

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 27.80  
Title 14, California Code of Regulations  
Re: Ocean Salmon Sport Fishing

I. Date of Initial Statement of Reasons: December 15, 2006

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: February 2, 2007  
Location: Monterey, CA

(b) Discussion Hearing: Date: March 2, 2007  
Location: Arcata, CA

(c) Adoption Hearing: Date: April 13, 2007  
Location: Bodega Bay, CA

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean fishing regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). The PFMC is responsible for adopting annual recommendations for the management of sport and commercial ocean fisheries in the Federal fishery management zone (3 to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service (NMFS). The state's recreational fishing regulations will need to conform to the new Federal rules.

The Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport fishery in State waters (0 to 3 miles offshore) which are consistent with Federal fishery management goals and are effective at the same time. Otherwise, preemption of State regulatory authority by the

NMFS could occur if State regulations are in conflict with Federal regulations.

Ocean conditions continued to be very poor in 2006 for many species and significant impacts to sea birds were observed. The same conditions will likely impact 2007 salmon distribution and survival in the ocean.

Although the 2007 Klamath River Fall Chinook (KRFC) pre-season ocean abundance will not be available until late February, it is likely that the KRFC stocks will continue to be the limiting factor in 2007.

### **PFMC Regulatory Outlook**

The 2007 PFMC salmon regulation process could be contentious and controversial similar to 2006. In 2006, there was a NMFS emergency closure of Federal waters off California during the month of April; the final PFMC recommendations were adopted only after a NMFS emergency rule to allow the FMP conservation objective to be temporarily set at 21,000 naturally spawning KRFC adults, and there were several emergency declarations during the season by Federal and State governments due to severely reduced commercial and recreational salmon fisheries.

There is a strong possibility that this will be the third consecutive year of failing to meet the FMP conservation objective of a minimum floor of 35,000 naturally spawning KRFC adults. Under the terms of the FMP, this would make the stock officially depleted and would require the development of a rebuilding plan.

On March 9, 2007, the PFMC will adopt management options for public review and the final PFMC regulation recommendations will be made on April 6, 2007. The various alternatives that the PFMC will examine in the process of adopting options may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits

versus individual angler limits;

6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

### **Commission Regulatory Outlook**

Although there are no PFMC regulatory options to review at this time, the 2007 ocean recreation salmon regulations are expected to range from no fishing north of Point Sur after April to status-quo (2006) regulations.

There also exists the possibility of Commission emergency regulatory action being needed during March or April in response to unforeseen NMFS emergency closures of Federal waters similar to the 2006 season. Presently no early season closures are predicted.

Further Commission conformance action affecting the recreational ocean salmon fisheries may be needed after the PFMC's *Review of 2006 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis* are available in late February 2007.

(b) Authority and Reference:

Authority: Sections 200, 202, 205, 220, 240, 316.5 and 2084, Fish and Game Code.

Reference: Sections 200, 202, 205, 316.5 and 2084, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

The Fishery Management Plan for the Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California Commencing in 1978. Amendment 14. PFMC, Portland Oregon.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The PFMC will hold a series of public hearings to receive input prior to finalizing the recreational ocean salmon recommendations in April.

#### IV. Description of Reasonable Alternatives to Regulatory Action:

##### (a) Alternatives to Regulation Change:

The PFMC will examine various alternatives in the process of adopting the management options on March 9, 2007 for public review. These may include such alternatives as:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

##### (b) No Change Alternative:

Upon approval of the PFMC's recommendations by the NMFS, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon in State waters (0 to 3 miles offshore) to the Federal regulations in order for the new state and federal regulations to become effective at the same time. Otherwise, preemption of State regulatory authority by the NMFS could occur if State regulations are in conflict with Federal regulations.

##### (c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation is necessary.

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 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 2007 ocean recreation salmon regulations will range from no fishing north of Point Sur after April to status-quo (2006) regulations. Depending on which option is finally adopted by the PFMC, the incremental impacts to total economic output, from the proposed 2007 ocean recreation salmon regulations, may range from no impact (status quo) to as much as \$21,300,000 (no fishing north of Point Sur after April). Consequently, the proposed action may have a significant statewide adverse economic impact directly affecting businesses; however, it is unlikely that this would affect the ability of California businesses to compete with businesses in other states.

(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:

Depending on which 2007 options are finally adopted by the PFMC, the incremental economic impacts to jobs within the State may range from no impact (status quo) to about 200 jobs lost (no fishing north of Point Sur after April). Likewise impacts to total personal earnings could range from no impact to as much as \$9,000,000.

(c) Cost Impacts on a Representative Private Person or Business:

There are no new or additional reporting requirements called for in the proposed regulations. 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:

Incremental fiscal impacts to the California Department of Fish and Game could range from no impact (status quo), to as much as \$2,100,000 in lost revenue from recreational license and tag sales (no fishing north of Point Sur after April). In addition some increases in enforcement costs would be anticipated due to proposed regulations other than status quo.

(e) Other Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed to 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.

## Informative Digest (Policy Statement Overview)

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