

STAFF SUMMARY FOR MARCH 15, 2017

3. APRIL 2017 OCEAN SALMON**Today's Item**Information ☐Action ☒

Adopt proposed changes to ocean salmon sport fishing regulations for April 2017. DFW will provide final recommendations at the teleconference meeting.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|-------------------------------------|
| • Notice hearing | Dec 7-8, 2016; San Diego |
| • Discussion hearing | Feb 8-9, 2017; Rohnert Park |
| • Today's adoption hearing | Mar 15, 2017; Teleconference |

Background

FGC annually adopts ocean salmon recreational fishing regulations in State waters to conform to federal rules. 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 Washington, Oregon and California. PFMC ocean salmon recommendations are subsequently implemented by the National Marine Fisheries Service (NMFS), effective May 1 of each year.

On May 1, 2016, NMFS implemented the 2016 federal ocean salmon regulations which included the PFMC's recommendation to open the California ocean salmon recreational fishery season south of Horse Mountain on Apr 1, 2017. While federal waters south of Horse Mountain will open Apr 1, 2017, State waters in this area will not open unless FGC takes regulatory action to do so.

The proposed regulations include a broad range of options to encompass the range of federal ocean salmon regulations that are expected to be in effect Apr 1 through Apr 30, 2017. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in federal waters, including any in-season changes resulting from the Mar 7-13, 2017, PFMC meeting. (FGC will adopt ocean salmon recreational fishing regulations for the remainder of 2017 at its Apr 13 teleconference.)

Significant Public Comments

1. One request for a later season south of Point Sur (Exhibit 4).

Recommendation

FGC staff: Adopt the proposed regulations as recommended by DFW during the teleconference meeting.

Exhibits

1. [DFW memo, received Nov 2, 2016](#)
2. [Initial statement of reasons](#)
3. [Draft notice of exemption](#)
4. [Email from Don Thompson, received Feb 14, 2017](#)

STAFF SUMMARY FOR MARCH 15, 2017

Motion/Direction

Moved by _____ and seconded by _____ that the Commission has determined, based on the record, this project is exempt from the California Environmental Quality Act pursuant to the guidelines in Public Resources Code sections 15307 and 15308, and adopts the proposed changes to subsection 27.80(c), related to ocean salmon recreational fishing regulations, as recommended today by the Department.

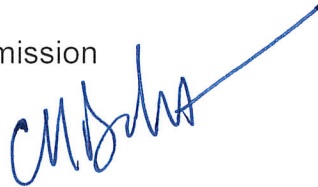
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Memorandum

Date: Nov. 1,
October 5, 2016

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Agenda Items for the December 7-8, 2016 Fish and Game Commission Meeting**
Re: Request for Notice Authorization to Amend Ocean Salmon Fishing
Regulations for 2017

Attached for the December 7-8, 2016 meeting of the Fish and Game Commission (Commission) are two rulemaking proposals for the 2017 Ocean Salmon fishing season. The first package proposes to amend subsection 27.80 (c) to establish open fishing days, bag limits, and minimum size restrictions for April 2017. The second package proposes to amend subsection 27.80 (d) to establish open fishing days, bag limits, and minimum size restrictions for the salmon season in effect on or after May 1, 2017.

Existing Title 14 regulations specify ocean salmon recreational fishing regulations that were valid only for the 2016 season. The proposed amendments to Section 27.80 (c) contained in the first ISOR would allow the Commission to adopt regulations at its March 2017 Teleconference meeting that would establish any ocean salmon recreational fishing regulations for the month of April 2017, in conformance with federal rules.

The proposed amendments to Section 27.80 (d) contained in the second ISOR would allow the Commission to adopt regulations at its April 2017 Teleconference meeting that would establish any ocean salmon recreational fishing regulations on or after May 1, 2017, in conformance with federal rules that will be recommended by the Pacific Fishery Management Council on April 12, 2017. The range of alternatives contained in the second ISOR are the same as those contained in the first ISOR (open fishing days/times, areas, size limits), but the resulting regulations apply only for May 1, 2017 through the end of the year.

The Department of Fish and Wildlife (Department) requests the Commission authorize publication of notice of its intent to amend the above referenced subsections of Section 27.80, Title 14, CCR, to establish ocean salmon recreational fishing regulations for the 2017-fishing season. While the proposed rulemakings are related, they should be noticed separately to conform to timelines driven by the federal regulatory process.

A Notice of Exemption (NOE) is also attached. Since the NOE is not anticipated to change, this early submission gives the Commission notice of the Department's recommendation to rely on a California Environmental Quality Act (CEQA) categorical exemption for ocean salmon. The following paragraphs describe staff's analysis of use of a categorical exemption under the CEQA.

