

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections **110, 200, 205, 265, and 275** of the Fish and Game Code and to implement, interpret or make specific Sections **110, 200 205, 265, 270, and 275** of said Code, proposes to **amend** Section 28.15, Title 14, California Code of Regulations, relating to **recreational California halibut regulations updates**.

Informative Digest/Policy Statement Overview

To promote sustainability of the California halibut (halibut) population, the California Department of Fish and Wildlife (Department) proposes a regulation change that will reduce recreational take without jeopardizing this popular recreational fishery.

The proposed regulation change aims to make permanent the existing two-fish daily bag and possession limit in northern California established by emergency regulation in Section 28.15, through a regular rulemaking (certificate of compliance). It is expected that the fishery will require additional time to rebuild following the high take caused by an effort shift from the salmon and nearshore groundfish closures, and environmental conditions, documented in 2023. Due to the necessity displayed by the emergency regulation, and interest from the recreational industry for increased stability in the halibut population, the Department has determined that the fishery should not revert to a bag limit of three fish in this region.

In addition, the proposed regulation includes a second option, which reduces the daily bag and possession limit in southern California from five to two fish, and results in a uniform statewide limit of two. This second option enhances the sustainability of the southern halibut stock. The proposed bag limit of two fish will have minimal impact on anglers under current halibut stock conditions, provides a precautionary buffer against increased fishing harvest, and ensures a sustainable halibut population statewide.

Introducing the second option at this time ensures regulatory efficiency by combining the proposed actions. The regulatory proposal also seeks to include minor language adjustments to Section 28.15 to improve clarity for stakeholders.

While change to the recreational fishing regulations have been anticipated to result from the multi-sector halibut management review, the recreational sector is being addressed first due to the timing afforded by the emergency bag limit reduction needed for northern California and identified need in southern California.

Benefits of the Regulation:

The Commission anticipates benefits to the State's environment by sustainably managing California's ocean resources. The California halibut fishery would benefit to minimize overfishing and allow time for the environmental and biological factors to resolve.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Fish and Game Code sections 200 and 205). Commission staff has searched the California Code of Regulations and has found no other state regulations that

address the recreational take of California halibut. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other recreational fishing regulations and marine protected area regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Public Participation

Comments Submitted by Mail or Email

It is requested, but not required, that written comments be submitted on or before **February 1, 2024** at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on **February 9, 2024**. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

Meetings

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in **San Diego**, California, which will commence at **8:30 a.m.** on **December 13, 2023** and may continue at **8:30 a.m.**, on **December 14, 2023**. The exact location of this meeting has not yet been determined. As soon as this information is available, but not less than ten days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published on the Commission's website. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in **Sacramento**, California, which will commence at **8:30 a.m.** on **February 14, 2024** and may continue at **8:30 a.m.**, on **February 15, 2024**. The exact location of this meeting has not yet been determined. As soon as this information is available, but not less than ten days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published on the Commission's website. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or David Haug at FGC@fgc.ca.gov or at the preceding address or phone number. **Krstine Lesyna**,

Environmental Scientist, Department of Fish and Wildlife, Kristine.lesyna@wildlife.ca.gov, has been designated to respond to questions on the substance of the proposed regulations.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) **Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. A two-fish bag limit maintains the existing economic climate because the reduction is not significant enough to alter fishing behavior beyond reducing daily harvest. The second option for a statewide proposed bag limit of two fish will have minimal impact on anglers under current halibut stock conditions.

- (b) **Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment**

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The Commission does not anticipate any benefits to the health and welfare of California residents, or worker safety. The Commission anticipates benefits to the State's environment by sustainably managing California's marine resources and reducing bycatch. The environmental risks arising from the proposed rule are not regarded as significant, as the rule manages the resource more conservatively than existing regulation.

(c) Cost Impacts on a Representative Private Person or Business

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

(e) Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs Mandated on Local Agencies or School Districts: None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None

(h) Effect on Housing Costs: None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Melissa Miller-Henson
Executive Director

Dated: October 31, 2023