DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 180207136–8136–01]

RIN 0648–BH71

Pacific Halibut Fisheries; Pacific Halibut Catch Limits for Area 2A Fisheries in 2018

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

ACTION: Interim final rule.

SUMMARY: This interim final rule sets the 2018 Pacific halibut catch limit in the International Pacific Halibut Commission's Regulatory Area 2A off Washington, Oregon, and California. The International Pacific Halibut Commission, at its annual meeting, did not recommend 2018 catch limits for any of its regulatory areas, including Area 2A. The best available scientific information indicates the Pacific halibut stock is declining. Without NMFS action, a higher Area 2A catch limit would remain in place for 2018. The Secretary of Commerce has authority to establish regulations that are more restrictive than those adopted by the International Pacific Halibut Commission. An interim final rule is necessary to ensure that lower 2018 halibut catch limits are in place at the start of the tribal fishery March 24, 2018, and before incidental halibut retention in the sablefish and salmon fisheries begins on April 1, 2018. This action is intended to enhance the conservation of Pacific halibut.

DATES: This rule is effective from March 24, 2018, through December 31, 2018. Comments must be received by April 25, 2018.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2018–0025, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0025,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

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

Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way NE, Seattle, WA 98115–0070. For information regarding all halibut fisheries and general regulations not contained in this rule contact the International Pacific Halibut Commission, 2320 W Commodore Way, Suite 300, Seattle, WA 98199–1287. Electronic copies of the Environmental Assessment (EA) prepared for this action may be obtained by contacting Kathryn Blair, phone: 206–526–6140, email: *kathryn.blair@noaa.gov.*

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

SUPPLEMENTARY INFORMATION:

Background

The International Pacific Halibut Commission (IPHC) can recommend regulations that govern the Pacific halibut fishery pursuant to the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, Mar. 2, 1953, 5 U.S.T. 5, and the Protocol Amending the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), Mar. 29, 1979, 32 U.S.T. 2483. The IPHC's regulatory areas are: Area 2A (U.S. West Coast); Area 2B (Canada); Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (subdivided into 5 areas, 4A through 4E, in the Bering Sea and Aleutian Islands of Western Alaska). These regulatory areas are described in 50 CFR part 679, Figure 15.

Figure 1. Regulatory Areas for the Pacific Halibut Fishery

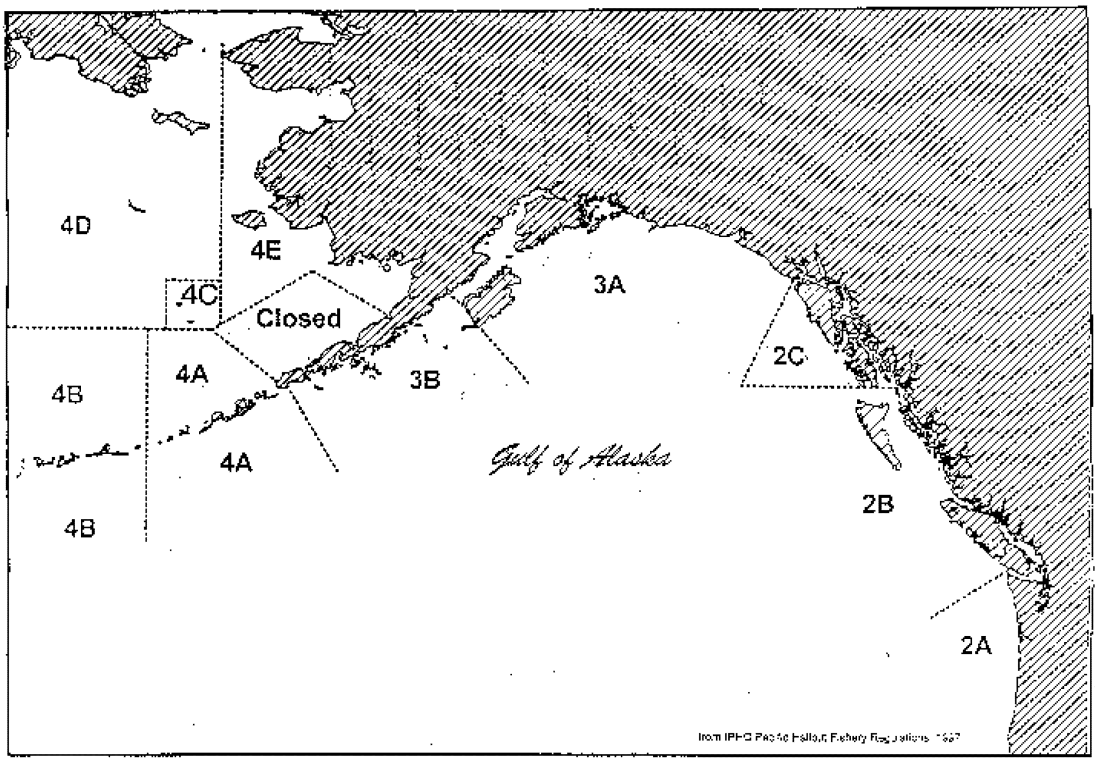

Figure 15 to Part 679. Regulatory Areas for the Pacific Halibut Fishery
a. Map

As provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, regulations recommended by the IPHC in accordance with the Convention (Halibut Act, Sections 773–773k). The Secretary of State, with the concurrence of the Secretary of Commerce, accepted the 2017 IPHC regulations as provided by the Halibut Act at 16 U.S.C. 773–773k. Pacific Halibut Fisheries; Catch Sharing Plan, 82 FR 12730, Mar. 7, 2017.