Categorical Exemptions to Protect Natural Resources and the Environment

The Commission's adoption of these regulations is an action subject to CEQA. The review effort by Department staff pursuant to CEQA Guidelines section 15061 lead staff to conclude that adoption of the regulations would properly fall within the Class 7 and Class 8 categorical exemptions (CEQA Guidelines sections 15307, 15308). These two exemptions are related to agency actions to protect natural resources and the environment. The proposed regulations will define annual fishing seasons, daily bag and sizes limits, and specify methods of take for alignment with enacted federal regulations. State conformance with federal regulations is also necessary to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are intended to protect the sustainability of the fishery as a natural resource. In staff's view, the Commission's adoption of regulations is an activity that is the proper subject of CEQA's Class 7 and 8 categorical exemptions.

No Exceptions to Categorical Exemptions Apply

As to the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2, including the prospect of unusual circumstances and related effects, the Department's review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Department relevant to the issue and does not believe adoption of the regulations creates any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of wildlife preservation activities such as the current effort; there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or a cumulative basis are expected. The intent of the proposed regulations is conformance of State regulations with federal regulations to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are anticipated to achieve optimum yield in the fishery, but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery.

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Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines section 15300.2.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246. The public notice for this rulemaking should identify Environmental Scientist, Barry Miller as the Department's point of contact. Mr. Miller can be reached at (707) 576-2860 or Barry.Miller@wildlife.ca.gov.

Attachment

cc: Stafford Lehr, Deputy Director
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Stafford.Lehr@wildlife.ca.gov

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

Amend Subsection (c) of Section 27.80
Title 14, California Code of Regulations
Re: Ocean Salmon Recreational Fishing – April 2017 Season

- I. Date of Initial Statement of Reasons: September 21, 2016
- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: December 7, 2016
Location: San Diego, CA
 - (b) Discussion Hearing: Date: February 9, 2017
Location: Rhonert Park, CA
 - (c) Adoption Hearing: Date: March 15, 2017
Location: Teleconference
- 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 (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.

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 in order to maintain continuity of management and enforcement. Conformance with federal regulations is also necessary to maintain continued State authority over its recreational salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [16 USC §1856 (b)(1)].

On May 1, 2016, NMFS implemented the 2016 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 1, 2017. While federal waters south of Horse Mountain will open on April 1, 2017, State waters in this area will not open unless the Commission takes regulatory action to do so.

The 2017 season opening dates were not adopted into the State's ocean salmon regulations in 2016 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-run Chinook which is listed as endangered under both federal and State Endangered Species Acts, is not available until the winter or early spring of 2017.

Concurrent Regulatory Action

The Commission will consider the most up-to-date information before determining if ocean salmon fishing should be authorized for April 2017. The proposed regulations would allow the Commission to adopt the April 1 opening date, or a later date in April, along with other fishery management measures for State waters that would be effective through April 30, 2017.

Two separate Commission actions are necessary to conform State regulations to federal rules that will apply in 2017. The first action would amend subsection 27.80(c), establishing salmon fishing regulations for the month of April 2017 consistent with federal regulations for the federal fishery management zone off California. Recreational salmon fishing regulations for May 1 through the end of 2017 will be considered in the second rulemaking action, tentatively scheduled for adoption in April 2017.

Present Regulations

Regulations for 2016 [subsections 27.80(c) and (d)] authorized ocean salmon recreational fishing seven days per week north of Horse Mountain including Humboldt Bay from May 16 through May 31, June 16 through June 30, July 16 through August 16, and September 1 through September 5, 2016. Between Horse Mountain and Point Arena, ocean salmon recreational fishing was authorized seven days per week from April 2 to November 13, 2016. Between Point Arena and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 2 to October 31, 2016. Between Pigeon Point and Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 2 to July 15, 2016. For areas south of Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 2 to May 31, 2016. The bag limit for all areas in 2016 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, 2016 and 20 inches total length thereafter. Areas south of Pigeon Point had a minimum size limit of 24 inches total length. Since the existing regulations pertained only to the 2016 season, amending these regulations is essential to allow for any fishing in State waters during 2017.

Proposed Regulations

For public notice purposes and 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 1 through April 30, 2017. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in federal ocean waters shortly after the federal rules are promulgated.

- (1) North of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2017 season will be decided in April by the PFMC and Commission and the section will be amended pursuant to the regulatory process.
- (2) Between Horse Mountain and Point Arena: The season, if any, may open on a date within the range of April 1 through April 30, 2017. 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 date, along with daily 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 2017.
- (3) Between Point Arena and Pigeon Point: The season, if any, may open on a date within the range of April 1 through April 30, 2017. 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 date, along with daily 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 2017.
- (4) Between Pigeon Point and Point Sur: The season, if any, may open on a date within the range of April 1 through April 30, 2017. 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 date, along with daily 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 2017.
- (5) South of Point Sur: The season, if any, may open on a date within the range of April 1 through April 30, 2017. 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 date, along with

daily 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 2017.

