

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend subsections (b)(5), (b)(68), and (b)(156) of Section 7.50
Title 14, California Code of Regulations
Re: Central Valley Salmon Sport Fishing

- I. Date of Initial Statement of Reasons: December 21, 2009
- II. Date of Pre-Adopt Statement of Reasons: April 22, 2010
- III. Date of Final Statement of Reasons: May 20, 2010
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 4, 2010
Location: Sacramento, CA
 - (b) Discussion Hearing: Date: March 3, 2010
Location: Upland, CA
 - (c) Discussion Hearing: Date: April 8, 2010
Location: Monterey, CA
 - (d) Discussion Hearing: Date: April 21, 2010
Location: Teleconference
 - (e) Discussion Hearing: Date: May 5, 2010
Location: Stockton, CA
 - (f) Adoption Hearing: Date: May 20, 2010
Location: Teleconference

V. Update:

On April 15, 2010, the Pacific Fishery Management Council (PFMC) recommended an 8,200 Sacramento River Fall Chinook (SRFC) harvest guideline for the Central Valley river salmon fisheries. Because the PFMC adopted the final federal recommendations that allows 2010 recreational ocean salmon and Central Valley river fisheries at its April 15th decision hearing, Options 1 and 2 are no longer viable and are removed from the regulatory text.

Modified Option 3

The Department recommended a modified Option 3 to allow a limited season in the American, Feather and Sacramento rivers to achieve the PFMC harvest target of 8,200 SRFC and continue to allow a Central Valley Late-Fall Chinook fishery that reduces Sacramento River Winter Chinook (SRWC) impacts from the 2008 and 2009 fisheries. These changes were proposed to offer limited fishing opportunities throughout the upper Central Valley while reducing SRFC and SRWC impacts.

Option 3 was modified from the ISOR regulatory language as follows:

American River, subsection 7.50(b)(5)

- 1) No change for subsections (A) through (C) from existing regulations.
- 2) Revise subsection (D) [from the southwest boundary of Ancil Hoffman Park to the mouth]:
 - a. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to October 29 and November 29 to December 31.
 - b. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from October 30 to November 28.

These proposed changes will achieve a harvest target of 1,000 SRFC while keeping the upper river closure for spawning intact.

Feather River, subsection 7.50(b)(68)

- 1) No change for subsections (A) through (B) from existing regulations.
- 2) Revise proposed subsection (C) [from Highway 70 bridge to Sunset Pumps]:
 - a. Change lower boundary to 1,000 feet below the Thermalito Afterbay Outfall.
 - b. No further changes from existing regulations.
- 3) Revise new subsection (D) [from Sunset pumps to the mouth]:
 - a. Change upper boundary to 1,000 feet below the Thermalito Afterbay Outfall.
 - b. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to July 30 and August 30 to December 31.
 - c. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from July 31 to August 29.

These proposed changes will achieve a harvest target of 1,000 SRFC while opening the maximum length of lower river section.

Sacramento River, subsection 7.50(b)(156)

- 1) No change for subsections (A) through (D), (F) through (G), and (I) from existing regulations.
- 2) The originally proposed change to subsection (E) has been removed because the word "all" exists in the currently effective regulatory language.
- 3) Revise subsection (H) [from Deschutes Road bridge to Red Bluff Diversion Dam]:
 - a. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to October 8 and November 1 to December 31.
 - b. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from October 9 to October 31.
- 4) Revise subsection (J) [from Sycamore Boat Ramp to Highway 113 bridge]:
 - a. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to October 8 and December 13 to December 31.
 - b. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from October 9 to December 12.
- 5) Revise subsection (K) [from Highway 113 bridge to Carquinez bridge]:
 - a. Proposed to remain closed to salmon fishing with existing trout and steelhead limits from January 1 to September 3 and October 4 to December 31.
 - b. Proposed to open to salmon fishing with a bag limit of 2 Chinook salmon with existing trout and steelhead bag limits from September 4 to October 3.

The proposed changes for subsections (H) and (J) will achieve a harvest target of 2,600 SRFC while reducing SRWC impacts after December 1, 2010. The proposed changes for subsection (K) will achieve a harvest target of 3,600 SRFC while offering a limited fishing season for lower river anglers.

The Fish and Game Commission adopted the modified Option 3 at its May 20, 2010 teleconference.

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

- (1) David Orong, e-mail dated April 2, 2010:
 - a. He requests that salmon sport fishing be reinstated for the Sacramento, American and Feather rivers.

Response:

- a. The Department's recommended season will open these rivers to

limited salmon fishing in 2010 at harvest levels recommended by the PFMC to offer limited fishing opportunities while reducing SRFC and SRWC impacts.

- (2) Dick Pool, Water 4 Fish, letter to PFMC dated March 25, 2010 and e-mail dated April 5, 2010:
- a. He requests a minimal impact fall salmon fishing season for the Central Valley.
 - b. He requests the spring export levels, water temperatures and operation of Delta cross channel gates be used by the PFMC to craft their 2010 federal fishery recommendations.

