

State of California  
Fish and Game Commission  
Initial Statement of Reasons for Regulatory Action

Amend Sections 2.35 and 7.00, and Subsections (b)(5), (b)(68), (b)(124),  
and (b)(156.5) of Section 7.50  
Title 14, California Code of Regulations  
Re: Central Valley Sport Fishing Regulations

I. Date of Initial Statement of Reasons: November 18, 2019

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 11, 2019

Location: Sacramento, CA

(b) Discussion Hearing

Date: February 21, 2020

Location: Sacramento, CA

(c) Discussion Hearing

Date: April 16, 2020

Location: Sacramento, CA

(d) Adoption Hearing

Date: May 14, 2020

Location: Teleconference

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

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

Current regulations in subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50 prescribe the 2019 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 for purposes of this document (Figure 1). 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 the 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).

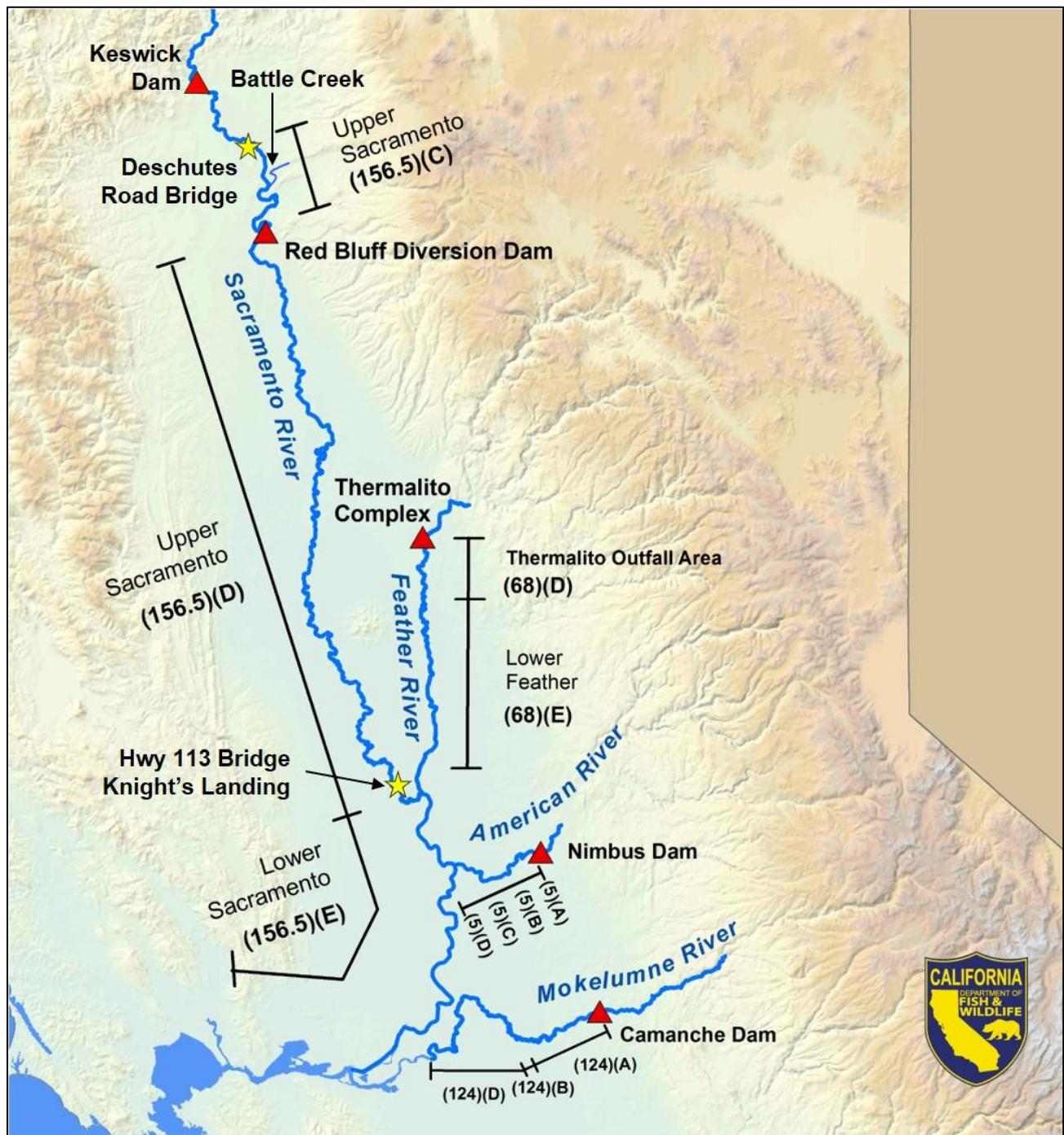


Figure 1. Map of the “Central Valley fishery” for Sacramento River fall-run Chinook Salmon, encompassing the following rivers and their respective subsections of Section 7.50: American (b)(5), Feather (b)(68), Mokelumne (b)(124), and Sacramento (b)(156.5).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2020 meeting and will adopt its final regulatory recommendations at its April 2020 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season. Based on the April 2020 recommendation by PFMC, the Department will recommend specific bag and possession limit regulations for the Central Valley fishery to the Commission at its April 16, 2020 meeting. The

Commission will then consider adoption of the Central Valley sport fishing regulations at its May 14, 2020 teleconference.

## **Proposed Regulations**

### **CHINOOK SALMON BAG AND POSSESSION LIMITS**

The Department recognizes the uncertainty of SRFC in-river harvest projections. Therefore, for the 2020 Central Valley fishery, the Department is presenting three regulatory options for the Commission's consideration to tailor 2020 Central Valley fishery management to target 2020 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 will also increase fishing opportunities on Chinook Salmon by extending the Chinook Salmon sport fishing season on the Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam from a closure date of December 16 to a closure date of December 31. The rationale for this proposal is discussed in greater detail below.

A minor correction will also be made to subsections 7.50(b)(124)(A), (B), and (D), to ensure consistency in the format in which the daily bag and possession limit for hatchery trout or hatchery steelhead is displayed in the regulatory text.

#### **Key to Proposed Regulatory Changes:**

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, Mokelumne, and Sacramento rivers.

**Bold** text indicates changes to the in-river season or boundary.

The following options are provided for Commission consideration:

