



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 300**

[Docket No. 240327-0090]

**RIN 0648-BM75**

### **Pacific Halibut Fisheries of the West Coast; 2023 Catch Sharing Plan and Recreational Management Measures**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule approves changes to the Pacific Halibut Catch Sharing Plan for the International Pacific Halibut Commission (IPHC)'s regulatory Area 2A off of Washington, Oregon, and California. In addition, this final rule implements management measures governing the 2024 recreational fisheries that are not implemented through the IPHC. These management measures include the recreational fishery seasons and subarea allocations for Area 2A. This rule also adds a new inseason management provision to transfer anticipated uncaught recreational fishery allocation between the Area 2A states. Additionally, the rule establishes a new management line at Point Arena, CA, creating two subareas with separate allocations off California. These actions are intended to conserve Pacific halibut and provide angler opportunity where available.

**DATES:** This rule is effective April 4, 2024.

**ADDRESSES:** Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 501 W Ocean Blvd., Long Beach, CA, 90802. 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.

**FOR FURTHER INFORMATION CONTACT:** Melissa Mandrup, phone: 562-980-3231 or e-mail: *melissa.mandrup@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Northern Pacific Halibut Act of 1982 (Halibut Act), 16 U.S.C. 773-773k, gives the Secretary of Commerce responsibility for 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 (Halibut Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). The Halibut Act requires that the Secretary of Commerce adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act (16 U.S.C. 773c). Additionally, as provided in the Halibut Act, the Regional Fishery Management Councils having authority for the geographic area concerned may develop, and the Secretary of Commerce may implement, regulations governing Pacific halibut fishing in in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations (16 U.S.C. 773c(c)).

At its annual meeting held January 22–26, 2024 the IPHC adopted an Area 2A catch limit also known as the fishery constant exploitation yield (FCEY) of 1.47 million pounds (lb; 666.8 metric tons [mt]) of Pacific halibut. The FCEY was derived from the total constant exploitation yield (TCEY) of 1.65 million lb (748.4 mt) for Area 2A, which includes commercial discards and bycatch estimates calculated using a formula developed by the IPHC. The Area 2A catch limit and commercial fishery allocations were adopted by the IPHC and were accepted by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62 on March 9, 2024.

This final rule contains 2024 recreational fishery subarea allocations based on the Area 2A catch limit adopted by the IPHC that were published in the **Federal Register** on March 18, 2024 (89 FR 19275). Additionally, the March 18, 2024 (89 FR 19275) final rule contains annual domestic management measures and IPHC regulations that are published each year under NMFS' authority to implement the Halibut Convention (50 CFR 300.62).

Since 1988, the Pacific Fishery Management Council (Council) has developed a Catch Sharing Plan that allocates the IPHC regulatory Area 2A Pacific halibut catch limit between treaty tribal and non-tribal harvesters and among non-tribal commercial and recreational (sport) fisheries. NMFS has implemented at 50 CFR 300.63 *et seq.* certain provisions of the Catch Sharing Plan and implemented in annual rules annual management measures consistent with the Catch Sharing Plan. In 1995, the Council recommended and NMFS approved a long-term Area 2A Catch Sharing Plan (60 FR 14651; March 20, 1995). NMFS has been approving adjustments to the Area 2A Catch Sharing Plan based on Council recommendations each year to address the changing needs of these fisheries. While the full Catch Sharing Plan is not published in the **Federal Register**, it is made available on the Council website:

<https://www.pcouncil.org/documents/2024/01/2024-pacific-halibut-catch-sharing-plan.pdf/>.

This rule approves the changes the Council recommended at its November 2023 meeting to the Catch Sharing Plan for Area 2A. The recommended changes to the Catch Sharing Plan were developed through the Council's public process. The changes to the Catch Sharing Plan were detailed in the proposed rule and are not repeated here.

This rule also implements recreational Pacific halibut fishery management measures for 2024, which include season opening and closing dates, bag limits, a new subarea off California, and a new inseason action to reallocate or transfer recreational

fishery allocation between states. These management measures are consistent with the recommendations made by the Council for the 2024 Catch Sharing Plan and the season dates recommended by the states during the proposed rule's public comment period, where applicable, and which are detailed below.

