

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 300****[Docket No. 210415–0082]****RIN 0648–BK27****Pacific Halibut Fisheries; Catch Sharing Plan**

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

ACTION: Final rule.

SUMMARY: This final rule implements the Pacific Halibut Catch Sharing Plan for the International Pacific Halibut Commission's regulatory Area 2A off of Washington, Oregon, and California. In addition, this final rule implements management measures governing the 2021 recreational fisheries that are not implemented through the International Pacific Halibut Commission. These measures include the recreational fishery seasons, allocations, and management measures for Area 2A. These actions are intended to conserve Pacific halibut and provide angler opportunity where available.

DATES: This rule is effective on April 20, 2021.

ADDRESSES: Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232. 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: Kathryn Blair, phone: 503–231–6858, fax: 503–231–6893, or email: kathryn.blair@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Northern Pacific Halibut Act of 1982 (Halibut Act) gives the Secretary of Commerce (Secretary) responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (16 U.S.C. 773–773k). The Halibut Act requires that the Secretary adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act (16 U.S.C. 773(c)). The Halibut Act also authorizes the regional fishery management councils having authority

for a particular geographic area to develop regulations in addition to, but not in conflict with, regulations issued by the International Pacific Halibut Commission (IPHC) to govern the Pacific halibut catch in U.S. Convention waters (16 U.S.C. 773(c)).

At its January 25–29, 2021 annual meeting, the IPHC recommended an Area 2A catch limit of 1,510,000 pounds (lb) (684.9 metric tons (mt)) for 2021. This catch limit is derived from the Area 2A total constant exploitation yield (TCEY) of 1,650,000 lb (748.4 mt), which includes commercial discards and bycatch estimates calculated using a formula developed by the IPHC. The Area 2A catch limit and commercial fishery allocations are adopted by the IPHC and were published in the **Federal Register** on March 9, 2021 (86 FR 13475) after acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62. Additionally, the March 9, 2021 (86 FR 13475) 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 Council has developed and NMFS has approved annual Catch Sharing Plans that allocate the IPHC regulatory Area 2A Pacific halibut catch limit between treaty Indian and non-Indian harvesters, and among non-Indian commercial and recreational (sport) fisheries. 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 and NMFS websites.

This rule approves the Council's 2021 Catch Sharing Plan for IPHC regulatory Area 2A. The 2021 Catch Sharing Plan was developed through the Council's public process. This rule implements recreational Pacific halibut fishery management measures for 2021, which include season opening and closing dates, retention of groundfish species, allowable gear, and opening closed areas that are set in NMFS regulations. Further details of the changes made for the 2021 Catch Sharing Plan are described in the proposed rule and are not repeated here.

As described above, NMFS is adopting recreational fishery management measures, including

season dates for the 2021 fishery. The Catch Sharing Plan includes a framework for setting days open for fishing by subarea; under this framework, each state submits final recommended season dates annually to NMFS during the proposed rule comment period. This final rule contains dates for the recreational fisheries (though referred to as “sport” in IPHC documents, “recreational” will be used in this rule) based on the 2021 Catch Sharing Plan as recommended by the Council and the recommended dates submitted by the states during public comment on the proposed rule.

2021 Annual Recreational Management Measures

The recreational fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions 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 quota 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.

Washington Puget Sound and the U.S. Convention Waters in the Strait of Juan de Fuca

The quota for the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N lat., 124°23.70' W long. north to 48°24.10' N lat., 124°23.70' W long., is 78,291 lb (35.5 mt).

(a) The fishing seasons are:

(i) For the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line at approximately 123°49.60' W long., fishing is open April 22–24, April 29–May 1; May 6–8, 13–15, 20–22, 28–30; June 3–5, 10–12, 17–19, and 24–26, or until there is not sufficient quota for another full day of fishing and the area is closed by the IPHC. Any closure will be announced on the NMFS hotline at (206) 526–6667 or 800–662–9825.

(ii) For the area in U.S. waters in the Strait of Juan de Fuca, approximately between 124°23.70' W long. and 123°49.60' W long., fishing is open May 6, 8, 13, 15, 20, 22, 28–30; June 3–5, 10–12, 17–19, 24–26, or until there is not sufficient quota for another full day of fishing and the area is closed by the IPHC. Any closure will be announced on the NMFS hotline at (206) 526–6667 or 800–662–9825.

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

Washington North Coast Subarea

The quota for landings into ports in the area off the north Washington coast, west of a line at approximately 124°23.70' W long. and north of the Queets River (47°31.70' N lat.), is 128,928 lb (58.5 mt).