The Halibut Act provides the Secretary of Commerce with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. 16 U.S.C. 773(c). The Regional Fishery Management Councils may develop, and the Secretary of Commerce may implement regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. *Id.;* Convention, Article I. The Pacific Fishery Management Council (Council) has exercised this authority to develop a catch sharing plan that governs the allocation of halibut and management of sport fisheries on the U.S. West Coast. The Pacific Halibut Catch Sharing Plan for Area 2A is available on the Council website at *http://www.pcouncil.org.*

Independent of the Council, the Secretary of Commerce may implement regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are more restrictive than those adopted by the IPHC under Article I of the Convention and section 773c of the Halibut Act. The Secretary exercised this authority in 1990 to implement regulations on commercial and sport catch limits that were more restrictive than the IPHC regulations published in 1989 because the IPHC, at its annual meeting in 1990, did not approve new management measures for 1990 (55 FR 11929, Mar. 30, 1990).

Specific to this interim final rule under the Halibut Act, the Secretary is implementing catch limits for Area 2A that are more restrictive than approved IPHC catch limits from 2017 that would otherwise remain in effect. The IPHC held its annual meeting to recommend halibut catch limits and management measures from January 22–26, 2018. At the meeting, IPHC scientists presented biological information showing that the total biomass, and specifically the total exploitable biomass, of Pacific halibut is projected to decline substantially over the next several years. Although the United States and Canadian Commissioners voiced consensus that some reduction in catch limits relative to 2017 in all regulatory areas was appropriate, the Commissioners could not reach agreement on specific catch limit recommendations for 2018. Therefore, the IPHC did not make a recommendation to the Secretary of State to revise the catch limits that were implemented in 2017. The United States and Canadian Commissioners did suggest specific catch limits for their respective waters, all of which would reduce catch limits compared with 2017.[1]

In this interim final rule, NMFS is implementing an Area 2A catch limit of 1,190,000 lb (539.78 metric tons) for 2018. This catch limit [2] is derived from the total constant exploitation yield (TCEY), which includes commercial discards and bycatch estimates

[1] The United States and Canadian Commissioners did agree on and formally recommend season dates, catch sharing plans, and certain management measures, which the United States adopted (83 FR 10390, Mar. 9, 2018).

[2] The term ''catch limit'' is equivalent to the IPHC's term fishery constant exploitation yield (FCEY).

calculated by a formula developed by the IPHC. Though NMFS independently determined this catch limit is supported by the best available scientific information, the catch limit was also suggested by the United States Commissioners as necessary to meet the conservation and management objectives of the Convention and the Halibut Act. This 2018 catch limit represents approximately an 11 percent reduction from the 2017 Area 2A catch limit. NMFS is setting catch limits for all other IPHC regulatory areas in the United States in a separate interim final rule. The following sections of this preamble describe NMFS's rationale for the Area 2A catch limit implemented in this interim final rule.

Summary of Biological and Economic Impacts of Coastwide Halibut Catch Limits

In 2017, the IPHC conducted its annual stock assessment using a range of updated data sources as described in detail in the 2017 IPHC Report of Assessment and Research Activities (2017 RARA; available at *www.iphc.int*). The IPHC used an ''ensemble'' of four equally weighted models, comprised of two long time-series models, and two short time-series models that use data series either divided by geographical region (IPHC Regulatory Area) or aggregated into coastwide summaries, to evaluate the Pacific halibut stock. These models incorporate data from the 2017 IPHC setline survey, the most recent NMFS trawl survey, weight-at-age estimates by region, and age distribution information for bycatch, sport, and sublegal discard removals. As has been the case since 2012, the results of the ensemble models are integrated, and incorporate uncertainty in natural mortality rates, environmental effects on recruitment, and other model parameters. The data and assessment models used by the IPHC are also reviewed by the IPHC's Scientific Review Board, a group comprised of non-IPHC scientists who provide an independent scientific review of the stock assessment data and models and provide recommendations to IPHC staff. The Scientific Review Board did not identify any substantive errors in the data or methods used in the 2017 stock assessment. NMFS has determined the IPHC's data and assessment models constitute best available science on the status of the Pacific halibut resource.

The IPHC's data, including the setline survey, indicates that the Pacific halibut stock declined continuously from the late 1990s to around 2010, as a result of decreasing size at a given age (size-at-age), as well as somewhat weaker recruitment strengths than those observed during the 1980s. The biomass of spawning females is estimated to have stabilized near 200,000,000 lb (90,718 mt) in 2010, and since then the stock is estimated to have increased two million pounds, but is still at relatively low levels.