## **2024 Recreational Fishery Management Measures**

NMFS is implementing recreational fishery management measures consistent with the Council's recommendations for the 2024 Catch Sharing Plan. If there is any discrepancy between the Catch Sharing Plan and federal regulations, federal regulations take precedence. These provisions may be modified through inseason action consistent with 50 CFR 300.63(c). All recreational fishing in Area 2A is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the allocation for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch. The 2024 recreational fishing subareas, allocations, fishing dates, and daily bag limits are described below:

### *Washington Puget Sound and the U.S. Convention waters in the Strait of Juan de Fuca*

The allocation for landings into ports in Puget Sound and the U.S. waters in the Strait of Juan de Fuca is 81,729 lb (37.1 mt).

(a) The Puget Sound is open 7 days a week from April 4 through June 30. If the subarea allocation remains for at least another full day of fishing after June 30, NMFS may take inseason action to reopen the fishery in August, up to 7 days per week, through September. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

(b) The daily bag limit is one Pacific halibut of any size per person.

### *Washington North Coast Subarea*

The allocation for landings into ports in the Washington North Coast subarea is 132,366 lb (60.0 mt).

(a) The Washington North Coast is open:

- May 2, 3, 4;
- May 9, 10, 11;
- May 16, 17, 18;
- May 24;
- May 26;
- May 30, 31, June 1;
- June 6, 7, 8;
- June 13, 14, 15;
- June 20, 21, 22; and
- June 27, 28, 29.

If the subarea allocation remains for at least another full day of fishing after June 30, NMFS may take inseason action to reopen the fishery in August, up to 7 days per week, through September. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

(b) daily bag limit is one Pacific halibut of any size per person.

#### *Washington South Coast Subarea*

The allocation for landings into ports in the Washington South Coast subarea is 67,074 lb (30.4 mt) with 65,074 lb (29.5 mt) allocated to the primary fishery and 2,000 lb (0.9 mt) to the nearshore fishery.

(a) The Washington South Coast primary fishery is open

- May 2, 5, 7;

- May 9, 12, 14;
- May 16, 19, 21; and
- May 23.

If sufficient subarea allocation remains for at least another full day of fishing after May 30, the primary fishery will reopen:

- June 13, 16, 18;
- June 20, 23, 25;
- June 27, and 30; or
- until there is not sufficient subarea allocation for another full day of fishing.

If the subarea allocation remains for at least another full day of fishing after June 30, NMFS may take inseason action to reopen the fishery in August, up to 7 days per week, through September. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

When the Washington South Coast subarea primary fishery does not have sufficient allocation to open for at least another full day of fishing, any remaining primary fishery allocation will be used to open a nearshore fishery. The nearshore fishery will open for 7 days a week the first Saturday after the closure of the primary fishery. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

If the primary fishery is closed prior to September 30 and there is not sufficient allocation remaining for at least a full day of fishing in the nearshore fishery, NMFS may

take inseason action to transfer any remaining subarea allocation to another Washington coastal subarea, in accordance with Federal regulations at 50 CFR 300.63(c).

(b) The daily bag limit is one Pacific halibut of any size per person.

*Columbia River Subarea*

The allocation for landings into ports in the Columbia River subarea is 18,612 lb (8.4 mt), with 18,112 lb (8.2 mt) allocated to the all-depth fishery and 500 lb (0.2 mt) allocated to the nearshore fishery.

(a) The all-depth fishery is open:

- May 2, 5, 7;
- May 9, 12, 14;
- May 16, 19, 21;
- May 23, 26;
- May 30, June 2, 4;
- June 6, 9, 11;
- June 13, 16, 18;
- June 20, 23, 25; and
- June 27, 30.

