

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

One e-mail was received by the Commission.

(1) Julius Chernak, e-mail dated February 28, 2016.

- a. He fishes out of Crescent City, but he has not been able to catch any Pacific halibut due to weather issues or season closure
- b. Most of the quota is being caught out of the Eureka area.
- c. He requests a separate quota for the Crescent City area, so they can have a fair share of the quota landed in the Crescent City.

Response.

- a. Comment noted.
- b. Comment noted.
- c. Implementation of separate geographic quotas would require changes to language in the Federal Pacific Halibut Catch Sharing Plan (CSP) for Area 2A. Changes to the CSP are proposed in September and approved in November of each year as part of the federal management process and are outside the scope of this state rulemaking.

VI. 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

VII. Location of Department Files:

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

VIII. 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 2016. This would result in misalignment between **State regulations and federal regulations established by NMFS for the California fishery for 2016 or any inseason action taken by NMFS to 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. It is critical to have consistent State and federal regulations establishing season dates, **catch limits** 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 preemption.**

(c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose 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.

IX. 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 **because the regulatory action does not substantially alter existing conditions.**

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 because the regulatory action does not substantially alter existing conditions.

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 fish and 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

The Pacific halibut resource is jointly managed through authorities of the International Pacific Halibut Commission (IPHC), 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 United States waters through the Pacific Halibut Catch Sharing Plan (CSP), which constitutes a framework for recommending annual management measures. The NMFS is responsible for specifying the final CPS 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 federal waters (three to 200 miles offshore) off Washington, Oregon, and California. Each state adjacent to federal waters adopts corresponding fishery regulations for their own waters (zero to three miles off shore).

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

The November PFMC regulatory recommendation and NMFS final rule will be considered by the Commission when it takes its own regulatory action to establish the State's recreational Pacific halibut fishery regulations for 2016.

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 2016. 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, 2016.

The proposed regulatory changes modify Pacific halibut regulations to allow for timely conformance to federal fisheries regulations and inseason changes. The proposed regulatory changes would modify the seasons to include a range from May 1 to October 31 which may include periodic closures, and replace the text regarding the 2015 quota with a reference to the Federal Register specifying the 2016 federal quota amount. The final regulation will conform to the season established by federal regulations in May 2016.

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 California residents.

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 programs (Section 13862, Title 14, CCR), and State Board of Equalization tax regulations (Section 1602, Title 18, CCR). 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.

Commission Action

At its April 13, 2016 meeting in Santa Rosa, California, the Commission adopted the regulations in Section 28.20, Title 14, CCR, as recommended 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 reached, whichever comes first.**
- **Removal of the year and quota amount from the regulatory text and insertion of the reference to the appropriate Federal Register.**