

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 205, 265, 270, 315, 316.5, 399 and 2084 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 205, 265, 270, 316.5 and 2084 of said Code, proposes to amend Section 7.40, Title 14, California Code of Regulations, relating to Central Valley sport fishing regulations.

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 2022 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 2023 meeting and will adopt its final regulatory recommendations at its April 2023 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season. Based on the April 2023 recommendation by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 19, 2023 meeting. The Commission will then consider adoption of the Central Valley sport fishing regulations at its May 17, 2023 meeting.

Proposed Regulations

Sacramento River Fishing Boundary Revision

On the Sacramento River between the Dechutes Road Bridge and the Highway 113 bridge (i.e., subsections 7.40(b)(80)(C) and (D)), the Department is proposing to move the geographic fishing boundary from Red Bluff Diversion Dam (river mile 244) to Woodson Bridge (river mile 220). All of the SRFC spawning tributaries and the vast majority of the mainstem SRFC spawning habitat is located upstream of Woodson Bridge. Moving the fishing boundary to Woodson Bridge is necessary to allow adults escaping the fishery to stage unmolested below their natal tributaries, reducing overall harvest

rates but still providing recreational opportunity within productive historic fishing grounds below Woodson Bridge.

Sacramento River Late-Fall Run Fishery Opportunity

On the Sacramento River between Dechutes Road Bridge and Woodson Bridge (i.e., subsection 7.40(b)(80)(C)), the Department is proposing to split the current fishing season of August 1 through December 31 into two separate seasons from August 1 through October 31 and November 1 through December 31. The majority of SRFC spawning occurs above Woodson Bridge from August through October. This split season will allow for better management options for SRFC and Sacramento River late-fall-run Chinook Salmon (SRLFC) populations. Fall-run spawner escapement surveys conducted by the Department indicate that SRFC spawn in the Sacramento River, and its tributaries, above Woodson Bridge at least through November. Spawning by late-fall-run Chinook Salmon follows shortly thereafter.

Chinook Salmon Bag and Possession Limits

The Department recognizes the uncertainty of SRFC in-river harvest projections. Therefore, for the 2023 Central Valley fishery, the Department is presenting four regulatory options for the Commission's consideration to tailor 2023 Central Valley fishery management to target 2023 in-river fisheries harvest projections. The Commission may adopt these options for each river section independently, or in combination to meet PFMC SRFC management objectives and maximize recreational salmon fishing opportunities in the Central Valley

- Option 1 is the most liberal of the 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 more conservative option, and allows for a grilse-only Chinook Salmon fishery.
- Option 4 is the most conservative option, and prohibits the take and possession of Chinook Salmon in all anadromous areas of and tributaries to the American, Feather, Mokelumne, and Sacramento rivers.

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 Woodson Bridge, August 1 through October 31, and November 1 through December 31.

(D) From Woodson Bridge 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 2023 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 [0-12] 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.

Option 4– No Salmon Fishing in all Central Valley Rivers, Streams, and Tributaries

No take or possession of Chinook Salmon.

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.

Public Participation

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing, which will commence at **8:30 a.m. on Wednesday, April 19, 2023** and may continue at **8:30 a.m., on Thursday, April 20, 2023**, or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a teleconference hearing originating in 715 P Street, Sacramento, California, on **Wednesday, May 17, 2023** at 8:30 a.m., or as soon thereafter as the matter may be heard.

It is requested, but not required, that written comments be submitted on or by 5:00 p.m. Thursday, May 4, 2023 at the address given below, or by email to FGC@fgc.ca.gov. **Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on Friday, May 12, 2023.** All comments must be received no later than Wednesday, May 17, 2023 at the teleconference hearing originating in 715 P Street, Sacramento, California. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209,

Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or Maurene Trotter at FGC@fgc.ca.gov or at the preceding address or phone number. **Senior Environmental Scientist Karen Mitchell, Department of Fish and Wildlife, ((916) 205-0250) has been designated to respond to questions on the substance of the proposed regulations.**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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 Business, 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. The management of an ongoing Chinook Salmon sport fishery with annual variations in the bag and possession limits and/or the implementation of a size limit is not anticipated to significantly impact the volume of business activity.

The loss of up to 22 jobs with Option 2, 43 jobs for Option 3, and 108 jobs for Option 4 is not expected to eliminate businesses because projected reduction in fishing days is expected to be partially offset by opportunities to fish for grilse Chinook Salmon and other species for Option 2 and 3 and continued opportunities for other non-salmonid species for Option 4. 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.

(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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: 03/07/2023

Melissa Miller-Henson
Executive Director