The nearshore fishery is open:

- May 6, 7, 8;
- May 13, 14, 15;
- May 20, 21, 22;
- May 27, 28, 29;
- June 3, 4, 5;
- June 10, 11, 12;
- June 17, 18, 19;
- June 24, 25, 26;

- July 1, 2, 3;
- July 8, 9, 10;
- July 15, 16, 17;
- July 22, 23, 24;
- July 29, 30, 31;
- August 5, 6, 7;
- August 12, 13, 14;
- August 19, 20, 21;
- August 26, 27, 28;
- September 2, 3, 4;
- September 9, 10, 11;
- September 16, 17, 18;
- September 23, 24, 25; and
- September 30.

The area will close when there is not sufficient subarea allocation for another full day of fishing. Any remaining subarea allocation may be transferred inseason to other Washington or Oregon subareas, by NMFS, in accordance with Federal regulations at 50 CFR 300.63(c). Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825. Any remaining subarea allocation would be transferred to each state in proportion to the allocation formula in the Catch Sharing Plan.

(b) The daily bag limit is one Pacific halibut of any size per person.

*Oregon Central Coast Subarea*

The allocation for landings into ports in the Oregon Central Coast subarea is 266,161 lb (120.7 mt). The nearshore fishery allocation is 31,393 lb (14.5 mt), the spring

all-depth fishery allocation is 167,681 lb (76.1 mt), and the summer all-depth fishery allocation is 66,540 lb (30.2 mt).

(a) The nearshore fishery is open 7 days a week from May 1 through October 31. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

The spring all-depth fishery is open 7 days a week from May 1 through June 30. In the event that there is remaining subarea allocation after June 30, NMFS may take inseason action to reopen the fishery, up to 7 days a week, during the month of July. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

The summer all-depth fishery is open:

- August 1, 2, 3;
- August 15, 16, 17;
- August 29, 30, 31;
- September 12, 13, 14;
- September 26, 27, 28;
- October 10, 11, 12;
- October 24, 25, 26; and
- October 31.

The area will close when the remaining combined spring all-depth fishery and summer all-depth fishery allocations in the Oregon Central Coast subarea is not sufficient for another full day of fishing. Any inseason action, including closures, will be announced in

accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

(b) The daily bag limit is two Pacific halibut of any size per person. NMFS will announce bag limits in accordance with notice procedures at 50 CFR 300.63(c)(3) and on the NMFS hotline (206) 526-6667 or (800) 662-9825.

#### *Southern Oregon Subarea*

The allocation for landings into ports in the Southern Oregon subarea is 8,000 lb (3.6 mt).

(a) The fishery is open 7 days a week from May 1 through October 31. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

(b) The daily bag limit is two Pacific halibut of any size per person. NMFS will announce bag limits in accordance with notice procedures at 50 CFR 300.63(c)(3) and on the NMFS hotline (206) 526-6667 or (800) 662-9825.

#### *Northern California Coast Subarea*

The allocation for landings into ports in the Northern California Coast subarea is 37,720 lb (17.1 mt).

(a) The fishery is open May 1 through November 15. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

(b) The daily bag limit is one Pacific halibut of any size per person.

#### *South of Point Arena Subarea*

The allocation for landings into ports in the South of Point Arena subarea is 500 lb (0.2 mt).

(a) The fishery is open May 1 through December 31. The area will close when there is not sufficient subarea allocation for another full day of fishing. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

(b) The daily bag limit is one Pacific halibut of any size per person.

### **Comments and Responses**

NMFS published a proposed rule on February 9, 2024 (89 FR 9105) and accepted public comments on the 2024 Area 2A Catch Sharing Plan and the proposed 2024 annual management measures through March 11, 2024. NMFS received four responsive comments, one from the Oregon Department of Fish and Wildlife (ODFW) and three from the public, and has responded to those below. NMFS also received one comment from a member of the public that was not responsive to the proposed action and is therefore not addressed here.

