

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve a revision to the Iowa State Implementation Plan (SIP). The purpose of this revision is to update the Polk County Board of Health Rules and Regulations, Chapter V, "Air Pollution." These revisions reflect updates to the Iowa statewide rules previously approved by EPA and will ensure consistency between the applicable local agency rules and Federally-approved rules. This rulemaking also ensures Federal enforceability of the applicable parts of the local agency's "Air Pollution" rules.

**DATES:** Comments on this proposed action must be received in writing by August 5, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2010-0156 by one of the following methods:

1. <http://www.regulations.gov>: Follow the online instructions for submitting comments.

2. *E-mail:* [casburn.tracey@epa.gov](mailto:casburn.tracey@epa.gov).

3. *Mail:* Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier:* Deliver your comments to Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business is Monday through Friday, 8 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Tracey Casburn at (913) 551-7016, or by e-mail at [casburn.tracey@epa.gov](mailto:casburn.tracey@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all

public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: June 18, 2010.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2010-16228 Filed 7-2-10; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 100503209-0215-01]

RIN 0648-AY85

#### Pacific Halibut Fisheries; Limited Access for Guided Sport Charter Vessels 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 amend the limited access program for charter vessels in the guided sport fishery for Pacific halibut in the waters of International Pacific Halibut Commission Regulatory Area 2C (Southeast Alaska) and Area 3A (Central Gulf of Alaska). If approved, the proposed action would revise the method for assigning angler endorsements to charter halibut permits to more closely align each endorsement with the greatest number of charter vessel anglers reported for each vessel that a charter business used to qualify for a charter halibut permit. 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 August 5, 2010.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries

Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-AY85," by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.
- **Mail:** P. O. Box 21668, Juneau, AK 99802.
- **Fax:** 907-586-7557.
- **Hand delivery to the Federal Building:** 709 West 9th Street, Room 420A, Juneau, AK 99801.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. No comments will be posted for public viewing until after the comment period has closed. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Electronic copies of the Categorical Exclusion, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>. The Environmental Assessment, RIR, and Final Regulatory Flexibility Analysis for the charter halibut limited access program are available from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>.

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

**FOR FURTHER INFORMATION CONTACT:** Rachel Baker, 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 promulgates regulations governing the Pacific halibut

fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979). Regulations developed by the IPHC are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. The most recent IPHC regulations were published March 18, 2010 (75 FR 13024). IPHC regulations affecting sport fishing for halibut and charter vessels in IPHC Areas 2C and 3A may be found in sections 3, 25, and 28 of the March 18 final rule.

The Halibut Act, at sections 773c(a) and (b), provides the Secretary 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 is directed to consult with the Secretary of the department in which the U.S. Coast Guard is operating.

Section 773c(c) of the Halibut Act also authorizes the North Pacific Fishery Management Council (Council) to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Such Council-developed regulations may be implemented by NMFS only after approval by the Secretary. The Council has exercised this authority most notably in the development of its commercial fishery Individual Fishing Quota Program, codified at 50 CFR part 679, subsistence halibut fishery management measures, codified at 50 CFR 300.65, and the limited access program for charter vessels in the guided sport fishery, codified at 50 CFR 300.67.

#### **Charter Halibut Limited Access Program**

In March 2007, the Council recommended a limited access program for charter vessels in IPHC Areas 2C and 3A. The intent of the program was to curtail growth of fishing capacity in the charter sector by limiting the number of charter vessels that may participate in the guided sport fishery for halibut in Areas 2C and 3A. NMFS published a final rule implementing the program on

January 5, 2010 (75 FR 554). Under the program, NMFS will issue a charter halibut permit to a licensed charter fishing business owner based on his or her past participation in the charter halibut fishery. Portions of the limited access program final rule related to eligibility criteria, the permit application process, and other administrative procedures became effective on February 4, 2010. The requirement to have a charter halibut permit on board a charter vessel fishing for halibut will become effective on February 1, 2011. This schedule enables NMFS to complete most administrative procedures and issue charter halibut permits in 2010, in preparation for fishing under the program in 2011.