#### **Option 1 – Any Size Chinook Salmon Fishery**

This option would allow anglers to take up to [0-4] Chinook Salmon of any size per day. This option is the Department's preferred option if the 2020 SRFC stock abundance forecast is sufficiently high to avoid the need to constrain in-river SRFC harvest.

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 with a bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

- (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 with a bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

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

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

Possession limit - [0-12] Chinook Salmon.

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 with a daily bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

- (E) From 200 yards above the Live Oak boat ramp to the mouth.

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

Possession limit – [0-12] Chinook Salmon.

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

- (A) From Camanche Dam to Elliott Road.

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

Possession limit – [0-12] Chinook Salmon.

- (B) From Elliott Road to the Woodbridge Irrigation District Dam and including Lodi Lake.

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

Possession limit – [0-12] Chinook Salmon.

- (D) From the Lower Sacramento Road bridge to the mouth.

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

Possession limit – [0-12] 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 31** with a bag limit of [0-4] Chinook Salmon

Possession limit – [0-12] 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.  
Possession limit – [0-12] 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.  
Possession limit – [0-12] Chinook Salmon.

### **Option 2 – Limited Adult and Grilse Salmon Fishery**

This option would allow the take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag and possession limits. Should a reduction in the adult component of the stock be imposed by PFMC harvest projections, the Department is recommending specifying angling opportunities on the smaller, and possibly more numerous grilse salmon to increase angling harvest opportunities. Grilse returns from the previous season are included in pre-season stock abundance forecasts, but are not included in the current season adult returns used for evaluating conservation targets for SRFC. Due to their smaller size and immaturity, grilse are typically outcompeted by larger adults, and do not significantly contribute to the spawning population, and so they would be available for harvest without impacting the juvenile recruitment for the current season. Take of adult salmon would be limited under regulation, and the subsequent juvenile production would help rebuild the depressed stock size at a time when there is the need to restrict harvest of adult salmon.

The Department recommends a grilse salmon size limit of less than or equal to 27 inches total length based on an analysis of grilse data conducted by Department staff in 2019 (refer to Section III(e) below). A 27-inch total length grilse salmon cutoff is the best balance between angling harvest opportunity of possibly abundant smaller, two-year old male salmon and preserving the limited number of females available to spawn.

