

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: January 18, 2023 |
| (b) Final Statement of Reasons | Date: July 13, 2023 |

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: February 8, 2023	Location: Sacramento
------------------------	----------------------

(b) Discussion Hearing

Date: April 19, 2023	Location: Fresno
----------------------	------------------

(c) Adoption Hearing

Date: May 17, 2023	Location: Webinar/Teleconference
--------------------	----------------------------------

III. Update

Based on the April 2023 recommendation by the Pacific Fishery Management Council (PFMC), the California Department of Fish and Wildlife (Department) recommended Option 4, as set forth in the Initial Statement of Reasons (ISOR). Option 4 is the most conservative option, prohibiting the take and possession of Chinook Salmon in all anadromous areas of and tributaries to the American, 7.40(b)(4)(B)–(D); Feather, (b)(43)(D)–(E); Mokelumne, (b)(66)(A)–(B) and (D); and Sacramento, (b)(80)(B)–(D) rivers. The Commission then considered that recommendation and adopted the same at its May 17, 2023, meeting.

The PFMC had reviewed west-coast salmon stocks and projected the in-river recreational harvest impact to be approximately 32,300 adult Sacramento River fall-run Chinook (SRFC) Salmon for the 2023 season for the American, Feather, Mokelumne, and Sacramento rivers. This estimate of stock is extremely low, indicating the potentially significant impact to the reproduction of Chinook Salmon if overfished.

The PFMC acted unanimously to recommend a full closure of California’s commercial and recreational ocean salmon season (three to 200 nautical miles offshore). This action follows recent projections showing Chinook salmon abundance in California’s ocean waters is at historic lows. After reviewing PFMC’s recommendation, the National Marine Fisheries Service took regulatory action to enact the closure, effective in mid-May.

In addition, the Commission adopted the Department’s other proposed changes which are:

- On the Sacramento River, moving the geographic fishing boundary from Red Bluff Diversion Dam (river mile 244) to Woodson Bridge (river mile 220) (Section 7.40, subsections (b)(80)(C) and (D)); and
- Splitting the current fishing season on the Sacramento into two separate seasons from August 1 through October 31 and November 1 through December 31 (Section 7.40, subsections (b)(80)(C)-(E)).

IV. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed

Comment:

February 8, 2023, testimony from James Stone of Northern California Guides and Sportsmen's Association

April 19, 2023, public testimony from James Stone of Northern California Guides and Sportsmen's Association

Supports the Department's recommendations as provided in the ISOR.

Response: The Commission adopted the Department's proposal.

Has concerns about the proposed split season on the Sacramento River, that if there was a closure to protect the stocks of the fall-run then there would be concerns of opening a late fall fishery from November 1st to December 31st, only simply because they're in the same ESU and so if the protections are needed on the fall run we would like to see that coincide with late fall since they're in the same ESU in the upper Sacramento River system.

Response: The Department's intention to create a split season in Section 7.40(b)(80)(C) with a new lower boundary at Woodson Bridge was to provide improved management for both conservation efforts and angling opportunities based on forecasted returns of SRFC. In some years, the Department will recommend closing both seasons in that section, as we did this year. In other years, we may propose to allow limited fishing opportunity for SRFC in sections 7.40(b)(80)(D) and (E) based on reduced forecasted returns and decide to close (80)(C) for the Aug 1 – Oct 31 season to be more protective of SRFC spawning areas, but then open that section from Nov 1 – Dec 31 to provide angling opportunity for LFRCS which is not occurring during peak spawning time for that run. The Department's intention with the regulation is to be protective of both runs, but it is not always going to be an all closed or all open option for all sections and runs in the Sacramento River.

Comment:

February 28, 2023, email from Lonnie Dollarhide;

April 19, 2023, public testimony from James Stone of Northern California Guides and Sportsmen's Association;

May 17, 2023, public testimony from Mark Smith and James Stone of Northern California Guides and Sportsmen's Association, and Robert Dunn;

Support closure of the 2023 SRFC recreational fishery.

Response: The Commission adopted the recommended Option 4, closure of the Chinook Salmon recreational fishery.