The 2017 stock assessment projects that the biomass of spawning females at the beginning of 2018 is estimated to be 202,000,000 lb (91,600 mt). Data from the 2017 stock assessment indicate that all estimates of recruitment (year classes or cohorts) from 2006 onwards of Pacific halibut are estimated to be smaller than those from 1999 through 2005. This indicates a high probability of decline in both the stock and future fishery yield as recent recruitments become increasingly important to the age range over which much of the harvest and spawning takes place.

IPHC scientists presented at the interim and annual IPHC meetings, and in the Report of the 2018 annual meeting, biological information analyzing the possible effects of a range of different TCEYs and resulting catch limits on the spawning stock biomass and the harvestable yield over the period from 2019 through 2021, including the potential implications of the three alternative catch limits NMFS considered for this rule: Alternative 1—maintain the catch limits the IPHC adopted in 2017; Alternative 2—reduce catch limits as suggested by the United States Commissioners, but not recommended by the IPHC; and Alternative 3—reduce catch limits consistent with the IPHC's interim management procedure (Table 1). The IPHC's interim management procedure maintains the total mortality of halibut across its range from all sources based on a reference level of fishing intensity so that the Spawning Potential Ratio (SPR) is equal to 46 percent (F46% SPR). The catch limits that correspond to the reference fishing intensity of F46% SPR should result in in a fish achieving 46 percent of its spawning potential over the course of its lifetime relative to what it would have achieved as part of an unfished stock. Lower SPR values result in higher fishing intensity. Additional information on the status of the halibut resource under these catch limit alternatives is provided in the environmental assessment (EA) and finding of no significant impact (FONSI) (see **ADDRESSES**). The table below describes the coastwide and Area 2A TCEYs and catch limits that would result from the considered alternatives.

TABLE 1—COASTWIDE AND AREA 2A CATCH LIMITS UNDER ALTERNATIVES 1–3

[Weight in pounds]

	Coastwide catch limits (lb)	Area 2A TCEY (lb)	Area 2A catch limit (lb)
Alternative 1—2017 limits (F38%)	31,480,000	1,470,000	1,340,000
Alternative 2—United States Commissioner-suggested (F41%)	28,040,000	1,320,000	1,190,000
Alternative 3—IPHC Interim management procedure (F46%)	21,960,000	590,000	470,000

The following sections of this preamble provide a comparison of the relative risk of a decrease in both coastwide stock abundance and fishery yield for a range of alternative harvest levels for 2018 under each of these three alternative catch limit scenarios. This comparison assumes that other sources of removal that are not accounted for in the TCEY calculations are similar to those observed in 2017. This interim final rule refers to halibut catch limits, allocations, and removals in net pounds or net metric tons. Net pounds and net metric tons are defined as the weight of halibut from which the gills, entrails, head, and ice and slime have been removed. NMFS uses this terminology in this interim final rule to be consistent with the IPHC, which establishes catch limits and calculates mortality in net pounds.

This interim final rule addresses the TCEY and overall catch limit in Area 2A, but also describes and discusses the impacts of this decision on the halibut resource on a coastwide basis, consistent with the current management and known biological distribution of the halibut resource.

Alternative 1—Maintain the Catch Limits the IPHC Adopted in 2017

In 2017, the IPHC recommended halibut catch limits to the governments of Canada and the United States with a coastwide TCEY of 31,400,000 lb (14,242.80 mt). For Area 2A, this alternative would result in a TCEY of 1,470,000 lb (666.78 mt) and a catch limit of 1,340,000 lb (607.81 mt). Maintaining 2017 catch limits in all IPHC regulatory areas, including Area 2A, would have several short-term and long-term adverse impacts on the halibut resource.

If the 2017 catch limits were maintained in all Areas in 2018, the spawning stock biomass is projected to decrease over the next three years (2019 through 2021). The IPHC analysis projected that 2017 catch limits would result in a greater than 99 percent chance that the spawning stock biomass would be lower in 2019 than in 2018, and a 34 percent chance that it would be more than 5 percent lower than the current level of 202,000,000 lb (91,626 mt). The analysis of maintaining 2017 catch limits also projected a 99 percent chance that the spawning biomass would be lower than current levels in 2021, and an 89 percent chance that it would be more than 5 percent lower than the current level of 202,000,000 lb (91,626 mt) in 2021. The analysis also predicted a 23 percent chance that the 2021 spawning stock biomass would decline below the threshold reference point (30 percent of the spawning stock biomass remains) that the IPHC uses to indicate stock conditions that would trigger a substantial reduction in the halibut catch limits under the interim IPHC management procedure. Overall, the IPHC assessment predicts a 95 percent chance of decrease for the stock between 2019–21 under this catch limit alternative, and a greater decline than it would under Alternatives 2 or 3 (see Section 4 of the EA).

The analysis of the effects of maintaining the 2017 catch limits in all regulatory areas in 2018 also projects a chance of decrease in fishery yield over the next three years. Fishery yield is the amount of halibut available for harvest by commercial, recreational, and subsistence users. To maintain the 2017 F38% SPR, the coastwide TCEY would be 40,800,000 lb (18,506.57 mt). Maintaining the 2017 catch limits in all regulatory areas is predicted to result in an 80 percent chance that the fishery yield would be lower than the coastwide TCEY of 40,800,000 lb (18,506.57 mt) in 2019, and a 76 percent chance that it would be more than 10 percent lower. Under this alternative, the IPHC estimates at least an 81 percent chance that the coastwide fishery yield would be lower than the coastwide TCEY of 40,800,000 lb (18,506 mt) in 2020 and 2021, and at least a 77 percent chance that it would be more than 10 percent lower in 2020 and 2021. This alternative would provide the highest catch limits for 2018 of the three alternative catch limit scenarios described in this preamble, but also has the greatest risk of future low fishery yields. Section 4 of the EA summarizes the biological and economic impacts of this alternative.

