

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

(Continuation of California Notice Register 2008, No. 9-Z,  
and Meetings of February 8, March 7, April 11 and April 15, 2008.)

**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. See the text of this notice—changes are shown in **bold** 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 subsections (b)(5), (b)(12.5), (b)(18.5)(B), (b)(43.5), (b)(59.5), (b)(68), (b)(118)(B), (b)(124), (b)(129)(B), (b)(156), (b)(168.5), (b)(186)(B), (b)(198)(E), and (b)(212)(A) of Section 7.50, Title 14, California Code of Regulations, relating to Central Valley Chinook Salmon Sport Fishing.

## Updated Informative Digest/Policy Statement Overview

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off the coasts of Washington, Oregon, and California.

The text in bold below replaces the text from original Initial Statement of Reasons and Informative Digest.

### PFMC FINAL ACTION

The PFMC has determined that the Sacramento River Fall Chinook (SRFC) merits further protection as the stocks are projected to be at a record low abundance level in 2008. The projected 2008 SRFC escapement to the Central Valley is 59,000 SRFC adults and assumes no further fishing in 2008.

The National Marine Fisheries Service (NMFS) has determined that poor ocean conditions are a major factor of the low 2008 SRFC abundance. The NMFS also expects these poor conditions to continue affecting subsequent years' SRFC escapements in the near future. The 2008 projected SRFC adult escapement is 52% below the lower boundary of the FMP conservation goal of 122,000 to 180,000 SRFC adult escapement, and the state and federal SRFC mitigation hatcheries are also projected to fall below the 22,000 SRFC needed to meet the annual egg take goals.

On March 14, 2008, the PFMC approved three regulatory options for public review which provided harvest recommendations for the Central Valley salmon recreational fishery in response to the projected low 2008 SRFC escapement. The three PFMC options are shown below:

- 1) Option 1- a 1,000 adult SRFC quota for the Central Valley salmon recreational fishery; and
- 2) Options 2 and 3 - no retention of adult SRFC in the Central Valley salmon recreational fishery.

The PFMC adopted Option 3 on April 10, 2008 which requires no retention of adult SRFC in the Central Valley salmon recreational fishery.

#### **CENTRAL VALLEY SALMON REGULATORY OPTIONS**

In response to the PFMC action, the Department is proposing a zero salmon bag limit in the 14 originally proposed Central Valley rivers and streams for discussion, except for very limited salmon fisheries in the American, Feather and Sacramento rivers where the following three fishery options are proposed for Commission consideration.

1. Option 1 provides salmon fishing with a one salmon bag limit in the American and Feather rivers from January 1 through July 15 to provide limited access to spring Chinook and the Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 to December 31 to provide limited access to late-fall Chinook.
2. Option 2 provides salmon fishing with a one salmon bag limit in the American and Feather rivers from February 1 through July 15 to provide limited access to spring Chinook and the Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 to December 31 to provide limited access to late-fall Chinook.
3. Option 3 is a zero bag limit in all areas of the American, Feather and Sacramento rivers. This option will provide maximum protection to SRFC in the American, Feather and Sacramento rivers, but allows no access to non-fall salmon stocks.

The Department is proposing these very limited options based upon the following information.

1. The 2000-2003 mean coded-wire-tag (CWT) data for creel sampling shows approximately 128 SRFC in the American River, approximately 150 SRFC in the Feather River and 0 SRFC in the Sacramento River were recovered during the dates and locations of the proposed options.
2. The 2000-2004 CWT data for carcass surveys and hatchery returns shows no SRFC were recovered in the American and Feather Rivers during the dates and locations of the proposed options.
3. The SRFC CWTs recovered in the American River were from Feather River strays where past Feather River Hatchery practices resulted in mixed fall and spring stocks.

#### **PROPOSED REGULATION REVISIONS**

The proposed revisions from current regulations are discussed in the following paragraphs:

**In all options, the following revisions are proposed:**

The phrase “king salmon” is proposed to be changed “salmon” in the bag limits of subsections 7.50(b)(5), (68) and (129) to standardize terminology within subsection 7.50(b). Only Chinook (king) salmon are allowed to be retained within the state’s anadromous waters.

The date of February 28 in subsection 7.50(b)(212)(A) is proposed to be changed to the last day in February to include February 29 during leap years.