#### *Qualifications for Charter Halibut Permit*

An applicant must demonstrate participation in the charter halibut fishery during a historic qualifying period and during a recent participation period to receive an initial allocation of a charter halibut permit. The historic qualifying period is the sport fishing season established by the IPHC in 2004 and 2005 (February 1 through December 31). Minimum participation criteria need be met in only one of these years—2004 or 2005. The recent participation period is the sport fishing season established by the IPHC in 2008 (February 1 through December 31). This year was selected as the recent participation period because, at the time of program implementation, it was the most recent year for which NMFS had a complete record of saltwater charter vessel logbook data from the Alaska Department of Fish and Game (ADF&G).

The basic unit of participation for receiving a charter halibut permit will be a logbook fishing trip. A logbook fishing trip is an event that was reported to ADF&G in a saltwater charter vessel logbook in accordance with the time limit required for reporting such a trip that was in effect at the time of the trip.

The minimum participation qualifications include documentation of at least five logbook fishing trips during one of the qualifying years—2004 or 2005—and at least five logbook fishing trips during 2008. Meeting these minimum participation qualifications could qualify an applicant for a non-transferable charter halibut permit. The minimum participation qualifications for a transferable charter halibut permit include documentation of at least 15 logbook fishing trips during one of the qualifying years—2004 or 2005—and at least 15 logbook fishing trips during 2008.

#### *Angler Endorsements*

Each charter halibut permit will have an angler endorsement number. The angler endorsement number on the permit is the maximum number of charter vessel anglers that may catch and retain halibut on board the vessel. The term “charter vessel angler” is defined by regulation at 50 CFR 300.61 to include all persons, paying or non-paying, who use the services of the charter vessel guide. The angler endorsement assigned to a charter halibut permit would not limit the number of persons that an operator may carry, only the number that may catch and retain halibut.

A permit holder may use a charter halibut permit on board any vessel that meets federal and state requirements to operate as a charter vessel in the guided sport fishery for halibut in Areas 2C and 3A. A vessel operator will be able to use multiple permits to increase the number of charter vessel anglers on board. For example, if a vessel operator has two charter permits on board, one with an angler endorsement of four and one with an endorsement of six, then the vessel operator can have a maximum of 10 charter vessel anglers on board who are catching and retaining halibut, if the operator is otherwise authorized to carry 10 persons. If other restrictions, such as United States Coast Guard safety regulations, prevent 10 anglers from being on board the vessel, the charter halibut permits will not authorize the vessel operator to violate those provisions of law.

Under the final rule implementing the limited access program (75 FR 554, January 5, 2010), the angler endorsement assigned to a charter halibut permit for all qualified businesses would be equal to the greatest number of anglers reported for any vessel the business used for at least one logbook fishing trip in the qualifying period, subject to a minimum endorsement of four. All permits issued to an applicant would have the same angler endorsement. For example, if a business qualified for three charter halibut permits using three vessels, each permit issued to the business would be assigned the same angler endorsement, even if the greatest number of charter vessel anglers reported was different for each vessel the business used in the qualifying period.

#### **The Proposed Action**

In February 2010, the Council expressed concern about the method of assigning angler endorsements to the second and subsequent charter halibut permits issued to businesses receiving

more than one permit. The Council noted that in some cases, the greatest number of charter vessel anglers reported for a vessel could be greater than the number of anglers reported on other vessels the business used to qualify for charter halibut permits. For example, if an applicant used three vessels to qualify for three permits, and reported a maximum of six charter vessel anglers for one vessel's trips, a maximum of four charter vessel anglers for the second vessel, and a maximum of three charter vessel anglers for the third vessel in the qualifying period, under the final rule the applicant would be issued three charter halibut permits, each with an angler endorsement of six. The Council was concerned about this method of assigning angler endorsements because the total number of angler endorsements the applicant would receive on all permits combined could be greater than the total number of charter vessel anglers the business reported for all of the vessels it used in the qualifying period. The Council also was concerned that the method of assigning angler endorsements under the final rule could result in an increase in fishing capacity the Council did not intend. The total number of angler endorsements that would be assigned to permits under the final rule potentially could enable a greater number of charter vessel anglers to catch and retain halibut under the limited access program than qualifying charter operators reported during the qualifying period.

