

Three oral comments were received at the teleconference on March 15, 2016, all from the same person.

Comment 1: Paul Weakland requested to know how many fishermen are affected by the regulations.

Response: The estimated annual number of California recreational salmon fishermen (anglers) is available in the annual Review of Ocean Salmon Fisheries document compiled by the Pacific Fishery Management Council. The most current table referencing the number of anglers is in Appendix A, Table A-4 and is located at the following link: http://www.pcouncil.org/wp-content/uploads/2016/02/salsafe2015_Appendix_A.pdf. This document has been added to the rulemaking file in compliance with Section 202 of the Fish and Game Code.

Comment 2: Paul Weakland referenced a lawsuit against the Commission regarding whether or not salmon are native south of San Francisco.

Response: The subject of the lawsuit is outside the scope of this rulemaking.

Comment 3: Paul Weakland requested to know how the public can verify the accuracy of the catch, effort, and escapement figures used in the Commission's rulemaking packages.

Response: All California ocean recreational catch, effort, and escapement data are compiled and published in the annual Review of Ocean Salmon Fisheries document compiled by the Pacific Fishery Management Council. The most current document is located at the following link: http://www.pcouncil.org/wp-content/uploads/2016/02/Review_of_2015_Salmon_Fisheries_FullDocument.pdf. This document has been added to the rulemaking file in compliance with Section 202 of the Fish and Game Code.

In addition, all coded-wire tag recoveries and catch-sample data used to manage California salmon resources can be downloaded from the Regional Mark Processing Center located at following link: <http://www.rmpec.org/>

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

The no change alternative would maintain existing regulations which do not provide an ocean salmon recreational fishing season for 2016. Federal regulations are anticipated to open the ocean salmon recreational fishing regulations south of Horse Mountain on April 2, 2016. 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 information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

X. 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 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 Department anticipates status quo fishing levels for April 2016 as compared to the April 2015 ocean salmon sport fishing season.

(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 that the proposed regulations will have any impact on the creation or elimination of jobs, the creation or elimination of businesses or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Salmon sport fishing contributes to increased mental health of its practitioners, provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

The Commission anticipates benefits to the State's environment in the sustainable management of 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 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.

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) along the coasts of 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

Regulations for 2015 [subsections 27.80 (c) and (d)] authorized ocean salmon recreational fishing seven days per week north of Horse Mountain including Humboldt Bay from May 1 to September 7, 2015. Between Horse Mountain and Point Arena, ocean salmon recreational fishing was authorized seven days per week from April 4 to November 8, 2015. Between Point Arena and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 4 to October 31, 2015. Between Pigeon Point and Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 4 to September 7, 2015. Areas south of Point Sur, the ocean salmon recreational fishing season was authorized from April 4 to July 19, 2015. The bag limit for all areas in 2015 was two fish per day (all species except coho). The area north of Horse Mountain had a minimum size limit of 20 inches total length. The area between Horse Mountain and Point Arena had a minimum size limit of 20 inches total length. The area between Point Arena and Pigeon Point had a minimum size limit of 24 inches total length through April 30, 2015 and 20 inches total length thereafter. Areas south of Pigeon Point had a minimum size limit of 24 inches total length through May 31, 2015 and 20 inches total length thereafter. Since the existing regulations pertained only to the 2015 season, amendment of these regulations is essential to allow for any fishing in State waters during 2016.

Proposed Regulations

Two separate Commission actions are necessary to conform the State regulations to federal rules that will apply in 2016. The current proposed action would amend subsection 27.80 (c), establishing salmon fishing regulations for the month of April 2016. Recreational salmon fishing regulations for May 1 through the end of 2016 will be considered in the second rulemaking action, tentatively scheduled for adoption in April 2016.

For public notice purposes to facilitate Commission discussion, the Department of Fish and Wildlife (Department) is proposing the following regulations to encompass the range of federal ocean salmon regulations that are expected to be in effect April 2 through April 30, 2016. 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) North of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2016 season will be decided in April by the PFMC and Commission and the section will be amended pursuant to the regulatory process.
- (2) South of Horse Mountain: The season, if any, may open on a date within the range of April 2 through April 30, 2016. The proposed daily bag limit will be from zero to two fish, and the proposed minimum size will be from 20 to 26 inches total length. The exact opening dates, along with daily bag limit, minimum size, and days of the week open may be different for each subarea and will be determined by the Commission, considering federal regulations applicable to each subarea for April 2016.

Other changes are proposed to clarify the existing regulations.

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

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The legislature has delegated authority to the Commission to adopt sport fishing regulations in general (Sections 200, 202 and 205, Fish and Game Code) and salmon sport fishing regulations specifically (Section 316.5, Fish and Game Code). The proposed regulations are consistent with regulations for sport fishing in marine protected areas (Section 632, Title 14, CCR) and with general sport fishing regulations in chapters 1 and 4 of subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of salmon in the ocean.

On March 15, 2016, the Commission adopted regulations as follows:

- (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 2016 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 will run April 2, 2016 through April 30, 2016. Fishing is authorized 7 days per week. The minimum size will be twenty inches total length. The bag limit remains at two salmon per day.**
- (3) For all areas south of Point Arena: The season will run April 2, 2016 through April 30, 2016. Fishing is authorized 7 days per week. The minimum size will be twenty-four inches total length. The bag limit remains at two salmon per day.**

No other modifications were made to the originally proposed language of the Initial Statement of Reasons.