

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

(Continuation of California Notice Register 2011, No. 7-Z,  
and Meetings of February 2-3, March 3, and April 6-7, 2011.)

**NOTE:** The Fish and Game Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. (**NOTE:** See Updated Informative Digest changes shown in **bold face** type.)

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 215 and 316.5, of said Code, proposes to amend sections 7.00 and 7.50, Title 14, California Code of Regulations, relating to Central Valley salmon sport fishing regulations.

## 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 10, 2011 meeting and develop the final PFMC regulatory recommendations to the National Marine Fisheries Service at their April 14, 2011 meeting.

Although there are no PFMC regulatory options to review at this time, there exists a possibility of continued ocean water closures off California due to low Chinook salmon returns to the Central Valley River System in 2010. These ocean closures may result in PFMC recommendations for Central Valley salmon fishery closures.

The Department is proposing a range of varied salmon season dates in the American, Feather and Sacramento rivers to encompass possible PFMC 2011 recommendations for Central Valley salmon stocks in mid-April. The scope of this option is intentionally broad to increase flexibility for development of the final Central Valley salmon seasons.

Further Commission actions affecting the Central Valley salmon sport fishery may be developed after the annual PFMC reports, *Review of 2010 Ocean Salmon Fisheries* and *Preseason Report / Stock Abundance Analysis for 2011 Ocean Salmon Fisheries*, are available in late February 2011.

## Present Regulations

The current regulations allow for no salmon fishing in all anadromous Central Valley rivers and streams except for the following short fishing seasons to achieve the 2010 PFMC harvest target of 8,200 Sacramento River Fall Chinook and allow continuance of the Central Valley Late-Fall Chinook fishery.

- 1) The American River downstream of the southwest boundary of Ancil Hoffman Park [subsection 7.50(b)(5)], was open to salmon fishing from October 30 to November 28 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.

- 2) The Feather River downstream of 1000 feet below the Thermalito Afterbay Outfall [subsection 7.50(b)(68)], was open to salmon fishing from July 31 to August 29 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 3) The Sacramento River, subsection 7.50(b)(156) was open to salmon fishing as follows;
  - i. between Deschutes Road bridge and Red Bluff Diversion Dam from October 9 to October 31 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits [Subsection (H)];
  - ii. between Sycamore Boat Ramp and Highway 113 bridge from October 9 to December 12 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits [Subsection (J)]; and
  - iii. between Highway 113 bridge and Carquinez bridge from September 4 to October 3 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits [Subsection (K)].

### Proposed Regulations

The range of varied season dates for the American, Feather and Sacramento rivers are proposed to cover the possible PFMC recommendations for the Commission's final action and other associated items are shown below:

#### American River, subsection 7.50(b)(5)

- 1) Subsection (D) is proposed to be split into two subsections. Subsection (D) will apply to the American River from the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street Bridge. New subsection (E) will apply to the American River from the Jibboom Street Bridge to the mouth.
- 2) The American River from Nimbus Dam to the mouth [subsections (A) through (E)] will remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead limits.
- 3) The American River from Nimbus Dam to Hazel Avenue Bridge [subsection (A)]; from the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street Bridge [subsection (D)]; and from the Jibboom Street Bridge to the mouth [subsection (E)].
  - a. The proposal is a range of varied dates between July 16 and December 31 to be open to salmon fishing with existing trout and steelhead bag limits.
- 4) The American River from Hazel Avenue Bridge to the USGS gauging station cable crossing near Nimbus Hatchery [subsection (B)].
  - a. The proposal is a range of varied dates between July 16 and September 14 to be open to salmon fishing with existing trout and steelhead bag limits.
- 5) The American River from the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park [subsection (C)].
  - a. The proposal is a range of varied dates between July 16 and October 31 to be open to salmon fishing with existing trout and steelhead bag limits

#### Feather River, subsection 7.50(b)(68)

- 1) There are no proposed changes for the Feather River between Fish Barrier Dam to 1000 feet below the Thermalito Afterbay Outfall [subsections (A) through (C)].
- 2) The Feather River from 1,000 feet below the Thermalito Afterbay Outfall to the mouth [subsection (D)].
  - a. This segment of the Feather River will remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead limits

- b. The proposal is a range of varied dates between July 16 and December 31 to be open to salmon fishing with existing trout and steelhead bag limits.
- 3) A line delineating the regulatory boundary at the Feather River mouth is proposed to be added to subsection (D).

Sacramento River above Keswick Dam, subsection 7.50(b)(156)

- 1) Subsection 7.50(b)(156) is proposed to be split into two subsections to separate the non-anadromous sections of the Sacramento River (upstream of Keswick Dam) from the anadromous sections (downstream of Keswick Dam).
- 2) Subsections (A) through (E) which apply only to non-anadromous salmonid regulations above Keswick Dam will remain in subsection (156).
- 3) There are no other proposed changes for subsections (A) through (E).
- 4) Subsections (F) through (K) are proposed to be moved to new subsection 7.50(b)(156.5).

