* A charter vessel guide, charter vessel operator, or crew member may not catch and retain halibut during a charter vessel fishing trip in Commission regulatory area 2C or 3A, except that charter vessel operators who are charter vessel anglers may catch and retain halibut during a charter vessel fishing trip if the charter vessel guide is on a separate charter vessel.

(4) \* \* \*

(i) *General requirements.* Each charter vessel angler and charter vessel guide in Commission regulatory area 2C or 3A must comply with the following recordkeeping and reporting requirements, except as specified in paragraph (d)(4)(iii)(C) of this section, by the end of the calendar day or by the end of the charter vessel fishing trip, whichever comes first, unless otherwise specified:

(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) in the Alaska Department of Fish and Game Saltwater Charter Logbook.

(1) *Guide license number.* The Alaska Department of Fish and Game sport fishing guide license or registration number held by the charter vessel guide who certified the logbook data sheet.

(2) *Date.* Month and day for each charter vessel fishing trip taken. A separate logbook data sheet is required for each charter vessel fishing trip if two or more trips are taken on the same day. A separate logbook data sheet is required for each calendar day that halibut are caught and retained during a multi-day trip. A separate logbook sheet is required if more than one charter halibut permit is used on a trip.

(3) *Charter halibut permit (CHP) number.* The NMFS CHP number(s) authorizing charter vessel anglers on that charter vessel fishing trip to catch and retain halibut.

(4) *Guided Angler Fish (GAF) permit number.* The NMFS GAF permit number(s) authorizing charter vessel anglers on that charter vessel fishing trip to harvest GAF.

\* \* \* \* \*

(iii) \* \* \*

(A) \* \* \*

(1) Upon retention of a GAF halibut, the charter vessel guide must immediately record on the GAF permit log (on the back of the GAF permit) the date that the fish was caught and retained and the total length of that fish as described in paragraphs (d)(4)(iii)(D)(5) and (d)(4)(iii)(D)(7) of this section. If GAF halibut are retained on a charter vessel without a charter vessel guide on board, the charter vessel guide must also comply with the reporting requirements in paragraph (d)(4)(iii)(A)(5) of this section.

\* \* \* \* \*

(5) If a GAF is retained on a charter vessel without a charter vessel guide on board, the charter vessel guide must immediately record in the ADF&G Saltwater Charter Logbook the GAF permit number under which GAF were caught and retained, and the number of GAF kept under the corresponding charter vessel angler's name.

\* \* \* \* \*

(D) \* \* \*

(4) Alaska Department of Fish and Game sport fishing guide license or registration number held by the charter

vessel guide who certified the logbook data sheet.

\* \* \* \* \*

(5) *Carcass retention requirement for size-restricted halibut.* If a size-restricted halibut is filleted on board the charter vessel, the entire carcass, with head and tail connected as a single piece, must be retained on board the charter vessel on which it was caught until all fillets are offloaded.

\* \* \* \* \*

- 4. In § 300.66:
  - a. Revise paragraph (h) introductory text, and paragraphs (s) and (t);
  - b. Remove paragraph (u);
  - c. Redesignate paragraphs (v) and (w) as (u) and (v), respectively; and
  - d. Revise newly redesigned paragraphs (u) and (v) to read as follows:

**§ 300.66 Prohibitions.**

\* \* \* \* \*

(h) Conduct subsistence fishing for halibut while commercial fishing or sport fishing for halibut, as defined in § 300.61, from the same vessel on the same calendar day, or possess on board a vessel halibut harvested while subsistence fishing with halibut harvested while commercial fishing or sport fishing, except that persons authorized to conduct subsistence fishing under § 300.65(g), and who land their total annual harvest of halibut:

\* \* \* \* \*

(s) Be a charter vessel guide with charter vessel anglers on board, or a charter vessel operator if the charter

vessel guide is not on board, in Commission regulatory area 2C or 3A without an original valid charter halibut permit for the regulatory area in which the charter vessel is operating during a charter vessel fishing trip.

(t) Be a charter vessel guide in Commission regulatory area 2C or 3A with more charter vessel anglers catching and retaining halibut during a charter vessel fishing trip than the total angler endorsement number specified on the charter halibut permit(s) or community charter halibut permit(s) in use for that trip.

(u) Be a charter vessel guide of a charter vessel on which one or more charter vessel anglers are catching and retaining halibut in both Commission regulatory areas 2C and 3A during one charter vessel fishing trip.

(v) Be a charter vessel guide or a charter vessel operator during a charter vessel fishing trip in Commission regulatory area 2C or 3A with one or more charter vessel anglers that are catching and retaining halibut without having on board the vessel with the charter vessel anglers a State of Alaska Department of Fish and Game Saltwater Charter Logbook in which the charter vessel guide has specified the following:

(1) The person named on the charter halibut permit or permits being used during that charter vessel fishing trip;

(2) The charter halibut permit or permits number(s) being used during that charter vessel fishing trip; and

(3) The name and State-issued vessel registration (AK number) or U.S. Coast

Guard documentation number of the charter vessel.

■ 5. In § 300.67, revise paragraphs (a)(1) and (a)(3) to read as follows:

**§ 300.67 Charter halibut limited access program.**

\* \* \* \* \*

(a) \* \* \*

(1) 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, 300.66, and 300.67.

\* \* \* \* \*

*(3) Charter vessel angler endorsement.*

A charter halibut permit is valid for up to the maximum number of charter vessel anglers on a single charter vessel for which the charter halibut permit is endorsed.

\* \* \* \* \*

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