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(4) For the area between Pigeon Point and Point Sur: The season will run May 1 through October 6, 2013. Fishing is authorized 7 days per week except during June 1 through July 9, 2013 when salmon fishing is closed on Mondays and Tuesdays. The minimum size limit will be twenty-four inches total length. The bag limit remains at two salmon per day.

(5) For the areas south of Point Sur: The season will run May 1 through October 6, 2013. Fishing is authorized 7 days per week except during June 1 through July 9, 2013 when salmon fishing is closed on Mondays and Tuesdays. The minimum size limit will be twenty-four inches total length. The bag limit remains at two salmon per day.

The new State regulations will allow for a May 1st opening date in the area between Horse Mountain and the California-Oregon border, including Humboldt Bay. In addition, it aligns all State regulations with new Federal regulations in effect on May 1, 2013.

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

No public comments, written or oral, were received during the public comment period.

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.

(b) No Change Alternative:

The no change alternative would maintain existing regulations which do not provide an ocean salmon recreational fishing season within the May to November 2013 period. The State must conform its ocean recreational fishing regulations for salmon in State waters (zero to three miles offshore) to the Federal regulations for consistency and to avoid public confusion. 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 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 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 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 2013 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 anticipates benefits to the environment by the sustainable management of California's ocean salmon resources.

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

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

(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 Fishery Management Council (PFMC) coordinates west coast management of recreational and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented by the National Marine Fisheries Service (NMFS) effective on May 1 of each year.

California's recreational salmon fishing regulations need to conform to the Federal regulations to achieve optimum yield in California under the Federal Salmon Fishery Management Plan. 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.

Present Regulations

Current regulations [subsections 27.80 (c) and (d)] authorized ocean salmon recreational fishing for the 2012 season. For all waters north of Horse Mountain, including Humboldt Bay, ocean salmon recreational fishing was open from May 1 through September 9, 2012. Between Horse Mountain and Pigeon Point, ocean salmon recreational fishing was allowed from April 7 to November 11, 2012. All areas south of Pigeon Point had an ocean salmon recreational fishing season from April 7 to October 7, 2012. For all areas in 2012, the bag limit was 2 fish per day (all species except coho). All open areas north of Point Arena had a minimum size limit of 20 inches total length. All areas south of Point Arena had a minimum size limit of 24 inches total length through July 5, 2012 and 20 inches total length thereafter.

PFMC Regulatory Outlook

On March 11, 2013, the PFMC will propose a suite of ocean salmon fishery 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 11, 2013. The Federal regulations will go into effect on or after May 1, 2013 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 2013 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, 2013 and November 10, 2013. The final PFMC recommendations made on April 11, 2013 will serve as the basis for the State's ocean salmon sport fishery regulations for May 2013 through the end of the year.

Concurrent Regulatory Action

Two separate Commission actions are necessary to conform the State regulations to Federal rules that will apply in 2013.

The proposed regulations will establish ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for May 2013 through the end of the year [subsection (d) of Section 27.80].

The Commission will be considering ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for April 6-30, 2013 [subsection (c) of Section 27.80] in a separate rulemaking package, tentatively scheduled for adoption on March 6, 2013.

Proposed Regulations

For public notice purposes and to facilitate Commission discussion, the Department is proposing three regulatory options to 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:

Option 1 – Varied season dates and regulations in all areas. The ranges proposed below encapsulate all possibilities for Federal ocean salmon regulations that are expected to be in effect on or after May 1, 2013. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in Federal ocean waters.

- (1) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 1 through September 30, 2013.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 10, 2013.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 10, 2013.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 6, 2013.

- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 to October 6, 2013.

For all areas, the proposed bag limit will be from one to three 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 by the Commission considering Federal regulations and may be different for each sub-area.

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 2013 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 of some but not all 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 proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has authority to adopt sport fishing regulations.

At its April 17 meeting, the Commission adopted ocean salmon fishing seasons and regulations for May through November 2013 as described below in Modified Option 1. This action conforms State regulations to new Federal rules approved by the PFMC on April 10, 2013 for Federal waters.

Modified Option 1

- (1) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season will run May 1 through September 8, 2013. Fishing is authorized 7 days per week. The minimum size limit will be twenty inches total length. The bag limit remains at two salmon per day.**
- (2) For the area between Horse Mountain and Point Arena: The season will run May 1 through November 10, 2013. Fishing is authorized 7 days per week. The minimum size limit will be twenty inches total length. The bag limit remains at two salmon per day.**
- (3) For the area between Point Arena and Pigeon Point: The season will run May 1 through November 10, 2013. Fishing is authorized 7 days per week except during June 1 through July 9, 2013 when salmon fishing is closed on Mondays and Tuesdays. The minimum size limit will be twenty-four inches total length through July 31, 2013 and twenty inches total length thereafter. The bag limit**

remains at two salmon per day.

- (4) For the areas between Pigeon Point and Point Sur: The season will run May 1 through October 6, 2013. Fishing is authorized 7 days per week except during June 1 through July 9, 2013 when salmon fishing is closed on Mondays and Tuesdays. The minimum size limit will be twenty-four inches total length. The bag limit remains at two salmon per day.**
- (5) For the areas south of Point Sur: The season will run May 1 through October 6, 2013. Fishing is authorized 7 days per week except during June 1 through July 9, 2013 when salmon fishing is closed on Mondays and Tuesdays. The minimum size limit will be twenty-four inches total length. The bag limit remains at two salmon per day.**