

## LIBRARY OF CONGRESS

## Copyright Royalty Board

## 37 CFR Part 385

[Docket No. 21–CRB–0001–PR (2023–2027)]

**Determination of Royalty Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV); Corrections****AGENCY:** Copyright Royalty Board, Library of Congress.**ACTION:** Correcting amendment.**SUMMARY:** On December 30, 2022, the Copyright Royalty Judges revised regulations. This document corrects the final regulations to add capitalization to certain defined terms and to correct a term regarding late fees.**DATES:** *Effective date:* March 18, 2024.*Applicability Date:* These terms are applicable during the period from January 1, 2023, through December 31, 2027.**ADDRESSES:** For access to the docket to read submitted background documents go to eCRB at <https://app.crb.gov/> and search for docket number 21–CRB–0001–PR (2023–2027).**FOR FURTHER INFORMATION CONTACT:** Anita Brown, Program Specialist, (202) 707–7658, [crb@loc.gov](mailto:crb@loc.gov).**SUPPLEMENTARY INFORMATION:** This document corrects terms in the Final Regulations section of the final rule and order document published in the **Federal Register** on December 30, 2022 (87 FR 80448).

On January 10, 2023, Spotify USA Inc., Amazon.com Services LLC, Google LLC, Pandora Media, LLC, and Apple Inc. (collectively, the “Movants”) filed a motion requesting that the Copyright Royalty Judges (Judges) issue amendments to their Determination of Royalty Rates and Terms for Making and Distributing Phonorecords, 87 FR 80448 (Dec. 30, 2022) (*Phonorecords IV* Determination). Motion to Request Issuance of Amendment to Determination . . . (Motion). The relevant regulations for which amendments are sought are the result of a settlement in the *Phonorecords IV* proceeding. The Movants noted that National Music Publishers’ Association, Inc., and the Nashville Songwriters Association International, who were participants in the *Phonorecords IV* proceeding, consent to the requested relief. Motion at 1. No participant in the *Phonorecords IV* proceeding opposed the Motion.

The Movants stated that 37 CFR 385.3 currently provides that late fees should

accrue from the date payment is due until payment is received by the Copyright Owner. However, the Movants stated that the language thus does not acknowledge that the Mechanical Licensing Collective has responsibility for collecting payment under the blanket license for digital uses (though payment remains owed to Copyright Owners for non-blanket license uses). The Movants therefore proposed amendments to 37 CFR 385.3 (reflected below) that would clarify that, where payment is due to the Mechanical Licensing Collective under 17 U.S.C. 115(d)(4)(A)(i), late fees shall accrue from the due date until the Mechanical Licensing Collective receives payment. *Id.* at 1–2.

The Movants also requested that certain capitalization be employed where three defined terms are used in 37 CFR 385.2(d). *Id.* at 2.

The Movants asserted that the amendments are proper because they correct technical errors or modify terms (not rates) of royalty payments that might otherwise frustrate the proper implementation of the *Phonorecords IV* Determination. *Id.* at 1, citing 17 U.S.C. 803(c)(4).

Section 803(c)(4) of the Copyright Act authorizes the Judges to issue amendments to a written determination to correct any technical or clerical errors in the determination or to modify the terms, but not the rates, of royalty payments in response to unforeseen circumstances that would frustrate the proper implementation of such determination. The Judges find good cause to adopt the modified language and find that the requested amendments are sufficiently technical in nature and therefore adopt the amendments pursuant to the Judges’ authority under section 803(c)(4) of the Copyright Act.

With regard to the requested amendments to 37 CFR 385.3, the Judges separately find that the requested modifications to the terms but not the rates of royalty payments are in response to unforeseen circumstances that would frustrate the proper implementation of the *Phonorecords IV* Determination. The passage of the Music Modernization Act and the resulting establishment of the Mechanical Licensing Collective is a relatively recent development. The Judges find that these developments, although in existence at the time of the *Phonorecords IV* Determination, were unforeseen by the Settling Parties as they arrived upon and submitted the settlement in *Phonorecords IV*.<sup>1</sup>

<sup>1</sup> The Settling Parties who arrived upon the relevant portions of the regulations are comprised

Furthermore, the Judges find that the amendments fulfill the intention of the *Phonorecords IV* Determination to fully recognize the role of the Mechanical Licensing Collective, and of the Settling Parties, to apply late fees where payment is due to the Mechanical Licensing Collective.

**List of Subjects in 37 CFR Part 385**

Copyright, Phonorecords, Recordings.

Accordingly, 37 CFR part 385 is corrected by making the following correcting amendments:

**PART 385—RATES AND TERMS FOR USE OF NONDRAMATIC MUSICAL WORKS IN THE MAKING AND DISTRIBUTING OF PHYSICAL AND DIGITAL PHONORECORDS**

■ 1. The authority citation for part 385 continues to read as follows:

**Authority:** 17 U.S.C. 115, 801(b)(1), 804(b)(4).

■ 2. Revise § 385.3 to read as follows:

**§ 385.3 Late payments.**

A Licensee shall pay a late fee of 1.5% per month, or the highest lawful rate, whichever is lower, for any payment owed to a Copyright Owner and remaining unpaid after the due date established in 17 U.S.C. 115(c)(2)(I) or 17 U.S.C. 115(d)(4)(A)(i), as applicable and detailed in part 210 of this title. Late fees shall accrue from the due date until the Copyright Owner receives payment, except that where payment is due to the mechanical licensing collective under 17 U.S.C. 115(d)(4)(A)(i), late fees shall accrue from the due date until the mechanical licensing collective receives payment.

