

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

Amend (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50
Title 14, California Code of Regulations
Re: Central Valley Salmon Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: November 20, 2018
- II. Date of Pre-adoption Statement of Reasons: May 6, 2019
- III. Date of Final Statement of Reasons: May 17, 2019
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: December 13, 2018
Location: Oceanside
 - (b) Discussion Hearing: Date: February 6, 2019
Location: Sacramento
 - (c) Discussion Hearing: Date: April 17, 2019
Location: Santa Monica
 - (d) Adoption Hearing Date: May 16, 2019
Location: Teleconference

V. 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.

However, the Pacific Fishery Management Council (PFMC) reviewed west coast salmon stocks and has projected the in-river recreational harvest to be 28,263 adult Sacramento River fall-run Chinook-Salmon for the 2019-2020 season. Regulatory options 1-3 in the Initial Statement of Reasons (ISOR) encompassed varying ranges of recreational bag and possession limits based on PFMC's allocation. To target PFMC's projection, the Department of Fish and Wildlife (Department) recommended Option 1 in the ISOR, which allows for take of any size Chinook Salmon within the specified bag limit of two fish and possession limit of four fish. The Department did not recommend Option 2 (limited adult, and grilse fishery – jacks or jills) or Option 3 (grilse-only fishery). Option 1 included a daily bag limit of two fish, and a possession limit of four fish of any size for the American River, Feather River, Sacramento River, and Mokelumne River.

Because of a more favorable salmon abundance forecast, the Department concludes that the in-river recreational fishery can support a higher harvest rate than in 2018 and still achieve PFMC's minimum escapement goal of 160,159 hatchery and natural-area adult spawners. The Commission adopted the recommended bag and possession limits of Option 1 for Chinook Salmon in the Central Valley during the Commission teleconference on May 16, 2019.

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

Public comments received prior to April 25, 2019 were responded to in the Pre-adoption Statement of Reasons (PSOR) (see attached). These included:

- James Stone (President of NorCal Guides and Sportsmen's Association) – February 6, 2019 Commission meeting
- George Osborn – February 6, 2019 Commission meeting
- Jean Wallen – email received March 25, 2019
- Mike Brown – email received April 16, 2019
- Mark Smith (American Sportfishing Association, NorCal Guides and Sportsmen's Association) – April 17, 2019 Commission meeting, and email received April 22, 2019

Public comments received after April 25, 2019 are addressed below.

Comment by NorCal Guides, Coastside Fishing Club, American Sportfishing Association, and CA Coastal Conservation Association). Joint letter received April 30, 2019. States appreciation for the Department's additional time between the end of the PFMC and April Commission meeting to discuss the final proposed bag limits. Also supports the Department's proposal for two salmon any size per angler per day for the 2019 fishing season.

Response: Support noted.

Comment by James Stone President of the NorCal Guides and Sportsmen's Association, received at the May 16, 2019 Commission teleconference: Is in favor of Option 1. Retracts previous request, in conjunction with Mark Smith for one jack salmon in addition to two adults for the 2019 season based on NMFS raising the minimum floor for escapement from 122,000 to 160,000 adults. This is because the ability to take a jack increases opportunity such that it might hurt the adult population more. Mr. Stone requests that the Department continue to always include a jack fishery option in future ISORs.

Response: Support noted.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department Files:

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

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

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 leave existing 2018 regulations in place. The no-change alternative would not allow for appropriate harvest rates, while 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.

X. 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, while providing inland sport fishing opportunities and thus, 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 adverse impacts, but acknowledges the potential for short-term negative impacts on the creation or elimination of jobs within the state. The Commission anticipates no adverse impacts on the creation of new business, the elimination of existing businesses or the expansion of businesses in California (see Table 1). Minor variations in the bag and possession limits and/or the implementation of a size limit are unlikely to significantly impact the volume of business activity. The loss of up to 20 jobs with Option 3 is not expected to eliminate businesses because reduced fishing days will be partially offset by the extension of the salmon fishing season on portions of the Feather and Mokelumne rivers and by opportunities to fish for grilse Chinook Salmon and other species.

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 in the Central Valley.

The Commission does not anticipate any benefits to worker safety.

Other benefits of the proposed regulations are concurrence with federal fishery management goals 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.

