



salmon sport fishery in State waters (zero to three miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

### **PFMC Regulatory Outlook**

On March 13, 2009, the PFMC will develop the ocean salmon fisheries regulatory options for public review and the final PFMC regulation recommendations will be made on April 9, 2009. The various ocean salmon sport fishery alternatives that the PFMC will examine in the process of adopting options 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.

### **Commission Regulatory Outlook**

Although there are no PFMC regulatory options to review at this time, the PFMC March options will serve as the basis for the Commission's 2009 regulatory action affecting the State's ocean salmon sport fishery. There exists a strong possibility of continued ocean water closures off California due to expected low Sacramento River fall Chinook salmon returns to the Central Valley river system based upon 2008 PFMC projections.

Further Commission actions affecting the ocean salmon sport fishery may be developed after the annual PFMC reports, *Review of 2008 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2009 Ocean Salmon Fisheries*, are available in late February 2009.

### **Present Regulations**

Current regulations have a short salmon fishing season between Horse Mountain and Point Arena from February 16 through April 4, 2008. After April 4, 2008, all areas were closed to salmon fishing.

All areas include an informational note: In 2009, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process.

### **Proposed Regulations**

For public notice purposes to facilitate Commission discussion, the Department is proposing two regulatory options: 1) no fishing in all areas and 2) limited salmon fishing for varied season dates to be determined from May 15, 2009 to November 15, 2009 in the five California sub-areas between the California/Oregon Border and U.S./Mexico Border. The proposed changes from current regulations are shown below:

For all areas and options: The informational note is proposed to be removed for regulatory clarity. The note does not contain actual fishing regulations and provides limited information on the Commission schedule of actual season determinations which cannot be specified in advance for 2010. Other mechanisms to notify the public of the date of Commission action, such as mailing lists of interested and affected parties, specific information in the annual regulations booklets and periodic web postings, are more timely methods of public notification and education.

#### Option 1 - No fishing in all areas

- (1) All subsections are proposed to be removed to reduce public confusion.
- (2) The following language is proposed instead "All waters of the ocean are closed to salmon fishing."

#### Option 2 - Limited salmon fishing, if salmon allocations are made available

- (1) North of Horse Mountain and Humboldt Bay
  - a. Limited salmon fishing for varied dates to be determined between May 15, 2009 and September 30, 2009.
  - b. Exception: Pursuant to Section 27.75, 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 between August 1 and August 31. 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.

- i. This closure is a requirement of State (Section 27.75) and Federal regulations and the FMP to protect returning salmon stocks in the ocean prior to their entry into the three rivers.

(2) Between Horse Mountain and Point Arena

- a. Limited salmon fishing for varied dates to be determined between May 15, 2009 and November 15, 2009.

(3) Between Point Arena and Pigeon Point

- a. Limited salmon fishing for varied dates to be determined between May 15, 2009 and November 8, 2009.
- b. Exception: San Francisco Bay is proposed to open for salmon fishing for varied dates to be determined between May 15, 2009 and November 8, 2009. For purposes of this regulation, the San Francisco Bay is defined as the waters of San Francisco and San Pablo bays plus all their tidal bays, tidal portions of their rivers and streams, sloughs and estuaries between Golden Gate Bridge and Carquinez Bridge unless otherwise noted in Section 7.50.

- i. This exception allows for the flexibility to keep the San Francisco Bay open when the ocean fishery is closed due to ocean salmon stock constraints.

(4) Between Pigeon Point and Point Sur and South of Point Sur

- a. Limited salmon fishing for varied dates to be determined between May 15, 2009 and October 4, 2009.

(5) Bag Limit and Minimum Size

- a. North of Horse Mountain: The bag limit may be zero, one or two salmon per day and the minimum size may range from 20 to 24 inches total length.
- b. South of Horse Mountain: The bag limit may be zero, one or two salmon per day and the minimum size may range from 20 to 24 inches total length.

(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.

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(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Pacific Fishery Management Council. 2003. The Fishery Management Plan for the Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California as Revised Through Amendment 14. 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The PFMC will hold a series of public hearings to receive input prior to finalizing the recreational ocean salmon recommendations in April.

IV. 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.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation is 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:

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.

## Informative Digest (Policy Statement Overview)

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service (NMFS).

California's sport fishing regulations will need to conform to the new Federal regulations to achieve optimum yield in California. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport fishery in State waters (zero to three miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

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