*Comment 1:* ODFW submitted a comment recommending final recreational fishing season dates for the 2024 season for the Central Oregon Coast subarea. ODFW conducted an online survey and public meeting following the IPHC annual meeting. Based on the resulting stakeholder input, past fishing effort and harvest rates, other fishing opportunities, weather impacts, and the risk of exceeding the combined spring and summer all-depth fishery allocations, ODFW recommended season dates for the spring and summer Central Oregon Coast all-depth fisheries. For spring, ODFW recommended open dates of May 1 through June 30, 7 days per week. In the event that there is remaining subarea allocation following the initial open dates, ODFW recommended the spring fishery open July 1-31, 7 days a week. ODFW recommended summer fishery dates of August 1-3; August 15-17; August 29-31; September 12-14; September 26-28;

October 10–12; and October 24–26; and October 31, or until the total 2024 all-depth catch limit for the subarea is taken. ODFW also recommended a two-fish Pacific halibut bag limit per angler per day beginning May 1 for the Oregon Central Coast and Southern Oregon subareas.

*Response:* NMFS concurs that the ODFW-recommended season dates are appropriate. There are a few differences between the spring and summer all-depth season dates NMFS published in the proposed rule and those recommended by ODFW. However, based on the rationale provided by ODFW, NMFS has modified the recreational fishery season dates off of Oregon, approved in this final rule, to those recommended by ODFW.

*Comment 2:* NMFS received public comment on the recreational allocations, which requested a greater allocation for the California recreational fishery.

*Response:* Allocations to various sectors and states that are established in the Catch Sharing Plan and implemented through annual IPHC regulations were not considered through this action. As part of the Council process, the NMFS will consider modifications to the Area 2A Catch Sharing Plan, which includes the allocation schemes for the tribal and the non-tribal commercial and recreational fisheries. Interested parties can comment directly on state-specific allocations as part of that process, which is described at <https://www.pcouncil.org/>.

*Comment 3:* NMFS received a comment from the Crescent City Fishing Group, which indicated support for the proposed measures to conserve and manage the Pacific halibut fisheries, but also expressed concern that climate change is a stressor on the marine ecosystem and that fisheries management should respond with greater caution to the impacts of climate change.

*Response:* Overall fishery limits were not part of this action; however, this action is based on the best scientific information available. NMFS agrees that there are

increased stressors on marine ecosystems due to climate change and, consistent with its statutory and other obligations, works to manage all federally regulated fisheries, including Pacific halibut fisheries off the coasts of Washington, Oregon, and California, in a sustainable manner. In making their recommendation for the 2024 Pacific halibut fishing limits, the IPHC noted that the uncertainty associated with ongoing changes to the relevant ecosystem and climate remains high, and that the IPHC intends to continue to evaluate the effects of climate change on Pacific halibut as part of its ongoing management actions.

*Comment 4:* NMFS received comment from a member of the public, expressing the opinion that larger Pacific halibut should not be allowed to be kept when caught, due to those larger halibut's reproductive capacity. The comment also made a statement on halibut bycatch that is not related to this action.

*Response:* NMFS has determined that this action is based on the best scientific information available and will appropriately conserve and manage Pacific halibut stocks off the coasts of Washington, Oregon, and California consistent with the requirements of Federal law. As part of its ongoing biological research activities, the IPHC is examining the factors that influence (1) the biomass of the Pacific halibut population (e.g., distribution and movement of fish among IPHC regulatory areas; growth patterns and environmental influences on growth in larval, juvenile and adult fish; drivers of changes in size-at-age); (2) the spawning (female) population (e.g., reproductive maturity, skipped spawning, reproductive migrations); and (3) any resulting changes in population dynamics in order to ensure proper management of the Pacific halibut resource now and in the future. Consistent with its statutory and other obligations, NMFS will continue to keep abreast of the IPHC's ongoing research and to ensure that its regulatory actions, including its approval of annual Pacific halibut management measures, are based on the best scientific information available.

## **Classification**

Under section 773 of the Halibut Act, the Council may develop, and the Secretary of Commerce may implement, regulations governing Pacific halibut fishing by U.S. fishermen in Area 2A that are in addition to, and not in conflict with, approved IPHC regulations (16 U.S.C. 773c(c)). The final rule is consistent with the Council and NMFS's authority under the Halibut Act.

