



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 240307-0074]

RTID 0648-XD634

### Pacific Halibut Fisheries of the West Coast; Management Measures for the 2024

#### Area 2A Pacific Halibut Directed Commercial Fishery

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

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

**SUMMARY:** NMFS proposes to implement fishing periods and fishing period limits for the 2024 non-tribal directed commercial Pacific halibut fishery that operates south of Point Chehalis, WA, (lat. 46°53.30' N) in the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. The proposed action includes two 58-hour fishing periods. The first fishing period would begin at 8 a.m. Pacific Daylight Time (PDT) on June 25, 2024, and close at 6 p.m. PDT on June 27, 2024. The second fishing period would start at 8 a.m. PDT on July 9, 2024, and close at 6 p.m. PDT on July 11, 2024. NMFS is also proposing four fishing period limits (*i.e.*, vessel catch limits) across eight vessel size classes for both fishing periods. These actions are intended to conserve Pacific halibut and provide fishing opportunity where available.

**DATES:** Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0031>. You may submit

comments on this document, identified by NOAA-NMFS-2024-0031, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA-NMFS-2024-0031 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

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

*Docket:* This proposed rule is accessible at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region Pacific Halibut Directed Commercial Fishery website at <https://www.fisheries.noaa.gov/action/2024-pacific-halibut-directed-commercial-fishery> and at the Council’s website at <https://www.pcouncil.org>. Other comments received may be accessed through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Heather Fitch, West Coast Region, NMFS, (360) 320-6549, [heather.fitch@noaa.gov](mailto:heather.fitch@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

*Background*

The Northern Pacific Halibut Act of 1982 (16 U.S.C. 773-773k) (Halibut Act) gives the Secretary of Commerce the responsibility of implementing the provisions of the

Convention between Canada and the United States 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 (March 29, 1979).

As provided in the 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 International Pacific Halibut Commission (IPHC) in accordance with the Convention. Following acceptance by the Secretary of State, the annual management measures promulgated by the IPHC are published in the **Federal Register** to provide notice of their immediate regulatory effectiveness and to inform persons subject to the regulations of their restrictions and requirements (50 CFR 300.62).

The Halibut Act also provides that Regional Fishery Management Councils may develop, and the Secretary of Commerce may implement, regulations governing Pacific halibut fishing in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations (16 U.S.C. 773c(c)). The Pacific Fishery Management Council (Council) developed a catch sharing plan guiding the allocation of halibut across the various sectors for the IPHC's regulatory Area 2A.

#### *Fishery Allocation*

At its annual meeting held January 22–26, 2024, the IPHC adopted an Area 2A catch limit, called a fishery constant exploitation yield (FCEY), of 1.47 million pounds (667 metric tons (mt)), net weight (*i.e.*, the weight of Pacific halibut that is without gills and entrails, head-off, washed, and without ice and slime) of Pacific halibut. Upon acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, the fishery allocations adopted by the IPHC will be published in the **Federal Register**, in accordance with 50 CFR 300.62. The FCEY was derived from the total constant

exploitation yield (TCEY) of 1.65 million pounds (748 mt), net weight, for Area 2A, which includes commercial discards and bycatch projections calculated using a formula developed by the IPHC. Based on the FCEY for Area 2A and the allocation framework in the Council's catch sharing plan, the non-tribal directed commercial fishing allocation is 249,338 pounds (113 mt), net weight.

### *Fishing Periods*

Fishing periods, often referred to as fishery openers, are the time during the annual commercial halibut season when fishing for non-tribal directed commercial Pacific halibut in Area 2A is allowed. At its November 2023 meeting, the Council discussed the 2024 directed commercial season structure and recommended that NMFS establish fishing periods similar to those in the previous year. Specifically, the Council recommended that the directed commercial fishery operate as a series of 3-day openings, with the first fishing period beginning at 8 a.m. Pacific Daylight Time (PDT) on the fourth Tuesday in June and ending at 6 p.m. PDT on Thursday of that week, and the second fishing period occurring 2 weeks later. The Council also recommended that if there is a third fishing period, it should occur no earlier than 3 weeks after the second fishing period, and that any subsequent fishing periods would occur as soon as possible. Based on the Council's recommendations, NMFS is proposing to open the 2024 directed commercial fishery for 58 hours, beginning on June 25, 2024, at 8 a.m. PDT and closing on June 27, 2024, at 6 p.m. PDT. The second fishing period would occur 2 weeks later, beginning on July 9, 2024, at 8 a.m. PDT and closing on July 11, 2024, at 6 p.m. PDT.

Following the initial two fishing periods, NMFS will assess fishery harvest to date and determine if the fishery has attained the directed commercial allocation. If harvest estimates indicate the allocation has not been reached, NMFS may determine that subsequent fishing period(s) are necessary to attain the allocation. If a third fishing period occurs, it would occur no sooner than 3 weeks after the second fishing period. A third

fishing period, and any subsequent fishing periods would be announced in the **Federal Register** through inseason action.

### *Fishing Period Limits*

A fishing period limit, also called a vessel catch limit, is the maximum amount of Pacific halibut that may be retained and landed by a vessel during one fishing period. Each vessel may retain no more than the current fishing period limit of Pacific halibut for its vessel class, which is determined by vessel length. NMFS is proposing directed commercial fishing period limits, shown in table 1 below, based on the 2024 directed fishery allocation, the number of permits issued by vessel size class, and participation and catch rates from prior years.