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 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.  
Possession limit - [0-12] Chinook Salmon of which no more than [0–4] fish may be over 27 inches total length.
- (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 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.  
Possession limit - [0-12] Chinook Salmon of which no more than [0–4] fish may be over 27 inches total length.

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

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

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 with a daily bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

- (E) From 200 yards above the Live Oak boat ramp to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

Mokelumne River, subsection 7.50(b)(124)

- (A) From Camanche Dam to Elliott Road.

July 16 through October 15 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

- (B) From Elliott Road to the Woodbridge Irrigation District Dam and including Lodi Lake.

From July 16 through December 31 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

- (D) From the Lower Sacramento Road bridge to the mouth.

From July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

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 31** with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

- (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 of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

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

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit – [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

### **Option 3 – Grilse-only Salmon Fishery**

This option would allow for a grilse-only salmon fishery. Should a reduction in the adult component of the stock be imposed by PFM harvest projections, the Department is recommending specifying angling opportunities on the smaller, and possibly more numerous grilse salmon to increase angling harvest opportunities. Grilse returns from the previous season are included in pre-season stock abundance forecasts, but are not included in the current season adult returns used for evaluating conservation targets for SRFC. Due to their smaller size and immaturity, grilse are typically outcompeted by larger adults, and do not significantly contribute to the spawning population, and so they would be available for harvest without impacting the juvenile recruitment for the current season. Take of adult salmon would be prohibited under regulation, and the subsequent juvenile production would help rebuild the depressed stock size at a time when there is the need to restrict harvest of adult salmon.

The Department recommends a grilse salmon size limit of less than or equal to 27 inches total length based on an analysis of grilse data conducted by Department staff in 2019 (refer to Section III(e) below). A 27-inch-total length grilse salmon cutoff is the best balance between angling harvest opportunity of possibly abundant smaller, two-year old male salmon and preserving the limited number of female salmon available to spawn.

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 with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

- (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 with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

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

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

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 31 with a daily bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

- (E) From 200 yards above the Live Oak boat ramp to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

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

- (A) From Camanche Dam to Elliott Road.

July 16 through October 15 with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

- (B) From Elliott Road to the Woodbridge Irrigation District Dam and including lake Lodi.

From July 16 through December 31 with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

- (D) From the Lower Sacramento Road bridge to the mouth.

From July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

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 31** with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

(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 less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

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

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

### **EXTEND CHINOOK SALMON SPORT FISHING SEASON ON THE SACRAMENTO RIVER**

Sport fishing interests have requested the Chinook Salmon sport fishing season on the Sacramento River be extended from the current December 16 closure date to December 31 to enhance late-season fishing opportunity on the river. The current sport fishing regulations for Chinook Salmon on the Sacramento River extend approximately 300 miles from the Deschutes Road bridge downstream to the Carquinez bridge. At issue is regulating the closure date to minimize contact in the fishery with federally and state-listed endangered winter-run Chinook Salmon.

In 2002, the Department provided evidence to support a shortened salmon fishing season in the lower Sacramento River system to protect winter-run Chinook Salmon, which resulted in the current December 16 season closure date. Since 2006, when the Central Valley Angler Survey program was reinstated, four winter-run Chinook Salmon coded-wire tag (CWT) recoveries have been made in Sacramento River sport fishery monitoring (Table 1). Two of the four recoveries occurred after the current season closure date of December 16 and both occurred upstream of Knights Landing. The other two recoveries occurred in December prior to the current season closure date, and both were again at or above Knights Landing. While the number of recoveries is modest and scattered among years, expansions of the CWT recoveries may suggest a more appreciable impact to winter-run Chinook Salmon at the population level than what the raw numbers do alone.

**Table 1.** Coded-wire tag recoveries of winter-run Chinook Salmon in the Sacramento River sport fishery, 2006 – 2018, as seen in monitoring conducted by the Central Valley Angler Survey. RM = river mile, F = female, M = male

<b>Collection Date</b>	<b>Collection Location</b>	<b>Brood Year</b>	<b>Age</b>	<b>Sex</b>	<b>Fork Length (mm)</b>
12/20/2008	3 river miles above Knights Landing RM 93	2006	3	F	792
12/06/2009	At Knights Landing RM 90	2007	3	M	751
12/26/2009	1 river mile below Butte City RM 168	2007	3	M	770

Late-fall-run Chinook Salmon spawning begins in December, peaks in late January, and continues into March. Late-fall-run Chinook Salmon have two main areas in which they spawn in the upper Sacramento River: the main stem river from Red Bluff up to Keswick Dam supports a population, and Battle Creek supports a hatchery population at Coleman National Fish Hatchery.

Based on the CWT information presented in Table 1, the Department does not support extending the Chinook Salmon fishing season in the Sacramento River downstream of the Red Bluff Diversion Dam (RBDD). With contact being made with winter-run Chinook Salmon both before and after the current closure date in this area, adding 2 weeks of fishing is not warranted.

However, the Department *does* support extending the fishing season upstream of the RBDD (RM 243), because most late season fishing for late-fall-run Chinook Salmon would occur near the mouth of Battle Creek (RM 275). This would provide an approximately 80-mile buffer from where the most upstream winter-run Chinook Salmon was recovered (RM 190). This will provide additional fishing opportunity on late-fall-run Chinook Salmon, with anglers primarily targeting hatchery fish going into Battle Creek, while continuing to protect state and federally-listed endangered winter-run Chinook Salmon. The Department will continue to monitor for winter-run Chinook Salmon recoveries to assess this regulation change.

**Proposal: Amend subsection 7.50(b)(156.5)(C), Sacramento River**

Extend the Chinook Salmon sport fishing season on the Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam to December 31.

**REMOVE EXCEPTION FOR TAKE OF COHO SALMON IN THE FEATHER RIVER**

Section 7.00 includes an exception for the take of Coho Salmon in Lake Oroville and Oroville-Thermalito Complex, and the Feather River from the Diversion Pool Dam to the Fish Barrier Dam. Section 7.00 also includes an exception for incidentally hooked Coho Salmon in the same area. Coho Salmon have not been stocked in Lake Oroville since 2013. Coho Salmon are no longer planted in the Feather River water impoundments. Therefore, the exceptions for take and incidentally hooked Coho Salmon stated in Section 7.00 should be removed.

**Proposal: Amend Section 7.00, Re: Take of Coho Salmon in the Feather River**

Remove exception for take and incidentally hooked Coho Salmon in Lake Oroville and Oroville-Thermalito Complex, and the Feather River from the Diversion Pool Dam to the Fish Barrier Dam.

Section 7.00 also currently lists Fish and Game Code (FGC) Section 110 as a reference citation. FGC Section 110 was renumbered from FGC Section 206 in 2006, and the content of FGC Section 110 is no longer relevant to Section 7.00. For this reason, FGC Section 110 will be removed from the list of reference citations.

**PROHIBIT FISHING AT CONCRETE FLOOD CONTROL WEIRS**

Annually, during the rainy season, fish often get trapped below the concrete flood control weirs on the Sacramento River. Fish trapped in these areas are often state or federally-listed as endangered or threatened species and, therefore, should not be exposed to angling opportunity. Subsections 7.50(b)(156.5)(D) and (E) include a “Note” which states that it is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa, Tisdale, Fremont, and Sacramento weirs. However, there is no regulation in place that makes angling near flood control weirs unlawful. Consequently, Department law enforcement officers cannot issue citations to anglers who fish these areas. Section 2.35 prohibits angling near fishways and egg-taking stations, dams, weirs or racks with fishways or egg-taking stations, and the upstream side of fish screens; but does not apply to areas, excluding the Fremont Weir, described in the notes in subsections 7.50(b)(156.5)(D) and (E). Except for the Fremont Weir, there are no fishways at the weirs listed above. Even if a fishway exists, the closure only extends to 250 feet around the fishway and the flood weirs can be up to two miles across and several miles long, leaving uncertainty and difficulty in enforcing regulations. The 250 foot ruling is at or below the weir itself regardless of how far across it is.

Colusa Weir is an earthen weir and does not trap fish like the other concrete flood control weirs. It also does not have clearly delineated boundaries, which makes enforcement difficult. Therefore, the Colusa Weir is not included in the list of concrete flood control weirs proposed to be closed to fishing.

### **Proposal 1: Amend Section 2.35, Regarding Take of Fish at Weirs**

Amend Section 2.35 to include and differentiate flood control weirs in the Central Valley from other types of weirs, and include a fishing closure of 0-250 feet downstream from the overflow side of Moulton, Tisdale, Fremont, and Sacramento weirs. Fremont Weir is added to this requirement in order to provide protection for fish in this important migration corridor.

The reference within Section 2.35 to FGC Section 5502 will also be removed, as this statute was repealed in 2007 per Assembly Bill 1729, Fish and Wildlife. The related authority citation of FGC Section 219 will also be removed from Section 2.35. Lastly, the reference to Section 201 is removed, because the proposed regulation is not trying to implement, interpret, or make specific anything with reference to the Commission’s power to regulate natural resources, commercial, or other activity.

### **Proposal 2: Amend subsections 7.50(b)(156.5)(D) and (E), Sacramento River**

Remove Note which states it is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa, Tisdale, Fremont, and Sacramento weirs. These fishing closures will now be stipulated in Title 14, Section 2.35, with the exception of the Colusa Weir.

### **Necessity of the Proposed Regulation Changes**

The proposed regulations are necessary to adjust Chinook Salmon bag and possession limits, size limits, and open seasons for the American, Feather, Mokelumne, and Sacramento rivers for consistency with PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season. The proposed regulatory changes will maximize sport fishing opportunity where possible through the proposed extension of the season end date on the Sacramento River above RBDD without adversely affecting SRFC or winter-run Chinook

Salmon. In addition, it is necessary to prohibit fishing near flood control weirs where fish can become trapped to protect federally and state-listed endangered or threatened species.

(b) Goals and Benefits of the Regulation

It is the policy of this 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 ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence, and the maintenance of a sufficient resource to support a reasonable sport use.

Adoption of scientifically-based SRFC bag and possession limits provides for the maintenance of sufficient populations of Chinook Salmon to ensure their continued existence. The extension of the fishing season on the upper Sacramento River provides additional angler opportunity while minimizing potential contact with federally and state-listed endangered winter-run Chinook Salmon. The prohibition of take at flood control weirs helps to provide protection for fish in important migration corridors. Removing the mention of prohibition of Coho salmon take in the Feather River removes a potential clarity concern for anglers.

The benefits of the proposed regulations are consistency with federal fishery management goals, sustainable management of the SRFC fishery, general health and welfare of California residents, and promotion of businesses that rely on sport fishing in the Central Valley.

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

**Section 2.35**

Authority cited: Sections 200, 205, 265 and 275, Fish and Game Code.

Reference: Sections 200, 205, 255, 265, 270 and 275, Fish and Game Code.

**Section 7.00**

Authority cited: Sections 200, 205, 265 and 275, Fish and Game Code.

Reference: Sections 200 and 205, Fish and Game Code.

**Section 7.50**

Authority: Sections 200, 205, 265, 270, 315, 316.5, 399 and 2084, Fish and Game Code.

Reference: Sections 200, 205, 265, 270, 316.5 and 2084, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change

None.

(e) Identification of Reports or Documents Supporting Regulation Change

*Initial Statement of Reasons for Regulatory Action. Amendments to Section 7.50, Title 14, California Code of Regulations, Re: Central Valley Salmon Sport Fishing. November 2018*

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

The Department presented the proposed amendments to the SRFC bag and possession limits at the Commission's Wildlife Resources Committee meeting on September 10, 2019.

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 desired regulatory effect.

(b) No Change Alternative

**Chinook Salmon Bag and Possession Limits**

The no change alternative would leave existing 2019 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.

**Extend Chinook Salmon Sport Fishing Season on the Sacramento River**

The no change alternative would leave existing 2019 regulations in place, and current fishing opportunity on the Sacramento River would not change.

**Remove Exception for Take of Coho Salmon in the Feather River**

The no change alternative would leave the existing regulation in place, which is no longer relevant and, therefore, could be confusing to anglers.

**Prohibit Fishing at Concrete Flood Control Weirs**

The no change alternative would leave existing regulations in place, exposing state or federally-listed as endangered or threatened species to angling opportunity.

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, 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 significant adverse economic 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 2). 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 27 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 by two weeks on a portion of the Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam, 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 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 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

This action is expected to sustain fishery activity within the range of historically typical seasons. Lower PFMC allocations can result in a smaller bag and possession limit, (more conservative), whereas larger PFMC allocations can result in a higher bag and possession limit (more liberal), both of which can skew the average fishing activity over seasons. The potential difference between a typical season and the options under consideration range from \$1.9 - \$3.9 M as shown in Table 2 below.

A typical season for the Central Valley fishery experiences an average of 179,550 sport salmon angler days in which anglers spend an average of \$83 -114 per day contributing a total of \$13.8 M (2019\$) in direct expenditures to California businesses. This expenditure is received by area businesses that spend a share on inputs and payroll. As employees receive income, their household spending again circulates in the local economy and statewide. These multiplier effects result in an estimated total economic impact of \$19.4 M (2019\$), and up to 136 jobs.

The regional and statewide economic impacts factor into the effort to balance the maintenance of the recreational fishery with resource preservation, while complying with PFMC allocations. The potential economic impacts that may result from each in-river harvest projection as specified in Option 1, Option 2, and Option 3 are evaluated in terms of each scenario's probable impact on the number of angler days, and thus area spending.

Table 2. Central Valley Fishery Economic Impacts (2019\$)

Regulation	Angler Days	Angler Expenditures	Total Econ Impact	Jobs
Option 1	179,550	\$ 13,801,889	\$ 19,407,577	136
Option 2	161,595	\$ 12,421,700	\$ 17,466,819	122
Option 3	143,640	\$ 11,041,511	\$ 15,526,062	109
Difference	Angler Day Loss	Expenditure Loss	Total Impact Loss	Job Loss
Option 1	0	\$ -	\$ -	0
Option 2	17,955	\$ 1,380,189	\$ 1,940,758	14
Option 3	35,910	\$ 2,760,378	\$ 3,881,515	27

Sources: California Department of Fish and Wildlife, Fisheries Branch economic analysis; U.S. Fish and Wildlife Service, 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation; dollar figures adjusted for inflation with Implicit Price Deflator for Personal Consumption Expenditures, Bureau of Economic Analysis.

Historical correlations between catch limits and fishery participation levels suggest that Option 1 could enable a historically typical number of angler days for the 2019 Chinook Salmon season on the American, Feather, Mokelumne, and Sacramento rivers. Option 2 may result in declines in angler days of 17,955 below a typical year. Option 3 may result in larger declines, or an estimated 35,910 fewer angler days.

For all options, the proposed extension of the season end date for a portion of the Sacramento River would extend the period of angler regional economic contributions. Additionally, anglers may pursue other in-river sport fish aside from Chinook Salmon, such as steelhead (*Oncorhynchus mykiss*), striped bass (*Morone saxatilis*), largemouth bass (*Micropterus*

*salmoides*), sturgeon (*Acipenser transmontanus*) and catfish (*Ictalurus spp.*), that may mitigate any adverse impacts from any reductions in salmon fishing. In sum, the options presented to the Commission were conceived with the goal of enabling levels of recreational SRFC fishing in the range of historical averages, and thus should not be a source of significant adverse economic impacts.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the creation or elimination of jobs. For the preferred Option 1, no change in job creation or elimination is anticipated. Option 2 and Option 3 have the potential to result in fewer angler visits, and absent substitution toward other sportfish and/or activities in the affected areas, the reduction in angler spending could reduce the support for 14 - 27 jobs statewide. These job impacts are statewide and may be moderated by the proposed season extension on a portion of the Sacramento River, from Deschutes Road bridge to Red Bluff Diversion Dam.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the creation of new business or the elimination of existing businesses, because the proposed economic impacts of the regulations are unlikely to be substantial enough to stimulate the creation of new businesses or cause the elimination of existing businesses. The proposed season extension for a portion of the Sacramento river is expected to sustain the number of fishing trips and the level of economic stimulus within historical averages.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate that any of the proposed options would induce substantial impacts on the expansion of businesses currently doing business within the state. The proposed regulations are not anticipated to increase demand for services or products from the existing businesses that serve inland sport fishermen. The number of fishing trips and angler economic contributions are expected to remain within the range of historical averages.

(d) 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.

(e) 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.



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

Under all Options 1-3, the Commission anticipates benefits to the environment in the sustainable management of SRFC. It is the policy of this 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 ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence, and the maintenance of a sufficient resource to support a reasonable sport use.

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 and thus continued economic stimulus. The extension of the fishing season on the upper Sacramento River provides additional angler opportunity while minimizing potential contact with federally and state-listed endangered winter-run Chinook Salmon. The prohibition of take at weirs helps to provide protection for fish in important migration corridors. Removing the mention of prohibition of Coho Salmon take in the Feather River removes a potential clarity concern for anglers.

(g) Other Benefits of the Regulation

Other benefits of the regulation include consistency with federal fishery management goals, and the promotion of businesses that rely on Central Valley sport fishing.

## **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 prescribe the 2019 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 for purposes of this document. 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 the 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 2020 meeting and will adopt its final regulatory recommendations at its April 2020 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season. Based on the April 2020 recommendation by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 16, 2020 meeting. The Commission will then consider adoption of the Central Valley sport fishing regulations at its May 14, 2020 teleconference.

### **Proposed Regulations**

#### **CHINOOK SALMON BAG AND POSSESSION LIMITS**

The Department recognizes the uncertainty of SRFC in-river harvest projections. Therefore, for the 2020 Central Valley fishery, the Department is presenting three regulatory options for the Commission’s consideration to tailor 2020 Central Valley fishery management to target 2020 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 will also increase fishing opportunities on Chinook Salmon by extending the Chinook Salmon sport fishing season on the Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam from a closure date of December 16 to a closure date of December 31.

A minor correction will also be made to subsections 7.50(b)(124)(A), (B), and (D), to ensure consistency in the format in which the daily bag and possession limit for hatchery trout or hatchery steelhead is displayed in the regulatory text.

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 31
- (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 27 inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

### **Option 3 – Grilse Salmon Fishery Only**

Bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

### **EXTEND CHINOOK SALMON SPORT FISHING SEASON ON THE SACRAMENTO RIVER**

Sport fishing interests have requested the Chinook Salmon sport fishing season on the Sacramento River be extended from the current December 16 closure date to December 31 to enhance late-season fishing opportunity on the river. At issue is regulating the closure date to minimize contact in the fishery with federally and state-listed as endangered winter-run Chinook Salmon.

The Department supports extending the fishing season from December 16 to December 31 upstream of the Red Bluff Diversion Dam (River Mile (RM) 243), which will provide late season fishing for late-fall-run Chinook Salmon without negatively impacting winter-run Chinook Salmon.

#### **Proposal: Amend subsection 7.50(b)(156.5)(C), Sacramento River**

Extend the Chinook Salmon sport fishing season on the Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam to December 31.

### **REMOVE EXCEPTION FOR TAKE OF COHO SALMON IN THE FEATHER RIVER**

Section 7.00 includes an exception for the take of Coho Salmon in Lake Oroville and Oroville-Thermalito Complex, and the Feather River from the Diversion Pool Dam to the Fish Barrier Dam. Section 7.00 also includes an exception for incidentally hooked Coho Salmon in the same area. Coho Salmon have not been stocked in Lake Oroville since 2013. Coho Salmon are no longer planted in the Feather River water impoundments. Therefore, the exceptions for take and incidentally hooked Coho Salmon stated in Section 7.00 should be removed.

#### **Proposal: Amend Section 7.00, Re: Take of Coho Salmon in the Feather River**

Remove exception for take and incidentally hooked Coho Salmon in Lake Oroville and Oroville-Thermalito Complex, and the Feather River from the Diversion Pool Dam to the Fish Barrier Dam.

### **PROHIBIT FISHING AT CONCRETE FLOOD CONTROL WEIRS**

Annually, during the rainy season, fish often get trapped below the concrete flood control weirs on the Sacramento River. Fish trapped in these areas are often state or federally-listed as endangered or threatened species and, therefore, should not be exposed to angling opportunity. Subsections 7.50(b)(156.5)(D) and (E) include a “Note” which states that it is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa, Tisdale, Fremont, and Sacramento weirs. However, there is no regulation in place that makes angling near flood control weirs unlawful. Section 2.35 prohibits angling near fishways and egg-taking stations, dams, weirs or racks with fishways or egg-taking stations, and the upstream side of fish screens; but does not apply to areas, except for Fremont Weir, described in the notes in subsections 7.50(b)(156.5)(D) and (E).

#### **Proposal 1: Amend Section 2.35, Regarding Take of Fish at Weirs**

Amend Section 2.35 to include and differentiate flood control weirs in the Central Valley from other types of weirs and include a fishing closure of 0-250 feet downstream from the overflow side of Moulton, Tisdale, Fremont, and Sacramento weirs.

## **Proposal 2: Amend subsections 7.50(b)(156.5)(D) and (E), Sacramento River**

Remove Note which states it is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa, Tisdale, Fremont, and Sacramento weirs. These fishing closures will now be stipulated in Title 14, Section 2.35, with the exception of the Colusa Weir.

### **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.