Alternative 2—Reduce Catch Limits as Suggested by the United States Commissioners, but Not Recommended by the IPHC

After considering the stock assessment, commercial fishery data, and other biological information at the 2018 IPHC annual meeting, the United States Commissioners stated that maintaining 2018 catch limits in Area 2A at the same level as those implemented in 2017 would not be consistent with the IPHC's conservation objectives for the halibut stock and its management objectives for the halibut fisheries. Specifically, the Convention in Article III states that the Commission may limit the quantity of the catch for the purpose of developing the stocks of halibut to levels which will permit the optimum yield from that fishery, and of maintaining the stocks at those levels.

The United States Commissioners examined a catch limit using the survey WPUE for Area 2A from 2016, due to some uncertainty in the 2017 Area 2A survey, discussed in more detail below. Following the IPHC's interim management policy of an F46% SPR level for a coastwide TCEY of 31,000,000 lb (14,061.35 mt), and utilizing the 2016 data for Area 2A and 2017 data for the remainder of the Regulatory Areas, the 2018 Area 2A TCEY was calculated to be 1,060,000 lb (480.81 mt). This value considered the data collected in Alaska and Canada in 2017 that projects a coastwide stock decline. NMFS understands that the United States Commissioners used 1,060,000 lb (480.81 mt) as a baseline for the Area 2A catch limits they suggested, instead of the TCEY of 590,000 lb (267.62 mt) that was presented by the IPHC under its interim management procedure. The United States Commissioners suggested a TCEY of 1,320,000 lb (598.74 mt) and resulting catch limit of 1,190,000 lb (539.75 mt), approximately an 11 percent decrease from 2017 catch limits. The United States Commissioners provided rationale that supported the catch limits recommended under this alternative and implemented by this rule, including the following:

- The IPHC survey, IPHC coastwide stock assessment, and supporting information from NMFS trawl and longline surveys indicated substantial reductions in halibut spawning stock biomass and potential fishery yield in 2018 compared to 2017;
- The IPHC stock assessment identified poor recruitment in the size classes targeted by commercial, recreational, and subsistence users for the foreseeable future. These declining recruitment trends are worsened with higher harvest rates; and
- The results from the IPHC survey are further substantiated by declining halibut trends in Bering Sea and Gulf of Alaska trawl surveys, and declining trends in commercial fishery weight-per-unit-effort (WPUE) in most areas, though not in 2A. The IPHC survey indicates a 10 percent reduction in survey WPUE, and a 24 percent reduction in survey numbers-per-unit-effort (NPUE) coastwide compared to last year.

The United States Commissioners were presented information indicating that commercial WPUE in some regulatory areas was higher in 2017 relative to 2016. These commercial data have led some fishery participants to suggest that the surveys and IPHC stock assessment do not adequately reflect the abundance of harvestable halibut. The United States Commissioners were also presented with information describing the timing of the IPHC survey in Area 2A, which took place later than in previous years, and data showing survey stations with consistent historic halibut catch had reduced landings within a hypoxic area. These topics are further addressed below. The United States Commissioners noted that there is no indication that the surveys or assessment are inaccurate to any significant degree and that they are the best scientific information available for estimating halibut abundance (see Section 3 of the EA for additional detail).

If the 2018 catch limits suggested by United States Commissioners were applied in all Areas in 2018, the spawning stock biomass is still projected to decrease over the next three years (2019 through 2021). Under this harvest alternative there is an estimated 93 percent chance that the spawning biomass would be lower than the current level in 2019, and a 19 percent chance that it would be more than 5 percent lower than the current level of 202,000,000 lb (91,626 mt). Under this alternative catch limit, there is a 92

percent chance that the spawning biomass would be lower in 2021, and a 72 percent chance that it would be more than 5 percent lower than the current level of 202,000,000 lb (91,626 mt). In 2021, there is a 17 percent chance that the spawning biomass would decline below the threshold reference point (30 percent of the spawning stock biomass remains) used by the IPHC to indicate stock conditions that would trigger a substantial reduction in the commercial halibut fishery under the interim management procedure.

Implementing the 2018 catch limits suggested by United States Commissioners is also projected to result in decreases in fishery yield over the next three years, but less so than under Alternative 1. To achieve the catch limits suggested by the United States Commissioners at F41% SPR, the coastwide TCEY would be 37,200,000 lb (16,874 mt). Under this alternative, the IPHC estimates a 73 percent chance that the coastwide fishery yield would be lower than a coastwide TCEY of 37,200,000 lb (16,874 mt) in 2019, and a 63 percent chance that it would be more than 10 percent lower. Under this alternative, the IPHC estimates at least a 75 percent chance that the coastwide fishery yield would be lower than a coastwide TCEY of 37,200,000 lb (16,874 mt) in 2020 and 2021, and at least a 67 percent chance that it would be more than 10 percent lower in 2020 and 2021. Sections 3 and 4 of the EA summarize the biological and economic impacts of this alternative.