As originally proposed, the Department is recommending a zero salmon bag limit for the following 11 Central Valley rivers and streams to provide protection for SRFC and other fall Chinook stocks:

1. Auburn Ravine Creek, subsection 7.50(b)(12.5)
2. Bear River, subsection 7.50(b)(18.5)(B)
3. Coon Creek, subsection 7.50(b)(43.5)
4. Dry Creek, subsection 7.50(b)(59.5)
5. Merced River, subsection 7.50(b)(118)(B)
6. Mokelumne River, subsection 7.50(b)(124)(A) and (B)
7. Napa River, subsection 7.50(b)(129)(B)
8. San Joaquin River, subsection 7.50(b)(168.5)
  - a. Subsection (A)
  - b. Subsection (B) and (C) from January 1 to October 31
9. Stanislaus River, subsection 7.50(b)(186)(B)
10. Tuolumne River, subsection 7.50(b)(198)(E)
11. Yuba River, subsection 7.50(b)(212)(A) from January 1 to the last day in February and August 1 through October 15.

Additional minor changes were made to the regulations for clarity and to reduce public confusion.

**Option 1 for the American, Feather, and Sacramento rivers**

Feather River, subsection 7.50(b)(68)(E) is proposed to end at the Highway 99 bridge near Nicolaus and a new subsection (F) will be added from the Highway 99 bridge to the Feather River mouth. The new subsection will allow closure of the Feather River mouth along with adjacent Sacramento River closures for enforcement purposes.

Sacramento River, subsection 7.50(b)(156)(J) is proposed to end at the Highway 113 bridge near Knights Landing and a new subsection (K) will be added from the Highway 113 bridge to the Carquinez Bridge. The new subsection will allow a year-round zero salmon bag limit on the Sacramento River from the Highway 113 bridge to the Carquinez Bridge to provide protection for SRFC.

For the subsections 7.50(b)(5)(A) through (D), (68)(C) through (E) and (156)(H) and (J), the open seasons are proposed to be re-aligned by date starting with January 1 for regulation clarity and to reduce public confusion.

The following areas are recommended for a zero salmon bag limit to provide protection for SRFC:

1. American River, subsection 7.50(b)(5)
  - a. Subsections (A) and (D) from July 16 to December 31
  - b. Subsection (B) from July 16 to September 14

- c. Subsection (C) from July 16 to October 31
- d. Subsection (E) from January 1 to December 31
- 2. Feather River, subsection 7.50(b)(68)
  - a. Subsections (C) and (D) from July 16 to December 31
  - b. Subsection (E) from March 1 to December 31
  - c. New subsection (F) from January 1 to December 31
- 3. Sacramento River, subsection 7.50(b)(156)
  - a. Subsection (H) from January 1 to December 31
  - b. Subsection (J) from January 1 to October 31
  - c. New subsection (K) from January 1 to December 31

The following areas are proposed to remain open with a bag limit of one salmon to access spring Chinook:

- 1. American River, subsection 7.50(b)(5)
  - a. Subsections (A) through (D) from January 1 to July 15
- 2. Feather River, subsection 7.50(b)(68)
  - a. Subsections (C) and (D) from January 1 to July 15
  - b. Subsection (E) from January 1 to the last day in February

The following areas are proposed to remain open with a bag limit of one salmon to access late-fall Chinook:

- 1. Sacramento River, subsection 7.50(b)(156)
  - a. Subsection (J) from November 1 to December 31

**Option 2 for the American, Feather, and Sacramento rivers**

Feather River, subsection 7.50(b)(68)(E) is proposed to end at the Highway 99 bridge near Nicolaus and a new subsection (F) will be added from the Highway 99 bridge to the Feather River mouth. The new subsection will allow closure of the Feather River mouth along with adjacent Sacramento River closures for enforcement purposes.

Sacramento River, subsection 7.50(b)(156)(J) is proposed to end at the Highway 113 bridge near Knights Landing and a new subsection (K) will be added from the Highway 113 bridge to the Carquinez Bridge. The new subsection will allow a year-round zero salmon bag limit on the Sacramento River from the Highway 113 bridge to the Carquinez Bridge to provide protection for SRFC.

For the subsections 7.50(b)(5)(A) through (D), (68)(C) through (E) and (156)(H) and (J), the open seasons are proposed to be re-aligned by date starting with January 1 for regulation clarity and to reduce public confusion.

The following areas are recommended for a zero salmon bag limit to provide protection for SRFC:

- 1. American River, subsection 7.50(b)(5)
  - a. Subsections (A) and (D) from January 1 to January 31 and July 16 to December 31
  - b. Subsection (B) from January 1 to January 31 and July 16 to September 14
  - c. Subsection (C) from January 1 to January 31 and July 16 to October 31
  - d. Subsection (E) from January 1 to December 31
- 2. Feather River, subsection 7.50(b)(68)
  - a. Subsections (C) and (D) from January 1 to January 31 and July 16 to December 31

- b. Subsection (E) from January 1 to January 31 and March 1 to December 31
- c. New subsection (F) from January 1 to December 31
- 3. Sacramento River, subsection 7.50(b)(156)
  - a. Subsection (H) from January 1 to December 31
  - b. Subsection (J) from January 1 to October 31
  - c. New subsection (K) from January 1 to December 31

