

Commodity	Parts per million	Expiration/revocation date
Soybean, forage	4.0	12/31/09
Soybean, hay	6.5	12/31/09
Soybean, seed ..	0.04	12/31/09

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[FR Doc. 05-12447 Filed 6-23-05; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 416

[CMS-1478-CN]

RIN 0938-AN23

Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of interim final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the interim final rule with comment period published in the **Federal Register** on May 4, 2005 entitled "Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures."

DATES: Effective July 1, 2005.

FOR FURTHER INFORMATION CONTACT: Dana Burley, (410) 786-0378.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 05-8875 of May 4, 2005 (70 FR 23690), there were several technical errors that are identified and corrected in the Correction of Errors section below. The provisions in this correction notice are effective as if they had been included in the document published May 4, 2005. Accordingly, the corrections are effective July 1, 2005.

II. Correction of Errors

In FR Doc. 05-8875 of May 4, 2005 (70 FR 23690), make the following corrections:

On page 23690, in the first column, in the "Effective Date" section, the effective date of July 5, 2005 is an error. Remove "July 5, 2005" and add in its place "July 1, 2005."

On page 23710, in section IV, Waiver of Proposed Rulemaking, in column 2, in lines 1 and 8, remove "July 5, 2005" and add in its place "July 1, 2005."

On page 23752, there are three CPT codes erroneously included in the list of ASC covered procedures. These CPT codes are not on the ASC list because they were discontinued for 2005.

Therefore on page 23752, remove CPT codes 50559, Renal endoscopy/radiotracer, 50959, Ureter endoscopy and tracer, and 50978, Ureter endoscopy and tracer.

The final error is one of omission. One public comment and the response were not included in the May 4, 2005 interim final rule. That comment and response are as follows:

Comment: We received one comment requesting that we add CPT code 55873, Cryosurgical ablation of the prostate, to the ASC list. The commenter also asked that we assign the procedure to a newly created payment group with a higher rate than current payment group 9. The commenter believes that the procedure meets the criteria for inclusion on the ASC list and that adding it to the list will permit reasonable site-of-service flexibility for physicians.

Response: We agree with the commenter that the procedure meets the criteria for inclusion on the ASC list. Utilization data show that the service is performed most of the time in the hospital outpatient setting and our medical staff agreed that it is appropriate for the ASC setting. We cannot however, create a new, higher payment level for this procedure because we do not have data upon which to base new payment rates and because the Congress has relieved us of performing a new survey and has, instead, mandated development of a new payment system. Therefore, we assigned the procedure to Group 9, the highest paying of the existing payment groups under which payments for ASC facility services are currently made.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a notice take effect. We can waive this procedure, however, if we find good cause that notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and the reasons for it into the notice issued.

We find it unnecessary to undertake notice and comment rulemaking because this notice merely provides technical corrections to the regulations. Therefore, we find good cause to waive notice and comment procedures.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 20, 2005.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 05-12522 Filed 6-23-05; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 050125016-5097-02; I.D. 061605B]

Pacific Halibut Fisheries; Oregon Sport Fisheries

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS announces changes to the regulations for the Area 2A sport halibut fisheries off the central coast of Oregon. This action would clarify the halibut regulations for the central Oregon coast sport fishery sub-area to specify that halibut may be onboard recreational fishing vessels trolling for salmon within the Oregon yelloweye rockfish conservation area (YRCA). The purpose of this action is to allow recreational salmon vessels to retain halibut caught legally outside of the YRCA while those vessels are legally fishing for salmon within the YRCA.

DATES: Effective June 24, 2005, through the 2006 annual management measures which will publish in a later **Federal Register** document. Comments must be received no later than 5 p.m., local time, on July 11, 2005.

ADDRESSES: You may submit comments, identified by I.D. 061605B by any of the following methods:

- E-mail:

Halibut2005inseason.nwr@noaa.gov: Include 061605B in the subject line of the message.

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

- Fax: 206-526-6736, Attn: Yvonne deReynier

- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Yvonne deReynier.

FOR FURTHER INFORMATION CONTACT:

Yvonne deReynier (NMFS, Northwest Region), phone: 206-526-6129.