Overall, the catch limit suggested by the U.S. Commissioners in Area 2A would result in a decrease of approximately 11 percent relative to 2017 and is consistent with the best scientific information available on the abundance of harvestable halibut within this Area.

Alternative 3—Reduce Catch Limits Consistent With the IPHC's Interim Management Procedure

The United States and Canadian Commissioners also considered an alternative catch limit that would establish catch limits in all regulatory areas consistent with the IPHC's interim management procedure, though neither group suggested these catch limits. For Area 2A, this would mean a TCEY of 590,000 lb (267.62 mt) and resulting catch limit of 470,000 lb (213.19 mt). The United States Commissioners heard public comment that establishing catch limits at the IPHC's F46% SPR reference level would impose significant economic costs on fishery participants in Area 2A (see Section 4.3 of the EA for additional detail).

If the catch limits consistent with the IPHC's interim harvest policy were implemented in all regulatory areas in 2018, the spawning stock biomass is still projected to decrease gradually over the next three years, but less than under Alternatives 1 and 2 (See Section 4.2 of the EA). Under this harvest alternative, there is an estimated 78 percent chance that the spawning stock biomass would be lower than the current level in 2019, and a 5 percent chance that it would be more than 5 percent lower than the current level of 202,000,000 lb (91,626 mt). Under this alternative catch limit, there is a 76 percent chance that the spawning stock biomass would be lower than the current level in 2021, and a 46 percent chance that it would be more than 5 percent lower than the current level of 202,000,000 lb (91,626 mt). In 2021, there is a 10 percent chance that the spawning biomass would decline below the threshold reference point (30 percent of the spawning stock biomass remains) that the IPHC uses to indicate stock conditions that would trigger a substantial reduction in the commercial halibut fishery under the interim management procedure.

Implementing 2018 catch limits consistent with the IPHC's interim harvest policy in all regulatory areas is still projected to gradually decrease fishery yield over the next three years (2019 through 2021), but less so than under Alternatives 1 and 2 (see Section 4.2 of the EA). Under this alternative, the IPHC estimates there is a 55 percent chance that the fishery yield would be lower than a coastwide TCEY of 31,000,000 lb (14,061 mt) under the F46% fishing intensity recommended by the IPHC, in 2019, and a 38 percent chance that it would be more than 10 percent lower. Under this alternative, there is at least a 59 percent chance that the fishery yield would be lower than a coastwide TCEY of 31,000,000 lb (14,061 mt) in 2020 and 2021, and at least a 45 percent chance that it would be more than 10 percent lower in 2020 and 2021. Section 4 of the EA summarizes the biological and economic impacts of this alternative.

Rationale for Area 2A Catch Limit

After considering the best available scientific information, the Convention, and the status of the halibut resource, NMFS sets an Area 2A TCEY of 1,320,000 lb (598.74 mt) and resulting catch limit of 1,190,000 lb (539.75 mt) through this interim final rule (Table 2). This Area 2A catch limit is consistent with catch limits as suggested by the United States Commissioners but not recommended by the IPHC.

TABLE 2—AREA 2A TCEY AND CATCH LIMIT FOR 2018

[lb]

Area 2A TCEY	1,320,000
Area 2A Catch Limit	1,190,000

As discussed above, the coastwide stock assessment predicts a decline in spawning stock biomass even under the most precautionary catch limit under Alternative 3. Recruitment has been poor since 2006 and these cohorts are displaying smaller size-at-age relative to the 1970s.

In addition to concerns about the status of the stock coastwide, the best available scientific information, including IPHC's suite of models, NMFS Alaska and West Coast trawl surveys, commercial WPUE in most regulatory areas, and the fishery-independent setline survey, supports setting 2018 catch limits for Area 2A lower than the 2017 catch limits.

The IPHC's 2017 fishery-independent setline survey indicated a 10 percent decrease from the 2016 survey in the coastwide aggregate legal (over 32 inches) WPUE, while Area 2A decreased by 22 percent from 2016 to 2017. The 2017 setline survey had the lowest Area 2A survey legal WPUE since 2011, at 19.6 pounds per skate, and has been declining since 2015. The 2017 Area 2A WPUE is low when compared to historical values since 1993. Only four years (2007–10) had a lower WPUE than 2017. Furthermore, while the coastwide setline survey numbers-per-unit effort (NPUE) for all-sizes decreased by 24 percent from 2016 to 2017, Area 2A decreased 44 percent from 2016 to 2017, the highest relative decrease of all the IPHC areas. This information was presented in the IPHC's annual meeting documents, available on their website. NMFS has determined that the recent declines in the Area 2A WPUE are the best available science and support the need for conservative catch limits for 2018 in Area 2A.

Although the setline survey data supports coastwide and extensive Area 2A halibut declines, IPHC staff acknowledged some concerns with the setline survey and the uncertainty in the magnitude of the estimated decline in Area 2A. These sources of uncertainty include: (1) The timing of the setline survey in Area 2A and (2) halibut catch in a hypoxic area that covered a large portion of the Area 2A setline survey stations.

From 2013 to 2016, the Area 2A setline survey began in late May in Washington waters and proceeded south, ending in either Oregon (2015

and 2016) or California waters (2013 and 2014) in the last half of July or first half of August. In 2017, the setline survey began in late May, but began in California and ended in Washington. Additionally, the 2017 survey off the Washington coast was performed in August through mid-September, rather than in July through mid-August as in 2013–16. The setline survey is performed annually, along regular intervals at predetermined stations of consistent size and gear. Although it is generally best practice to conduct surveys that contribute to a time series of data at similar times and locations each year, the timing for the 2017 survey does not lead NMFS to discount the overall trend of decline. A small decrease from 2015 to 2016 was also recorded.

In addition to changes to the timing of the Area 2A setline survey, there was also a large area of low dissolved oxygen off the coasts of Washington and Oregon in the summer of 2017. Hypoxic events are not uncommon off the U.S. west coast. However, the geographic extent and severity of the hypoxia in 2017 was unusual. The Washington portion of the setline survey corresponded spatially and temporally with the region of low dissolved oxygen. Historically, the setline survey stations in Washington waters have had among the highest WPUE of the Area 2A stations. In 2016, survey stations off the north Washington coast totaled 33 pounds per skate, where the same survey stations in 2017 had a WPUE of 9.9 pounds per skate. Most survey stations located in the hypoxic area in 2017 had a WPUE of zero.

Any conclusions on the impact of the hypoxic area to the setline survey are confounded by the change in survey timing. A change in either the timing or the presence of hypoxia still may have resulted in an accurate measure of the halibut stock in Area 2A. The 2017 survey data was compared to previous years, and there were no unexpected values outside of the low WPUE in the hypoxic area off the coast of Washington. Pacific halibut are believed to be able to swim out of hypoxic zones. If this was the case in 2017, the survey would have likely recorded higher halibut WPUE at stations surrounding the hypoxic zone. Because the data did not show higher halibut WPUE at the stations surrounding the hypoxic zone, NMFS concludes that the reductions seen in the setline survey may represent an actual reduction of biomass.

Separate from concerns about the 2017 setline survey, industry and treaty tribe representatives have also noted that Area 2A commercial weight per unit effort (WPUE) increased in recent years, which has led some members of the public, and treaty tribe representatives, to speculate that the Area 2A stock is increasing rather than declining. The IPHC calculations of WPUE indicate that Area 2A tribal commercial fishery WPUE has been increasing since 2014. In addition, there was a small WPUE increase of 5 percent from 2016 to 2017 in the non-tribal commercial fishery. Although the IPHC uses fishery-dependent data to support determinations about Pacific halibut stock status, this type of data is typically not a reliable indicator of biomass and the IPHC takes this into account in its interpretation of these data. There are several examples of overfished stocks for which WPUE remained fairly stable even though the stock biomass had substantially declined. While the best available science shows increases in WPUE since 2014 in the tribal fishery and in 2017 for the non-tribal directed fishery, this factor alone does not lead NMFS to dismiss the IPHC's conclusion that the Area 2A population is declining.

Some industry and treaty tribe representatives have also expressed their opinion that, because the Area 2A catch limit represents less than 2 percent of the coastwide Pacific halibut catch limit, maintaining the Area 2A catch limit at the 2017 level will not harm the coastwide stock. They assert that their position is supported by an IPHC analysis showing that additional mortality equivalent to maintaining the Area 2A catch limit at the 2017 level (150,000 lb or 75 mt greater that NMFS's selected alternative) does not increase the level of risk of coastwide stock decline presented under the discussion of alternatives in this preamble.

NMFS considered how the Pacific halibut in Area 2A contribute and relate to the coastwide stock, and the potential impacts of maintaining the 2017 catch limit in Area 2A on the health of the resource given the evidence of stock decline. Little is known about the exact interplay between geographic regions and spawning success within the Pacific halibut population, and there may be differences in discrete spawning components of the population that make choosing a more precautionary catch limit preferable. Fisheries management recognizes the benefits of distributing harvest in proportion to stock size for stocks managed at a coastwide level. The IPHC currently uses area-specific survey information to apportion stock biomass, and ultimately catch limits, across the regulatory areas. This approach recognizes the value of biocomplexity across the geographic range of the halibut stock. Distributing removals across the current stock distribution is likely to protect against localized depletion of the various stock components. This is particularly important because different stock components may have different recruitment success under changing environmental conditions. This concept of using a ''portfolio effect'' by distributing harvest in proportion to stock distribution is widely recognized in fisheries management, particularly among salmon stocks (see EA at 3.2.1). NMFS uses this harvest distribution approach for North Pacific stocks, such as Pacific cod sablefish, to manage across a broad spatial distribution. This method has several advantages in that it is based on a standardized annual assessment of stock (survey), is not reliant on commercial fishery data that can mask changes in underlying stock dynamics, and is a precautionary buffer against local depletion and spatial recruitment overfishing. The IPHC continues to discuss and refine apportionment methods; however, the current method represents the best available scientific method for apportioning coastwide catch.

