



- (3) For the area south of Point Arena: The season will run April 4, 2015 through April 30, 2015. Fishing is authorized 7 days per week. The minimum size will be twenty-four inches total length. The bag limit remains at two salmon per day.

No other modifications were made to the originally proposed language of the Initial Statement of Reasons.

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

Four comments were received.

Comment one (Jim Newton, written) asked for a change to the inland salmon fillet restrictions as they also affect ocean salmon fishing.

Comment one response: Salmon filleting is allowed from ocean waters after bringing the fish ashore off a boat. The portion of the comment for inland changes is outside the scope of this marine rulemaking.

Comment two (Xai Her, written) requested that only single point barbless hooks be used when fishing for salmon in both inland and ocean waters.

Comment two response: For ocean waters north of Point Conception, the barbless hook restriction for salmon fishing is already in place. The harvest of salmon south of Point Conception is so relatively low and sporadic that requiring barbless single-point hooks was determined to be not warranted and would be an unnecessary hardship on the normal fishing activities occurring in Southern California. The portion of the comment for inland changes is outside the scope of this marine rulemaking.

Comment three (Paul Weakland, verbal) questioned why report cards aren't used in the recreational ocean salmon fishery.

Comment three response: Since 1962, the Department has monitored California's ocean salmon recreational sport fishery using a random stratified sample design that produces statistically-sound estimates of catch and effort. In addition, the program requires a minimum sampling rate of 20% by half-month period and management areas so that fishery managers can determine the contribution of specific salmon stocks to California fisheries and ensure conservation objectives for all stocks are met. The Department's current recreational salmon sampling program is a more scientific approach to fishery management than is a report card system.

Comment four (Paul Weakland, verbal) inquired as to how many adipose fin-clipped fish retrieved in ocean salmon fisheries do not contain coded-wire tags and why this issue is not discussed.

Comment four response: In 2014, the Department removed the heads from 19,652 adipose fin-clipped salmon observed during the sampling of California's ocean Chinook salmon fisheries. Of these, 843 (4.3%) heads did not contain a coded-wire tag and it is assumed that these fish shed their tags prior to being harvested. Most hatcheries report that 5-10% of their juvenile salmon

production shed their CWTs prior to release and this proportion is used when calculating the production factor for each release (i.e., how many total hatchery fish does each CWT recovery represent). The issue of shed tags in adipose fin-clipped salmon is not generally discussed during Fish and Game Commission meetings because the occurrence rate is relatively low and it does not impact fishery management decisions.

VII. 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

VIII. Location of Department Files:

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

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

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:

Concerning the proposed amendment of subsection 27.80(c), the no change alternative would maintain existing regulations which do not provide an ocean salmon recreational fishing season for 2015. Federal regulations are anticipated to open the ocean salmon recreational fishing regulations south of Horse Mountain on April 4, 2015. 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.

Concerning the proposed amendment of Section 1.73, the no change alternative would continue the inconsistency between commercial and recreational fishing regulations pertaining to the recovery of salmon heads from salmon landed in California's salmon fisheries. The no change alternative could potentially cause significant harm to the State's ability to collect crucial data to manage California salmon fisheries and resources.

Concerning the proposed amendment of Section 27.75, the no change alternative would leave the existing ambiguous language pertaining to river mouth closures in place as specified in Section 27.75.

(c) Consideration of Alternatives:

In view of the 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.

X. 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 Department anticipates status quo fishing levels for April 2015 as compared to the April 2014 ocean salmon sport fishing season.

(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 that the proposed regulations will have any impact on the creation or elimination of jobs, the creation or elimination of businesses or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Salmon sport fishing contributes to increased mental health of its practitioners, provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

The Commission anticipates benefits to the State's environment in the sustainable management of 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 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 (three to 200 miles offshore) along the coasts of 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**

Regulations for 2014 [subsections 27.80 (c) and (d)] authorized ocean salmon recreational fishing seven days per week north of Horse Mountain including Humboldt Bay from May 10 to September 7, 2014. Between Horse Mountain and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 5 to November 9, 2014. Areas south of Pigeon Point had an ocean salmon recreational fishing season seven days per week from April 5 to October 5, 2014. The bag limit for all areas in 2014 was two fish per day (all species except coho). The area north of Horse Mountain and the areas south of Pigeon Point had a minimum size limit of 24 inches total length. The area between Horse Mountain and Point Arena had a minimum size limit of 20 inches total length. The area between Point Arena and Pigeon Point had a minimum size limit of 24 inches total length through June 30, 2014 and 20 inches total length thereafter.