The Council initiated this proposed action to more closely align angler endorsements assigned to the second and subsequent permits issued to a business with a permit recipient's vessel-specific activity during the qualifying period. Using the previous example in which the applicant would receive three charter halibut permits, under this action, each permit's angler endorsement would be derived from the number of charter vessel anglers reported for each vessel the applicant used in the qualifying period, with a minimum endorsement of four. The applicant would receive one permit with an angler endorsement of six, and two permits with an angler endorsement of four.

In recommending the proposed action, the Council clarified that the status quo method of assigning an angler endorsement to the first charter halibut permit received by a business receiving more than one permit, and to the only permit received by a business receiving one permit is consistent with its intent, because the angler endorsement assigned to these permits would be

derived from the greatest number of anglers reported for any vessel the business used for at least one logbook fishing trip in the qualifying period. The proposed rule would maintain the status quo method for assigning angler endorsements to the first charter halibut permit issued to all qualifying applicants, and would only change the method used to assign angler endorsements to each subsequent permit received by qualified applicants.

#### *Revised Method of Assigning Angler Endorsements*

The Council reviewed the RIR/IRFA (see ADDRESSES) prepared for this action in April 2010, and selected a preferred alternative to revise the method of assigning angler endorsements to charter halibut permits issued to businesses receiving more than one permit for Area 2C, Area 3A, or both. Under the proposed rule, for applicants that qualify for more than one charter halibut permit, NMFS would determine the greatest number of charter vessel anglers the applicant reported for each vessel the applicant used in the qualifying period (2004 and 2005). Each of these numbers would equal a vessel-specific angler endorsement number that would be assigned to a charter halibut permit issued to the applicant. NMFS would assign a vessel-specific angler endorsement of four if the applicant's greatest number of reported anglers was fewer than four on that vessel in the qualifying period. A vessel-specific angler endorsement number would be used only once to assign an angler endorsement to a charter halibut permit, unless the applicant used the same vessel to qualify for a permit in Area 2C and Area 3A.

For each affected applicant, NMFS would assign the vessel-specific angler endorsement numbers for each area in descending order. The greatest vessel-specific angler endorsement number derived from any vessel the business used in the qualifying period would be assigned to the first transferable permit the applicant would receive. Once this vessel-specific angler endorsement number is assigned to a charter halibut permit, that number could not be assigned any additional angler endorsements for that area. The next greatest vessel-specific angler endorsement number would be assigned to the first subsequent transferable permit the applicant would receive, and this process of assigning endorsement numbers to transferable permits would continue until all transferable permits for an applicant were assigned an angler endorsement. When all transferable

charter halibut permits have been assigned an angler endorsement, the next greatest vessel-specific angler endorsement number would be assigned to the first non-transferable permit that the applicant would receive. The same process would continue until all non-transferable permits were assigned an angler endorsement. If the applicant would receive charter halibut permits for both Area 2C and Area 3A, the process would be repeated using the vessel-specific angler endorsement numbers for the second area.

If the applicant would receive only one or more non-transferable charter halibut permits for an area, the greatest vessel-specific angler endorsement number would be assigned to the first non-transferable permit the applicant would receive. The next greatest vessel-specific angler endorsement number would be assigned to the next non-transferable permit, and this process would continue until all non-transferable permits issued to the business were assigned an angler endorsement, and repeated for a second area, if necessary.

This method of assigning angler endorsements was used in the Council's 2007 initial review and public review drafts of the RIR prepared for the charter halibut limited access program (see ADDRESSES) to illustrate the effects of the angler endorsement element and options. The angler endorsement assignment method was not stated explicitly in the Council motion in which it identified its preferred alternative in March 2007. However, the Council determined in April 2010 that this method was consistent with its intent for assigning angler endorsements to charter halibut permits.

