

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

Amend Subsections (b)(4), (b)(43), (b)(66),
and (b)(80) of Section 7.40

Title 14, California Code of Regulations
Re: Central Valley Sport Fishing Regulations

I. Dates of Statements of Reasons

- | | |
|---------------------------------------|-------------------------|
| (a) Initial Statement of Reasons | Date: November 22, 2021 |
| (b) Pre-adoption Statement of Reasons | Date: April 22, 2022 |
| (c) Final Statement of Reasons | Date: May 19, 2022 |

II. Dates and Locations of Scheduled Hearings

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|------------------------|-------------------------|----------------------------------|
| (a) Notice Hearing | | |
| | Date: February 17, 2022 | Location: Webinar/Teleconference |
| (b) Discussion Hearing | | |
| | Date: April 21, 2022 | Location: Monterey and Trinidad |
| (c) Adoption Hearing | | |
| | Date: May 19, 2022 | Location: Teleconference |

III. Update

The Pacific Fishery Management Council (PFMC) reviewed west-coast salmon stocks and has projected the in-river recreational harvest impact to be approximately 32,300 adult Sacramento River fall-run Chinook Salmon for the 2022 season for the American, Feather, Mokelumne, and Sacramento rivers (collectively, these four rivers constitute the “Central Valley fishery” for purposes of this regulatory action). Regulatory options 1-3 in the Initial Statement of Reasons (ISOR) encompassed varying ranges of sport fishing bag and possession limits based on PFMC’s projection:

- Option 1 allows for take of any size Chinook Salmon up to the daily bag and possession limits,
- Option 2 (limited adult, and grilse fishery – jacks or jills), or
- Option 3 (grilse-only fishery).

Based on PFMC projections, at the April 21, 2022 Commission meeting, the Department of Fish and Wildlife (Department) recommended the following specific size, bag and possession limits, and season dates for Sacramento River fall-run Chinook Salmon:

- Option 1: Allow the take of any size Chinook Salmon up to the daily bag and possession limits.
- Maintain the same bag and possession limits as 2021 for the American, Mokelumne Feather, and Sacramento rivers (bag limit of 2 Chinook salmon and a possession limit of 4 Chinook Salmon).
- Maintain the same season dates as 2021.

At its May 19, 2022 meeting, the Commission adopted Option 1 (take and possession of any size Chinook Salmon up to the daily bag and possession limits); a daily bag limit of two fish, and a possession limit of four fish for the lower American, Feather, Sacramento, and Mokelumne rivers.

Non-substantive edits were made to the regulatory language in three places.

- Throughout the regulatory text in subsections 7.40(b)(43) and (b)(80), replace “to” with “through” when describing date ranges. Changing the description of date ranges from “to” to “through” makes it clearer to the public that the date ranges are inclusive and fishing is allowed on the final day of the date range. This is also consistent with the language in other subsections of Section 7.40.

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

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

May 19, 2022 – Mark Smith, Nor-Cal Guides & Sportsmen’s Association (NCGASA) (oral comment)

Supports this proposal and encourages the Commission to adopt it. The NCGASA is enthusiastic about this year because of the big increase in the escapement target for the Sacramento River System and believes that number needs to be higher on a more regular and consistent basis going forward to help restore not only natural spawners in the system but also recreational angling opportunity.

Response: Support noted. The Commission adopted the Department’s recommendation.

V. 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

SRFC Adult Stocks

The no change alternative would leave existing 2021 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.

Other Changes for Clarity

Additionally, the No Change Alternative would cause the language within subsections (b)(43), and (b)(80) of 7.40 to continue to be inconsistent with the rest of Section 7.40.

(c) Consideration of Alternatives

In view of information currently possessed, no 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.

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 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. 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 44 jobs with Option 3 is not expected to eliminate businesses because reduced fishing days will be partially offset 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.

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)(4), (b)(43), (b)(66), and (b)(80) of Section 7.40 prescribe the 2021 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 2022 meeting and will adopt its final regulatory recommendations at its April 2022 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season. Based on the April 2022 recommendation by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 21, 2022 meeting. The Commission will then consider adoption of the Central Valley sport fishing regulations at its May 19, 2022 meeting.

Proposed Regulations

Chinook Salmon Bag and Possession Limits

The Department recognizes the uncertainty of SRFC in-river harvest projections. Therefore, for the 2022 Central Valley fishery, the Department is presenting three regulatory options for the Commission’s consideration to tailor 2022 Central Valley fishery management to target 2022 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 (two-year old 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 options would be applicable to the following river segments and time periods:

American River, subsection 7.40(b)(4):

- (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 7.40(b)(43):

- (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 7.40(b)(66):

- (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 7.40(b)(80):

- (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 2022 SRFC stock abundance forecast is sufficiently high to avoid the need to constrain in-river 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.

All Options

Under all options, non-substantive edits are proposed for consistency with other subsections of Section 7.40.

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 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 sport 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 sport fishing seasons, bag, and possession limits for Central Valley sport fishing.

Update

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