

State of California  
Fish and Game Commission  
Pre-Adoption 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. Date of Pre-Adoption Statement of Reasons: April 28, 2020
- III. 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: **Teleconference**

- (d) Adoption Hearing

Date: May 14, 2020

Location: Teleconference

- IV. Description of Modification of Originally Proposed Language of Initial Statement of Reasons (ISOR)

No changes have been made to the originally proposed regulatory language; however, the Department of Fish and Wildlife (Department) is recommending Option 1 from the ISOR which allows for take and possession of any size Chinook Salmon up to the daily bag and possession limits. The Department is recommending a daily bag limit of two fish, and a possession limit of four fish for the lower American, Sacramento, and Mokelumne rivers, and a daily bag limit of three fish and possession limit of six fish for the Feather River.

The Department is recommending adoption of the other proposed changes as described in the ISOR.

- V. Reasons for Modification of Originally Proposed Language of ISOR:

The Pacific Fishery Management Council (PFMC) has reviewed west-coast salmon stocks and has projected the in-river recreational harvest impact to be approximately 41,000 adult Sacramento River fall-run Chinook Salmon for the 2020 season. Regulatory options 1-3 in the ISOR encompassed varying ranges of sport fishing bag and possession limits based on PFMC's projection. To target PFMC's projection, the Department is recommending Option 1 in the ISOR, which allows for take of any size Chinook Salmon up to the daily bag possession limits. The

Department is not recommending Option 2 (limited adult, and grilse fishery – jacks or jills) or Option 3 (grilse-only fishery).

The Department is recommending a daily bag limit of two fish, and a possession limit of four fish of any size for the lower American, Sacramento, and Mokelumne rivers. This will result in no change to the current bag and possession limits on these waters. The reason for this relatively conservative approach for these waters is that the Department remains concerned about rebuilding of the fall-run Chinook Salmon stock in the upper Sacramento River basin and on the American River.

In contrast, the Department is recommending an increased daily bag limit of three fish and an increased possession limit of six fish for the Feather River (subsection 7.50(b)(68)). As in other recent years, the Department anticipates high returns of adult hatchery fish to the Feather River. It is the Department's judgement that the Feather River can support a higher harvest rate than in 2019 and still contribute proportionately to PFMC's minimum escapement goal for the Sacramento River basin of approximately 142,000 hatchery and natural-area adult spawners. The Department is comfortable with recommending a higher level of utilization on the Feather River given that basin-wide escapement is estimated at between 233,000 and 243,000 adults.

#### VI. Summary of Primary Considerations Raised in Opposition and in Support

Comment by James Stone, President of the NorCal Guides and Sportsmen's Association, received at the April 16, 2020 Commission meeting: Mr. Stone supports the extension of the salmon fishing season on the Sacramento River from the Red Bluff Diversion Dam to the Deschutes Road Bridge to December 31.

Response: Comment noted.

Comment by Aoibheann Cline, Congressional Sportsmen's Foundation, received at the April 16, 2020 Commission meeting: Ms. Cline requests additional recreational fishing opportunity on the Sacramento and Klamath rivers if science supports additional allocation for unharvested ocean quota that will not have a long term negative impact on the population.

Response: Restrictions in ocean salmon fishing due to low abundance in the Klamath River fall-run Chinook stock is likely to result in an atypically greater proportion of Sacramento River fall-run Chinook Salmon returning to the Sacramento Basin in 2020. The PFMC estimates escapement at between 233,000 and 242,000 in the Sacramento Basin, which is well above the minimum spawner escapement goal of approximately 142,000 adults. With this favorable forecast, the Department is recommending that additional recreational fishing opportunity be provided on the Feather River with an increase to the daily bag and possession limit to 3 and 6, respectively. Additionally, the Department is recommending a 2-week enhancement to late-season fishing opportunity on the Sacramento River from the Red Bluff Diversion Dam to the Deschutes Road Bridge.

## 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 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 **2020** 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.

## **Update:**

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**The Department is recommending adoption of the other proposed changes as described in the ISOR.**