#### **Effects of the Proposed Action**

The effects of the proposed action are discussed in detail in the RIR/IRFA prepared for this action (see ADDRESSES). The proposed action would affect only the number of angler endorsements that would be assigned to charter halibut permits initially issued to applicants that would receive more than one permit in an area. It would not affect the number of transferable and non-transferable charter halibut permits that will be initially issued under the limited access program prior to the start of the 2011 fishing season. The RIR prepared for this action (see ADDRESSES) estimates that approximately 89, or 39 percent, of apparently qualified charter business owners would qualify for more than one charter halibut permit in Area 2C and approximately 69, or 24 percent, of apparently qualified charter business

owners would qualify for more than one charter halibut permit in Area 3A. The Council's preferred alternative would result in approximately 2,618 angler endorsements assigned to 501 permits in Area 2C. This would be a reduction of approximately 13 percent from the 3,001 angler endorsements estimated to be assigned to charter halibut permits under the method used to assign angler endorsements in the final rule implementing the limited access program. In Area 3A, the Council's preferred alternative would result in approximately 3,122 angler endorsements assigned to 410 permits. This would be a reduction of approximately 11 percent from the 3,524 endorsements estimated to be assigned to permits under the final rule implementing the limited access program.

The proposed action would reduce the angler endorsement numbers assigned to some charter halibut permits, while leaving other angler endorsement numbers unaffected. A permit with fewer angler endorsements would authorize fewer charter vessel anglers to catch and retain halibut on a fishing trip. In general, this could reduce the revenue the charter halibut permit holder would receive from using that permit relative to the status quo. Transferable charter halibut permits with reduced angler endorsement numbers under the proposed action also likely would transfer for a lower value.

A charter halibut permit applicant receiving one or more charter halibut permits with a reduced angler endorsement under the proposed action would be adversely impacted. Future holders of affected permits likely would not be affected: while they would be able to generate less revenue from a charter halibut permit with a lower angler endorsement number, the purchase price of the permit likely would be less. Absent unexpected events, the reduced charter halibut permit value likely would be balanced by the reduced purchase costs of affected permits. A charter halibut permit recipient whose angler endorsement number would not be changed under the proposed action should not incur any costs from this action.

The Council intended for NMFS to revise angler endorsements before initially issuing charter halibut permits prior to the 2011 charter season. The proposed rule would increase administrative costs for NMFS because it would require an appeals process (see Implementation of the Proposed Action section below), in addition to the process established for charter halibut

permits under the limited access program final rule (75 FR 554, January 5, 2010). This appeals process would result in NMFS initially issuing charter halibut permits closer to the anticipated start of the 2011 charter season on February 1 than it intended under the status quo. This later permit issuance schedule could create some uncertainty for affected charter halibut permit applicants with respect to planning for the 2011 season, particularly for those applicants who already have indicated they accepted the angler endorsement numbers assigned to their permits under the current regulations.

Although the proposed action would have distributional impacts on individual charter business owners, revising the method of assigning angler endorsements to charter halibut permits likely would not impact current charter industry capacity and the sector's ability to meet angler demand. The RIR (see ADDRESSES) estimates that the number of angler endorsements that would be issued under the proposed action would provide sufficient charter capacity to meet current angler demand, and even potentially some increase in demand. Similarly, the proposed action is not expected to have a large impact on angler demand for charter vessel trips or the harvest of halibut by charter vessel anglers because of the action's limited impact on capacity in the charter vessel sector.

#### **Implementation of the Proposed Action**

To implement the proposed action, NMFS would create an official record of charter business participation in Areas 2C and 3A during the qualifying period and the recent participation period. The official record would be based on data from ADF&G, and would link each logbook fishing trip to an ADF&G Business Owner License and to the person-individual, corporation, partnership, or other entity that obtained the license. Thus, the official record would include information from ADF&G on the person(s) who obtained ADF&G Business Owner Licenses in the qualifying period, and in the recent participation period; the logbook fishing trips in those years that met the State of Alaska's legal requirements; the Business Owner License that authorized each logbook fishing trip; and the vessel that made each logbook fishing trip. The official record also would include the angler endorsement assigned to each charter halibut permit using the method implemented by the proposed regulatory amendment.