Sacramento River below Keswick Dam, subsection 7.50(b)(156.5)

- 1) Subsections (A) through (F) will keep the same area structure of subsections (F) through (K) of Section 7.50(b)(156).
- 2) The Sacramento River from Keswick Dam to the Carquinez Bridge [subsections (A) through (F)] will remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead limits.
- 3) A range of varied dates between July 16 and December 31 is proposed for the Sacramento River from Keswick Dam to the Carquinez Bridge [subsections (A) through (F)] to be open to salmon fishing with existing trout and steelhead bag limits.

Associated Items

- 1) The Sacramento River note in the Sierra District regulations, subsection 7.00(b)(1), will be revised to include the new subsection 7.50(b)(156.5).
- 2) The bag limit of two Chinook is proposed to remain in place for all areas open to salmon fishing in 2011.
- 3) A minor change is proposed to the note describing wild trout at the end of subsection 7.50(b) to improve clarity and reduce public confusion.
- 4) Additional minor changes are proposed to improve clarity, reduce public confusion, and simplify Title 14 structure.

**On April 13, 2011, the Pacific Fishery Management Council (PFMC) recommended a 61,400 Sacramento River fall run Chinook salmon harvest guideline for the Central Valley river salmon fisheries.**

**The following modifications to the original language are proposed by the Department to allow for near-full fishing in the Central Valley Basin throughout much of the historical fishing areas in response to the 2011 PFMC final recommendation.**

**The San Joaquin River system and the Mokelumne, Napa and upper Feather rivers will remain closed for 2011 as a precautionary approach in this first year following the consecutive three years of salmon fishery closures from 2008 to 2010.**

**The following proposed 2011 salmon seasons will greatly increase fall run and late-fall run salmon fishing opportunities while maintaining current winter run and spring run salmon protection.**

**American River, subsection 7.50(b)(5)**

1. Subsection (A) from Nimbus Dam to Hazel Avenue Bridge will be open to salmon fishing from July 16 through December 31.
2. Subsection (B) from Hazel Avenue Bridge to the USGS gauging station cable crossing near Nimbus Hatchery will be open to salmon fishing from July 16 through September 14.
3. Subsection (C) from the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park will be open to salmon fishing from July 16 through October 31.
4. Subsection (D) from the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street Bridge will be open to salmon fishing from July 16 through December 31.
5. Subsection (E) from the Jibboom Street Bridge to the mouth will be open to salmon fishing from July 16 through December 11.
  - a. The December 12 closure will protect adult winter run salmon migrating up the Sacramento River near the mouth.

**Feather River, subsection 7.50(b)(68)**

1. Subsection (D) from 1,000 feet below the Thermalito Afterbay Outfall to the mouth will be open to salmon fishing from August 16 through December 11.
  - a. The August 16 opener will protect adult spring run salmon migrating up the Feather River.
  - b. The December 12 closure will protect adult winter run salmon migrating up the Sacramento River near the mouth.

**Sacramento River below Keswick Dam, subsection 7.50(b)(156.5)**

1. Subsection (C) from the Deschutes Road Bridge to 500 feet upstream from Red Bluff Diversion Dam will be open to salmon fishing from August 1 through December 18.
  - a. August 1 is the historical opening day for this area.
  - b. The December 19 closure will protect adult winter run salmon migrating up the Sacramento River.
2. Subsection (E) from 150 feet below the Lower Red Bluff (Sycamore) Boat Ramp to the Highway 113 Bridge near Knights Landing will be open to salmon fishing from July 16 through December 18.
  - a. The December 19 closure will protect adult winter run salmon migrating up the Sacramento River.
3. Subsection (F) from Highway 113 Bridge near Knights Landing to the Carquinez Bridge will be open to salmon fishing from July 16 through December 11.
  - a. The December 12 closure will protect adult winter run salmon migrating from the ocean.

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Fish and Game Commission Conference Room, State of California Resources Building, 1416 Ninth Street, Room 1320, Sacramento, California, on Thursday, April 21, 2011, at **10:00** a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted to the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). All comments must be received no later than April 21, 2011, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Jon K. Fischer, Acting Executive Director, Fish and Game Commission, 1416 Ninth 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 Jon K. Fischer or Sherrie Fonbuena at the preceding address or phone number. **Stafford Lehr, Branch Chief, Fisheries Branch, Department of Fish and Game, (916) 327-8840, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### Availability of Modified Text

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 202 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 and 11346.8 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

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 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 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 or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Jon K. Fischer  
Acting Executive Director

Date: April 15, 2011