■ 3. In § 385.21, revise the headings of paragraphs (d)(1) through (d)(3) to read as follows:

**§ 385.21 Royalty rates and calculations.**

\* \* \* \* \*

(d) \* \* \*

(1) *Standalone Non-Portable Subscription Offerings—Streaming Only.* \* \* \*

(2) *Standalone Non-Portable Subscription Offerings—Mixed.* \* \* \*

(3) *Standalone Portable Subscription Offerings.* \* \* \*

\* \* \* \* \*

of the Movants on the one hand, and the National Music Publishers’ Association, Inc., and the Nashville Songwriters Association International on the other hand, who consent to the requested relief. See 87 FR 80448 n.2.

Dated: February 6, 2024.

**David P. Shaw,**

*Chief Copyright Royalty Judge.*

**David R. Strickler,**

*Copyright Royalty Judge.*

**Steve Ruwe,**

*Copyright Royalty Judge.*

Approved by:

**Carla D. Hayden,**

*Librarian of Congress.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 240229-0065; RTID 0648-XD690]

#### Pacific Halibut Fisheries; Catch Sharing Plan; 2024 Annual Management Measures

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

**ACTION:** Final rule.

**SUMMARY:** The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, on behalf of the International Pacific Halibut Commission (IPHC), publishes as regulations the 2024 annual management measures governing the Pacific halibut fishery that have been recommended by the IPHC and accepted by the Secretary of State, with the concurrence of the Secretary of Commerce. These measures are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Pacific Fishery Management Council (PFMC) and the North Pacific Fishery Management Council (NPFMC).

**DATES:** The IPHC's 2024 annual management measures became effective March 9, 2024. The 2024 management measures are effective until superseded.

**ADDRESSES:** Additional requests for information regarding this action may be obtained by contacting the International Pacific Halibut Commission, 2320 W Commodore Way, Suite 300, Seattle, WA 98199-1287; or Sustainable Fisheries Division, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802; or Sustainable Fisheries Division, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232. This final rule also

is accessible via the internet at the Federal eRulemaking Portal at <https://www.regulations.gov>, identified by docket number NOAA-NMFS-2024-0038.

**FOR FURTHER INFORMATION CONTACT:** For Convention waters off Alaska, Kurt Iverson, 907-586-7210; or, for Convention waters off the U.S. West Coast, Heather Fitch, 360-320-6549.

#### SUPPLEMENTARY INFORMATION:

##### Background

The IPHC has recommended regulations that would govern the Pacific halibut fishery in 2024, pursuant to 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 (signed at Washington, DC, on March 29, 1979).

As provided by the Northern Pacific Halibut Act of 1982 (Halibut Act), 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 IPHC in accordance with the Convention. 16 U.S.C. 773b. The Secretary of State, with the concurrence of the Secretary of Commerce, accepted the 2024 IPHC regulations on March 9, 2024 thereby making them effective.

The Halibut Act provides the Secretary of Commerce with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. The PFMC and NPFMC may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. The NPFMC has exercised this authority in developing halibut management programs for three fisheries that harvest halibut off Alaska: the subsistence, sport, and commercial fisheries. The PFMC has exercised this authority by developing a catch sharing plan governing the allocation of halibut and management of sport and commercial halibut fisheries on the U.S. West Coast.

The IPHC apportions catch limits for the Pacific halibut fishery among regulatory areas (Figure 1): Area 2A (Oregon, Washington, and California), Area 2B (British Columbia), Area 2C (Southeast Alaska), Area 3A (Central Gulf of Alaska), Area 3B (Western Gulf of Alaska), and Area 4 (which is further divided into 5 areas, 4A through 4E, in

the Bering Sea and Aleutian Islands of Western Alaska).

Subsistence and sport halibut fishery regulations for Alaska, and tribal, sport, and directed commercial halibut fishery regulations for Area 2A, are codified at 50 CFR part 300. Commercial halibut fisheries off Alaska are subject to regulations resulting from the Individual Fishing Quota (IFQ) Program, the Community Development Quota (CDQ) Program (50 CFR part 679), and the area-specific catch sharing plans for Areas 2C, 3A, and Areas 4C, 4D, and 4E, respectively.

The NPFMC implemented a catch sharing plan among commercial IFQ and CDQ halibut fisheries in IPHC Regulatory Areas 4C, 4D, and 4E (Area 4, Western Alaska) through rulemaking, and the Secretary of Commerce approved the plan on March 20, 1996 (61 FR 11337). The Area 4 catch sharing plan regulations are codified at 50 CFR 300.65. New annual regulations pertaining to the Area 4 catch sharing plan also may be implemented through IPHC action, subject to acceptance by the Secretary of State, with the concurrence of the Secretary of Commerce.

The NPFMC recommended and NMFS implemented through rulemaking a catch sharing plan for commercial IFQ and guided sport (charter) halibut fisheries in IPHC Regulatory Areas 2C and 3A on January 13, 2014 (78 FR 75844, December 12, 2013). The Area 2C and 3A catch sharing plan regulations are codified at 50 CFR 300.65. The catch sharing plan defines an annual process for allocating halibut between the commercial and charter fisheries so that each sector's allocation varies in proportion to halibut abundance, specifies a public process for setting annual management measures, and authorizes limited annual leases of commercial IFQ for use in the charter fishery as guided angler fish (GAF).

The IPHC held its annual meeting in Anchorage, Alaska, from January 22 through 26, 2024, and recommended a number of changes to the previous IPHC regulations (88 FR 14066, March 7, 2023). On March 9, 2024, the Secretary of State, with the concurrence of the Secretary of Commerce, accepted the annual management measures, including the following changes to Section 5, Section 6, Section 9, Section 27, Section 28, and other Sections of the 2024 IPHC regulations:

1. New halibut catch limits in all regulatory areas. The catch limits are presented in two tables in Section 5. They distinguish between limits resulting from Commission decisions