NMFS recognizes the value of maintaining diversity across the geographic range of Pacific halibut and supports reducing the Area 2A catch limit consistent with the current understanding of coastwide stock health to protect against potential localized depletion. If there is a relatively distinct spawning component of the population in Area 2A, then the evidence of stock decline in Area 2A supports reducing the catch limit compared to 2017 in order to maintain that component. Conversely, if halibut in Area 2A interrelate with the coastwide spawning population, then the evidence of coastwide declines supports reducing the Area 2A catch limit to contribute to the sustainability of the coastwide stock. Regardless of the true relationship of the Area 2A population to the coastwide stock, maintaining the Area 2A catch limit at 2017 level, particularly in light of the catch limit decreases the Alaska Region will implement for other IPHC regulatory areas in a separate interim final rule, would be inconsistent with the IPHC's current stock apportionment approach. Overall, NMFS determined that the projected coastwide declines in stock biomass warrants distributing stock removals across all regulatory areas, including Area 2A.

NMFS reviewed the information presented by IPHC on the coastwide and Area 2A-specific decline of Pacific halibut and sources of uncertainty. The best available science supports the conclusion that the coastwide halibut

population and the Area 2A component of the halibut population is declining, and NMFS believes that it is appropriate to reduce 2018 catch limit in Area 2A relative to 2017. There is enough uncertainty about the magnitude of the expected decline and concerns with the 2017 setline survey to influence NMFS's decision on a final catch limit for Area 2A. Due to the timing of the survey and hypoxic event, NMFS examined a catch limit using the survey WPUE for Area 2A from 2016, thus removing the uncertainty from the 2017 setline survey from this decision. NMFS believes this approach constitutes the best available science. Following the IPHC's interim management policy of an F46% SPR level for a coastwide TCEY of 31,000,000 lb (14,061.36 mt), the 2018 Area 2A TCEY was calculated to be 1,060,000 lb (480.81 mt). This compares with the IPHC's interim management recommendation of a 590,000 lb (267.62 mt) TCEY for Area 2A based on the 2017 setline survey data.

A decline in the halibut stock is expected under all alternatives, even under Alternative 3 with the lowest catch limits. The IPHC stock projections provided risk estimates up through 2021 with a higher level of certainty, but declines may occur over a period longer than three years. The stock will continue to be evaluated in annual stock assessments, and lower catch limits may be necessary in the coming years. Given the potential economic impacts of a large reduction from the 2017 TCEY of 1,470,000 lb (666.78 mt) to a TCEY for Area 2A that corresponds to a coastwide reference fishing intensity level of F46%, NMFS has determined that it is appropriate to reduce catch limits over a period greater than one year. Gradually reducing the level of harvest over a number of years balances a precautionary approach to coastwide decline of the stock shown in the survey with the severity of the economic impacts from a large reduction. Furthermore, a small reduction for 2018 provides a transition period if further reductions are necessary in the coming years, and allows the IPHC to re-evaluate the Area 2A biomass estimate after the 2018 survey. NMFS understands that the IPHC intends to follow the survey location and timing used in surveys prior to 2017, which may reduce the overlap of any summer hypoxia in future years.

Comments and Responses

On January 30, 2018, NMFS published a proposed rule for the 2018 Pacific halibut Catch Sharing Plan and annual management measures for Area 2A off Washington, Oregon, and California (83 FR 4175). NMFS accepted public comments on the Council's recommended modifications to the Plan and the resulting proposed domestic fishing regulations through March 1, 2018. When the January 2018 proposed rule was published, NMFS anticipated that the IPHC would determine catch limits for Area 2A at its annual meeting; however, the IPHC did not agree on 2018 Pacific halibut catch limits. Although specific 2018 catch limits were not proposed under the January 2018 proposed rule, NMFS accepted comments regarding any potential changes to the catch limits for 2018. Comments relating to the 2018 catch limits are addressed here. As stated above, NMFS is also requesting post-promulgation comments on the 2018 catch limits set under this rule.

Comment 1: Oregon Department of Fish and Wildlife and California Department of Fish and Wildlife support the United States Commissioner suggested TCEY of 1,320,000 lb (598.74 mt) and resulting catch limit of 1,190,000 lb (539.75 mt).

Response: NMFS acknowledges the importance of transparency and the data and staff experience used in the IPHC process for setting coastwide halibut catch limits. After an independent review of the best available science, NMFS is setting a catch limit of 1,190,000 lb (538.75 mt), consistent with the United States Commissioners' suggestion. NMFS's rationale in support of this catch limit is included in the preamble, and is not repeated here.

Comment 2: The Northwest Indian Fisheries Commission supported leaving 2017 catch limit in place for 2018, Alternative 1, which was also supported by IPHC advisory bodies at the annual meeting. Washington Department of Fish and Wildlife initially supported the United States Commissioners' suggestion, but later changed its position to state that 2017 levels are appropriate. The Northwest Indian Fisheries Commission further commented that the IPHC 2017 setline survey does not form a basis for a reduction in the Area 2A quota and that tribal and non-tribal commercial WPUE point to an increased Area 2A abundance.

