

State of California
Fish and Game Commission
Final Statement of Reasons for Regulatory Action
and Certificate of Compliance

Amend Section 28.15
Title 14, California Code of Regulations
Re: California Halibut Daily Bag and Possession Limits

I. Dates of Statements of Reasons

- (a) Initial Statement of Reasons Date: September 13, 2023
- (b) Pre-adoption Statement of Reasons Date: February 2, 2024
- (c) Final Statement of Reasons Date: February 29, 2024

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: October 12, 2023 Location: San Jose, CA

(b) Discussion Hearing

Date: December 14, 2023 Location: San Diego, CA

(c) Adoption Hearing

Date: February 14, 2024 Location: Sacramento, CA

III. Update

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR). Commission refers to the California Fish and Game Commission, unless otherwise specified. Department refers to the California Department of Fish and Wildlife, unless otherwise specified.

At its February 14, 2024, meeting, the Commission adopted Option 1 of the Department’s proposal to adjust the recreational California halibut (*Paralichthys californicus*; halibut) daily bag and possession limit in northern California. As set forth in the proposed regulatory language in the Initial Statement of Reasons dated September 13, 2023, Option 1 establishes a two-fish daily bag and possession limit north of Point Sur, Monterey County, and the current daily bag and possession limit of five fish in southern California is unchanged. This action conforms to the provisions of the Emergency Regulation currently in effect.

The Department proposed a second option to reduce the daily bag and possession limit to two fish statewide. However, recognizing concerns the Department received from stakeholders about including southern California, the Department stated that the Commission could consider foregoing the daily bag and possession limit reduction for waters south of Point Sur, Monterey

County, until the Department has completed the update to the southern California halibut stock assessment and conducted additional outreach to stakeholders and Tribes.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

IV. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations

Public comments received between January 17, 2024, and February 14, 2024, are summarized and responded to in the attached table. Comments numbered 1 through 14 were included with the Department's memo outlining the Pre-Adoption Statement of Reasons. There have been no amendments to the regulatory text or additional information gathered for this rulemaking.

V. Description of Reasonable Alternatives to Regulatory Action (**UPDATED**)

(a) Alternatives to Regulation Change

No alternatives to a regulatory change were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect as Option 1, to promote sustainability of the halibut population by reducing recreational take without jeopardizing this popular recreational fishery.

(b) No Change Alternative

Delay in prompt action to amend the daily bag and possession limits for halibut puts marine resources at risk. The Department manages the take allowed per recreational angler by a daily bag limit because there is no cap on recreational fishing effort. Data in northern California indicated that in 2023 the reduction in fishing opportunities for other species resulted in increased fishing pressure and take of halibut during the 2023-24 season. The reduction to a two fish limit will offset any potential for risk to halibut populations during subsequent seasons.

(c) Consideration of Alternatives

The Department did consider several alternatives to a two fish bag limit, including a minimum size limit increase, however these other alternatives were found to likely result in negative economic impacts or increased bycatch, and therefore did not meet the goal to promote sustainability of the halibut resource, without jeopardizing this popular recreational fishery.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following 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.

- (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.

Updated 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 changes 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 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.

UPDATE

At its February 14, 2024, meeting, the Commission adopted Option 1 of the Department's proposal to adjust the recreational take of halibut (*Paralichthys californicus*) in northern California (north of Point Sur, Monterey County) to a daily bag and possession limit of two fish.

The Commission did not reduce the daily bag and possession limit in southern California (south of Point Sur, Monterey County). The bag limit remains at five fish in this region.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

During review by the California Office of Administrative Law, nonsusbtantive changes were made to the final adopted regulatory language. Strikeout/underline formatting was corrected for ease of publication, and the base language in subsection 28.15(a)(1)(B) was changed to reflect current Title 14 language in place with existing emergency regulations rather than the pre-emergency indefinite language. No changes were made to the new adopted regulatory language.

Further, a document relied upon in the Initial Statement of Reasons (NOAA National Weather Service (2017)) was listed twice. This was an inadvertent copy of a single relied upon document.