(a) The fishing seasons are:

(i) Fishing is open May 6, 8, 13, 15, 20, 22, 28, 30; June 3, 5, 10, 12, 17, 19, 24, and 26, or until there is not sufficient quota for another full day of fishing and the area is closed by the IPHC. Any closure will be announced on the NMFS hotline at (206) 526-6667 or 800-662-9825.

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

(c) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing with recreational gear in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at 50 CFR 660.70(b).

Washington South Coast Subarea

The quota for landings into ports in the area between the Queets River, WA (47°31.70' N lat.), and Leadbetter Point, WA (46°38.17' N lat.), is 63,636 lb (28.9 mt).

(a) This subarea is divided between the all-depth fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N lat. south to 46°58.00' N lat. and east of a boundary line approximating the 30-fathom (fm) (55-meters (m)) depth contour. This area (the Washington South coast, northern nearshore area) is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates:

- (1) 47°31.70' N lat, 124°37.03' W long;
- (2) 47°25.67' N lat, 124°34.79' W long;
- (3) 47°12.82' N lat, 124°29.12' W long;
- (4) 46°58.00' N lat, 124°24.24' W long.

The primary fishery season dates are May 6, 9, 13, 16, 20, 23, 27; June 17, 20, 24, 27, or until there is not sufficient quota for another full day of fishing and the area is closed by the IPHC. Any

closure will be announced on the NMFS hotline at (206) 526-6667 or 800-662-9825. If sufficient quota remains, the fishing season in the nearshore area commences the Saturday subsequent to the closure of the primary fishery and continues seven days per week until 63,636 lb (28.9 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the IPHC or on September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the Washington South coast, northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS.

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

(c) Seaward of the boundary line approximating the 30-fm (55-m) depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360(c).

(d) Recreational fishing for groundfish and halibut is allowed within the South Coast Recreational YRCA and Westport Offshore Recreational YRCA. The South Coast Recreational YRCA is defined at 50 CFR 660.70(e). The Westport Offshore Recreational YRCA is defined at 50 CFR 660.70(f).

Columbia River Subarea

The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N lat.), and Cape Falcon, OR (45°46.00' N lat.), is 18,662 lb (8.5 mt).

(a) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 500 lb (0.23 mt) of the subarea allocation. The nearshore fishery extends from Leadbetter Point (46°38.17' N lat., 124°15.88' W long.) to the Columbia River (46°16.00' N lat., 124°15.88' W long.) by connecting the following coordinates in Washington: 46°38.17' N lat., 124°15.88' W long. 46°16.00' N lat., 124°15.88' W long., and connecting to the boundary line approximating the 40-fm (73-m) depth contour in Oregon. The nearshore fishery opens May 10, and continues on Monday, Tuesday, and Wednesday each week until the nearshore allocation is taken, or on September 30, whichever is earlier. The all-depth fishing season is open May 6, 9, 13, 16, 20, 23, 27; June 3, 6, 10, 13, 17, 20, 24, 27, or until there is not sufficient quota for another full day of fishing and the area is closed by the IPHC, or on September 30, whichever is earlier. Any closure will be announced on the NMFS hotline at (206) 526-6667

or 800-662-9825. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred in-season to another Washington and/or Oregon subarea by NMFS. Any remaining quota would be transferred to each state in proportion to its contribution.

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

(c) Pacific Coast groundfish may not be taken and retained, possessed or landed when halibut are on board the vessel, except sablefish, Pacific cod, flatfish species, yellowtail rockfish, widow rockfish, canary rockfish, redstriped rockfish, greenstriped rockfish, silvergray rockfish, chilipepper, bocaccio, blue/deacon rockfish, and lingcod caught north of the Washington-Oregon border (46°16.00' N lat.) may be retained when allowed by Pacific Coast groundfish regulations, during days open to the all-depth Pacific halibut fishery. Long-leader gear (as defined at 50 CFR 660.351) may be used to retain groundfish during the all-depth Pacific halibut fishery south of the Washington-Oregon border, when allowed by Pacific Coast groundfish regulations.

(d) Taking, retaining, possessing, or landing halibut on groundfish trips is allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

Oregon Central Coast Subarea

The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N lat.) and Humbug Mountain (42°40.50' N lat.), is 273,403 lb (124 mt).

(a) The fishing seasons are:

(i) The first season (the "inside 40-fm" fishery) commences May 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon "inside 40-fm" fishery of 32,808 lb (14.9 mt), or any in-season revised subquota is estimated to have been taken and the season is closed by the IPHC, or on October 31, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N lat. and 42°40.50' N lat. is defined at 50 CFR 660.71(o).