Updated Informative Digest /Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Current regulations in subsections (b)(5), (b)(68), (b)(124) and (b)(156.5) of Section 7.50 establish the 2018 seasons and daily bag and possession limits for Sacramento River fall-run Chinook Salmon (*Oncorhynchus tshawytscha*; SRFC) sport fishing in the American, Feather, Mokelumne, and Sacramento rivers, respectively. Collectively, these four rivers constitute the “Central Valley fishery” for SRFC. 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) to align 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 2019 meeting and will adopt its final regulatory recommendations at its April 2019 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest (take) for the coming season. Based on the April 2019 recommendations by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 17, 2019 meeting. The Commission will then consider adoption of the regulations at its May 16, 2019 teleconference.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, adult salmon are generally those considered three to five years in age, and grilse salmon are those approximately two years of age. The age classes are distinguished by a cutoff of salmon total length measurement, depending on the in-river fishery. For purposes of the proposed regulation, this cutoff is presented as a range of 26 to 28 inches total length, as outlined under the options for the proposed regulations (below).

Proposed Regulations

The Department recognizes the uncertainty of Sacramento River fall-run Chinook Salmon (SRFC) inland (in-river) harvest projections. Therefore, the Department is presenting three regulatory options for the Commission’s consideration to tailor 2019 Central Valley fishery management to target 2019 in-river fisheries harvest projections.

- Option 1 is the most liberal of the three options and allows take of any size Chinook Salmon up to the daily bag and possession limits.
- Option 2 allows for take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag and possession limits.
- Option 3 is the most conservative option and allows for a grilse-only Chinook Salmon fishery.

All three options increase fishing opportunities on the Feather and Mokelumne rivers by: (1) extending the salmon fishing season by two weeks on the Feather River between the Thermalito Afterbay Outfall and the Live Oak boat ramp; and (2) extending the salmon and hatchery steelhead fishing season on approximately eight miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road.

All options would be applicable to the following river segments and time periods:

American River, subsection 7.50(b)(5):

- (B) 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 October 31
- (C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge, July 16 through December 31
- (D) From the Jibboom Street bridge to the mouth, July 16 through December 16

Feather River, subsection 7.50(b)(68):

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp, July 16 through October 31
- (E) From 200 yards above the Live Oak boat ramp to the mouth, July 16 through December 16

Mokelumne River, subsection 7.50(b)(124):

- (A) From Comanche Dam to Elliott Road, July 16 through October 15
- (B) From Elliott Road to the Woodbridge Irrigation District Dam and including Lodi Lake, July 16 through December 31
- (D) From the Lower Sacramento Road bridge to the mouth, July 16 through December 16

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
- (D) From the Red Bluff Diversion Dam to the Highway 113 bridge, July 16 through December 16.
- (E) From the Highway 113 bridge to the Carquinez Bridge, July 16 through December 16.

The following options are provided for Commission consideration:

Option 1 – Any Size Chinook Salmon Fishery

This option is the Department's preferred option if the 2019 SRFC stock abundance forecast is sufficiently high to avoid the need to constrain inland SRFC harvest.

Bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

Option 2 – Limited Adult and Grilse Salmon Fishery

Bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

Option 3 – Grilse Salmon Fishery Only

Bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

OTHER CHANGES:

Under all options, changes are proposed to fix punctuation and to remove the extra word "in" in subsection 7.50(b)(124(A)).

Benefits of the Proposed Regulations

The Commission anticipates benefits to the environment in the sustainable management of Central Valley Chinook Salmon resources. Other benefits of the proposed regulations are consistency with federal fishery management goals, health and welfare of California residents, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

Consistency and Compatibility with Existing 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 and Game Code sections 200, 205, 315 and 316.5). 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 Chinook Salmon recreational fishing seasons, bag and possession limits for Central Valley sport fishing.

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.

However, the Pacific Fishery Management Council (PFMC) reviewed west coast salmon stocks and projected the in-river recreational harvest to be 28,263 adult Sacramento River fall-run Chinook-Salmon for the 2019-2020 season. Regulatory options 1-3 in the Initial Statement of Reasons (ISOR) encompassed varying ranges of recreational bag and possession limits based on PFMC's allocation. To target PFMC's projection, the Department of Fish and Wildlife (Department) recommended Option 1 in the ISOR, which allows for take of any size Chinook Salmon within the specified bag limit of two fish and possession limit of four fish. The Department did not recommend Option 2 (limited adult, and grilse fishery – jacks or jills) or Option 3 (grilse-only fishery). Thus, the Department recommends a daily bag limit of two fish, and a possession limit of four fish of any size for the American River, Feather River, Sacramento River, and Mokelumne River. Because of a more favorable salmon abundance forecast, the Department concludes that the in-river recreational fishery can support a higher harvest rate than in 2018 and still achieve PFMC's minimum escapement goal of 160,159 hatchery and natural-area adult spawners.

At its May 16, 2019 teleconference, the Fish and Game Commission adopted the Department-recommended bag and possession limits for SRFC in the American, Feather, Mokelumne, and Sacramento rivers:

- (1) A daily bag limit of 2 Chinook Salmon**
- (2) A possession limit of 4 Chinook Salmon**

The Commission also adopted non-substantive changes to punctuation and spacing for clarity and consistency.