



regulatory options after reviewing the most up-to-date salmon abundance information for target stocks and salmon species of special concern, including Sacramento River Winter Chinook which is listed as endangered under both Federal and State Endangered Species Acts (ESAs). These options will go out for public review and the final PFMC recommendations for federal waters will be made on April 6, 2012. The federal regulations will go into effect on or after May 1, 2012 and 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 consider until March, the 2012 ocean salmon sport fishing regulations could range from no fishing in all areas off California to limited salmon fishing for varied areas and dates to be determined between May 1, 2012 and November 11, 2012. The final PFMC recommendations made on April 6 will serve as the basis for the Commission's regulatory action on this rulemaking package on April 11, and will define the state's ocean salmon sport fishery regulations for May 2012 through the end of the year.

### **Present Regulations**

Current regulations authorized recreational ocean salmon fishing north of Horse Mountain including Humboldt Bay from May 14 to September 5, 2011. Between Horse Mountain and Pigeon Point, fishing was authorized from April 2 to October 30, 2011. All areas south of Pigeon Point had an ocean salmon recreational fishing season from April 2 to September 18, 2011. For all areas in 2011, the bag limit was two fish per day (all species

except coho) and the minimum size limit was 24 inches total length. All recreational fishing for ocean salmon is currently closed until further action by the PFMC and/or the Commission. Since the regulations pertained only to the 2011 season, amendment of these regulations is essential to allow for any fishing in state waters during 2012.

### **Concurrent Regulatory Action**

The Commission will be considering action on a separate rulemaking package relating to ocean salmon sport fishing at its March 7, 2012 meeting (As described in OAL Notice No. Z-2011-1227-03). If adopted, the changes would include amendment and restructuring of Title 14 Section 27.80, and would also establish ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for April 7-30, 2012. The proposed content of that rulemaking package is limited to amendment of Section 27.80 (a) through (c).

For this rulemaking, following Commission action at its April 11, 2012 meeting, the proposed regulations would establish ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for May 2012 through the end of the year. The proposed content of this rulemaking package is limited to addition of subsection (d) to Section 27.80.

### **Proposed Regulations**

For public notice purposes and to facilitate Commission discussion, the Department of Fish and Game (Department) is proposing three regulatory options which encompass all possible actions that would, or would not allow for salmon fishing on or after May 1, 2012 in various areas of California for Commission consideration:

#### Option 1 – Varied season dates and regulations in all areas

The date ranges in the following areas are proposed to encapsulate all possibilities that might be considered for Federal ocean salmon regulations in effect on or after May 1, 2012. This approach will allow final State ocean salmon recreational fishing regulations to conform to those in effect in federal ocean waters.

- (1) For the all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 15 through September 15, 2012. The proposed bag limit will be from one to two fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with

bag limit, minimum size, and days of the week open will be determined in April.

- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 11, 2012. The proposed bag limit will be from one to two fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined in April.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 11, 2012. The proposed bag limit will be from one to two fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined in April.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 7, 2012. The proposed bag limit will be from one to two fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined in April.
- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 to October 7, 2012. The proposed bag limit will be from one to two fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined in April.

Option 2 - No fishing in all areas

This is the same as the no change alternative as all ocean salmon recreational fishing seasons are currently closed pursuant to Section 27.80 regulations. If adopted, the regulatory text of Option 2 would specifically establish 2012 closed areas.

Option 3 - A possible combination of Option 1 and 2 may be developed after more information is available from the NMFS and PFMC.

This may include different opening and closing dates, bag limits, size limits, days of the week open and periodic closures among areas.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

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:

Pacific Fishery Management Council. 2012. [Preseason Report III: Analysis of Council Adopted Management Measures for 2012 Ocean Salmon Fisheries](#). 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220.

[Economic Impact Analysis](#).

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

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

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

- (a) Alternatives to Regulation Change:

No alternatives have been identified.

(b) No Change Alternative:

The State must conform its ocean recreational fishing regulations for salmon in State waters (zero to three 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, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 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. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

(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, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations range from no salmon fishing in 2012 to a normal ocean salmon season; therefore, the potential impacts range from 0 to 1,400 jobs depending on which option is ultimately adopted by the Commission. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for an ocean salmon sport fishery encourages consumption of a nutritious food.

The Commission does not anticipate any non-monetary benefits to worker safety.

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

(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.

## Informative Digest (Policy Statement Overview)

The Pacific Fishery Management Council (PFMC) coordinates west coast management of recreational and commercial ocean salmon fisheries in the Federal fishery management zone (three to 200 miles offshore) off Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented in federal regulation by the National Marine Fisheries Service (NMFS) by May 1 of each year.

The Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational fishery in State waters (zero to three miles offshore) which are consistent with these Federal fishery management goals and regulations each year.

### **PFMC Regulatory Outlook**

On March 7, 2012, the PFMC will propose a suite of ocean salmon fishery regulatory options. These options will go out for public review and the final PFMC recommendations for federal waters will be made on April 6, 2012. The federal regulations will go into effect on or after May 1, 2012 and 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);
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The ocean salmon sport fishing regulations for April 1-30, 2012 are being considered in a separate rulemaking package, as described in OAL Notice No. Z-2011-1227-03.

### **Proposed Regulations**

For public notice purposes and to facilitate Commission discussion, the Department is proposing three regulatory options which encompass all possible actions that would, or would not allow for salmon fishing on or after May 1 in various areas of California for Commission consideration:

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- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 11, 2012.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 11, 2012.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 7, 2012.
- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 to October 7, 2012.

For all areas, the proposed bag limit will be from one to two fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined in April and may be different for each sub-area.

Option 2 - No fishing in all areas

If adopted, the regulatory text of Option 2 would specifically establish 2012 closed areas.

Option 3 - A possible combination of Option 1 and 2 may be developed after more information is available from the NMFS and PFMC.

This may include different opening and closing dates, bag limits, size limits, days of the week open and periodic closures among areas.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations.