

TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations
(Continuation of California Notice Register 2012, No. 6-Z,
and Meetings of December 15, 2011, March 7, 2012, and April 11, 2012.)

NOTE: The Fish and Game Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption.

(**NOTE:** See Updated Informative Digest changes shown in **bold face** type.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, proposes to amend Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing after April 30, 2012.

Updated 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 in federal regulation by the National Marine Fisheries Service (NMFS) by May 1 of each year.

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 and regulations each year.

PFMC Regulatory Outlook

On March 7, 2012, the PFMC will propose a suite of ocean salmon fishery regulatory options. These options will go out for public review and the final PFMC recommendations for federal waters will be made on April 6, 2012. The federal regulations will go into effect on or after May 1, 2012 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.

Commission Regulatory Outlook

Although there are no PFMC regulatory options to consider until March, the 2012 ocean salmon sport regulations could range from no fishing in all areas off California to limited salmon fishing for varied areas and dates to be determined between May 1, 2012 and November 11, 2012.

Present Regulations

Current regulations authorized recreational ocean salmon fishing north of Horse Mountain including Humboldt Bay from May 14 to September 5, 2011. Between Horse Mountain and Pigeon Point, fishing was authorized from April 2 to October 30, 2011. All areas south of Pigeon Point had an ocean salmon recreational fishing season from April 2 to September 18, 2011. For all areas in 2011, the bag limit was two fish per day (all species except coho) and the minimum size limit was 24 inches total length. All recreational fishing for ocean salmon is currently closed until further action by the PFMC and/or the Commission.

The ocean salmon sport fishing regulations for April 1-30, 2012 are being considered in a separate rulemaking package, as described in OAL Notice No. Z-2011-1227-03.

Proposed Regulations

For public notice purposes and to facilitate Commission discussion, the Department is proposing three regulatory options which encompass all possible actions that would, or would not allow for salmon fishing on or after May 1 in various areas of California for Commission consideration:

Option 1 – Varied season dates and regulations in all areas. The date ranges in the following areas are proposed to encapsulate all possibilities that might be considered for Federal ocean salmon regulations in effect on or after May 1, 2012. This approach will allow final State ocean salmon recreational fishing regulations to conform to those in effect in federal ocean waters.

- (1) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 15 through September 15, 2012.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 11, 2012.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 11, 2012.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 7, 2012.
- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 to October 7, 2012.

For all areas, the proposed bag limit will be from one 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 bag

limit, minimum size, and days of the week open will be determined in April and may be different for each sub-area.

Option 2 - No fishing in all areas. If adopted, the regulatory text of Option 2 would specifically establish 2012 closed areas.

Option 3 - A possible combination of Option 1 and 2 may be developed after more information is available from the NMFS and PFMC. This may include different opening and closing dates, bag limits, size limits, days of the week open and periodic closures among areas.

The benefits of the proposed regulations are in concurrence with Federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

At its April meeting, the PFMC approved a May 1 opening date for federal waters of the California Klamath Management Zone (KMZ; area north of Horse Mountain to the Oregon border and in Humboldt Bay). In this rulemaking, the Commission will consider adoption of conforming regulations for state waters. In order to achieve conformance, a modification is needed to the range of opening dates available for consideration in the California KMZ. In addition, the regulatory language has been revised to include different size limits during the open season in waters south of Point Arena.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a teleconference originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Wednesday, April 18, 2012, at 10:00 a.m., or as soon thereafter as the matter may be heard. Interested persons may also participate at the following locations: Department of Fish and Game (DFG)-Santa Barbara Field Office and Laboratory, 1933 Cliff Drive, Suite 9, Santa Barbara, CA; DFG-Inland Deserts Region, 3602 Inland Empire Boulevard, Suite C-220, Ontario, CA; and DFG-Monterey Regional Office, 20 Lower Ragsdale Drive, Suite 100, Monterey, CA. Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 17, 2012. All comments must be received no later than April 18, 2012, at one of the teleconference hearing locations listed above. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct

inquiries to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Ms. Marija Vojkovich, Regional Manager, Marine Region, Department of Fish and Game, telephone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations range from no salmon fishing in 2012 to a normal ocean salmon season; therefore, the potential impacts range from 0 to 1,400 jobs depending on which option is ultimately adopted by the Commission. The impacted businesses are generally small businesses employing few individuals and, like

all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

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 does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's ocean salmon resources.

(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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Sonke Mastrup
Executive Director

Date: April 11, 2012