

## STAFF SUMMARY FOR APRIL 18-19, 2018

**15. OCEAN SALMON AND PACIFIC HALIBUT AUTO-CONFORMANCE****Today's Item**Information Action 

Update on automatic conformance of ocean salmon and Pacific halibut recreational fishing regulations to federal regulations.

**Summary of Previous/Future Actions**

- Previous update Dec 6-7, 2017; San Diego
- **Today's update** **Apr 18-19, 2018; Ventura**
- Next update Jun 20-21, 2018; Sacramento

**Background**

At its Aug 16, 2017 meeting, FGC adopted regulation (Section 1.95) that allow a process to automatically conform state ocean salmon and Pacific halibut recreational fishing regulations to federal regulations. The auto-conformance process regulations went into effect on Jan 1, 2018; Exhibit 3 provides an outline of the auto-conformance process.

Pursuant to Section 1.95, this agenda item is to inform the public that the state recreational fishing regulations for ocean salmon during the month of Apr 2018 automatically conformed to federal regulations, effective Apr 6, 2018. From the California/Oregon border to Pigeon Point, recreational ocean salmon fishing is closed for the month of Apr. From Pigeon Point to the California/Mexico border, recreational ocean salmon fishing is open Apr 7-30, with a bag limit of two fish and a minimum size of 24". The text of the conformed recreational ocean salmon regulations is provided in Exhibit 1.

This agenda item is also to inform the public that state recreational fishing regulations for Pacific halibut for 2018 automatically conformed to federal regulations, effective Mar 24, 2018. The season dates will be May 1-Jun 15, Jul 1-15, Aug 1-15 and Sep. 1-Oct. 31, or until the quota is reached, whichever is earlier. The 2018 recreational Pacific halibut quota for the California subarea is 30,940 pounds. The text of the conformed recreational Pacific halibut regulations is provided in Exhibit 2.

This agenda item is also to inform the public that FGC intends for ocean salmon recreational fishing regulations for May 2018 through Apr 2019 to automatically conform to federal regulations. An update will be provided at the Jun 20-21, 2018 FGC meeting.

If deemed necessary, FGC may adopt ocean salmon and/or Pacific halibut recreational fishing regulations different from federal regulations. At this time, there is no indication that the state may need to consider regulations different from federal regulations for 2018.

**Significant Public Comments (N/A)****Recommendation (N/A)**

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**Exhibits**

1. [Conformed recreational ocean salmon regulations for Apr 2018](#)
2. [Conformed recreational Pacific halibut regulations for 2018](#)
3. [Staff summary for Aug 16, 2017, item 17](#)

**Motion/Direction (N/A)**

## 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 1 through April 30, 2017~~ April 7 through April 30, 2018.

(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) ~~Closed to salmon fishing. Open to salmon fishing from April 1 through April 30, 2017. Fishing is authorized 7 days per week.~~

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

(C) ~~Minimum Size: 20 inches total length.~~

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

(A) ~~Closed to salmon fishing. Open to salmon fishing from April 1 through April 30, 2017. Fishing is authorized 7 days per week.~~

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

(C) ~~Minimum Size: 24 inches total length.~~

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

(A) ~~Open to salmon fishing from April 1 through April 30, 2017~~ April 7 through April 30, 2018. Fishing is authorized 7 days per week.

(B) Daily Bag Limit: 2 salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: 24 inches total length.

(5) South of Point Sur.

(A) ~~Open to salmon fishing from April 1 through April 30, 2017~~ April 7 through April 30, 2018. Fishing is authorized 7 days per week.

(B) Daily Bag Limit: 2 salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: 24 inches total length.

...

Note: Authority cited: Sections 200, 205, 265, 316.5, 399, ~~and 2084~~ and 7110, Fish and Game Code. Reference: Sections 200, 205, 265, 316.5, ~~and 2084~~ and 7110, Fish and Game Code.

