

At the April 8, 2015 adoption hearing, the Fish and Game Commission discussed and approved regulations for California's recreational Pacific halibut in 2015 that are consistent with federal regulations.

In addition, the Department's website address was updated in Subsection 28.20(a)(2).

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

See Attachment 1.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Under the No-Change Alternative, status quo management of the Pacific halibut resource would continue for 2015. This would result in misalignment between **State regulations and new federal regulations established by NMFS for the California fishery for 2015 or any inseason action taken by NMFS to modify or close the fishery, as currently allowed by federal regulations.** Inconsistency in regulations will create confusion among the public and may result in laws that are difficult to enforce. Further, recreational take of Pacific halibut is also likely to exceed the annual quota established and managed by the International Pacific Halibut Commission and NMFS **under the status quo season**, which could have negative impacts on the resource.

It is critical to have consistent State and federal regulations establishing season dates, depth constraints and other management measures, and also critical that the State and federal regulations be effective concurrently. Consistency with federal regulations is also necessary to maintain State authority over its recreational Pacific halibut **fishery** and avoid federal or international preemption.

- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

X. 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 adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the regulatory action does not substantially alter existing 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 in California.

The Commission does not anticipate any impacts on the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities to participate in sport fisheries fosters conservation through education and appreciation of wildlife.

The Commission anticipates benefits to the environment by the sustainable management of California's Pacific halibut resources.

The Commission does not anticipate any benefits to worker safety.

Additional benefits of the proposed regulations are consistency with federal regulations and promotion of businesses that rely on recreational Pacific halibut fishing.

(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

Pacific halibut is internationally managed through the Northern Pacific Halibut Act of 1982 between the United States and Canada. Pacific halibut along the United States west coast is jointly managed through authorities of the International Pacific Halibut Commission, Pacific Fishery Management Council (PFMC), and the National Marine Fisheries Service (NMFS), in conjunction with the west coast state agencies. The PFMC coordinates west coast management of all recreational and commercial Pacific halibut fisheries in U.S. waters through the Pacific Halibut Catch Sharing Plan (CSP), which constitutes a framework for recommending annual management measures. NMFS is responsible for specifying the final CSP language and management measures in federal regulations (50 CFR Part 300, Subpart E and the Federal Register) and noticing them on their halibut telephone hotline. Federal regulations for Pacific halibut are applicable in State waters (zero to three miles off shore) and federal waters (three to 200 miles offshore) off Washington, Oregon and California.

For consistency, the California Fish and Game Commission (Commission) routinely adopts regulations to bring State law into conformance with federal and international law for Pacific halibut.

The November PFMC regulatory recommendation will be considered by the Commission when it takes its own regulatory action to establish the State's recreational Pacific halibut fishery regulations for 2015.

Summary of Proposed Amendments

The Department is proposing the following regulatory changes to be consistent with PFMC recommendations and the CSP for Pacific halibut regulations in 2015. This approach will allow the Commission to adopt State recreational Pacific halibut regulations to conform in a timely manner to those taking effect in federal ocean waters on or before May 1, 2015.

The proposed regulatory changes modify regulations to allow Pacific halibut to be managed under a quota management system to allow for timely conformance of federal fisheries regulations and inseason changes. A range of Pacific halibut quotas between 0 and 50,000 pounds would be considered for public notice purposes. Quota status updates and in-season changes will be disseminated and communicated to the general public through the Department's website, the Recreational Groundfish Fishing Regulations Hotline, the NMFS Area 2A halibut hotline, and made available by contacting a Department office.

The proposed regulatory changes modify the seasons to include a range from May 1 to October 31 which may include periodic closures. The final regulation will conform to the season established by federal regulations in May 2015.

Gear restrictions are proposed to be added for consistency with existing federal regulations.

The proposed regulations modify the authorized methods of take to allow for the use of harpoons to assist in the take of recreational Pacific halibut.

A cross reference is proposed to be included to clarify those ocean areas where harpoons may be used to assist in the recreational take of Pacific halibut caught using legal gear.

The benefits of the proposed regulations are consistency with federal regulations, the sustainable management of California's Pacific halibut resources, and health and welfare of anglers.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations (Fish and Game Code, sections 200, 202, and 205) and Pacific halibut fishing regulations specifically (Fish and Game Code, Section 316). The proposed regulations are consistent with regulations for sport fishing in marine protected areas (Section 632, Title 14, CCR) and with general sport fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of Pacific halibut.

The proposed regulations are neither inconsistent nor incompatible with commercial fishing regulations (Chapter 6, Title 14 CCR), State Coastal Conservancy regulations for experimental fishing gear loan program (Section 13862, Title 14, CCR), and State Board of Equalization tax regulations (Section 1602, Title 18, CCR).

Commission Action

At its April 8, 2015 meeting in Santa Rosa, CA, the Commission adopted the following modifications to Sections 28.20 and 28.95, Title 14, CCR as proposed by the Department:

- **Season dates from May 1-15, June 1-15, July 1-15, August 1-15, and September 1 – October 31, or until the quota is projected to be reached, whichever comes first.**
- **Implement a 2015 California quota amount of 25,220 pounds.**

- **Define a process by which the Department will notify the public and Commission of an early season closure in response to projected attainment of the quota amount.**
- **Amend allowed methods of take, including limiting angling gear to no more than one line with two hooks, and allow the use of harpoons to assist in taking a Pacific halibut that was legally caught by angling.**

In addition, the Department's website address was updated in Subsection 28.20(a)(2).