



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 240523-0145]

RIN 0648-BM75

Pacific Halibut Fisheries of the West Coast; 2024 Catch Sharing Plan and Recreational Management Measures; Correction

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

ACTION: Final rule; correction.

SUMMARY: This action makes two corrections to the 2024 Area 2A Pacific halibut recreational management measures implemented on April 4, 2024. Specifically, NMFS is correcting the open fishing dates listed for the Washington South Coast subarea fishery and a reference to the subarea allocation amount for the Oregon Central Coast nearshore fishery. The date and allocation corrections are to address minor inadvertent transcriptional errors, non-substantive changes to the final rule, and this rule is needed to avoid confusion with the public, enforcement, and management agencies.

DATES: Effective May 29, 2024.

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

SUPPLEMENTARY INFORMATION: NMFS manages the Pacific halibut fishery in International Pacific Halibut Commission (IPHC) Regulatory Area 2A (waters off Washington, Oregon, and California) in accordance with the Northern Pacific Halibut Act of 1982 (Halibut Act), 16 U.S.C. 773-773k. As provided in the Halibut Act, the regional fishery management council having authority for the geographic area concerned

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)). Since 1988, the Pacific Fishery Management Council (Council) has developed a Catch Sharing Plan, through the Council's public process, that allocates the Area 2A Pacific halibut catch limit, also known as the Fishery Constant Exploitable Yield (FCEY), between treaty tribal and non-tribal harvesters, and among non-tribal commercial and recreational (sport) fisheries, and adopts management measures for these 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. A final rule (89 FR 22966, April 3, 2024) implemented management measures for the 2024 recreational fishery, consistent with the recommendations made by the Council in its 2024 Catch Sharing Plan, including the days the fishery is open and subarea allocations in Area 2A. The final rule was effective on April 4, 2024. However, it contained two transcription errors, one for the Washington South Coast subarea and one for the Oregon Central Coast subarea.

Corrections

Season Dates

On page 22967 of the final rule, NMFS inadvertently excluded 2 days the Washington Department of Fish and Wildlife (WDFW) and the Council intended the fishery to be open in the Washington South Coast subarea: May 28 and 30. At its November meeting, the Council recommended NMFS implement specific season dates for fishing in the Washington South Coast subarea. These dates were developed through public meetings held by WDFW, as well as at the Council's September and November meetings. Specifically, the Council recommended to NMFS, based on WDFW's recommendation, that fishing days in the Washington South Coast subarea be "Open May

2 through May 30, three days per week, Thursday, Sunday, and Tuesday. Memorial Day weekend: open Thursday, May 23. If sufficient quota remains, open June 13, 16, 18, 20, 23, 25, 27, 30. If quota remains after June 30, open up to seven days per week in August and September.” However, the final rule inadvertently excluded the last Tuesday and Thursday in May: May 28 and 30.

As such, consistent with the intent of the Council, the corrected season dates for the Washington South Coast subarea in May are: May 2, 5, 7, 9, 12, 14, 16, 19, 21, 23, 28, and 30. Closed May 25, 26 and 27.

Subarea Allocation

Under the allocation framework the Council adopted in the Catch Sharing Plan, the Oregon recreational fishery is allocated 29.7 percent of the non-tribal share of the FCEY. The Oregon recreational fishery allocation is further allocated to two subareas; the Oregon Central Coast receiving 93.79 percent and Southern Oregon receiving 3.91 percent (up to 8,000 pounds (lb) [3.6 metric tons [mt]] with the remainder going to the Columbia River subarea). The Oregon Central Coast subarea allocation is further divided into the nearshore fishery receiving 12 percent, the spring all-depth fishery receiving 63 percent, and the summer all-depth fishery receiving 25 percent. Consistent with the allocation the IPHC set for Area 2A in 2024 (89 FR 19275, March 18, 2024) and this framework, the overall Oregon Central Coast subarea allocation is 266,161 lb (120.7 mt) and the nearshore fishery allocation should therefore be 31,939 lb (14.5 mt). However, page 22968 of the final rule incorrectly states the pounds allocated to the nearshore fishery as 31,393 lb (14.5 mt). Therefore, this action corrects that value and establishes the Oregon Central Coast nearshore fishery allocation at 31,939 lb (14.5 mt). The amount in metric tons of 14.5 mt was stated correctly in the original final rule.

Classification

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) authorizes agencies to dispense with notice and comment procedures for rules when the agency for “good cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” The Assistant Administrator for Fisheries determined 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 this action is necessary to correct an inadvertent error in a final rule (89 FR 22966).

Immediate correction of the error is necessary to prevent confusion among participants in the fishery and to ensure that management of the fishery is consistent with State Fish and Wildlife agency recommendations, which were developed with stakeholder feedback, and the Council’s intent for the regulations, as developed over two public meetings. The proposed regulations were available for public review during a 30-day public comment period in the proposed rule (89 FR 9105, February 9, 2024), and the final rule (89 FR 22966, April 3, 2024) provided responses to the comments received. Therefore, there is good cause to waive additional public comment and immediate correction of the error is needed to meet the public’s expectations based on recommendations made in the Council’s 2024 Catch Sharing Plan and in outreach materials distributed by the States of Washington and Oregon. Delaying this correction to engage in notice-and-comment rulemaking would be contrary to the public interest because it would undermine the intent of the rule.

Under section 553(d) of the APA, an agency must delay the effective date of regulations for 30 days after publication, unless the agency finds good cause to make the regulations effective sooner. For the same reasons stated above, the Assistant Administrator for Fisheries has determined good cause exists to waive the 30-day delay in effectiveness. This rule makes only two minor corrections to the final rule, which became effective April 4, 2024. Delaying effectiveness of these corrections would result

in conflicts in the regulations and confusion among fishery participants, and would therefore be contrary to the public interest. Additionally, without waiving the 30-day delay in effectiveness, this correction to the season dates would not be effective by May 28 and 30, which the final rule inadvertently omitted as open fishing days in the Washington South Coast subarea, but which were intended to be included.

The Regulatory Flexibility Act, 5 U.S.C. 603 and 604, requires an agency to prepare an initial and a final regulatory flexibility analysis whenever an agency is required by section 553 of the APA, or any other law, to publish a general notice of proposed rulemaking. Because NMFS found good cause under section 553(b)(3)(B) of the APA to forgo publication of a notice of proposed rulemaking, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are not required for this rulemaking.

This final rule is not significant under Executive Order 12866.

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

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 24, 2024.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.