If the proposed rule is approved, NMFS would notify all affected business owners of the revised angler

endorsement(s) assigned to the charter halibut permit(s) they would be issued after the effective date of the rule. Affected business owners would have 30 days to challenge NMFS' determination. Charter business owners could submit documentation or further evidence in support of their claim during this 30-day evidentiary period. If NMFS accepts the business owner's documentation as sufficient to change the agency determination, NMFS would change the official record and issue a charter halibut permit with a revised angler endorsement accordingly. If NMFS does not agree that the further evidence supports the participant's claim, NMFS would issue an initial administrative determination (IAD) denying the participant's claim, and issue the participant's charter halibut permit(s) consistent with the official record. The IAD would describe why NMFS is initially denying some or all of an applicant's claim and would provide instructions on how to appeal the IAD.

Charter business owners would be able to appeal an IAD through the NOAA Office of Administrative Appeals (OAA). The OAA is a separate unit within the office of the Regional Administrator for the Alaska Region of NMFS. The OAA is charged with developing a record and preparing a formal decision on all appeals. Unless the Regional Administrator intervenes, the OAA decision becomes the Final Agency Action 30 days after the decision is issued. An applicant who is aggrieved by the Final Agency Action may then appeal to the U.S. District Court. Regulations at 50 CFR 679.43 provide a regulatory description of the existing appeals process. NMFS would issue interim permits to applicants who filed timely applications and whose appeal is accepted by NOAA.

#### **Classification**

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

*Executive Order 12866*

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

*Executive Order 12962*

This proposed rule is consistent with Executive Order 12962 as amended September 26, 2008, which requires federal agencies to ensure that recreational fishing is managed as a sustainable activity, and is consistent with existing law.

*Regulatory Flexibility Act*

An 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 the legal basis for this action may be found at the beginning of this preamble. A summary of the IRFA follows. Copies of the IRFA are available from NMFS (see ADDRESSES).

The entities directly regulated by this action are guided charter businesses that would qualify to receive more than one charter halibut permit in IPHC Areas 2C and 3A. NMFS estimates that under the status quo, 89 firms would qualify to receive more than one charter halibut permit in Area 2C, and 69 firms would qualify to receive more than one charter halibut permit in Area 3A. While quantitative information on individual charter business revenues is lacking, almost all of these firms are believed to be small entities under the terms of the Regulatory Flexibility Act. The only exceptions may be some lodge-based operations in Southeast Alaska.

The Small Business Administration (SBA) specifies that for marinas and charter/party boats, a small business is one with annual receipts less than \$6.0 million. The largest of these charter operations, which are lodges, may be considered large entities under SBA standards, but that cannot be confirmed because NMFS does not collect economic data on lodges. All of the other charter operations likely would be considered small entities based on SBA criteria, because they would be expected to have gross revenues of less than \$6.0 million on an annual basis.

The analysis prepared for the proposed action did not identify any new projected reporting, recordkeeping and other compliance requirements on directly regulated entities. If the proposed rule is approved, NMFS would notify affected applicants of the change to the angler endorsement assigned to a charter halibut permit that would be issued to an applicant.

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

An IRFA is required to describe significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities.

The status quo alternative does not achieve the Council's objectives for determining the number of angler endorsements assigned to charter halibut permits. The objective of this action is to more closely align angler endorsements assigned to the second and subsequent charter halibut permits issued to a business with the actual greatest number of anglers for each vessel that a business used to qualify for charter halibut permits. The Council's preferred alternative for this action would reduce the total number of angler endorsements assigned to charter halibut permits from the number of endorsements that would be assigned under the status quo alternative.

As noted above, all or most of the entities that would be directly impacted by this regulation are small entities. This action likely would have an insignificant adverse impact on some of these entities relative to the status quo alternative, by reducing the number of angler endorsements assigned to charter halibut permits they would be initially issued. A reduction in the number of angler endorsements assigned to a charter halibut permit generally would reduce the potential for profit from that permit, because a permit with fewer endorsements would authorize fewer charter vessel anglers on any given fishing trip. However, the RIR/IRFA (see ADDRESSES) prepared for this action notes that individual charter halibut permits could be used more or less intensively by charter vessel operators to meet angler demand. Charter vessel operators that receive a reduced number of angler endorsements under the proposed action could counteract this reduction by increasing the average number of anglers on a charter vessel fishing trip, or by increasing the average number of charter vessel fishing trips associated with an individual permit. Changes in the average number of anglers on an individual charter vessel fishing trip likely would produce relatively modest changes in the operator's costs and revenues for the trip. On balance, these changes are unlikely to have a significant economic impact on an individual charter vessel operator.

