

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

Amend Subsection 27.80 (d)
Title 14, California Code of Regulations
Re: Ocean Salmon Sport Fishing Regulations effective May 1, 2014

I. Date of Initial Statement of Reasons: October 25, 2013

II. Dates and Locations of Scheduled Hearings:

- (a) Notice Hearing: Date: December 11, 2013
Location: San Diego, CA
- (b) Discussion Hearing: Date: February 5, 2014
Location: Sacramento, CA
- (c) Adoption Hearing: Date: April 16, 2014
Location: Ventura, CA

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 13, 2014, 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 10, 2014. The federal regulations will go into effect on or after May 1, 2014 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, 2014 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 9, 2014. The final PFMC recommendations made on April 10, 2014 will serve as the basis for the State's ocean salmon sport fishery regulations for May 2014 through the end of the year.

Present Regulations

Regulations for 2013 [subsections 27.80 (c) and (d)] authorized ocean salmon recreational fishing seven days per week north of Horse Mountain, including Humboldt Bay, from May 1 to September 8, 2013. Between Horse Mountain and Point Arena, ocean salmon recreational fishing was authorized seven days per week from April 6 to November 10, 2013.

Between Point Arena and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 6 to November 10, 2013, except during June 1 through July 9, 2013 when salmon fishing was closed on Mondays and Tuesdays. Areas south of Pigeon Point had an ocean salmon recreational fishing season seven days per week from April 6 to October 6, 2013, except during June 1 through July 9, 2013 when salmon fishing was closed on Mondays and Tuesdays. The bag limit for all areas in 2013 was two fish per day (all species except coho). Areas north of 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 July 31, 2013 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 2013 season, amendment of these regulations is essential to allow for any recreational salmon fishing in State waters during 2014.

Concurrent Regulatory Action

Two separate Commission actions are necessary to conform the State regulations to federal rules that will apply in 2014. 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 2014 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 5-30, 2014 in a separate rulemaking package, tentatively scheduled for adoption in March 2014.

Proposed Regulations

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 federal ocean salmon regulations that are expected to be in effect on or after May 1, 2014. 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, 2014. 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 2014.
- (2) Between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 9, 2014. 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 2014.

- (3) Between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 9, 2014. 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 2014.
- (4) Between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 5, 2014. 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 2014.
- (5) South of Point Sur: The season, if any, may occur within the range of May 1 to October 5, 2014. 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 2014.

Changes to the salmon possession limit are being proposed in the rulemaking file for the April 5-30, 2014 ocean salmon regulations. For consistency with that rulemaking, in the regulatory subsections for each subarea, reference to the general possession limit (Section 1.17) will be replaced with a reference to new subsection 27.80(e) which will specify the possession limit. If the new subsection 27.80(e) is not adopted in the rulemaking for April 5-30, 2014 salmon fishing regulations, the current regulatory text referencing Section 1.17 will remain unchanged.

In addition, text is proposed to be added to subsection 27.80(d)(1)(A) to provide latitude and longitude coordinates for the closures listed in Section 27.75, Title 14, CCR. These 1998 closures were created to protect Klamath River fall Chinook, which is one of California's "salmon stocks of special concern" that are critical to ocean, inland, and tribal salmon fishery management. The inclusion of the definition of the Klamath Control Zone will ensure that the language of State regulations will match federal regulations.

Other changes are proposed for clarity and consistency.

It is the policy of this 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 and 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:

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.

(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 2014 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:

For the purpose of evaluating potential economic impacts of the 2014 ocean salmon regulations, the Commission analyzed possible reductions in ocean salmon recreational effort ranging from zero (no change) to ten percent. Within this range (zero, five-percent, or ten-percent reduction in the fishery), 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. Moreover, the proposed changes ensure the continued preservation of the resource and therefore the prevention of long term adverse economic impacts, and minimal short term impacts.

Using the 2012 salmon season as a base year for comparison, the ocean

salmon recreational fishery generated an estimated \$24 million (2012 dollars) in total economic output to the State. A ten-percent reduction in the fishery would amount to, at most, a \$2.4 million reduction in total economic output for the State, relative to the 2012 season. As a general rule, for every 5,000 salmon harvested in the ocean recreational fishery, there is approximately \$1 million in potential total economic contribution to the State.

- (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:

Using the 2012 salmon season as a base year for comparison, the California ocean salmon recreational fishery supports an estimated 180 jobs in the State. A ten-percent reduction in the fishery for the 2013 season would amount to, at most, a reduction of 18 jobs for the State, relative to the 2012 season. Generally, for every 5,000 salmon harvested in the ocean recreational fishery, there are approximately 7.3 jobs supported in the State.

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 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.

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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

Current regulations authorized ocean salmon recreational fishing seven days per week north of Horse Mountain including Humboldt Bay from May 1 to September 8, 2013. Between Horse Mountain and Point Arena, ocean salmon recreational fishing was authorized seven days per week from April 6 to November 10, 2013. Between Point Arena and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 6 to November 10, 2013, except during June 1 through July 9, 2013 when salmon fishing was closed on Mondays and Tuesdays. Areas south of Pigeon Point had an ocean salmon recreational fishing season seven days per week from April 6 to October 6, 2013, except during June 1 through July 9, 2013 when salmon fishing was closed on Mondays and Tuesdays. For all areas in 2013, the bag limit was two fish per day (all species except coho). Areas north of 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 July 31, 2013 and 20 inches total length thereafter. Areas south of Pigeon Point had a minimum size limit of 24 inches total length. Current regulations also provide that not more than one daily bag limit of recreationally taken ocean salmon may be possessed.

