



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.

### **PFMC Regulatory Outlook**

On March 10, 2011, the PFMC will develop the ocean salmon fisheries regulatory options for public review and the final PFMC regulation recommendations will be made on April 14, 2011. 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 2011 regulatory action affecting the State's ocean salmon sport fishery. There exists a possibility of continued ocean water closures off California due to low Chinook salmon returns to the Central Valley River System and/or the Klamath River Basin in 2010.

Further Commission actions affecting the ocean salmon sport fishery may be developed after the annual PFMC reports, *Review of 2010 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2011 Ocean Salmon Fisheries*, are available in late February 2011.

### **Present Regulations**

Current regulations had recreational salmon fishing north of Horse Mountain including Humboldt Bay from May 29 to September 6, 2010. Between Horse Mountain and Point Arena, there was recreational salmon fishing from April 3 to September 6, 2010. All areas south of Point Arena had recreational salmon fishing season from April 3 to September 6, 2010 with 7 days per week until April 30 and 5 days per week running Thursday to Monday from May 1 to September 6. All recreational salmon fishing is currently closed until further action by the PFMC and/or the Commission.

### **Proposed Regulations**

For public notice purposes to facilitate Commission discussion, the Department of Fish and Game (Department) is proposing three regulatory options to encompass all possible actions for Commission consideration:

- 1) All areas remain closed to salmon fishing (no change option),
- 2) Varied levels of salmon fishing in all areas, and
- 3) Automatic conformance with federal regulations to facilitate in-season changes and emergency actions.

The proposed changes from current regulations are shown below:

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

This is the no change option as all ocean salmon fishing seasons are currently closed in the Section 27.80 regulations.

#### Option 2 – Varied levels of salmon fishing in all areas

The date ranges in the following areas are proposed to encapsulate all possibilities of the Commission final action on the PFMC 2011 recommendations in mid-April. This approach will allow final State ocean salmon regulations to be effective at the same time as salmon regulations in federal ocean waters.

- (1) For the all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 1 - September 30. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 - November 13. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.

- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 - November 13. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (4) For the areas between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 - October 2. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 - October 2. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (6) Minimum Size Range:
  - a. North of Horse Mountain: The minimum size may range from 20 to 24 inches total length.
  - b. South of Horse Mountain: The minimum size may range from 20 to 24 inches total length.

#### Option 3 – Automatic conformance with federal regulations

The Department is proposing this option to replace the existing regulations for Commission consideration. Significantly more stakeholder and public involvement takes place each year during the annual Federal PFMC salmon regulatory process. This option is included to reduce administrative workload on Department and Commission staff and to allow for quicker implementation of season opening date regulations, since the Federal process is far more expedient than the State's.

The Commission's final action on ocean salmon fishing in late April each year is almost always limited to adopting state regulations that exactly mirror Federal regulations that have already been approved by PFMC earlier in the month of April. This option proposes automatic conformance of State ocean salmon regulations with Federal regulations. This approach will ensure that State ocean salmon regulations are effective at the same time as salmon regulations in Federal ocean waters and would simplify application of Federal emergency or in-season action to State regulations.

This approach has been patterned after the current Title 14 commercial regulations for salmon (Section 182), groundfish (Section 189) and coastal pelagic species (Section 159). The three commercial sections have been functioning successfully since 2001. This automatic conformance was put into place under Department Director authority pursuant to Section 7652

of the Fish and Game Code to conform commercial fishing regulations in State waters to the corresponding PFMC FMPs. This action was deemed necessary to achieve optimum yield in California and avoid a substantial and adverse effect on the FMP by State law or regulation in order to continue State jurisdiction pursuant to Section 1856 of the Magnuson - Stevens Act (Public Law 94-265).

- (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. 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 101, 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 10, 2011 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.

California's sport fishing regulations will need to conform to the new Federal regulations to achieve optimum yield in California under the FMP. 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.

### **PFMC Regulatory Outlook**

On March 10, 2011, the PFMC will develop the ocean salmon fisheries regulatory options for public review and the final PFMC regulation recommendations will be made on April 14, 2011. 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 2011 regulatory action affecting the State's ocean salmon sport fishery. There exists a possibility of continued ocean water

closures off California due to low Chinook salmon returns to the Central Valley River System and/or the Klamath River Basin in 2010.

Further Commission actions affecting the ocean salmon sport fishery may be developed after the annual PFMC reports, *Review of 2010 Ocean Salmon Fisheries* and *Preseason Report / Stock Abundance Analysis for 2011 Ocean Salmon Fisheries*, are available in late February 2011.

### **Present Regulations**

Current regulations had recreational salmon fishing north of Horse Mountain including Humboldt Bay from May 29 to September 6, 2010. Between Horse Mountain and Point Arena, there was recreational salmon fishing from April 3 to September 6, 2010. All areas south of Point Arena had recreational salmon fishing season from April 3 to September 6, 2010 with 7 days per week until April 30 and 5 days per week running Thursday to Monday from May 1 to September 6. All recreational salmon fishing is currently closed until further action by the PFMC and/or the Commission.

### **Proposed Regulations**

For public notice purposes to facilitate Commission discussion, the Department of Fish and Game (Department) is proposing three regulatory options to encompass all possible actions for Commission consideration:

- 1) All areas remain closed to salmon fishing (no change option),
- 2) Varied levels of salmon fishing in all areas, and
- 3) Automatic conformance with federal regulations to facilitate in-season changes and emergency actions.

The proposed changes from current regulations are shown below:

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

This is the no change option as all salmon fishing seasons are currently closed in the Section 27.80 regulations.

#### Option 2 – Varied levels of salmon fishing in all areas

The date ranges in the following areas are proposed to encapsulate all possibilities of the Commission final action on the PFMC 2011 recommendations in mid-April. This approach will allow final State ocean salmon regulations to be effective at the same time as salmon regulations in federal ocean waters.

- (1) For the all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 1 - September 30. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.

- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 - November 13. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 - November 13. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (4) For the areas between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 - October 2. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 - October 2. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (6) Minimum Size Range:
  - a. North of Horse Mountain: The minimum size may range from 20 to 24 inches total length.
  - b. South of Horse Mountain: The minimum size may range from 20 to 24 inches total length.

#### Option 3 – Automatic conformance with federal regulations

The Department is proposing this option to replace the existing regulations for Commission consideration. Significantly more stakeholder and public involvement takes place each year during the annual Federal PFMC salmon regulatory process. This option is included to reduce administrative workload on Department and Commission staff and to allow for quicker implementation of season opening date regulations, since the Federal process is far more expedient than the State's.

The Commission's final action on ocean salmon fishing in late April each year is almost always limited to adopting state regulations that exactly mirror Federal regulations that have already been approved by PFMC earlier in the month of April. This option proposes automatic conformance of State ocean salmon regulations with Federal regulations. This approach will ensure that State ocean salmon regulations are effective at the same time as salmon regulations in Federal ocean waters and would simplify application of Federal emergency or in-season action to State regulations.