On May 1, 2014, NMFS implemented the 2014 federal ocean salmon regulations, which included the PFMC's recommendation to open the California ocean salmon recreational fishing season south of Horse Mountain on April 4, 2015. While federal waters south of Horse Mountain will open on April 4, 2015, State waters in this area will not open unless the Commission takes regulatory action to do so.

Present regulations in Section 1.73 define salmon, at the species level, as Chinook, coho, pink, chum and sockeye.

Present regulations in Section 27.75 specify that salmon may not be taken within 3 nautical miles north, south and west of the mouths the Smith and Klamath rivers; that salmon may not be taken in August and September within 2 nautical miles north, south, and west of the mouth of the Eel River; and that salmon may not be taken in August within 6 nautical miles north and south and 3 nautical miles west of the mouth of the Klamath River.

### **Proposed Regulations**

Two separate Commission actions are necessary to conform the State regulations to federal rules that will apply in 2015. The current proposed action would amend subsection 27.80 (c), establishing salmon fishing regulations for the month of

April 2015. Recreational salmon fishing regulations for May 1 through the end of 2015 will be considered in the second rulemaking action, tentatively scheduled for adoption in April 2015.

For public notice purposes to facilitate Commission discussion, the Department of Fish and Wildlife (Department) is proposing the following regulations to encompass the range of federal ocean salmon regulations that are expected to be in effect April 4 through April 30, 2015. 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) North of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2015 season will be decided in April by the PFMC and Commission and the section will be amended pursuant to the regulatory process.
- (2) South of Horse Mountain: The season, if any, may open on a date within the range of April 4 through April 30, 2015. The proposed daily bag limit will be from zero to two fish, and the proposed minimum size will be from 20 to 26 inches total length. The exact opening dates, along with daily bag limit, minimum size, and days of the week open may be different for each subarea and will be determined by the Commission, considering federal regulations applicable to each subarea for April 2015.

The proposed regulations in Section 1.73 will add a requirement to relinquish the head of any recreationally caught salmon, upon request by an authorized agent or employee of the Department.

The proposed regulations in Section 27.75 will include specific latitude and longitude coordinates that define existing river mouth area closures of the Smith, Klamath, and Eel rivers to ocean salmon fishing.

Other changes are proposed to clarify the existing regulations.

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

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The legislature has delegated authority to the Commission to adopt sport fishing regulations in general (Sections 200, 202 and 205, Fish and Game Code) and salmon sport fishing regulations specifically (Section 316.5, Fish and Game Code). 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 salmon in the ocean.

**On March 16, 2015, the Commission adopted regulations as follows:**

- (1) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2015 season will be decided in April by the PFMC and Commission and the section will be amended pursuant to the regulatory process.**
- (2) For the area between Horse Mountain and Point Arena: The season will run April 4, 2015 through April 30, 2015. Fishing is authorized 7 days per week. The minimum size will be twenty inches total length. The bag limit remains at two salmon per day.**
- (3) For the area south of Point Arena: The season will run April 4, 2015 through April 30, 2015. Fishing is authorized 7 days per week. The minimum size will be twenty-four inches total length. The bag limit remains at two salmon per day.**
- (4) A requirement was added to Section 1.73 requiring anglers to relinquish the head of any recreationally caught salmon, upon request by an authorized agent or employee of the Department.**
- (5) Specific latitude and longitude coordinates were added to Section 27.75 to define existing ocean salmon fishing closures at the mouths of the Smith, Klamath, and Eel rivers.**

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
ADDENDUM TO FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Sections 1.73 and 27.75, and Subsection (c) of Section 27.80  
Title 14, California Code of Regulations  
Re: Ocean Salmon Recreational Fishing – April Season,  
Recovery of Coded-Wire Tag from Salmon Heads, and  
Ocean Salmon Fishery Closures around River Mouths

Update to Section III(a) of the Initial Statement of Reasons - Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Section 27.75, subdivision (b), is being amended to reflect the definition of “Klamath Control Zone” found in the U.S. Department of Commerce, National Oceanic and Atmospheric Administration’s document, the “2014 Federal Regulations for West Coast Salmon Fisheries,” under section 2, part C, subsection C.4.e. This definition is found in the “Management Measures” portion of the document that was published in the Federal Register, effective May 1, 2014 [79 FR 24580].

An additional document is being added to Section III(d) of the Initial Statement of Reasons - Identification of Reports or Documents Supporting Regulation Change:

Federal Register, Volume 79, Number 84, published on May 1, 2014 [79 FR 24580]; pages 24580, and 24588-24590.