(ii) The second season (spring season), which is for the "all-depth" fishery, is open May 13-15, 20-22; June 3-5, 10-12, 17-19; and July 1-3. The allocation to the all-depth fishery is 172,244 lb (78.1 mt). If sufficient unharvested quota remains for additional fishing

days, the season will re-open July 15–17 and 29–31. Notice of the re-opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825.

(iii) The third season (summer season), which is for the “all-depth” fishery, will be open August 5–7, 19–21; September 2–4; 16–18, September 30–October 2; October 14–16, 28–30; and will continue until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, are estimated to have been taken and the area is closed by the IPHC. NMFS will announce on the NMFS hotline (206) 526–6667 or (800) 662–9825 in July whether the fishery will re-open for the summer season in August. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Thursday, Friday and Saturday, beginning August 5, 6, and 7, and ending when there is insufficient quota remaining, whichever is earlier. If, after September 7, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Thursday, Friday and Saturday, the fishery may re-open every Thursday, Friday and Saturday, beginning September 9, 10, and 11, and ending October 31. After September 7, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline (206) 526–6667 or (800) 662–9825 whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open, and what the bag limit is.

(b) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline (206) 526–6667 or (800) 662–9825 any bag limit changes.

(c) During days open to all-depth halibut fishing when the groundfish fishery is restricted by depth, when halibut are on board the vessel, no groundfish, except sablefish, Pacific cod, and other species of flatfish (sole, flounder, sanddab), may be taken and retained, possessed or landed, except with long-leader gear (as defined at § 660.351), when allowed by groundfish regulations. During days open to all-depth halibut fishing when the groundfish fishery is open to all depths, any groundfish species permitted under the groundfish regulations may be retained, possessed or landed if halibut

are on board the vessel. During days open to nearshore halibut fishing, flatfish species may be taken and retained seaward of the seasonal groundfish depth restrictions if halibut are on board the vessel.

(d) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(e) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at 50 CFR 660.70(g).

Southern Oregon Subarea

The quota for landings into ports in the area south of Humbug Mountain, OR (42°40.50' N lat.) to the Oregon/California Border (42°00.00' N lat.) is 8,000 lb (3.6 mt).

(a) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(b) The daily bag limit is one halibut per person with no size limit.

(c) During days open to the Pacific halibut fishery, when halibut are on board the vessel, no groundfish except sablefish, Pacific cod, and other species of flatfish (sole, flounder, sanddab), may be taken and retained, possessed or landed, except with long-leader gear (as defined at § 660.351) when allowed by groundfish regulations.

California Coast Subarea

The quota for landings into ports south of the Oregon/California Border (42°00.00' N lat.) and along the California coast is 39,260 lb (17.8 mt).

(a) The fishing season will be open May 1 through November 15, or until the subarea quota is estimated to have been taken and the season is closed by the IPHC, whichever is earlier. NMFS will announce any closure by the IPHC on the NMFS hotline (206) 526–6667 or (800) 662–9825.

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

Comments and Responses

NMFS published the proposed rule on February 12, 2021 (86 FR 9312). NMFS accepted public comments on the Council's recommended modifications to the 2021 Area 2A Catch Sharing Plan and the proposed 2021 annual management measures through March 15, 2021. NMFS received two comments from state agencies—the Oregon Department of Fish and Wildlife (ODFW) and the California Department of Fish and Wildlife (CDFW), and two comments from stakeholders.

Comment 1: ODFW submitted a comment recommending final recreational fishing season dates for the 2021 season for the Central Oregon Coast subarea. ODFW hosted a public meeting and an online survey following the IPHC annual meeting. Based on stakeholder input, past effort, and tidal events posing a safety risk to anglers, ODFW recommended season dates for the spring and summer Central Oregon Coast fisheries. For spring, ODFW recommended open dates on May 13, 14, 15; May 20, 21, 22; June 3, 4, 5; June 10, 11, 12; June 17, 18, 19; and July 1, 2, 3. In the event that there is remaining subarea allocation following the initial open dates, ODFW recommended the spring fishery open on July 15, 16, 17 and July 29, 30, 31. ODFW recommended summer fishery dates on August 5, 6, 7; August 19, 20, 21; September 2, 3, 4; September 16, 17, 18; September 30, October 1, 2; October 14, 15, 16; and October 28, 29, 30; or until the total 2021 all-depth catch limit for the subarea is taken.

