

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

Amend Subsection (d) of 27.80  
Title 14, California Code of Regulations  
Re: Ocean Salmon Sport Fishing Regulations effective May 1, 2015

I. Date of Initial Statement of Reasons: September 16, 2014

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: December 3, 2014  
Location: Van Nuys, CA

(b) Discussion Hearing: Date: February 11, 2015  
Location: Sacramento

(c) Adoption Hearing: Date: April 17, 2015  
Location: Teleconference

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) 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.

It is critical to have consistent State and federal regulations establishing season dates, bag/size limits and other management measures, and also critical that the State and federal regulations be effective concurrently. Conformance with federal regulations is also necessary to maintain continued State authority over its recreational salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [16 USC §1856 (b)(1)].

### **PFMC Regulatory Outlook**

On March 12, 2015, 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 Run 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 16, 2015. The federal regulations will go into effect on or after May 1, 2015 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.

The range of proposed regulatory options available for the Commission's consideration is designed to encompass the range of options that will be under consideration by the PFMC.

### **Commission Regulatory Outlook**

Although there are no proposed PFMC regulatory options to consider until March, the ocean salmon sport fishing regulations in effect on or after May 1, 2015 could range from no fishing in all areas off the California coast to limited salmon fishing for varied areas and dates between May 1 and November 8, 2015. The final PFMC recommendations made on April 16, 2015 will serve as the basis for the State's ocean salmon sport fishery regulations for May 2015 through the end of the year.

### **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 Point Arena, ocean salmon recreational fishing was authorized seven days per week from April 5 to November 9, 2014.

Between Point Arena 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 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. Areas south of Pigeon Point had a minimum size limit of 24 inches total length. Since the existing regulations pertained only to the 2014 season, amendment of these regulations is essential to allow for any fishing in State waters during 2015.

### **Concurrent Regulatory Action**

Two separate Commission actions are necessary to conform the State regulations to federal rules that will apply in 2015. This proposed regulation will amend subsection 27.80 (d), establishing ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for May 2015 through the end of the year. The Commission also will be considering ocean salmon sport fishing regulations that would be effective for the period April 4-30, 2015 in a separate rulemaking package, tentatively scheduled for adoption in March 2015.

### **Proposed Regulations**

For public notice purposes and 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 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 shortly after the federal rules are promulgated.

- (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. 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 by the Commission, considering federal regulations applicable to this area for May through September 2015.
- (2) Between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 8, 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 and closing dates, along with daily bag limit, minimum size,

and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through November 2015.

- (3) Between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 8, 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 and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through November 2015.
- (4) Between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 4, 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 and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through October 2015.
- (5) South of Point Sur: The season, if any, may occur within the range of May 1 to October 4, 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 and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through October 2015.

Other changes are proposed for clarity and consistency.

It is the policy of the State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the policy of the State to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport. Adoption of scientifically-based ocean salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

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.

- (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. The Fishery Management Plan for the Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California as Revised Through Amendment 18. September 2014.

[http://www.pcouncil.org/wp-content/uploads/FMP\\_through\\_A-18\\_Final.pdf](http://www.pcouncil.org/wp-content/uploads/FMP_through_A-18_Final.pdf)

Economic Impact Assessment

- (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 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 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 purpose 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 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 measures are 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:

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.

## 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 will be considered in a separate rulemaking action, tentatively scheduled for adoption in March 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.