

**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 8841 and 8495, Fish and Game Code, and to implement, interpret or make specific Sections 8392, 8494, 8495, 8496, 8497, 8830, 8831, 8832, 8833, 8834, 8834.1, 8834.5, 8835, 8836, 8837, 8840, 8841, and 8843, Fish and Game Code, proposes to amend Section 124, Title 14, California Code of Regulations, relating to California Halibut Trawl Grounds

**Informative Digest/Policy Statement Overview**

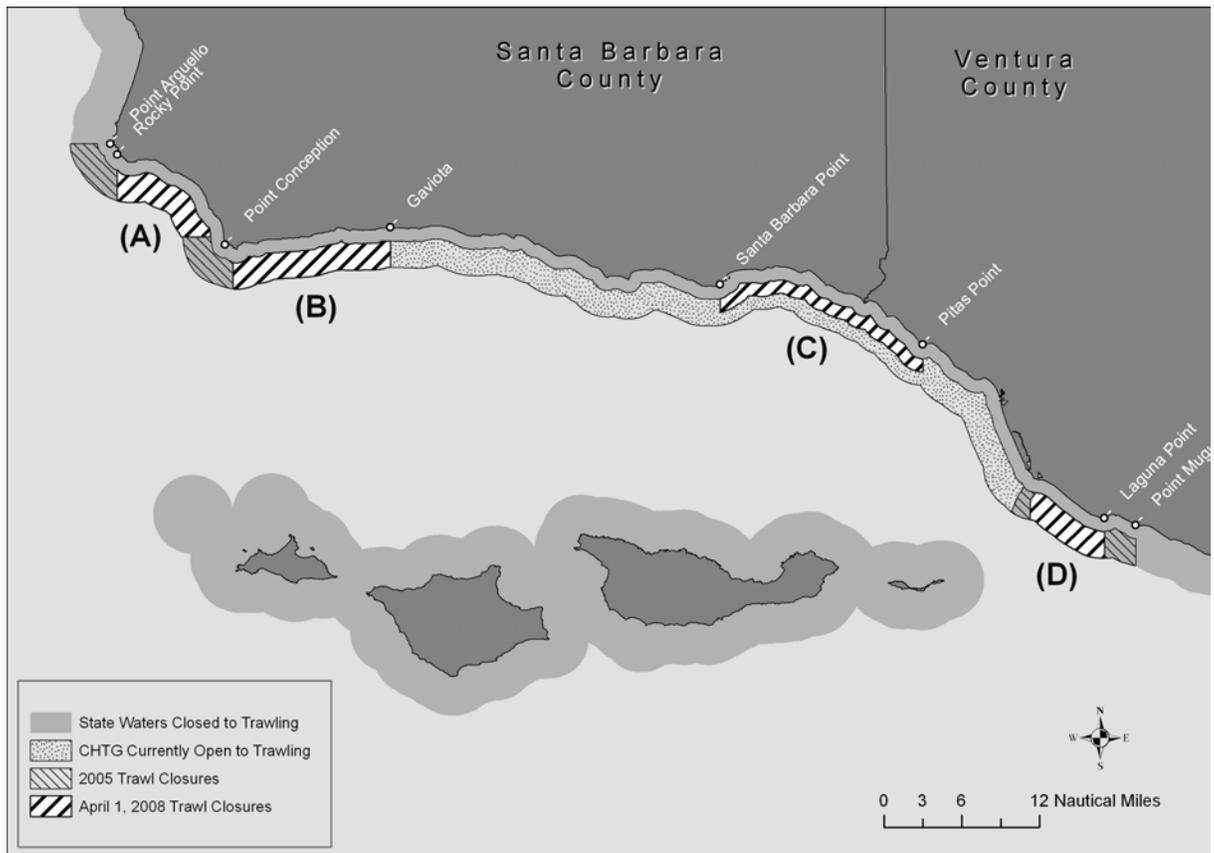
Section 8495 of the Fish and Game Code specifies certain state waters along the mainland shore between Point Arguello and Point Mugu as the California Halibut Trawl Grounds (CHTG). This area now encompasses the last remaining ocean waters of the state where commercial bottom trawl fishing activity is authorized. Generally speaking, state waters extend to three nautical miles from the mainland shore of California, and three nautical miles from the shore of California's coastal islands.