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

Comment 2: CDFW submitted a comment concurring with the season dates for the fisheries off of California that NMFS published in the proposed rule for the 2021 season. CDFW hosted an online survey following the IPHC annual meeting. Based on public comments received on Pacific halibut fisheries in California and fishing performance in recent years, CDFW recommended season dates of May 1–November 15, or until quota has been attained, whichever comes first.

Response: NMFS concurs that these season dates are appropriate and affirms

the recreational fishery season dates off of California in this final rule.

Comment 3: NMFS received one public comment in support of approving the 2021 Pacific Halibut Catch Sharing Plan. This comment also expresses concern for the need of adequate enforcement.

Response: NMFS concurs that approving the 2021 Pacific Halibut Catch Sharing Plan is appropriate. With regards to the commenters' concern regarding enforcement, NMFS agrees that monitoring of our fisheries is an important component of sustainable fisheries management. NMFS notes that enforcement during the Pacific halibut fisheries is a multi-agency effort with state and federal entities. In 2020, there were 117 hours of air patrols, 1441 hours of at-sea patrols, and a total of 518 enforcement actions.

Comment 4: NMFS received one public comment suggesting the Washington recreational fishing season start later in the summer for safer fishing weather, and be set to co-occur with recreational salmon fisheries.

Response: NMFS does not concur with starting the fishing season later or shifting the season to align with recreational salmon fisheries in 2021. The season dates in the proposed rule were recommended by the Washington Department of Fish and Wildlife (WDFW) to the Council at the November meeting, after WDFW engaged with their stakeholders through public meetings. NMFS concurs with WDFW's season dates, as they are a consolidated recommendation from both the Council and Washington stakeholders.

Changes From the Proposed Rule

As described in the response to Comment 1 above, NMFS changed season dates off of Oregon in this final rule.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the International Pacific Halibut Commission (IPHC), the Pacific Fishery Management Council, the North Pacific Fishery Management Council (Council), and the Secretary of Commerce. Section 5 of the 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. This action is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Washington, Oregon, and California.

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 this rule effective on April 20, 2021, in time for the start of recreational Pacific halibut fisheries on April 22, 2021, pursuant to 5 U.S.C. 553(d)(3). The 2021 Catch Sharing Plan provides the framework for the annual management measures and setting subarea allocations based on annual catch limits set by the IPHC. This rule implements 2021 Area 2A subarea allocations as published in the proposed rule (86 FR 9312, February 12, 2021) for the recreational Pacific halibut fishery based on the formulas set in the Catch Sharing Plan and using the 2021 Area 2A catch limit for Pacific halibut set by the IPHC and published by NMFS on March 9, 2021 (86 FR 13475).

This rule relieves multiples restrictions: (1) Providing for the first opening of the recreational fishery subareas on April 22, 2021 for the Washington Puget Sound and the U.S. Convention Waters in the Strait of Juan de Fuca subarea; (2) based on the total Area 2A catch limit, the 2021 recreational fishery subarea allocations implemented in this rule are higher than in 2020, allowing for additional fishing opportunity; and (3) approving the changes to the Catch Sharing Plan to open previously closed areas and allow for retention of certain groundfish species.

Additionally, delaying the effective date of this rule would be contrary to the public interest. The Council's 2021 Catch Sharing Plan approved in this rule includes changes that respond to the needs of the fisheries in each state, including fisheries that begin in late April. A delay in the effectiveness of this rule for 30 days would result in the fisheries not opening on their intended timelines and on the dates the affected public are expecting. The recreational Pacific halibut fisheries have high participation, and some subareas close months before the end of the season due to quota attainment. If the fisheries do

not open on their intended timelines, fishing opportunity is lost, potentially causing economic harm to communities at recreational fishing ports. The Council also recommended removing prohibition on fishing within two Rockfish Conservation Areas and allowing anglers fishing for halibut in the Columbia River and Oregon subareas to retain certain groundfish species in order to be consistent with changes implemented in the 2021–2022 groundfish harvest specifications final rule (85 FR 79880; December 11, 2020). This rule is needed for consistency with groundfish regulations, and to provide more angler opportunity by permitting retention of more groundfish species than were previously allowed in regulation.

Therefore, allowing the 2020 Catch Sharing Plan to remain in place would not respond to the needs of the fishery and would be in conflict with the Council's final recommendation for 2021. A delay in effectiveness could cause economic harm to the associated fishing communities by reducing fishing opportunity at the start of the fishing year. As a result of the potential harm to fishing communities that could be caused by delaying the effectiveness of this final rule, NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make this rule effective upon publication in the **Federal Register**.

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 and none was prepared.

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

Dated: April 16, 2021.

Samuel D. Rauch, III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

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