

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

Amend Subsection 27.80 (c)
Title 14, California Code of Regulations
Re: Ocean Salmon Recreational Fishing – April Season

I. Date of Initial Statement of Reasons: November 16, 2012

II. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: December 12, 2012
Location: San Diego, CA |
| (b) | Discussion Hearing: | Date: February 6, 2013
Location: Sacramento, CA |
| (c) | Adoption Hearing: | Date: March 6, 2013
Location: Mt. Shasta, 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 (3 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) 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.

On May 1, 2012, NMFS implemented the 2012 Federal ocean salmon regulations, which included the PFMC's recommendation to open the California ocean salmon recreational fishing season south of Horse

Mountain on April 6, 2013. While Federal waters south of Horse Mountain will open on April 6, 2013, State waters in this area will not open unless the Commission takes regulatory action to do so.

The 2013 season opening dates were not adopted into the State's ocean salmon regulations in 2012 as a matter of precaution, in order to account for the possibility that these dates, along with minimum size limits, bag limits, and open fishing days, or other management measures, may be modified by NMFS and PFMC based on the most up-to-date salmon abundance information. Fishery monitoring and escapement information needed for target stocks and salmon species of special concern, including Sacramento River Winter Chinook which is listed as endangered under both Federal and State Endangered Species Acts (ESAs) is not available until the winter and early spring of 2013.

The Commission will consider the most up-to-date information before determining if ocean salmon fishing should be authorized for April 2013. The proposed regulations would allow the Commission to adopt the April 6 opening date, or a later date in April, along with other fishery management measures for State waters that would be effective through April 30, 2013.

In 2012, Section 27.80 was restructured to synchronize the annual Commission ocean salmon regulatory process with salmon data availability and align the State's rulemaking requirements with the Federal regulatory timeline so that regulations are effective in a timely manner. Two separate Commission actions are necessary to conform the State regulations to Federal rules that will apply in 2013. The proposed regulation would amend subsection 27.80 (c), establishing salmon fishing regulations for the month of April, 2013. Recreational salmon fishing regulations for May 1 through the end of 2013 will be considered in a separate rulemaking action, tentatively scheduled for adoption in April 2013.

Present Regulations

Current regulations [subsections 27.80 (c) and (d)] authorized ocean salmon recreational fishing north of Horse Mountain including Humboldt Bay from May 1 to September 9, 2012. Between Horse Mountain and Pigeon Point, ocean salmon recreational fishing was allowed from April 7 to November 11, 2012. All areas south of Pigeon Point had an ocean salmon recreational fishing season from April 7 to October 7, 2012. For all areas in 2012, the bag limit was 2 fish per day (all species except coho). All areas north of Point Arena had a minimum size limit of 20 inches total length. All areas south of Point Arena had a minimum size limit of 24 inches total length through July 5, 2012 and 20 inches total length thereafter. Since the existing regulations pertained only to the 2012 season, amendment of these regulations is essential to allow for any fishing in State waters during 2013.

Proposed Regulations

For public notice purposes to facilitate Commission discussion, the Department of Fish and Game is proposing three regulatory options to

encompass all possible actions that would, or would not allow for salmon fishing in the month of April 2013 in various areas of California for Commission consideration:

Option 1 – Varied season dates and regulations in all areas. The ranges proposed below encapsulate all possibilities for Federal ocean salmon regulations that are expected to be in effect April 6 through April 30, 2013. 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) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2013 season will be decided in April by the PFMC and Commission and the section will be amended pursuant to the regulatory process.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may open on a date within the range of April 6 through April 30, 2013. The proposed bag limit will be from 1 to 3 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 by the Commission, considering Federal regulations applicable to this area for April 2013.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 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 by the Commission, considering Federal regulations applicable to this area for April 2013.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 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 by the Commission, considering Federal regulations applicable to this area for April 2013.
- (5) For the areas south of Point Sur: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 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 by the Commission, considering Federal regulations applicable to this area for April 2013.

Option 2 - No fishing in all areas. This is the same as the no change alternative as all ocean salmon recreational fishing seasons are currently closed pursuant to Section 27.80 regulations. If adopted, the regulatory text of Option 2 would specifically establish 2013 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 of some but not all areas.

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 this is sufficient to provide a satisfying sport. Adoption of scientifically-based ocean salmon seasons, size limits, and bag and possession limits provide for the maintenance of sufficient populations of salmon to ensure their continued existence.

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.

- (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. April 2012. Preseason Report III: Council Adopted Management Measures and Environmental Assessment Part 3 for 2012 Ocean Salmon Fishery Regulations. 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220.](#)

[Economic Impact Analysis.](#)

(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 for 2013. Federal regulations are anticipated to open the ocean salmon recreational fishing regulations south of Horse Mountain on April 6, 2013. 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 purposes 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:

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 Commission anticipates benefits to the State's Environment in the sustainable management of ocean salmon resources. The Commission anticipates benefits to health and safety of California residents in that providing salmon fishing opportunities encourages consumption of a nutritious food.

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 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.

Informative Digest (Policy Statement Overview)

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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. No other State agency has authority to adopt sport fishing regulations.