



- (4) For the area between Pigeon Point and Point Sur: The season will run May 1 through September 7, 2015. Fishing is authorized seven days per week. The minimum size limit will be 24 inches total length through May 31, 2015 and 20 inches total length thereafter. The bag limit remains at two salmon per day.
- (5) For the area south of Point Sur: The season will run May 1 through July 19, 2015. Fishing is authorized seven days per week. The minimum size limit will be 24 inches total length through May 31, 2015 and 20 inches total length thereafter. The bag limit remains at two salmon per day.

As a result of the continuing detrimental effects of the drought on Sacramento River winter-run Chinook salmon, which are listed as endangered by the State and federal Endangered Species Acts (ESA) and based on the best available data, the Pacific Fishery Management Council (PFMC) divided the area south of Pigeon Point into two subareas and adopted different recreational ocean salmon season regulations in each which provided additional protection for winter-run salmon.

The new State regulations will allow for a May 1 opening date in the area between Horse Mountain and the California-Oregon border, including Humboldt Bay. Other areas of the State opened in April under a separate regulatory action. In addition, this action aligns all State regulations with new federal regulations which take effect May 1, 2015.

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

Responses to public comments received prior to March 25, 2015 were included in the Pre-adoption Statement of Reasons (see attached).

Three public comments were received after the Pre-adoption Statement of Reasons was submitted to the Commission.

Comment one (Leland Frayseth, written) requested that, 1) the recreational ocean salmon fishery be closed in September 2015, 2) a larger size limit be in effect, 3) the days of the week open to recreational ocean salmon fishing be restricted to protect winter-run Chinook salmon, and 4) the Sacramento River between Redding and Keswick Dam be closed.

Comment one response: 1) Based on the best available data, it has been determined that Winter run Chinook salmon (WR) are at higher concentrations south of Pigeon Point, especially in the late summer and early fall. The highest concentrations of WR occur in the ocean areas south of Point Sur. As a result, the Commission adopted a recreational ocean salmon fishing season that closes July 19 in the area south of Point Sur to the U.S./Mexico border and on September 7 in the area between Pigeon Point and Point Sur. 2) The Commission also adopted larger size limits early in the season in areas known to have higher concentrations of WR in an effort to minimize detrimental effects to

WR. Both of these measures will provide a conservation benefit to all WR and minimize the catch-and-release mortality of sublegal age-2 fish which become susceptible to fisheries in the fall. 3) The Department determined that the recommended measures to protect WR were sufficient and additional measures restricting the days of the week open to recreational ocean salmon fishing were not necessary in order to remain within the existing Conservation Objectives for WR. 4) This comment pertains to OAL File 2015-0417-03E and is outside the scope of this recreational ocean salmon fishing rulemaking.

Comment two (Ed Salsedo, oral at teleconference) requested 1) the Department provide the actual tribal quota for Klamath River Fall Chinook in 2015, 2) that coho salmon be protected from being targeted by marine mammals upon release, by requiring anglers to keep the first two salmon landed, regardless of species.

Comment two response: 1) The Klamath River Fall Chinook tribal quota for 2015 is 43,581, which is 50 percent of the allowable harvest as required by law. 2) Coho salmon is an ESA-listed species protected by both federal and State law. The retention of coho salmon in any fishery is prohibited. Therefore, adopting a fishery in which an angler is required to keep the first two salmon landed would be in direct violation of State and federal law as well as have a detrimental effect on coho stocks.

Comment three (Steven Rosenberg, oral at teleconference) inquired, 1) Why are 20 inch fish allowed to be taken in recreational ocean salmon fishery? 2) Why do Klamath Management Zone recreational ocean fisheries extended past mid-August? 3) Why is a Klamath Management Zone commercial ocean fishery allowed in September when Klamath salmon are returning to the river? 4) Why not allow a Klamath Management Zone commercial ocean fishery in May when they would target primarily Sacramento River fall fish?

Comment three response: 1) The Salmon Advisory Subpanel (SAS), which is comprised of recreational industry representatives, provided three season alternatives containing different season opening dates, closing dates, and minimum size limits to the PFMC for the 2015 ocean salmon fishing season. Each alternative met all Conservation Objectives as set forth in the Federal Salmon Fishery Management Plan. The 24-inch size limit is a tool used primarily to reduce impacts on ESA-listed Sacramento River Winter Chinook, which are smaller in size than other stocks. Since Winter Chinook are distributed primarily south of Point Arena, allowing a 20-inch size limit above this area has no detrimental effect on the stock. The SAS provided alternatives south of Point Arena utilizing both 20-inch and 24-inch minimum size limits and the Commission adopted a season that met the Conservation Objectives for all stocks. 2) SAS members representing the Klamath Management Zone (KMZ) strongly support a sport fishery that is open from Memorial Day through the Labor Day weekend since most anglers travel from outside the area to fish in the KMZ, boosting the local economy. The ocean area around the Klamath River mouth is closed to sport fishing in August to protect Klamath salmon returning to the river to spawn 3) This comment is outside the scope of this recreational ocean salmon fishing

rulemaking package. 4) This comment is outside the scope of this recreational ocean salmon fishing rulemaking package.