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

NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make the 2024 Area 2A recreational fishery management measures (*i.e.*, season dates and bag limits) in this rule effective in time for the start of the recreational Pacific halibut fisheries off the coasts of Washington, Oregon, and California on April 4, 2024, pursuant to 5 U.S.C. 553(d)(3). The 2024 Catch Sharing Plan provides the framework for the annual management measures and for setting subarea allocations based on annual catch limits set by the IPHC. This rule implements 2024 Area 2A subarea allocations as published in the proposed rule (89 FR 9105; February 9, 2024) for the recreational Pacific halibut fishery, based on the formulas set in the Catch Sharing Plan, and using the 2024 Area 2A catch limit for Pacific halibut set by the IPHC and accepted by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62, on March 9, 2024. Relatively few comments were received in response to the proposed rule; the comments raised few issues within the scope of this rulemaking, and minor changes were made to accommodate the comments received from the State of Oregon. With few changes from the proposed rule, there is less need for a delay in effective date.

Delaying the effective date of the annual management measures would be contrary to the public interest. The Council's 2024 Catch Sharing Plan includes changes

that respond to the needs of the fisheries in each state, including fisheries that begin in early April. The 2024 Catch Sharing Plan and management measures were developed through multiple Council meetings in 2023, which are open to the public and where public comment was accepted. Additionally, the 2024 Catch Sharing Plan and management measures were described at the January 2024 IPHC meeting, where public comment was also accepted. A delay in the effectiveness of these measures for 30 days would result in the West Coast's Pacific halibut recreational fisheries not being opened on their intended timelines and, thus, the fisheries not being open on the dates that the affected public is expecting. The recreational Pacific halibut fisheries have high participation, and some subareas close months before the end of the season due to subarea allocation attainment. If the fisheries do not open on their intended timelines, fishing opportunity is lost, potentially causing social and economic harm to communities at recreational fishing ports.

As a result of the potential harm to fishing communities that could be caused by delaying the effectiveness of these management measures, NMFS finds good cause to relieve a regulatory restriction as per 5 USC 553(d)(1) and waive the 30-day delay in the date of effectiveness and make this final rule effective on April 4, 2024.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. The factual basis for the certification was published in the proposed rule and is not repeated here. As a result, a regulatory flexibility analysis was not required for this action and none was prepared.

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

## List of Subjects in 50 CFR Part 300

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

Dated: March 28, 2024.

**Carrie Diane Robinson,**

*Acting Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS amends 50 CFR part 300, subpart E, 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. Amend § 300.63 by revising paragraph (c)(5)(iii), adding paragraph (c)(6)(i)(F), revising paragraph (c)(6)(ii) introductory text and paragraphs (c)(6)(ii)(E) and (c)(6)(ii)(F), and adding paragraph (c)(6)(ii)(G), to read as follows:

#### **§ 300.63 Catch sharing plan and domestic management measures in Area 2A.**

\* \* \* \* \*

(c) \* \* \*

(5) \* \* \*

(iii) *California.* The California recreational fishery is divided into the following subareas:

(A) *Northern California Coast Subarea.* The Northern California Coast subarea is located south of the OR/CA border (42°00.00' N lat.) to Point Arena (38° 57.5' N. lat.).

(B) *South of Point Arena Subarea*. The South of Point Area subarea is located south of Point Arena (38° 57.5' N. lat.) to the U.S./Mexico border.

(6) \* \* \*

(i) \* \* \*

(F) If any state is projected to not utilize its respective recreational allocation by the end of the fishing season, NMFS may take inseason action to transfer any projected unused allocation to another state. After a state notifies NMFS of the amount of their recreational subarea allocation in net pounds that is projected to be unused after accounting for state management objectives, NMFS may take inseason action to reallocate the amount of net pounds available equally to the other two states. If a state eligible to receive the additional pounds declines all or part of the additional pounds, or NMFS determines a state is unlikely to use additional allocation, a portion or the full amount of the remainder would go to the other state.

(ii) Inseason management provisions include, but are not limited to, the following:

\* \* \* \* \*

(E) Modification of state recreational allocation, including a shift in recreational allocation from one state to another;

(F) Modification of subarea allocation; and

(G) Modification of the Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) restrictions off Oregon using YRCA expansions as defined in groundfish regulations at 50 CFR 660.70(g) or (h).

\* \* \* \* \*