Response:

- a. The Department's recommended season will have minimal fall run impacts per agreement with the PFMC.
- b. This comment does not address Central Valley salmon fishery regulations and cannot therefore be addressed in this particular regulatory procedure.

- (3) Chris Hobbs, e-mail dated April 16, 2010:
- a. He supports the PFMC decision to open salmon fishing in 2010.
 - b. He wants anglers to record their daily catch.

Response:

- a. Support noted.
- b. Salmon punch cards did not prove to be an effective harvest management tool for the salmon fishery.

- (4) Craig Bentley, two emails dated April 20, 2010
- a. He supports the Commission Option 3 with a 1 Chinook salmon bag limit.
 - b. He wants an annual take of 5 Chinook salmon per year and to apply the salmon punch card to the Central Valley.
 - c. He has concerns about the proposed seasons.

Response:

- a. See Responses 1a and 3a.
- b. Salmon punch cards did not prove to be an effective harvest management tool for the salmon fishery. Annual limits are difficult to enforce and projected 2010 catches should stay within harvest targets without an annual limit and report card program.
- c. See Response 1a.

- (5) Gary Mapa, e-mail dated April 20, 2010

- a. He requests the Commission keep the 2010 salmon fishing season closed.

Response:

- a. Comment noted and see Response 1a.

(6) Jack Sanchez, e-mails dated April 20, 2010, April 27, 2010 and May 10, 2010:

- a. He requests the Commission keep the 2010 salmon fishing season closed.
- b. He supports Option 2 and wants no salmon fishing in 2010.

Response:

- a. See Response 5a.
- b. Option 2 was dropped from the final rulemaking and see Response 5a.

(7) Ron LaForce, United Outdoorsman INC, oral comments at Commission meeting on April 21, 2010:

- a. He supports the Department opening up Central Valley river salmon.
- b. He requests the Feather River area near the Thermalito Afterbay Outfall be closed.
- c. He requests the Sacramento River area known as the “barge hole” above Red Bluff Diversion Dam be closed.

Response:

- a. See Response 3a.
- b. Support for the Department’s modified Option 3 noted.
- c. The Department’s modified Option 3 allows limited fishing while reducing SRFC and SRWC impacts and does not require closing this area.

(8) Bob Boucke, Johnson Bait and Tackle, oral comments at Commission meeting on April 21, 2010:

- a. He supports the Department opening up Central Valley river salmon.
- b. He requests the Feather River area near the Thermalito Afterbay Outfall be closed.
- c. He requests the Sacramento River area known as the “barge hole” above Red Bluff Diversion Dam be closed.
- d. He requests to have a longer season on the Feather River.

Response:

- a. See Response 3a.
- b. See Response 7b.
- c. See Response 7c.

d. Comment noted.

(9) Calvin Schiefferly, e-mail dated March 14, 2010:

- a. He requests use of a salmon punch card and an annual limit of 5 salmon per person.
- b. Proposes reinstatement of the delta stamp.
- c. Proposes giving game wardens a raise.

Response:

- a. Salmon punch cards did not prove to be an effective harvest management tool for the ocean salmon fishery and were dropped by the PFMC and the Commission a few years ago. Annual limits are difficult to enforce and projected 2010 catches should stay within harvest targets without an annual limit and report card program.
- b. See Response 2d and the authority for the stamp was repealed by the Legislature.
- c. See Response 2d and support for the game wardens is appreciated.

(10) Chris Hobbs, e-mail dated April 22, 2010:

- a. He requests a summer long salmon season with a one fish bag limit.
- b. He requests more accurate counting methods for monitoring fishermen catches and spawning surveys.
- c. He wants safer release of salmon spawners in San Francisco and San Pablo bays.

Response:

- a. See Response 1a.
- b. See Response 8d and the Department has limited staff levels at this time due to fiscal cutbacks.
- c. See Response 2b and 8d.

(11) Mark Mlcoch, NorCal Guides and Sportsman Association, e-mail dated April 30, 2010:

- a. He supports the Department proposed season changes.
- b. He requests leader restrictions to reduce snagging.
- c. He wants the use of 2-0 or smaller circle hooks on non-buoyant lures greater than $\frac{3}{4}$ ounces.

Response:

- a. See Response 7b.
- b. See Response 8d and the fishing method of snagging is already illegal pursuant to Section 2.00(b).
- c. See Response 8d and the Department feels the present hook and weight restrictions in Section 2.10 are adequate.

- (12) Tom Matusch, Coastside Fishing Club, oral comments from Commission meeting on April 8, 2010:
- a. He supports broadest salmon season possible.
 - b. Striped bass are not the problem.

Response:

- a. See Response 1a.
- b. See Response 2b.

- (13) Robin King, oral comments from Commission meeting on April 8, 2010:
- a. She supports broadest salmon season possible.
 - b. Stop the pumping.
 - c. Asked why the estimated impact on businesses in the STD 399 and the ISOR did not address the impact of each option separately.