Comment:

March 20, 2023, email from Lance Bauer.

Supports Option 2.

Response: The PFMC reported very low Chinook Salmon abundance. In order to protect the future of the resource, it recommended closure of both the commercial and recreational fisheries. The Department also agreed with this recommendation. The Commission adopted Option 4, closure of the fishery.

Comment:

February 8, 2023, public testimony from Collin Galagher

Posed a question on how the proposed regulations be communicated to concerned individuals, when the regulation becomes effective, and if there are points when the regulations could be relaxed.

Response: The Department provided a response that explained how the regulatory process works at the February 8 hearing. There was no impact to the proposed regulations.

V. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

The Department brought forward four options as described in the ISOR. Three options kept an open fishery with various levels of take, and one option of closure, which was adopted. No other alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect of protecting the fishery.

(b) No Change Alternative

The no change alternative would leave existing 2022 regulations in place with permitted take of Chinook Salmon. The no change alternative would not allow for appropriate harvest rates based on the most current monitoring of salmon abundance. The adopted closure of the fishery is in line with the recommendation of the PFMC to protect the future of the fishery.

(c) Consideration of Alternatives

In view of information currently possessed regarding historically low abundance of SRFC and the risks of overfishing, 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 Commission does not anticipate adverse impacts on the ability of California businesses to compete with other states. The recreational fishing of Chinook Salmon is a local activity and does not affect statewide commerce or competition.

(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 or 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 including this adopted seasonal closure is not anticipated to significantly impact the volume of business activity. The loss of up to 108 jobs for Option 4 is not expected to eliminate businesses because projected reduction in fishing days is expected to be partially offset by other opportunities for recreational fishing still abound, such as other non-salmonid species, trout, etc.

The Commission anticipates that the adopted closure of the recreational fishery will protect the future of the fishery benefitting the future health and welfare of California residents, benefit the environment by the sustainable management of Chinook Salmon resources; and preserve the iconic presence of Chinook Salmon in the Central Valley.

The Commission does not anticipate any benefits to worker safety.

(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 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

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.

Sacramento River Fishing Boundary Revision

On the Sacramento River between the Deschutes Road Bridge and Hwy 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 Deschutes Road Bridge and Woodson Bridge (i.e., Section 7.40, subsection (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.

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

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

Based on the April 2023 recommendation by the Pacific Fishery Management Council (PFMC), the Department recommended Option 4, as set forth in the Initial Statement of Reasons (ISOR). Option 4 is the most conservative option, prohibiting the take and possession of Chinook Salmon in all anadromous areas of and tributaries to the

American, 7.40(b)(4)(B)–(D); Feather, (b)(43) (D)–(E); Mokelumne, (b)(66)(A)–(B) and (D); and Sacramento, (b)(80)(B)–(D)) rivers. The Commission then considered that recommendation and adopted the same at its May 17, 2023, meeting.

The PFMC had reviewed west-coast salmon stocks and projected the in-river recreational harvest impact to be approximately 32,300 adult Sacramento River fall-run Chinook Salmon for the 2023 season for the American, Feather, Mokelumne, and Sacramento rivers. This estimate of stock is extremely low, indicating the potentially significant impact to the reproduction of Chinook Salmon if overfished.

The PFMC acted unanimously to recommend a full closure of California’s commercial and recreational ocean salmon season (three to 200 miles offshore). This action follows recent projections showing Chinook Salmon abundance in California’s ocean waters is at historic lows. After reviewing PFMC’s recommendation, the National Marine Fisheries Service took regulatory action to enact the closure, effective in mid-May.

In addition, the Commission adopted the Department’s other proposed changes including:

- On the Sacramento River, moving the geographic fishing boundary from Red Bluff Diversion Dam (river mile 244) to Woodson Bridge (river mile 220) (Section 7.40, subsections (b)(80)(C) and (D));**
- Splitting the current fishing season on the Sacramento into two separate seasons from August 1 through October 31 and November 1 through December 31 (Section 7.40, subsections (b)(80)(C)-(E).**