It is the policy of the 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. In addition, it is the policy of the State 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 that is sufficient to provide a satisfying sport. Adoption of scientifically-based ocean salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to maintain their continued existence.

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.

(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 2016. Preseason Report III: Council Adopted Management Measures and Environmental Assessment Part 3 for 2016 Ocean Salmon Fishery Regulations.

(<http://www.pcouncil.org/salmon/stock-assessment-and-fishery-evaluation-safe-documents/preseason-reports/2016-preseason-report-iii/>)

(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 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 2017. Federal regulations are anticipated to open the ocean salmon recreational fishing regulations south of Horse Mountain on April 1, 2017. 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 purpose 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 needed.

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 businesses, including the ability of California businesses to compete with businesses in other states. The Department anticipates status quo fishing levels for April 2017 as compared to the April 2016 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 because no changes in fishing activity levels are expected .

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.

VII. Economic Impact Assessment:

The proposed regulatory action would amend salmon fishing regulations for the month of April 2017 to be consistent with federal regulations for the federal fishery management zone off California. The proposed action is anticipated to preserve status quo fishing opportunities as compared to the April 2016 ocean salmon sport fishing season.

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission does not anticipate any impacts on the creation or elimination of jobs due to the proposed regulation. The Commission anticipates status quo fishing levels for April 2017 as compared to the April 2016 ocean salmon sport fishing season.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate any impacts on the creation of new businesses or the elimination of existing businesses due to the proposed regulation. The Commission anticipates status quo fishing levels for April 2017 as compared to the April 2016 ocean salmon sport fishing season.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any impacts on the expansion of businesses in California due to the proposed regulation. The Commission anticipates status quo fishing levels for April 2017 as compared to the April 2016 ocean salmon sport fishing season.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates health and welfare benefits to California residents from recreation in, and enjoyment of, a sustainable and satisfying salmon fishery.

- (e) Benefits of the Regulation to Worker Safety:

The proposed regulations conform to federal fisheries management allowable harvest levels, and ensure a sustainable fishery. As such, the agency is not aware of any consequences to worker safety that could arise from the proposed regulations.

(f) Benefits of the Regulation to the State's Environment:

The Commission anticipates benefits to the environment. Adoption of scientifically-based ocean salmon seasons, size limits, and bag and possession limits ensures sufficient residual populations of salmon and their continued existence.

(g) Other Benefits of the Regulation:

The proposed regulations will provide for resource sustainability thus ensuring the continuation and future enjoyment of the salmon fishery. Maintaining healthy populations of salmon will also translate into sustained economic contributions to the State.

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 2016 [subsections 27.80(c) and (d)] authorized ocean salmon recreational fishing seven days per week north of Horse Mountain including Humboldt Bay from May 16 through May 31, June 16 through June 30, July 16 through August 16, and September 1 through September 5, 2016. Between Horse Mountain and Point Arena, ocean salmon recreational fishing was authorized seven days per week from April 2 to November 13, 2016. Between Point Arena and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 2 to October 31, 2016. Between Pigeon Point and Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 2 to July 15, 2016. For areas south of Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 2 to May 31, 2016. The bag limit for all areas in 2016 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, 2016 and 20 inches total length thereafter. Areas south of Pigeon Point had a minimum size limit of 24 inches total length. Since the existing regulations pertained only to the 2016 season, amendment of these regulations is essential to allow for any fishing in State waters during 2017.

Proposed Regulations

Two separate Commission actions are necessary to conform State regulations to federal rules that will apply in 2017. The first action would amend subsection 27.80(c), establishing salmon fishing regulations for the month of April 2017 consistent with federal regulations for the federal fishery management zone off California. Recreational salmon fishing regulations for May 1 through the end of 2017 will be considered in the second rulemaking action, tentatively scheduled for adoption in April 2017.

For public notice purposes and 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 1 through April 30, 2017. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in federal ocean waters shortly after the federal rules are promulgated.

- (1) North of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2017 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 1 through April 30, 2017. 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 date, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to each area for April 2017 and may be different for each area.

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.

Regulatory Language

Subsection (c) of Section 27.80, Title 14, CCR, is amended to read:

§ 27.80. Salmon

(c) Open Fishing Days, Daily Bag Limits, and Minimum Size in effect ~~April 2~~April 1 through April 30, ~~2016~~2017.

(1) North of Horse Mountain (40°05'00" N. lat.) and in Humboldt Bay.

(A) Closed to salmon fishing.

(2) Between Horse Mountain and Point Arena (38°57'30" N. lat.).

(A) Open to salmon fishing ~~from April 2 to April 30~~[varied dates within the range from April 1 to April 30, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~20~~[20-26] inches total length.

