

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

Amend Subsections (b)(5), (b)(68), and (b)(156.5) of Section 7.50,
Title 14, California Code of Regulations

Re: Alphabetical List of Waters with Special Fishing Regulations:
Central Valley Chinook Salmon Sport Fishing

I. Date of Initial Statement of Reasons: September 15, 2017

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: December 6, 2017
 Location: San Diego

(b) Discussion Hearing: Date: February 8, 2018
 Location: Sacramento

(c) Adoption Hearing: Date: April 12, 2018
 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 current, 2017, sport fishing regulations prescribe seasons and daily bag and possession limits for Chinook Salmon fishing in the American, Feather, and Sacramento rivers. Each year, the Department of Fish and Wildlife (Department) recommends new Chinook Salmon bag and possession limits for consideration by the Fish and Game Commission (Commission). The regulation change is necessary to align the 2018 fishing limits with up-to-date management goals, as set forth below.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2018 meeting and will adopt its final regulatory recommendations at its April 2018 meeting. Based on the recommendations adopted by PFMC, the Department will recommend specific bag and possession limits to the Commission during a scheduled teleconference meeting on April 12, 2018.

The regulations for the American, Feather, and Sacramento rivers may increase or decrease the current Chinook Salmon bag and possession limits based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season.

The Commission will then consider the Department's recommendations and consider and adopt final regulations. This is anticipated to occur at the Commission's April 12, 2018 teleconference meeting.

Proposed Regulations

Because the PFMC recommendations are not known at this time, a range (shown in brackets in the text below) of bag and possession limits is indicated where it is desirable to continue Chinook Salmon fishing in the American, Feather and Sacramento rivers. The open seasons and proposed range of bag and possession limits for Central Valley fall-run Chinook Salmon stocks are as follows:

American River, subsection 7.50(b)(5)

- (A) From Nimbus Dam to the Hazel Avenue bridge.

July 16 through December 31 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (B) From Hazel Avenue bridge to the USGS gauging station cable crossing near Nimbus Hatchery.

July 16 through August 15 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (C) From the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park.

July 16 through December 31 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (D) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge.

July 16 through December 31 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (E) From the Jibboom Street bridge to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

Feather River, subsection 7.50(b)(68)

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to the Live Oak boat ramp.

July 16 through October 15 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (E) From the Live Oak boat ramp to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

Sacramento River below Keswick Dam, subsection 7.50(b)(156.5)

- (C) From Deschutes Road bridge to the Red Bluff Diversion Dam.

August 1 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (D) From the Red Bluff Diversion Dam to the Highway 113 bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (E) From the Highway 113 bridge to the Carquinez Bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

As set forth in Fish and Game Code Section 1700, 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 and 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 oceans and other waters under the jurisdiction and influence of the state.

“This policy shall include [as applicable to inland fisheries] all of the following objectives:

- “(a) The maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence.

...

- “(c) The maintenance of a sufficient resource to support a reasonable sport use, where a species is the object of sport fishing, taking into consideration the necessity of

regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport.

...

“(e) The management, on a basis of adequate scientific information promptly promulgated for public scrutiny, of the fisheries under the state’s jurisdiction, and the participation in the management of other fisheries in which California fishermen are engaged, with the objective of maximizing the sustained harvest. . .”

Adoption of scientifically based Central Valley Chinook Salmon bag and possession limits provides for the maintenance of sufficient populations of Chinook Salmon to ensure their continued existence. The benefits of the proposed regulations are concurrence with federal law, sustainable management of Central Valley Chinook Salmon resources, general health and welfare of California residents, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 270, 315, 316.5 and 399, Fish and Game Code.

Reference: Sections 200, 205, 265, 270 and 316.5, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change: None.

(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 regulatory effect.

(b) No-Change Alternative:

The no-change alternative would leave existing regulations in place. The no-change alternative would not be consistent with state policy to maintain harmony with federal and international law related to fisheries management, and the proposed regulations will allow the state to harmonize its bag and possession limits with NMFS’ 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 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 business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and, therefore, the prevention of adverse economic impacts.

(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 any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The minor variations in the bag and possession limits as may be established in the regulations are, by themselves, unlikely to impact business.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Chinook Salmon sport fishery encourages consumption of a nutritious food. The Commission anticipates benefits to the environment by the sustainable management of California's Chinook Salmon resources.

The Commission does not anticipate any non-monetary benefits to worker safety.

Other benefits of the proposed regulations are concurrence with federal law and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

(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.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California

The Commission does not anticipate substantial impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, or the expansion of California businesses that provide services to inland sport fishermen from the proposed regulations. The proposed changes in subsections 7.50(b)(5), (b)(68), and (b)(156.5) affect the bag and possession limits for Chinook Salmon in the American, Feather, and Sacramento rivers. These minor variations in the bag and possession limits as may be established in the regulations are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of fishing trips and the economic contributions from them are expected to remain more or less the same.

(b) Benefits of the Regulation to the State's Environment

As set forth in Fish and Game Code Section 1700, 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 and 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 oceans and other waters under the jurisdiction and influence of the state..."

In accordance with this policy, adoption of scientifically based inland Chinook Salmon bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

(c) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission anticipates benefits to the health and welfare of California residents. Chinook Salmon is a nutritious food source and providing inland sport fishery opportunities encourages consumption of this nutritious food. Sport fishing also contributes to increased mental health of its practitioners, as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

(d) Benefits of the Regulation to Worker Safety

The Commission does not anticipate any benefits to worker safety from the proposed regulations because inland sport fishing does not impact working conditions.

(e) Other Benefits of the Regulation

Other benefits of the regulation include concurrence with federal law and the promotion of businesses that rely on Central Valley Salmon sport fishing.

Informative Digest/Policy Statement Overview

The current, 2017, sport fishing regulations prescribe seasons and daily bag and possession limits for Chinook Salmon fishing in the American, Feather, and Sacramento rivers. The Department of Fish and Wildlife (Department) is recommending new Chinook Salmon bag and possession limits in the American, Feather, and Sacramento rivers for the 2018 season.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2018 meeting and develop the final PFMC regulatory recommendations for adoption by NMFS at its April 2018 meeting.

Based on the action taken by NMFS and the recommendation of the Department, the Commission will adopt bag and possession limits for the American, Feather, and Sacramento rivers which may increase or decrease the current Chinook Salmon bag and possession limits based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season.

Benefits of the Regulations

The proposed regulations will provide benefits to the environment. Adoption of scientifically based Central Valley Chinook Salmon bag and possession limits provides for the maintenance of sufficient populations of Chinook Salmon to ensure their continued existence. Other benefits of the proposed regulations are concurrence with Federal law, sustainable management of the Central Valley Chinook Salmon resources, general health and welfare of California residents, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

Consistency with State Regulations

Article IV, Section 20, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate recreational fishing in waters of the state (Fish & Game Code, Sections 200 and 205). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to recreational fishing seasons or bag and possession limits.