## Regulatory Language

Section 28.20, Title 14, CCR, is Amended to Read:

### **§28.20. Halibut, Pacific.**

(a) Season:

(1) Pacific halibut may be taken only from May 1 through June 15, July 1 through 15, August 1 through 15, and September 1 through October 31, or until the quota is reached, whichever is earlier. Pacific halibut take is regulated by a quota that is closely monitored each year in alignment with federal regulations.

(2) The Pacific halibut quota is published in the Federal Register ~~82 FR 18581, April 20, 2017~~ 83 FR 13090, March 26, 2018. The department shall inform the commission, and the public via a press release, prior to any implementation of restrictions triggered by achieving or expecting to exceed the quota. Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: [wildlife.ca.gov/Fishing/Ocean](http://wildlife.ca.gov/Fishing/Ocean), or by calling the Recreational Groundfish Fishing Regulations Hotline (831) 649-2801 or the National Marine Fisheries Service Area 2A Halibut Hotline (800) 662-9825 for recorded information, or by contacting a department office.

(b) Limit: One.

(c) Minimum size: None.

(d) Methods of Take:

(1) When angling, no more than one line with two hooks attached may be used.

(2) A harpoon, gaff, or net may be used to assist in taking a Pacific halibut that has been legally caught by angling. See Section 28.95 of these regulations for additional restrictions on the use of harpoons.

(3) Take by spearfishing is allowed pursuant to Section 28.90 of these regulations.

Note: Authority cited: Sections 200, 205, 219, 265, ~~316 and 399~~ 316, 399 and 7110, Fish and Game Code. Reference: Sections 200, 203.1, 205, 219, 255, 265, ~~270 and 316~~ 270, 316 and 7110, Fish and Game Code, 50 CFR Part 300, Subpart E; and 50 CFR 300.66.

## STAFF SUMMARY FOR AUGUST 16, 2017

**17. FISHERIES AUTOMATIC CONFORMANCE PROCESS****Today's Item**Information Action 

Adopt proposed regulation for a process to automatically conform state recreational fishing regulations to federal regulations.

**Summary of Previous/Future Actions**

- Notice hearing Apr 26-27, 2017; Van Nuys
- Discussion hearing Jun 21-22, 2017; Smith River
- **Today's adoption hearing Aug 16, 2017; Sacramento**

**Background**

For species managed under federal fishery management plans or regulation, FGC usually takes concurrent action to conform State recreational regulations to federal regulations adopted by the National Marine Fisheries Services (NMFS); this dual process is redundant and inefficient. The proposed regulation, Section 1.95, Title 14, will establish a process through which State recreational fishing regulations for salmon and Pacific halibut will automatically conform to federal regulations, unless FGC adopts regulations for said species using the regular rulemaking process.

For annual regulations or corrections to annual regulations for salmon and Pacific halibut, the proposed regulation would require, no later than 10 days after federal regulations are published in the Federal Register, that:

- FGC submit amended State regulations to the Office of Administrative Law for publication in the California Code of Regulations, and file the amended State regulations with the Secretary of State;
- DFW issue a news release announcing the Federal Register in which the federal regulations are published and the effective date of the conformed State regulations;
- FGC mail or email the news release to interested parties;
- To the extent practicable, DFW provide information on any changes to the State regulations via public contact, electronic notification, and online and printed publications.

The proposed regulation would also require that an update on the conformed State regulations be included on the agenda of the next regularly-scheduled FGC meeting.

For in-season changes to regulations for salmon and Pacific halibut, the proposed regulation indicates that State regulations shall conform to the applicable federal regulations publicly noticed through the NMFS ocean salmon hotline and NMFS Area 2A Pacific halibut hotline, respectively.

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**Significant Public Comments**

1. One oral comment in support of the proposed regulation was received at the Jun 22, 2017 FGC meeting.

**Recommendation**

**FGC staff:** Adopt the regulation as proposed.

**Exhibits**

1. DFW memo, received Apr 11, 2017
2. Initial statement of reasons
3. Draft notice of exemption

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts proposed Section 1.95, related to a process to conform State recreational fishing regulations to federal regulations and that the Commission has determined, based on the record, this approval is exempt from the California Environmental Quality Act pursuant to the guidelines in Title 14 sections 15307 and 15308.