S.B. 1459 (Chapt. 721, Stats. 2004), which amended Section 8495, resulted in closure of about 13 percent of the CHTG, effective in 2005. The closures occurred in four specific areas surrounding Point Arguello, Point Conception, Hueneme Canyon and Point Mugu.

As part of that Legislative action, subdivision (c) of Section 8495 was added, which specifies that commencing April 1, 2008, four additional areas within the CHTG, amounting to about 42 percent of the remaining open area, will close unless the Fish and Game Commission (Commission) makes certain findings. A map of the CHTG, including the 2005 closures and the closures slated for April 2008, is provided below.

The four areas can be described generally as waters lying approximately between the following points:

- (A) Rocky Point to Point Conception; one to three miles from shore
- (B) Point Conception to Gaviota; one to three miles from shore
- (C) Santa Barbara Point to Pitas Point; one to two miles from shore
- (D) Hueneme Canyon to Laguna Point; one to three miles from shore



Subdivision (c) also specifies the findings to be made that would keep these four areas open, as follows:

*“Commencing April 1, 2008, the following areas in the California halibut trawl grounds shall be closed to trawling, unless the commission finds that a bottom trawl fishery for halibut minimizes bycatch, is likely not damaging sea floor habitat, is not adversely affecting ecosystem health, and is not impeding reasonable restoration of kelp, coral, or other biogenic habitats: (2) In making the finding described in paragraph (1), the commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts.”*

The Commission has taken testimony at recent discussion hearings and is considering all available information in its deliberations, and may determine that such findings are warranted for one or more of the four areas. If such findings are made, the Commission would subsequently take regulatory action at its April 11th meeting to keep one or more of the four areas open. This Initial Statement of Reasons has been prepared prior to the Commission making a determination on any findings in order to allow the Notice to appear in the California Regulatory Notice Register, initiating the 45-day public comment period as required by the Administrative Procedure Act. If no findings are made, no subsequent regulatory action would be necessary, and the areas would close as required by the statute.

Pursuant to Fish and Game Code Section 8496, the season for trawling in the California Halibut Trawl Grounds opens on June 16<sup>th</sup>, and runs through March 14 each year. Should the Commission make any findings at or before its April 11, 2008 meeting, it would be able to adopt regulations at that time to keep one or more of the areas open to fishing. Action to adopt on that date should allow adequate time for review of the file by the Office of Administrative Law prior to the June 16<sup>th</sup> season opener, thereby allowing any fishing activity to commence in these four areas without interruption.

### ***Regulatory Options***

During the discussion hearing on this issue at its February 7<sup>th</sup> meeting in San Diego, the Commission requested that it be provided the option to keep any combination of the four areas open to bottom trawling, allowing it to review data presented and make a determination on each area independently. The proposed regulatory language included with this Initial Statement of Reasons has been constructed accordingly.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Best Western Stockton Inn, Fremont Room, 4219 East Waterloo Road, Stockton, California, on Friday, March 7, 2008, at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the University of California, Davis, Bodega Bay Marine Laboratory - Lecture Hall, 2099 Westside Road, Bodega Bay, California on Friday, April 11, 2008, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before March 31, 2008, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 8, 2007. All comments must be received no later than April 11, 2008, at the hearing in Bodega Bay, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth 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 Shawn Cabbage at the preceding address or phone number. **Marci Yaremko, phone (805) 568-1220, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

### **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. 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**

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.

If the Commission makes the finding described herein and takes action to keep the areas open, there will be no negative economic impact to businesses, which are primarily fish businesses and owners, operators and crewmembers employed upon vessels holding a California Halibut Trawl Vessel Permit. If the Commission does not make the finding and the four areas close as required by the statute, the economic impacts would have been considered during the Legislative process associated with adoption of SB 1459 (Chapt. 721, Stats. 2004).

Additionally, as described above, the Department's report entitled "Information Concerning the California Halibut Trawl Fishery off Southern California" includes updated discussion of estimated economic impacts of closing each of the four areas.

- (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:

None.

- (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:

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.

**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 or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: February 13, 2008

John Carlson, Jr.  
Executive Director