SUPPLEMENTARY INFORMATION:

International Pacific Halibut Commission (IPHC) annual management measures for the Pacific halibut fisheries were published on February 25, 2005 (70 FR 9242). The Area 2A Catch Sharing Plan for Pacific halibut off

Washington, Oregon, and California was implemented subsequently at 70 FR 20304, April 19, 2005. Those regulations established a YRCA within the Oregon central coast sport fishery subarea (Cape Falcon, OR to Humbug Mountain, OR), among other management measures. The YRCA is intended to protect yelloweye rockfish from incidental catch in the sport halibut fishery, which uses bottom-tending gear that tends to catch both halibut and rockfish. This closed area is located on Stonewall Bank, an ocean area of high sealife abundance located offshore and southwest of Newport, Oregon.

Sport fishing for halibut off the central Oregon coast is managed in two area-specific fisheries. The fishery shoreward of a boundary line approximating the 40-fm (73.2-m) depth contour is open from May 1 through October 31 and participants tend to take halibut incidentally to fisheries targeting other nearshore species. Seaward of the boundary line approximating the 40-fm (73.2-m) depth contour, the halibut fishery is more intense, and is open for alternating weekends in the spring and summer, depending on quota availability. See the final rule implementing the 2005 West Coast Pacific halibut regulations for season details (70 FR 20304, April 19, 2005). The YRCA is in waters offshore of the boundary line approximating the 40-fm (73.2-m) depth contour, thus it applies only to vessels participating in the all-depth halibut fishery on days when that fishery is open.

Recreational fishing for salmon occurs in similar waters to the recreational halibut fishery, although the recreational salmon season is usually open for more days than the halibut season. Also similar to the halibut fishery, recreational salmon fishermen use hook-and-line gear. Unlike halibut hook-and-line gear, salmon gear is not tended so that hooks stay on or near the bottom, mainly because most salmon do not range as close to the ocean bottom as halibut. In addition to fishing with hooks dropped from one or more fishing poles, salmon anglers may also troll for salmon. Troll fishing gear is defined in the 2005 annual West Coast salmon regulations as "One or more lines that

drag hooks behind a moving fishing vessel. In that portion of the fishery management area off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation." (70 FR 23054, May 4, 2005)

Recreational salmon gear does not tend to have the same interactions with yelloweye rockfish as halibut bottom-tending hook-and-line gear. Therefore, recreational salmon fishing is permitted within the YRCA during the salmon season off the central Oregon coast. Stonewall Bank, where the YRCA is located, is a popular salmon fishing location because it is relatively easy to access from the port of Newport, OR, and because salmon and other species congregate there to feed. While allowing recreational salmon fishing within the YRCA is not problematic from a yelloweye rockfish conservation perspective, it can be problematic from an enforcement perspective. Hook-and-line recreational salmon fishing pole gear essentially looks the same as recreational halibut fishing pole gear from the ocean surface. Thus, it would be extremely difficult for an enforcement officer to accurately determine whether an angler were using that gear to fish for salmon or halibut. To facilitate enforcement of the prohibition against recreational halibut fishing within the YRCA, recreational fishing for salmon with any gear other than troll gear is prohibited within the YRCA on days when the all-depth recreational halibut fishery is open (70 FR 23054, May 4, 2005), at 23060, Section 2, paragraph A, Cape Falcon, OR to Humbug Mountain, OR).

Federal halibut regulations at Section 24(12) at 70 FR 9249, February 25, 2005, state that for vessels sport fishing for halibut, "No person shall be in possession of halibut on a vessel while fishing in a closed area." This regulation has been in place since the early 1990s and is intended to aid in the Catch Sharing Plan's intent that the halibut sport fishery be managed with seven separate sub-areas with different open and closed periods. Each of the seven sub-areas, from Puget Sound, WA to northern California, has its own quota and different open dates. This closed area halibut retention prohibition, however, inadvertently conflicts with the intent of Federal salmon regulations by unnecessarily restricting anglers who fish for halibut outside of the YRCA and who wish to also troll for salmon within the YRCA.

