

# RESUBMITTAL

(Instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

|                  |   |   |                  |
|------------------|---|---|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER<br><b>Z-2017-0503-02</b> | REGULATORY ACTION NUMBER<br><b>2017-1103-02SR</b> | EMERGENCY NUMBER |
|------------------|---|---|------------------|

**ENDORSED - FILED**  
 in the office of the Secretary of State  
 of the State of California

NOV 20 2017

1:43pm

|  |   |
|--|---|
| For use by Office of Administrative Law (OAL) only                         |   |
| NOTICE<br><br>AGENCY WITH RULEMAKING AUTHORITY<br>Fish and Game Commission | REGULATIONS<br><br>2017 NOV -3 A 11: 54<br><br>OFFICE OF ADMINISTRATIVE LAW |

AGENCY FILE NUMBER (If any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

|   |  |                                    |   |
|---|--|------------------------------------|---|
| 1. SUBJECT OF NOTICE<br>Process conform State regulations to federal rules  | TITLE(S)<br>14                               | FIRST SECTION AFFECTED<br>1.95     | 2. REQUESTED PUBLICATION DATE<br>May 19, 2017 |
| 3. NOTICE TYPE<br><input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other   | 4. AGENCY CONTACT PERSON<br>Sherrie Fonbuena | TELEPHONE NUMBER<br>(916) 654-9866 | FAX NUMBER (Optional)<br>(916) 653-5040       |
| <b>OAL USE ONLY</b><br>ACTION ON PROPOSED NOTICE<br><input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | NOTICE REGISTER NUMBER                       | PUBLICATION DATE                   |   |

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

|  |   |
|--|---|
| 1a. SUBJECT OF REGULATION(S)<br>Process conform State regulations to federal rules | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)<br>2017-0908-04s |
|--|---|

|   |               |
|---|---------------|
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) |               |
| SECTION(S) AFFECTED<br>(List all section number(s) individually. Attach additional sheet if needed.)      | ADOPT<br>1.95 |
|   | AMEND         |
|   | REPEAL        |
| TITLE(S)<br>14  |               |

|   |   |   |   |
|---|---|---|---|
| 3. TYPE OF FILING   |   |   |   |
| <input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)   | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11346.11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)   | <input type="checkbox"/> File & Print                               | <input type="checkbox"/> Print Only   |
| <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))   | <input type="checkbox"/> Other (Specify) _____  |   |   |

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

|  |  |   |  |
|--|--|---|--|
| 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)               |  |   |  |
| <input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) | <input type="checkbox"/> Effective on filing with Secretary of State | <input type="checkbox"/> §100 Changes Without Regulatory Effect | <input type="checkbox"/> Effective other (Specify) _____ |

|  |  |   |
|--|--|---|
| 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY |  |   |
| <input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)  | <input type="checkbox"/> Fair Political Practices Commission | <input type="checkbox"/> State Fire Marshal |
| <input type="checkbox"/> Other (Specify) _____   |  |   |

|                                       |                                    |   |  |
|---------------------------------------|------------------------------------|---|--|
| 7. CONTACT PERSON<br>Sherrie Fonbuena | TELEPHONE NUMBER<br>(916) 654-9866 | FAX NUMBER (Optional)<br>(916) 653-5040 | E-MAIL ADDRESS (Optional)<br>Sherrie.Fonbuena@fgc.ca.gov |
|---------------------------------------|------------------------------------|---|--|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

|   |                          |
|---|--------------------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE<br><i>Melissa A. Miller-Henson</i>               | DATE<br>November 3, 2017 |
| TYPED NAME AND TITLE OF SIGNATORY<br>Melissa Miller-Henson, Deputy Executive Director |                          |

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

NOV 20 2017

Office of Administrative Law

## Regulatory Language

Section 1.95 is added to read:

### **1.95. Process to Conform State Recreational Fishing Regulations to Federal Regulations.**

(a) The commission establishes the process in subsection (b) to automatically conform state recreational fishing regulations for the fish species listed in subsections (a)(1) through (a)(2). Conforming regulations established through subsection (b) shall govern unless the commission adopts regulations for said species using the regular rulemaking process [Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code] and specifically declares at the time of adoption the intent to deviate from the automatic conformance process.

(1) Salmon as defined in Section 1.73.

(2) Pacific halibut (*Hippoglossus stenolepis*).

(b) Automatic Process to Conform State Recreational Fishing Regulations to Federal Regulations.

(1) Recreational fishing regulations for fish species listed in subsections (a)(1) through (a)(2) in state waters shall conform to applicable federal regulations enacted by the National Marine Fisheries Service by the process described in subsection (b)(2) or by the process described in subsection (b)(3).

(2) Process for Annual or Corrective Actions.

(A) No later than 10 days after publication in the Federal Register of any National Marine Fisheries Service annual regulation for the species listed in subsection (a), or any correction to an annual regulation affecting such species, the commission shall submit amended recreational fishing regulations to the Office of Administrative Law for publication in the California Code of Regulations, and shall file amended recreational fishing regulations with the Secretary of State.

(B) Notification of State Conformance Action.

No later than 10 days after publication in the Federal Register of any National Marine Fisheries Service annual regulation for the species listed in subsection (a), or any correction to an annual regulation affecting such species, the following shall occur:

1. The department shall inform the public, via news release, of the Federal Register in which the applicable fishing regulations are published and the effective date of the conformed regulations.

2. The commission shall mail or email the department news release to any person, group of persons or small business enterprise that has filed with the commission a request for notice of, or the commission believes to be interested in, recreational fishing regulations for the species listed in subsection (a).

3. To the extent practicable, the department shall provide information on any changes to applicable fishing regulations through public contact, electronic notification, and online and printed publications.

(C) An update on the conformed recreational fishing regulations for the species listed in subsection (a) shall be included on the agenda of the next regularly-scheduled commission meeting.

(3) Process for In-Season Changes.

(A) Salmon. Recreational fishing regulations for salmon in state waters shall conform to applicable in-season changes to federal regulations. Public notification of any in-season change to state salmon regulations to conform to in-season changes to federal regulations is made through the National Marine Fisheries Service ocean salmon hotline at (800) 662-9825.

(B) Pacific Halibut. Recreational fishing regulations for Pacific halibut in state waters shall conform to applicable in-season changes to federal regulations. Public notification of any in-season change to state Pacific halibut regulations to conform to in-season changes to federal regulations is made through the National Marine Fisheries Service Area 2A Pacific halibut hotline at (800) 662-9825.

(c) Effective Date. The effective date of regulations conformed pursuant to subsection (b) shall be the same as the effective date of the federal regulation.

(d) Nothing in this section controls the adoption or validity of commission regulations pertaining to the species identified in subsection (a) on matters that federal regulations do not address.

Note: Authority cited: Section 7110, Fish and Game Code. Reference: Section 7110, Fish and Game Code.