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 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:

The no change alternative would maintain existing regulations which do not provide an ocean salmon recreational fishing season within the May to November 2015 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 National Marine Fisheries Service 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 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:

Although the recommendations of the PFMC for the 2015 ocean salmon season are unknown at this time, the Department anticipates that recreational salmon fishing effort will remain within ten percent of the 2014 season. For the purpose of evaluating potential economic impacts of the 2015 ocean salmon regulations, the Commission analyzed possible reductions in ocean salmon recreational effort ranging from zero to ten percent. The following projections cover this expected range.

For the three projections for 2015, representing 100-percent (150,000 angler days), 95-percent (142,500 angler days), and 90-percent (135,000 angler days) levels of ocean salmon angling effort, there are no significant statewide adverse economic impacts directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Moreover, the proposed changes are to ensure the health of the resource and thus prevent long term adverse economic impacts.

Department data indicate that during the 2013 salmon season, recreational fishermen participated in approximately 144,000 angler days of ocean salmon fishing and generated an estimated \$23.7 million (2013\$) in total economic output to the State. The projected levels of fishing effort for the 2015 salmon season are 150,000 angler days, 142,500 angler days, and 135,000 angler days, equivalent to 100-, 95-, and 90-percent levels of effort, respectively. At the projected 2015 levels of angler effort, the associated fishing expenditures by fishermen would generate an estimated \$24.7, \$23.5, and \$22.2 million (2013\$) in total economic output for the State, respectively. Thus, relative to the 2013 salmon season, the total incremental effects (direct, indirect, and induced) of the 2015 proposed options on State economic output range from a 4-percent increase (\$1 million) to a 6-percent decrease (\$1.5 million) in total economic output. The projected incremental effects are detailed in the Economic Impact Analysis.

(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:

Approximately 193 jobs were indirectly supported by recreational ocean salmon angling during the 2013 salmon season. Thus, relative to the 2013 salmon season, the 2015 projections (100-, 95-, and 90-percent levels of effort) represent potential incremental effects on employment ranging from an increase of 8 jobs to a loss of 12 jobs statewide. The projected incremental employment effects are detailed in the Economic Impact Analysis.

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) 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) proposes to adopt 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.

### **Proposed Regulations**

Two separate Commission actions are necessary to conform the State regulations to federal rules that will apply in 2015. This proposed regulation would amend subsection 27.80 (d), establishing salmon fishing regulations for May 1 through the end of 2015. Recreational salmon fishing regulations for the month of April 2015 **were** considered in a separate rulemaking action, **which was approved by the Office of Administrative Law on April 1, 2015.**

For public notice purposes and to facilitate Commission discussion, the Department of Fish and Wildlife is proposing the following regulations to encompass the range of options for federal ocean salmon regulations that are expected to be in effect on or after May 1, 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 season, if any, may occur within the range of May 1 through September 30, 2015.
- (2) Between Horse Mountain and Pigeon Point: The season, if any, may occur within the range of May 1 to November 8, 2015.

- (3) South of Pigeon Point: The season, if any, may occur within the range of May 1 to October 4, 2015.
- (4) For all areas, 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 and closing dates, along with daily 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 subarea.

Other changes are proposed for clarity and consistency.

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. 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 April 17, 2015, the Commission adopted regulations as recommended by the Department, including the specific season dates, size limits and bag limits listed below:**

- (1) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season will run May 1 through September 7, 2015. Fishing is authorized seven days per week. The minimum size limit will be 20 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 8, 2015. Fishing is authorized seven days per week. The minimum size limit will be 20 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 October 31, 2015. Fishing is authorized seven days per week. The minimum size limit will be 24 inches total length through April 30, 2015 and 20 inches total length thereafter. The bag limit remains at two salmon per day.**
- (4) For the area between Pigeon Point and Point Sur: The season will run May 1 through September 7, 2015. Fishing is authorized seven days per week. The minimum size limit will be 24 inches total length through May 31, 2015 and 20**

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