NMFS believes that it is necessary to clarify Federal halibut regulations to ensure that recreational salmon trollers

are again able to retain halibut they have caught legally outside of the YRCA while they are legally fishing for salmon within the YRCA. Section 25 of the 2005 Pacific halibut regulations provides NMFS with the authority to make certain inseason management changes, provided that the action is necessary to allow allocation objectives to be met, and that the action will not result in exceeding the catch limit for the area. This action would allow halibut allocation objectives to be met by ensuring that anglers who wish to fish for halibut and salmon on the same day have access to both of those species. This action would encourage anglers to fish offshore of the YRCA for halibut, while still allowing them to access the recreational salmon quota at Stonewall Bank. This action will not result in exceeding the central Oregon coast sport fishery for halibut is managed as a quota fishery, meaning that the fishery will close when the quota has been achieved, regardless of where anglers are permitted to fish within the sub-area.

In consultation with the Oregon Department of Fish and Wildlife and the IPHC, NMFS has decided to revise Federal regulations to clarify that recreational vessels trolling for salmon within the YRCA may retain halibut on board. This action is not expected to result in bycatch of overfished groundfish species above the amounts previously projected to be taken in Oregon sport fisheries in 2005, particularly the 6.7 mt estimated for yelloweye rockfish taken in the Washington and Oregon sport fisheries, combined.

NMFS Action

For the reasons stated above, NMFS announces the following change to the 2005 annual management measures (70 FR 20304, April 19, 2005) to read as follows:

1. On page 20308, in section 24. Sport Fishing for Halibut, the introductory text to paragraph (4)(b)(v)(E) in the middle column is revised to read as follows:

24. Sport Fishing for Halibut

* * * * *
 (4) * * *
 (b) * * *
 (v) * * *

(E) A yelloweye rockfish conservation area off central Oregon is closed to sport fishing for halibut. Notwithstanding Section 24(12) at 70 FR 9249, February 25, 2005, halibut may be retained onboard recreational fishing vessels trolling for salmon while those vessels

are operating within this closed area. This area is defined by the following coordinates in the order listed: * * *

* * * * *

Classification

This action is authorized by section 25 of the IPHC regulations published at 70 FR 20304 (April 19, 2005). The determination to take these actions is based on the most recent data available.

The Assistant Administrator for Fisheries, NOAA (AA), has determined that good cause exists for this document to be published without affording a prior opportunity for public comment under 5 U.S.C. 553(b)(B) because doing so would be impracticable and contrary to the public interest. Providing prior notice and opportunity for public comment would be impracticable because the fishery affected by this action is scheduled to re-open on June 30, 2005. Providing prior notice and opportunity for public comment would also be contrary to public interest

because it would prevent fishers from having access to recreational salmon fishing opportunities in an otherwise legal salmon fishing area.

Without the regulatory revision provided in this document, the combined halibut and salmon regulations exclude recreational salmon trollers from accessing their salmon quota within the YRCA on days when the all-depth halibut fishery is open, if they have halibut onboard the vessel. The all-depth halibut fishery is currently closed, but is scheduled to re-open on June 30, 2005. NMFS first learned of the inadvertent effect of its combined halibut and salmon regulations on May 26, 2005. There was not sufficient time between receiving this information and June 30, 2005 to afford the public prior notice and opportunity for comment on this notice, making prior public notice and comment opportunity impracticable. Providing time for public notice and comment on this notice would be

contrary to public interest because that time would reduce public opportunities to participate in the recreational salmon and halibut fisheries.

For the above reasons, the AA has also determined that good cause exists to waive the delay of effectiveness of this action under 5 U.S.C. 553(d)(1) and (d)(3).

Public comments will be received for a period of 15 days after the publication in the **Federal Register**. This action is authorized by section 25 of the IPHC's annual management measures for Pacific halibut fisheries published on April 19, 2005 (70 FR 20304), and has been determined to be not significant for purposes of Executive Order 12866.

Authority: 16 U.S.C. 773.773k.

Dated: June 21, 2005.

Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 05-12585 Filed 6-23-05; 8:45 am]

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