

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

Amend Section 27.80  
Title 14, California Code of Regulations  
Re: Ocean Salmon Sport Fishing

- I. Date of Initial Statement of Reasons: January 6, 2009
- II. Date of Pre-adoption Statement of Reasons: April 10, 2009
- III. Date of Final Statement of Reasons: April 28, 2009
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: February 5, 2009  
Location: Sacramento, CA
  - (b) Discussion Hearing: Date: March 4, 2009  
Location: Woodland, CA
  - (c) Discussion Hearing: Date: April 9, 2009  
Location: Lodi, CA
  - (d) Adoption Hearing: Date: April 21, 2009  
Location: Teleconference
- V. Update:

The Pacific Fishery Management Council (PFMC) adopted a hybrid of Option 1 and 2 from the Initial Statement of Reasons (ISOR) to amend Section 27.80, Title 14, California Code of Regulations on April 8, 2009.

The proposed changes from the ISOR regulatory language in response to the PFMC 2009 salmon regulatory recommendations are:

- 1. Ocean waters north of Horse Mountain in Mendocino County and in Humboldt Bay will open to salmon fishing from August 29, 2009 to September 7, 2009.
- 2. Ocean waters south of Horse Mountain to the United States/Mexico Border will remain closed.
- 3. The bag limit will remain at two salmon per day.
- 4. Statewide Silver (coho) Salmon Restrictions will remain in place: No silver

- (coho) salmon may be retained.
5. Minimum size for north of Horse Mountain will remain at twenty-four inches total length.

The Fish and Game Commission adopted the hybrid of Option 1 and 2 at its April 21, 2009 teleconference.

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

(1) Cliff Hart, e-mail dated March 18, 2009:

- a. He requests no fall salmon fishing season in 2009 for the Sacramento River.
- b. He supports the PFMC Option 1 with its 10-day ocean season in the Klamath Management Zone.

Response:

- a. This comment does not address Ocean Salmon fishery regulations and cannot therefore be addressed in this particular regulatory procedure.
- b. Support for PFMC Option 1 noted.

(2) Mike Hart, e-mail dated March 19, 2009:

- a. He requests no fall salmon fishing season in 2009 for the Sacramento River.
- b. He supports the PFMC Option 1 with its 10-day ocean season in the Klamath Management Zone.

Response:

- a. See Response 1a.
- b. See Response 1b.

(3) Donald K. Hansen, Pacific Fishery Management Council, letter dated March 23, 2009

- a. He requests the Commission manage 2009 Central Valley fisheries that impact Sacramento River fall Chinook with caution to ensure adequate escapement in 2010.

Response:

- a. Comment noted.

(4) E.B. Duggan, oral comments at Commission meeting on April 9, 2009:

- a. He supports Klamath River Option 1.
- b. He doesn't like the 40,700 escapement set by the PFMC.
- c. He supports the PFMC Option 1 with its 10-day ocean season in the

Klamath Management Zone.

- d. He supports a Central Valley late-fall season from November 16 to December 31 with a 1 fish per day bag limit.

Response:

- a. See Response 1a.
- b. Comment noted.
- c. See Response 1b.
- d. See Response 1a.

(5) Bob Baiocchi, Johnson Bait and Tackle, oral comments at Commission meetings on March 4, 2009 and April 9, 2009:

- a. He supports a Central Valley river fishery for 2009.
- b. He supports a Central Valley late-fall season from November 16 to December 31 with a 1 fish per day bag limit.
- c. He wants the Department to use all excess fertilized salmon eggs.
- d. He requests high river flows to help push young into the Delta.

Response:

- a. See Response 1a.
- b. See Response 1a.
- c. Comment noted.
- d. Comment noted.

(6) Frank Galusha, e-mail dated April 11, 2009:

- a. He supports the PFMC Option 1 with its 10-day ocean season in the Klamath Management Zone.
- b. He supports Klamath River quota level of 30,800.

Response:

- a. See Response 1b.
- b. See Response 1a.

(7) Kyle Heising, e-mail dated April 13, 2009:

- a. He supports the PFMC Option 1 with its 10-day ocean season in the Klamath Management Zone.

Response:

- a. See Response 1b.

(8) Chris Barger, Roger Wittrock, Jack Palmer, and Dave Morton, e-mails dated April 13, 2009:

- a. They support the PFMC Option 1 with its 10-day ocean season in the Klamath Management Zone.

- b. They support Klamath River Option 1 and quota level of 30,800.

Response:

- a. See Response 1b.
- b. See Response 1a.

(9) Gary Motsenbocker, Kevin Mayers, and Gary Leighty, e-mails dated April 14, 15, 18, 2009, respectively:

- a. They support the PFMC Option 1 with its 10-day ocean season in the Klamath Management Zone.
- b. They support Klamath River Option 1 and quota level of 30,800.

Response:

- a. See Response 1b.
- b. See Response 1a.

(10) Robert Moore, e-mail dated April 14, 2009:

- a. He requests no salmon fishing season in any river or the ocean for five years.

Response:

- a. The Commission approved limited salmon fishing to provide some 2009 fishing opportunity as recommended by the PFMC.

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 Game  
1416 Ninth Street  
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The PFMC will examine various alternatives in the process of adopting the management options on March 13, 2009 for public review. These may

include such alternatives as:

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.

(b) No Change Alternative:

Upon approval of the PFMC's recommendations by the NMFS, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon in State waters (zero to three miles offshore) to the Federal regulations in order for the new State and Federal regulations to become effective at the same time. Otherwise, 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 purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

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 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:

None.

- (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)**

**Please refer to the Initial Statement of Reason's (ISOR) Informative Digest for the original discussion.**

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