Response: NMFS acknowledges the concerns with the setline survey, but disagrees that the 2017 setline survey does not provide any basis for Area 2A catch limit reductions. NMFS's consideration of the issues with the setline survey is discussed in detail in the preamble to this rule. Using the data from the 2017 setline survey that took place later than in previous years and coincided with a hypoxic area would result in a 2018 catch limit of 590,000 lb (267.62 mt) for Area 2A, discussed under Alternative 3. However, because of the concern with the 2017 survey, NMFS supports using the WPUE from the 2016 setline survey that provides a more appropriate starting point for determining the final Area 2A catch limit. Applying the 2016 setline survey data to the 2017 stock assessment was calculated to result in a 2018 TCEY of 1,060,000 pounds (480.81 mt) for Area 2A. NMFS concurs with statements by the United States Commissioners that adopting a TCEY for Area 2A that corresponds to a coastwide reference fishing intensity level of F46% without any transition period would lead to extensive economic harm to the tribes, fishery participants, and coastal communities in Area 2A. Setting the catch limit at 1,190,000 lbs (539.75 mt) reduces the immediate economic harm to fishery participants, but still reduces the catch limit to support the sustainability of the halibut stock. NMFS considered commercial WPUE when making its decision, but opted for a precautionary lower catch limit for the health of the halibut stock until the IPHC reports new information.

Classification

The Administrator of the NMFS West Coast Region determined that this interim final rule is necessary for the conservation and management of the Pacific halibut fishery and that it is consistent with the Convention, the Halibut Act, and other applicable laws. Halibut annual management measures are a product of an agreement between the United States and Canada and are published in the **Federal Register** to provide notice of their effectiveness and content. However, for 2018, because the United States and Canada were not able to reach agreement on all management measures, additional halibut annual management measures will be promulgated by the Secretary of Commerce pursuant to Northern Pacific Halibut Act of 1982, 16 U.S.C. 773c(a) and (b).

This interim final rule is consistent with the objective of the Convention to develop the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels which will permit the optimum yield from that fishery, and to maintain the stocks at those levels. NMFS considered the best available science when selecting the Area 2A catch limit implemented in this interim final rule. Specifically, NMFS considered the most recent stock assessments conducted by the IPHC, surveys, and the EA and FONSI completed for this interim final rule.

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

There are no relevant federal rules that may duplicate, overlap, or conflict with this action.

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

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer its fisheries and to establish its own policies to achieve program objectives. Accordingly, tribal allocations and regulations have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus. The treaty tribes requested consultation with NMFS on this rule and NMFS met with representatives from the Makah Tribe on February 9, 2018, and the Northwest Indian Fisheries Commission on February 12, 2018, to discuss the rule.

Without adoption of this interim final rule, the Pacific halibut stocks would be harvested at a rate NMFS has determined to be unacceptably high based on the best available science. Further, it is imperative to publish these regulations prior to the opening of the season under the 2018 IPHC annual management measures (83 FR 10390, Mar. 3, 2018) to avoid confusion to the affected public regarding legal behavior while conducting Pacific halibut fisheries in Convention waters off the United States. Therefore, pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. Because of the timing of the start of the Pacific halibut fishery, which begins on March 24, 2018, it is impracticable to complete rulemaking before the start of the fishery with a public review and comment period. However, the opportunity for public comment on the halibut stock and catch limits was available at the interim and annual IPHC meetings, through the proposed rule for changes to the Catch Sharing Plan, and at the Council meeting held in March 2018. This interim final rule implements commercial catch limit for Area 2A consistent with the suggestions made by United States Commissioners to the IPHC at the annual meeting of the IPHC that concluded on January 26, 2018. With the fishery scheduled to open on March 24, 2018, NMFS must ensure that the prosecution of a fishery would not result in substantial harm to the Pacific halibut resource that could occur if the additional time necessary to provide for prior notice and comment and agency processing delayed the effectiveness of this action beyond March 24, 2018.

There also is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. These management measures must be effective by March 24, 2018, when the Pacific halibut fishery is scheduled to open by regulations adopted by the IPHC. These management measures are necessary to prevent substantial harm to the Pacific halibut resource. Their immediate effectiveness avoids confusion that could occur if these management measures are not effective on March 24, 2018. Accordingly, it is impracticable to delay for 30 days the effective date of this rule. Therefore, good cause exists to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(b)(3), and to make the rule effective upon filing with the Office of the **Federal Register**.

Although we are waiving prior notice and opportunity for public comment, we are requesting post-promulgation comments until April 25, 2018. Please see **ADDRESSES** for more information on the ways to submit comments.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

List of Subjects in 50 CFR Part 300

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

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

Dated: March 21, 2018.

Samuel D. Rauch III,

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

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

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. Add § 300.69 to read as follows:

§ 300.69 2018 Catch limits for Area 2A.

This section establishes catch limits for Area 2A, effective March 24, 2018, through December 31, 2018.

(a) This section establishes catch limits for Area 2A as follows:

	Pounds	Metric tons
Area 2A TCEY	1,320,000	598.74
Area 2A Catch Limit	1,190,000	538.78
Tribal commercial	389,500	176.67
Incidental commercial during sablefish fishery	50,000	22.68
Non-tribal directed commercial	201,845	91.56
Incidental commercial catch during salmon troll fishery	35,620	16.16

(b) [Reserved]

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