

**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 (CCR), relating to ocean salmon sport fishing on and after May 1, 2016.

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 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. For areas south of Point Sur, the ocean salmon recreational fishing season was authorized seven days per week 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 areas north of 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. This proposed regulation would amend subsection 27.80(d), establishing salmon fishing regulations for May 1 through the end of 2016. Recreational salmon fishing regulations for the month of April 2016 will be considered in a separate rulemaking action, tentatively scheduled for adoption in March 2016.

For public notice purposes and to facilitate Commission discussion, the Department of Fish and Wildlife is proposing the following regulations to encompass the range of federal ocean salmon regulations that are expected to be in effect on or after May 1, 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 season, if any, may occur within the range of May 1 through September 30, 2016.
- (2) Between Horse Mountain and Pigeon Point: The season, if any, may occur within the range of May 1 to November 13, 2016.
- (3) South of Pigeon Point: The season, if any, may occur within the range of May 1 to October 2, 2016.
- (4) For all areas, 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 and closing dates, along with daily 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 subarea.

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. 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.

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 10, 2016 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 teleconference originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Monday, April 18, 2016, at 8:30 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 Wildlife, Conference Room, 50 Ericson Court, Arcata, California; Department of Fish and Wildlife, Conference Room, 4665 Lampson Avenue, Los Alamitos, California; and Department of Fish and Wildlife Conference Room, 7329 Silverado Trail, Napa, California. Written comments may be submitted at the address given below or by e-mail to FGC@fgc.ca.gov. Written comments mailed or e-mailed to the Commission office, must be received before 12:00 noon on April 13, 2016. All comments must be received no later than April 18, 2016, 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 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. **Barry Miller, Department of Fish and Wildlife, phone (707) 576-2860 or Barry.Miller@wildlife.ca.gov, 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:

Although the recommendations of the PFMC for the 2016 ocean salmon season are unknown at this time, the Department anticipates that recreational salmon fishing effort will be similar to the 2015 season. For the purpose of evaluating potential economic impacts of the 2016 ocean salmon regulations, the Commission analyzed possible reductions in ocean salmon recreational effort ranging from zero (no change) to 100-percent. The base year used for estimating the 2016 economic impacts is the 2014 salmon season, the latest full year of economic data.

For the first two projections for 2016, representing 100-percent (120,300 angler days), and 50-percent (60,150 angler days) levels of ocean salmon angling effort, there are not likely to be significant statewide adverse economic impacts directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The elimination of ocean recreational salmon angling or the 0-percent (zero angler days) projection could constitute a significant decline in revenue to a number of businesses associated with recreational ocean angling. However, such a closure would be undertaken with the intent of ensuring the health of the resource and thus prevent longer term adverse economic impacts.

Data from the Department indicate that during the 2014 salmon season, recreational fishermen participated in 120,300 angler days of ocean salmon fishing and generated an estimated \$20.2 million (2015\$) in total economic output to the State. The projected levels of fishing effort for the 2016 salmon season are 120,300 angler days, 60,150 angler days, and zero angler days, equivalent to 100, 50, and 0-percent levels of effort, respectively. At the projected 2016 levels of angler effort, the associated fishing expenditures by fishermen would generate an estimated \$20.2 million, \$10.1 million and \$0.00 (2015\$) in total economic output for the State, respectively. Thus, relative to the 2014 salmon season, the total incremental effects (direct, indirect, and induced) of the 2016 projections on State economic output range from no change (the same \$20.2 million); a 50-percent decrease (\$10.1 million); to an 100-percent decline (-\$20.2 million) total economic output from the recreational salmon fishery.

The proposed regulations do not include any reporting, recordkeeping or other compliance requirements.

The Commission has made an initial determination that the amendment of this regulation may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
 - (ii) consolidation or simplification of compliance and reporting requirements for businesses;
 - (iii) the use of performance standards rather than prescriptive standards; or
 - (iv) exemption or partial exemption from the regulatory requirements for business.
- (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:

Approximately 164 jobs were indirectly supported by recreational ocean salmon angling during the 2014 salmon season. Thus, relative to the 2014 salmon season, the 2016 projections (100, 50, and 0-percent levels of effort) represent potential incremental

effects on employment ranging from no change to a loss of 82 to 164 jobs statewide; potential incremental effects on the creation or elimination of businesses ranging from no impact to the potential elimination of businesses in the state in some localized areas that lack industry diversification and have a heavy reliance on recreational fishing and tourism; and potential incremental effects on the expansion of business ranging from no effect to the contraction of some business activities in the recreational salmon fishing arena. .

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 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

Dated: December 15, 2015

Sonke Mastrup
Executive Director