Response:

- a. See Response 1a.
- b. See Response 2b.
- c. The Department initially expected status-quo economic impacts or better in 2010 and did not anticipate any negative economic impacts from the final adoption regulations.

- (14) Paul Weakland, oral comments from Commission meetings on April 21, 2010 and May 20, 2010:
- a. He is concerned about the delay of the adoption of the proposed rulemaking until May.
 - b. He is concerned about the golden trout and hatchery trout interbreeding.
 - c. He wants to know the total number of fishermen that will be utilizing the season area.
 - d. He wants to know if the bag limit is for two fish per day or per season.
 - e. He is concerned about enforcement of quota.

Response:

- a. The proposed delay until May is to investigate providing additional fishing opportunities that developed since the PFMC April 15 meeting.
- b. See Response 2b.
- c. The number of in-river fishermen changes from year to year and the 2008 and 2009 closures of in-river California salmon fishing makes it difficult to generate a preseason forecast of effort based upon historical effort.
- d. The 2 fish bag limit is a daily bag and possession limit and not a season limit.

- e. The final approach is for season management that is projected to achieve the harvest quota and there is no active quota monitoring planned at this time.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The Commission could reduce season duration for salmon, require additional gear restrictions, or close entire river systems for all fisheries which includes trout, steelhead, striped bass, sturgeon and other non-salmonids.

(b) No Change Alternative:

The no change alternative is one of the options under consideration if severe restrictions are placed on California's Central Valley salmon fisheries.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

X. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation is necessary.

XI. 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 and therefore 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:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency 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)

The Pacific Fishery Management Council (PFMC) will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at their March 11, 2010 meeting and develop the final PFMC regulatory recommendations to the National Marine Fisheries Service at their April 15, 2010 meeting. The PFMC coordinates Pacific coast management of the sport and commercial salmon fisheries of Washington, Oregon, California, and Idaho aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan.

Although there are no PFMC regulatory options to review at this time, there exists a strong possibility closure of ocean waters off California. This closure will result in PFMC recommendations for sport salmon fishery closure in inland waters due to low 2009 Sacramento River Fall Chinook salmon returns to the Central Valley river system.

Further Commission actions affecting the Central Valley salmon sport fishery may be developed after the annual PFMC reports, *Review of 2009 Ocean Salmon Fisheries* and *Preseason Report / Stock Abundance Analysis for 2010 Ocean Salmon Fisheries*, are available in late February 2010.

Present Regulations

The current regulations allow for no salmon fishing for Chinook salmon in all anadromous Central Valley rivers and streams except for a one salmon bag limit in the Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 16 through December 31.

Proposed Regulations

For public notice purposes and to facilitate Commission discussion, the Department is proposing the following three options for the 2010 regulations:

Option 1 - No change option, to keep present regulations in place

Option 2 - No salmon fishing in all anadromous Central Valley rivers and streams

This option proposes to close all anadromous areas of the Central Valley to salmon sport fishing with the following changes:

- 1) In subsection 7.50(b)(156)(J), replace the one salmon bag limit in Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 through December 31 with language that states "Closed to salmon fishing" and "No take or possession of salmon".

This option would increase protection for all Central Valley Chinook stocks in all anadromous Central Valley rivers and streams.

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Additional minor changes to the regulations are proposed to improve clarity, reduce public confusion, and simplify Title 14 structure.

The Fish and Game Commission adopted the modified Option 3 at its May 20, 2010 teleconference.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
ADDENDUM TO FINAL STATEMENT OF REASONS FOR REGULATORY ACTION
Amend subsections (b)(5), (b)(68), and (b)(156) of Section 7.50
Title 14, California Code of Regulations
Re: Central Valley Salmon Sport Fishing

Continuation of

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 - b. He requests the Feather River area near the Thermalito Afterbay Outfall be closed.
 - c. He requests the Sacramento River area known as the “barge hole” above Red Bluff Diversion Dam be closed.
 - d. He requests to have a longer season on the Feather River.

Response:

- a. See Response 3a.
- b. See Response 7b.
- c. See Response 7c.
- d. Reject: The Department initially proposed a harvest of 2,100 fall-run Chinook salmon each on the Feather and American rivers. The Department reconfigured the allocations and reduced the open area on the Feather due to concerns expressed by the Regional office. These concerns included avoiding harvest of spring-run Chinook salmon, especially on the Feather River, and reducing the impact to the American River/Nimbus Hatchery stock because of their relatively poor representation in coded-wire tag returns. An increase in the allocation from the current 1,000 salmon on the Feather would reverse the Department’s action in response to these concerns.

While there was a relatively high proportion of jacks in the Feather River escapement, the models used to determine the 8,200 salmon allocation to the Sacramento River system, and then apportion that allocation within the Sacramento system, consider various relationships at the basin level; that is, not at the individual river level. Therefore, the ultimate allocation to the Feather was more responsive to system-wide projections and in-river concerns from biologists and hatchery personnel, and less so to in-river projections based on jack representation.