For the 2024 fishing season, NMFS received 185 applications across 8 vessel size classes (A–H). Based on this number of permits and past fishery participation, NMFS anticipates similar vessel participation as has occurred in previous years. Therefore, NMFS is proposing that fishing period limits be grouped the same way as was done in previous years.

Although the directed commercial allocation for 2024 is similar to the allocations for the previous 3 years, the average catch per vessel increased in 2023. Therefore, NMFS is proposing reduced fishing period limits compared to the previous 3 years. These fishing period catch limits are intended to ensure that the Area 2A directed commercial fishery does not exceed its allocation, while also providing fair and equitable access across participants to an attainable amount of harvest.

If NMFS determines that more than two fishing periods are warranted, NMFS will set new fishing period limits and will set the fishing period limits for subsequent fishing periods equal across all vessel classes through inseason action.

### *2024 Non-tribal Directed Commercial Fishery Fishing Periods and Fishing Period Limits*

The Area 2A non-tribal directed commercial fishery, which occurs south of Point Chehalis, WA, (lat. 46°53.30' N) would open on June 25, 2024, at 8 a.m. PDT and close on June 27, 2024, at 6 p.m. PDT and would re-open July 9, 2024, at 8 a.m. PDT and close on July 11, 2024, at 6 p.m. PDT. The fishery may be adjusted inseason consistent with 50 CFR 300.63.

**Table 1 -- Fishing Period Limits by Size Class for the 2024 First and Second Fishing Periods of the Area 2A Pacific Halibut Non-Tribal Directed Commercial Fishery**

Vessel class	Length range in feet (meters)	Fishing period limit in pounds (mt)
A	1 - 25 (0.3 - 7.8)	1,800 (0.8164)
B	26 - 30 (7.9 - 9.3)	1,800 (0.8164)
C	31 - 35 (9.4 - 10.9)	1,800 (0.8164)
D	36 - 40 (11.0 - 12.4)	3,000 (1.361)
E	41 - 45 (12.5 - 13.9)	3,000 (1.361)
F	46 - 50 (14.0 - 15.4)	3,800 (1.724)
G	51 - 55 (15.5 - 16.9)	3,800 (1.724)
H	56+ (17.0+)	4,500 (2.041)

**Note:** Fishing period limits are in dressed weight (head-on, with ice and slime).

### **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 Halibut Act (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. Such regulations shall only be implemented with the approval of the Secretary.

This proposed rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed

rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System code 114111) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The entities that would be affected by the proposed action are those vessels that harvest Pacific halibut as part of the non-tribal directed commercial fishery and are all considered small businesses under the above size standards.

This proposed rule, if adopted, would establish the 2024 Area 2A non-tribal directed commercial fishery fishing periods and fishing period limits.

There are no large entities involved in Pacific halibut fisheries off the West Coast. In 2023, NMFS issued 148 licenses to the commercial fishing fleet for the Area 2A non-tribal directed commercial fishery. Of those 148 vessels that obtained licenses, 50 percent (74 vessels) participated in the fishery. NMFS expects that a similar proportion of vessels will participate in the fishery this year and may be affected by these regulations. Cost data for the harvesting operations of non-tribal commercial halibut vessels is limited or unavailable. However, for 2023, the non-tribal directed allocation was 257,819 pounds (117 mt), of which approximately 259,226 pounds (118 mt) of Pacific halibut were harvested and resulted in a total fishery ex-vessel value of approximately \$2.36 million. Therefore, NMFS considers all vessels affected by this action to be small entities.

Since this action will only impact commercial fishing vessels, which in the Pacific halibut fishery are small entities, none of these changes will have a disproportionately

negative effect on small entities versus large entities. Because each affected vessel is a small business, this proposed rule is considered to equally affect all of these small entities in the same manner. Therefore, this rule, if adopted, would not create disproportionate costs between small and large vessels/businesses.

The major effect of Pacific halibut management on small entities is from the Area 2A allocation decided by the IPHC; a decision independent from this proposed action. This action proposes fishing periods and fishing period limits for the 2024 non-tribal directed commercial fishery consistent with recommendations from the Council to provide commercial harvest opportunities under the allocations that result from the Area 2A catch limit determined by the IPHC. Profitability is largely based on the total Area 2A allocation decided by the IPHC, with subarea allocations determined based on the allocation formulae in the Council's catch sharing plan. Therefore, the proposed rule, if adopted, is unlikely to affect the profitability of the commercial fishery.

The Area 2A non-tribal directed commercial fishery allocation for 2024 is 249,338 pounds (113 mt), net weight, which is 3 percent lower than in 2023. This proposed rule, if adopted, is unlikely to affect overall participation in the directed commercial fishery since this action maintains an allocation similar to previous years. Profitability is dependent on the total amount of allocation available and market forces independent of this action. It is therefore highly unlikely that this proposed action would limit the fleet's potential profitability from catching halibut compared to last season or recent catch levels, as fishing periods and fishing period catch limits for 2024 are set using similar considerations as in previous years. Accordingly, vessel income from fishing is not expected to be altered as a result of this rule as it compares to recent catches in the fishery, including under the previous season's regulations.

Based on the disproportionality and profitability analysis above, the proposed action, if adopted, will not have adverse or disproportional economic impact on these

small business entities. As a result, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

**Dated:** March 7, 2024.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

[FR Doc. 2024-05289 Filed: 3/12/2024 8:45 am; Publication Date: 3/13/2024]