

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

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. Date of Final Statement of Reasons: April 13, 2018
- III. 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
- IV. Update:

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

For the 2018 salmon season, the Pacific Fishery Management Council (PFMC) established the in-river share of the allowable harvest at 15% of the total harvest, which equates to approximately 11,800 adult Sacramento River fall-run Chinook Salmon (SRFC).

At its April 12, 2018 public meeting, the Fish and Game Commission (Commission) adopted the following regulations for the 2018 bag and possession limits for SRFC in the American, Feather, and Sacramento rivers:

- (1) A daily bag limit of 1 Chinook Salmon
- (2) A possession limit of 2 Chinook Salmon

Additional changes, shown in the regulatory language in bold, were made to

subsection (b)(5) of Section 7.50 to align the Commission's action with new March 1, 2018 regulations enacted by Office of Administrative Law's File ID #2018-0112-02S.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

Comment by Jim Robertson, letter dated April 8, 2018: It is tough to lose fishing opportunity but necessary for the long run of the SRFC. The Golden Gate Fishermen's Association (GGFA) urges the Commission to calculate the in-river harvest of no more than 15% of the allowable harvest. It is important that the burden of a lower harvest be shared equitably in the ocean as well as in the river.

Response: For the 2018 salmon season, the PFMC established the in-river share of allowable harvest at 15% of the total harvest, which equates to approximately 11,800 adult SRFC. The Department determined that the management measures available to the Commission for use in 2018 inland fisheries (i.e., bag and possession limits), coupled with the fishing closure in the Nimbus Basin on the American River that started in March 2018, could be expected to keep inland harvest within the 15% in-river share of allowable harvest. As a result, the Department recommended reducing the daily bag limit from 2 fish to 1 fish in all areas that will be open to retention fishing in 2018. On April 12, the Commission adopted the Department's recommendation for a 1 fish daily bag limit and 2 fish possession limit in the Sacramento, American, and Feather Rivers.

Comment by Tom Mattusch, email dated April 6, 2018: Please limit the in-river harvest to 15% of total catch to help the rebuilding of this iconic species of salmon.

Response: See response to Jim Robertson's comment above.

Comment by Jeff Richards, letter dated April 6, 2018: The Coastside Fishing Club urges the Fish and Game Commission to adopt meaningful restrictions on in-river fishing of SRFC. Those restrictions, in the form of area closures and bag limit restrictions, should be calculated to attain a harvest of no more than 15% of the allowable harvest. The burden of reduced harvest should be shared equitably between the ocean and in-river anglers.

Response: See response to Jim Robertson's comment above.

Comment by Dan Wolford, letter dated April 6, 2018: As a member of the Coastside Fishing Club, I urge the Fish and Game Commission to adopt meaningful restrictions on in-river fishing of SRFC. Those restrictions, in the form of area closures and bag limit restrictions, should be calculated to attain a harvest of no more than 15% of the allowable harvest. The burden of reduced harvest should be shared equitably between the ocean and in-river anglers.

Response: See response to Jim Robertson's comment above.

Comment by Noah Oppenheim, oral comment, April 12, 2018:

I am impressed with sectors coming together in the face of adversity and belt-tightening this year. Nobody at the PFMC meetings wants to adversely affect sport fishing in river. We're here because the pie is shrinking for all of us and I want to say whatever comes of this, the guides are part of this together and we want to take this awful situation and terrible season for all of us and build something out of it.

Response: Comment noted.

Comment by George Osborn, oral comment, April 12, 2018: I don't represent GGFA. I delivered a letter to the Commission today on behalf of GGFA supporting the Coastside position. As Noah Oppenheim said, we are all going to take it in the shorts this year on salmon fishing. We are all going to get that same relative piece of the pie, but the pie is much smaller, unfortunately. We all understand that and accept that. Cutting the bag limit and possession limit by half is huge. I would like to take these regulations back to my clients and let them study them and have the Commission consider this regulation change at the June meeting.

Response:

The noticed language included an option for a one-fish bag limit and two-fish possession limit; therefore, the Commission is not obligated to provide additional notice pursuant to Government Code Section 11346.8. At the April 12, 2018 meeting, the Commission considered allowing additional time for public comment on the one-fish bag limit, two-fish possession limit, but decided not to do so. The Commission decided not to delay adoption of the proposed regulations until the June meeting because no additional options, other than the "no change" alternative, were included in the ISOR. A reduction in the daily bag and possession limit is the only viable option available to the Commission at this time to keep inland harvest within the 15% in-river share of allowable harvest.

Comment by James Stone, oral and written comments, April 12, 2018: Mr. Stone submitted a letter on behalf the Northern California Guides and Sportsmen's Association (NCGSA):

- 1) Request that the Commission delay adopting in-river regulations until the upcoming June Commission meeting to allow more time for public input and promote a transparent and engaged process with stakeholders;
- 2) If the Commission decides to adopt regulations immediately, request that it adopt 1 adult Chinook salmon bag limit for the full season and one jack (under 22 inches);
- 3) If a shortened season is to take effect, request that the Commission close the first half of the season and allow in-river fishing in the second half of the season;
- 4) If the Department of Fish and Wildlife (Department) recommends special closures of any specific area, request that the Commission provide adequate time for public discussion.
- 5) Stated that many guides are on the verge of losing long-term clients and are at risk of losing their businesses entirely.

Response:

- 1) See response to George Osborn's comment above.
- 2) On April 12, 2018, the Commission adopted a 1 fish daily bag limit and 2 fish possession limit. Mr. Stone's proposal for a separate bag limit for jacks (under 22 inches) was not identified as an option or alternative in the Initial Statement of Reasons and would, therefore, require a re-notice. Even if adoption in June was feasible, the potential impacts of this proposal to the fishery could not be evaluated and made available for public review and comment in time for a June adoption; therefore, this recommendation cannot be considered by the Commission this year. The Department will evaluate additional approaches including fishing seasons and allowing separate bag limits for jacks in the regulatory package for the 2019 Central Valley salmon sport fishing season.
- 3) and 4) A shortened season and special closures were not recommended or adopted.
- 5) Intermittent reductions or increases in bag limits are intended to preserve sustainable fish stocks that support ongoing fishing activities and their contribution to local economies.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street, Suite 1320

Sacramento, California 95814

VII. Location of Department Files:

Department of Fish and Wildlife
1416 Ninth Street, 12th Floor
Sacramento, California 95814

VIII. 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 adopted regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

IX. 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 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 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.

Updated 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.

Update

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