The Council considered two options to the preferred alternative. One option would have determined a vessel-specific angler endorsement for businesses receiving more than one charter halibut permit for all vessels used in only one year of the qualifying period, rather than considering all vessels in both 2004 and 2005. Another option would have used the same one-year restriction for determining angler endorsements, but applied the proposed action to all businesses that would qualify to receive charter halibut permits, rather than limiting the action only to charter businesses that would qualify to receive more than one charter halibut permit. The Council rejected these options because they would result in changes to the status quo method of assigning angler endorsements to the first charter halibut permit issued to affected businesses, in addition to changing the status quo method of assigning angler endorsements to the second and subsequent charter halibut permit issued to affected businesses. In recommending the preferred alternative, the Council clarified that it intended to revise the status quo method of assigning an angler endorsement only to the second and subsequent charter halibut permits received by a business receiving more than one permit. The Council did not intend to revise the status quo method of assigning an angler endorsement to the first charter halibut permit received by a business receiving one or more charter halibut permits. Therefore, the preferred alternative accomplishes the distributional objectives of the Council with the least adverse impact on directly regulated entities.

Data on cost structure, affiliation, and operational procedures and strategies in the halibut charter vessel sector are unavailable, and NMFS is unable to quantify the economic impacts of the proposed action on affected small entities for any of the options analyzed. The qualitative analysis in the RIR/IRFA (see ADDRESSES) estimates that none of the options considered under the proposed action would be expected to have a significant impact on small entities. While there may be some costs imposed on small entities through impacts on permit flexibility and implementation expenses, these impacts are likely to be small, because of the limited impact of the proposed action on the operational efficiency of an individual charter operator.

*Collection of Information*

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), which

has been approved by the Office of Management and Budget (OMB) under control number 0648-0592. Public reporting burden estimate per response for the charter halibut permit application is two hours. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSEES) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

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

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

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: June 29, 2010.

**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, subpart E, as follows:

#### PART 300—INTERNATIONAL FISHERIES REGULATIONS

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

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

2. In § 300.67:

a. Redesignate paragraphs (e)(1) and (e)(2) as paragraphs (e)(5) and (e)(6), respectively;

b. Revise paragraph (e) introductory text;

c. Add paragraphs (e)(1) through (e)(4); and

d. Revise newly redesignated paragraph (e)(5) to read as follows:

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

\* \* \* \* \*

(e) *Angler endorsement.* A charter halibut permit will be endorsed as follows:

(1) The angler endorsement number for the first transferable permit for an area issued to an applicant will be the greatest number of charter vessel anglers reported on any logbook trip in the qualifying period in that area.

(2) The angler endorsement number for each subsequent transferable permit issued to the same applicant for the same area will be the greatest number of charter vessel anglers reported by the applicant on any logbook trip in the qualifying period for a vessel not already used in that area to determine an angler endorsement, until all

transferable permits issued to the applicant are assigned an angler endorsement.

(3) The angler endorsement number for the first non-transferable permit for an area issued to an applicant will be the greatest number of charter vessel anglers reported on any logbook trip in the qualifying period for a vessel not already used to determine an angler endorsement in that area.

(4) The angler endorsement number for each subsequent non-transferable permit issued to the same applicant for the same area will be the greatest number of charter vessel anglers reported by the applicant on any logbook trip in the qualifying period for a vessel not already used in that area to determine an angler endorsement, until all non-transferable permits issued to the applicant are assigned an angler endorsement.

(5) The angler endorsement number will be four (4) if the greatest number of charter vessel anglers reported on any logbook fishing trip for an area in the qualifying period is less than four (4), or no charter vessel anglers were reported on any of the applicant's logbook fishing trips in the applicant-selected year.

\* \* \* \* \*

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