

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: (Public Agency): California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

County Clerk
County of: N/A

Project Title: Emergency Regulatory Action to Amend Section 28.15, Title 14, CCR, Regarding California halibut recreational bag limit. Second re-adoption in accordance with Section 11346.1, subsection (h), for 90 days.

Project Applicant: N/A

Project Location - Specific: State oceanic waters

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

The proposed project would amend Section 28.15, subsection (a), Title 14, CCR, to reduce the daily bag limit for California halibut from three fish to two fish in waters north of Point Sur.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: California Code of Regulations, Title 14, Sections 15307 and 15308
- Statutory Exemptions. State code number:


Reasons why project is exempt:

See attachment

Lead Agency

Contact Person: Melissa Miller-Henson

Telephone: (916) 653-4899

Signature:  Date: February 26, 2024 Title: Executive Director

Signed by Lead Agency Signed by Applicant. Date Received for filing at OPR:

Attachment to Notice of Exemption Emergency Readoption of Amendments to Section 28.15, Subsection (a), Title 14, California Code of Regulations Regarding California Halibut Bag Limit

On May 17, 2023, the California Fish and Game Commission (Commission) took final action under the California Fish and Game Code and the California Administrative Procedure Act with respect to the proposed project. The Commission adopted an emergency action to amend subsection (a) of Section 28.15, Title 14, California Code of Regulations (CCR).

On December 14, 2023, the Commission took final action under the Fish and Game Code and the Administrative Procedure Act to readopt the emergency regulations in accordance with Section 11346.1, subsection (h), California Government Code, for an additional 90 days. The additional 90 days will run consecutively to the first 90-day extension of the emergency regulations adopted by the Commission at its October 2023 meeting.

Statutory Exemption for Specific Actions Necessary to Prevent or Mitigate an Emergency

In compliance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.), the Commission adopted the regulation relying on a statutory exemption contained in Public Resources Code Section 21080. The exemption applies to agency actions to prevent or mitigate an emergency.

In order to protect the California halibut (halibut) resource, the California Department of Fish and Wildlife (Department) requested an emergency re-adoption action that will maintain the reduced bag limit while not jeopardizing this popular recreational fishery. The current regulation in Section 28.15, Title 14, California Code of Regulations (CCR), allows recreational anglers a daily bag and possession limit of three halibut for areas north of Point Sur, Monterey County. The Department proposed a daily bag and possession limit reduction from three to two fish for areas north of Point Sur, effective immediately.

The Department's proposal was prompted by the announcement of the 2023 salmon fishery closure paired with additional changes to opportunity for other fisheries. The changes and closure limit fishing opportunities and change fishery accessibility. Recreational anglers were expected to shift their effort from the closed fisheries to California halibut; this is particularly true in areas such as San Francisco Bay where an effort shift had already been documented.

There were two significant impacts to the California halibut fishery in the 2023 season and are anticipated in subsequent years:

- With the change in concurrent fisheries, anglers will shift their attention to other available fishing opportunities, including California halibut, particularly within San Francisco Bay. Based on the effort shift observed during the 2008 and 2009 salmon fishery closure, the Department anticipated the increase in recreational anglers targeting California halibut would double, compared to 2022.
- In the wild, California halibut recruitment appears to be associated with warm water phases, while low recruitment is associated with cold water phases, particularly when these phases are prolonged. Over the past few years, the Department noted a decrease in ocean temperatures that dramatically affected California halibut recruitment in northern California.

Department staff received requests from certain commercial passenger fishing vessel (CPFV) operators and recreational anglers to proactively consider recommending to the Commission a bag limit reduction to two fish to lessen the effect of the anticipated effort shift on the California halibut resource and an anticipated decline in halibut fishing success in subsequent years. Recreational fishery participants experienced a decline in fishing success following the last salmon closure in 2008 and 2009.

During the 2008 and 2009 salmon closure, the estimated recreational take of California halibut in northern California surpassed 54,000 and 43,000 fish, respectively. In 2007, the year prior to the salmon closure, estimated catch for California halibut was 15,000 fish. In subsequent years, fishing success showed a steady decline and by 2013, catch dipped to just below 5,000. Catch remained low for several years, until the fishery began to rebound in 2017, following warm-water periods that began in 2014. Halibut egg and larval survival has shown high correlation with optimal environmental conditions associated with warm water. Unfortunately, the anticipated effort shift in 2023 will coincide with a cold-water period, which is correlated with lower California halibut egg and larval survival resulting in lower fishery recruitment.

Department staff monitor recreational fishery catch and effort estimates on a monthly basis as provided by the California Recreational Fisheries Survey (RecFin). Based on fishing effort and total average annual catch estimates from recent years (2018, 2019, and 2021), reducing the daily bag and possession limit to two fish was estimated to result in a savings of 13% (or approximately 7,450 fish) of the legal-sized halibut population in northern California for 2023 (RecFin bag limit tool 2023).

The Department considered recommending to the Commission a one-fish bag limit, which was estimated to result in a greater decrease in California halibut take compared to a two-fish limit. However, the idea was widely unsupported by CPFV operators who voiced concerns about economic impacts to their businesses, and recreational anglers who expressed opposition to the one-fish limit option. The bag limit reduction to two fish is supported by the recreational fishery and expected to support California halibut population levels through this period of increased fishing pressure and coinciding cold-water, low recruitment cycle.

Categorical Exemption to Protect Natural Resources

In compliance with CEQA, the Commission readopted the regulation by also relying on the categorical exemptions contained in CEQA Guidelines Sections 15307 and 15308, Title 14, CCR. The exemption applies to regulatory agency actions to protect natural resources and the environment, respectively.

Reducing the daily bag and possession limit has been identified as a management tool to lessen the impacts of increased effort and take from displaced anglers and the magnitude of potential harm during this crisis situation.