

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**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 subsection (d) of Section 27.80, Title 14, California Code of Regulations, relating to Ocean Salmon Recreational Fishing – **May to November Season**.

**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 (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.

**Present Regulations**

Current regulations [subsections 27.80 (c) and (d)] authorized ocean salmon recreational fishing for the 2012 season. For all waters north of Horse Mountain, including Humboldt Bay, ocean salmon recreational fishing was open from May 1 through 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 open 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.

**PFMC Regulatory Outlook**

On March 11, 2013, the PFMC will propose a suite of ocean salmon fishery regulatory options after reviewing the most up-to-date salmon abundance information 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). These options will go out for public review and the final PFMC recommendations for Federal waters will be made on April 11, 2013. The Federal regulations will go into effect on or after May 1, 2013 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 2013 ocean salmon sport fishing 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, 2013 and November 10, 2013. The final PFMC recommendations made on April 11, 2013 will serve as the basis for the State's ocean salmon sport fishery regulations for May 2013 through the end of the year.

### **Concurrent Regulatory Action**

Two separate Commission actions are necessary to conform the State regulations to Federal rules that will apply in 2013.

The proposed regulations will establish ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for May 2013 through the end of the year [subsection (d) of Section 27.80].

The Commission will be considering ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for April 6-30, 2013 [subsection (c) of Section 27.80] in a separate rulemaking package, tentatively scheduled for adoption on March 6, 2013.

### **Proposed Regulations**

For public notice purposes and to facilitate Commission discussion, the Department is proposing three regulatory options to 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 ranges proposed below encapsulate all possibilities for Federal ocean salmon regulations that are expected to be in effect on or after May 1, 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 season, if any, may occur within the range of May 1 through September 30, 2013.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 10, 2013.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 10, 2013.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 6, 2013.

- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 to October 6, 2013.

For all areas, the proposed bag limit will be from one to three 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 by the Commission considering Federal regulations and may be different for each sub-area.

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 Options 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.

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.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, February 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mount Shasta Hatchery Museum, 3 North Old Stage Road, Mount Shasta, California, on Wednesday, March 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Flamingo Conference Resort & Spa, 2777 Fourth Street, Santa Rosa, California, on Wednesday, April 17, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 7, 2013 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 12:00 p.m. on April 15, 2013. All comments must be received no later than April 17, 2013, at the hearing in Santa Rosa, CA. 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 requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Mr. Paul Hamdorf, Acting Manager of the Marine Region, Department of Fish and Game, phone**

**(562) 342-7210, 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 the agency program staff.

#### Impact of Regulatory Action/Results of the Economic Impact Analysis

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 Business, 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 2013 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 anticipates benefits to the environment by the sustainable management of California's ocean salmon resources.

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 any non-monetary benefits to worker safety.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission 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

Dated: December 18, 2012