(3) Between Point Arena and Pigeon Point (37°11'00" N. lat.).

(A) Open to salmon fishing ~~from April 2 to April 30~~[varied dates within the range from April 1 to April 30, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~24~~[20-26] inches total length.

(4) Between Pigeon Point and Point Sur (36°18'00" N. lat.).

(A) Open to salmon fishing ~~from April 2 to April 30~~[varied dates within the range from April 1 to April 30, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~24~~[20-26] inches total length.

(5) South of Point Sur.

(A) Open to salmon fishing ~~from April 2 to April 30~~[varied dates within the range from April 1 to April 30, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~24~~[20-26] inches total length.

Note: Authority cited: 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.

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: N/A

From: (Public Agency): CA Fish and Game Commission
1416 Ninth Street, Room Room 1320
Sacramento, CA 95814

(Address)

Project Title: Amend Section 27.80, Title 14, California Code of Regulations, Re: Ocean Salmon

Project Applicant: N/A

Project Location - Specific:

Statewide

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

Ocean Salmon is jointly managed by the Pacific Fishery Management Council and National Marine Fisheries Service, in conjunction with the west coast states. The Fish and Game Commission has taken concurrent action to conform State recreational regulations to federal regulations.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Cal. Code Regs., tit. 14, §§ 15307, 15308
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

See attached.

Lead Agency
Contact Person: Valerie Termini

Area Code/Telephone/Extension: (916) 653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: _____ Date: 3/15/2017 Title: Executive Director

☐ Signed by Lead Agency ☒ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

March 15, 2017

ATTACHMENT TO NOTICE OF EXEMPTION Adoption of Ocean Salmon Regulations

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act with respect to the rulemaking mentioned on March 15, 2017. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the regulations relying on the categorical exemption for “Actions by Regulatory Agencies for Protection of Natural Resources” contained in CEQA Guidelines Section 15307, and the categorical exemption for “Actions by Regulatory Agencies for Protection of the Environment” contained in CEQA Guidelines Section 15308. (Cal. Code Regs., tit. 14, §§ 15307, 15308.)

Categorical Exemptions to Protect Natural Resources and the Environment

In adopting the ocean salmon regulations to conform to federal regulations developed by the Pacific Fishery Management Council and adopted by the National Marine Fisheries Service, the Commission relied for purposes of CEQA on the Class 7 and 8 categorical exemptions. In general, both exemptions apply to agency actions to protect natural resources and the environment. The regulations define annual fishing seasons, daily bag and size limits and specify methods of take for alignment with enacted federal regulations. The federal regulations are developed with the dual purpose of maintaining optimum yield while at the same time preventing overfishing and conserving the resource. State conformance with federal regulations is also necessary to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). Because these regulations are intended to protect the sustainability of the fishery as a natural resource, the Commission’s adoption of these regulations is an activity that is the proper subject of CEQA’s Class 7 and 8 categorical exemptions.

No Exceptions to Categorical Exemptions Apply

As to the exceptions to categorical exemptions set forth in CEQA Guidelines Section 15300.2, including the prospect of unusual circumstances and related effects, the Commission review was guided by the California Supreme Court’s recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Commission relevant to the issue and does not believe adoption of the regulations creates any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of wildlife preservation activities such as the current effort; there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or a cumulative basis are expected. The intent of the proposed regulations is conformance of State regulations with federal regulations to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are anticipated to achieve optimum yield in the fishery, but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery.

Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

From: Miller, Barry@Wildlife
Sent: Tuesday, February 14, 2017 2:12 PM
To: FGC
Cc: Fonbuena, Sherrie@FGC
Subject: FW: public comment: 2017 Recreational Salmon Season (south of Pt. Sur)

From: Don Thompson
Sent: Tuesday, February 14, 2017 11:02 AM
To: FGC
Cc: Shuman, Craig@Wildlife
Subject: public comment: 2017 Recreational Salmon Season (south of Pt. Sur)

Dear Commissioners

Please consider these comments regarding proposed 2017 Recreational Salmon Season south of Pt. Sur. The Commission's public notice indicates an intent to maintain status quo regulations with 2016 regulations.

In 2016 there was a disparity in the season reductions by area, with anglers south of Pt. Sur receiving a shorter fishing season than those who live and fish from Monterey North. Additionally the commercial season south of pt. Sur started later and continued after the closure of the recreational season.

I would like to request that the Commission make a more balanced allocation of fishing seasons between the anglers south and the anglers north. The trend has been, that the salmon runs through the Morro Bay and Port San Luis areas have not shown up until May / June. Please consider a change in season duration for May & June, in lieu of the month of April.

Last years regulations favored anglers north of Pt. Sur. It seems that because those of us who live and fish south of Pt. Sur are a small constituency that we have no representation, and as a result have ended up being shortchanged on allocation.

Sincerely

Don Thompson