Proposed Regulations

Two separate Commission actions are necessary to conform the State regulations to federal rules that will apply in 2014. This proposed regulation would amend subsection 27.80 (d), establishing salmon fishing regulations for May 1 through the end of 2014. Recreational salmon fishing regulations for the month of April 2014 will be considered in a separate rulemaking action, tentatively scheduled for adoption in March 2014.

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, 2014. 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, 2014.

- (2) Between Horse Mountain and Pigeon Point: The season, if any, may occur within the range of May 1 to November 9, 2014.
- (3) South of Pigeon Point: The season, if any, may occur within the range of May 1 to October 5, 2014.
- (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.

In the regulatory subsections for each subarea, reference to the general possession limit (Section 1.17) will be replaced with a reference to new subsection 27.80(e) which will specify the possession limit.

In addition, text is proposed to be added to subsection 27.80(d)(1)(A) to provide latitude and longitude coordinates for the closures listed in Section 27.75, Title 14, CCR.

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.

Regulatory Language

Subsection (d) of Section 27.80, Title 14, CCR, is amended to read:

...

(d) Open Fishing Days, Daily Bag Limits, and Minimum Size in effect on or after May 1, 2013~~2014~~.

(1) North of Horse Mountain (40°05'00" N. lat.) and in Humboldt Bay.

(A) ~~All ocean waters are open~~Open to salmon fishing ~~May 1 to September 8~~varied dates within the range from May 1 to September 30, may include periodic closures, 2013~~2014~~. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

Exception: The ocean area surrounding the Klamath River mouth bounded on the north by 41° 38'48" N lat. (approximately 6 nautical miles north of the Klamath River mouth), on the south by 41° 26'48" N lat. (approximately 6 nautical miles south of the Klamath River mouth), and extending 3 nautical miles offshore is closed to salmon fishing during August. No salmon may be taken at any time in ocean waters at the mouths of the Smith and Klamath rivers and during August and September at the mouth of the Eel River. See Section 27.75.

(B) Daily Bag Limit: 2~~[0-2]~~ salmon per day. See subsection (b) above and subsection (e) below~~Section 1.17~~.

(C) Minimum Size: ~~20~~[20-26] inches total length [specify date range as needed].

(2) Between Horse Mountain and Point Arena (38°57'30" N. lat.).

(A) ~~All ocean waters are open~~Open to salmon fishing ~~May 1 to November 10~~varied dates within the range from May 1 to November 9, may include periodic closures, 2013~~2014~~. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: 2~~[0-2]~~ salmon per day. See subsection (b) above and subsection (e) below~~Section 1.17~~.

(C) Minimum Size: ~~20~~[20-26] inches total length [specify date range as needed].

(3) Between Point Arena and Pigeon Point (37°11'00" N. lat.).

(A) ~~All ocean waters are open~~Open to salmon fishing ~~May 1 to November 10~~varied dates within the range from May 1 to November 9, may include periodic closures, 2013~~2014~~. Fishing is authorized ~~7~~[0-7] days per week ~~except during June 1 through July 9, 2013 when salmon fishing is closed on Mondays and Tuesdays~~[specify open days of week and date range as needed].

(B) Daily Bag Limit: 2~~[0-2]~~ salmon per day. See subsection (b) above and subsection (e) below~~Section 1.17~~.

(C) Minimum Size: ~~24 inches total length through July 31, 2013 and 20 inches total length thereafter~~[20-26] inches total length [specify date range as needed].

(4) Between Pigeon Point and Point Sur (36°18'00" N. lat.).

(A) ~~All ocean waters are open~~Open to salmon fishing ~~May 1 to October 6~~varied dates within the range from May 1 to October 5, may include periodic closures, 2013~~2014~~. Fishing is authorized ~~7~~[0-7] days per week ~~except during June 1 through July 9, 2013 when salmon fishing is closed on Mondays and Tuesdays~~[specify open days of week and date range as needed].

(B) Daily Bag Limit: 2~~[0-2]~~ salmon per day. See subsection (b) above and subsection (e) below~~Section 1.17~~.

(C) Minimum Size: ~~24~~[20-26] inches total length [specify date range as needed].

(5) South of Point Sur.

(A) ~~All ocean waters are open~~Open to salmon fishing ~~May 1 to October 6~~[varied dates within the range from May 1 to October 5, may include periodic closures], ~~2013~~2014. Fishing is authorized ~~7~~[0-7] days per week ~~except during June 1 through July 9, 2013 when salmon fishing is closed on Mondays and Tuesdays~~[specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) belowSection 1.17.

(C) Minimum Size: ~~24~~[20-26] inches total length [specify date range as needed].

...

Note: Authority cited: 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.

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