The following areas are proposed to remain open with a bag limit of one salmon to access spring Chinook:

- 1. American River, subsection 7.50(b)(5)
  - a. Subsections (A) through (D) from February 1 to July 15
- 2. Feather River, subsection 7.50(b)(68)
  - a. Subsections (C) and (D) from February 1 to July 15
  - b. Subsection (E) from February 1 to the last day in February

The following areas are proposed to remain open with a bag limit of one salmon to access late-fall Chinook:

- 1. Sacramento River, subsection 7.50(b)(156)
  - a. Subsection (J) from November 1 to December 31

**Option 3 for the American, Feather, and Sacramento rivers**

This option provides maximum protection to SRFC in the American, Feather and Sacramento rivers, but allows no access to non-fall salmon stocks.

The following areas are recommended for a zero salmon bag limit:

- 1. American River, subsection 7.50(b)(5)
  - a. Subsections (A) and (D) for all year
  - b. Subsection (B) from January 1 to September 14
  - c. Subsection (C) from January 1 to October 31
  - d. Subsection (E) from July 16 to December 31
- 2. Feather River, subsections 7.50(b)(68)
  - a. Subsection (C) from January 1 to last day of February, March 1 through July 15 and July 16 to September 30
  - b. Subsection (D) from March 1 through July 15 and July 16 through the last day in February
  - c. Subsection (E) from July 16 through the last day in February
- 3. Sacramento River, subsection 7.50(b)(156)
  - a. Subsection (H) from August 1 through August 30 and August 31 through January 14
  - b. Subsection (J) from July 16 to December 31

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Beach Resort Monterey, La Grande Room, 2600 Sand Dunes Drive, Monterey, CA, on Friday, May 9, 2008, at 8:30 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted at 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). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on May 7, 2008. All comments must be received no later than May 9, 2008, at the hearing in Monterey, 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, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John Carlson, Jr., or Sherrie Koell at the preceding address or phone number.

**Mr. Neil Manji, Branch Chief, Fisheries Branch, Department of Fish and Game, phone (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 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 may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.**

**Under a normal season, Central Valley sport salmon anglers contribute about \$14,500,000 in direct revenues to the State's business sector. This is based on a 2006 US Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation for California. Adding the indirect and induced effects of this initial revenue contribution and the total benefit to California's economy is normally about \$20,300,000. This is equivalent to about \$7,800,000 in total wage earnings to Californians, or about 166 jobs in the state. Depending on which of the following three options that the Commission adopts, the following statewide impacts to businesses may occur.**

**Option 1 would result in an 87.3 percent reduction in the available angling days of the Central Valley salmon recreational fishing under normal fishing season. Using national data on recreational angler expenditures on goods and services, we estimate the direct loss to the business community of about \$12,600,000. Because of the indirect and induced effects of this loss, California's total economic output is estimated to be reduced \$17,700,000. Adverse impacts to total wage earnings and California jobs would be about \$6,800,000 and 145, respectively.**

**Option 2 would result in an 89.0 percent reduction in the available angling days of the Central Valley salmon recreational fishing under normal fishing season. Using national data on recreational angler expenditures on goods and services, the direct loss to the business community is estimated to be about \$12,900,000. Because of the indirect and induced effects of this loss, California's total economic output is estimated to be reduced \$18,100,000. Adverse impacts to total wage earnings and California jobs would be about \$6,900,000 and 147, respectively.**

**Option 3 would result in a 100 percent reduction in the available angling days of the Central Valley salmon recreational fishing under normal fishing season. Using national data on recreational angler expenditures on goods and services, the direct loss to the business community is estimated to be about \$14,500,000. Because of the indirect and induced effects of this loss, California's total economic output is estimated to be reduced \$20,300,000. Adverse impacts to total wage earnings and California jobs would be about \$7,800,000 and 166, respectively.**

**The Commission has made an initial determination that the amendment of this regulation may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:**

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;**
  - (ii) consolidation or simplification of compliance and reporting requirements for businesses;**
  - (iii) the use of performance standards rather than prescriptive standards; or**
  - (iv) exemption or partial exemption from the regulatory requirements for business.**
- (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:**

**Option 1 would result in an 87.3 percent reduction in the available angling days of the Central Valley salmon recreational fishing under a normal season. On a pro-**

**rata basis, reducing the estimated business output for the State by this same percentage could result in a reduction of 145 jobs.**

**Option 2 would result in an 89.0 percent reduction in the available angling days of the Central Valley salmon recreational fishing under a normal season. On a pro-rata basis, reducing the estimated business output for the State by this same percentage could result in a reduction of 147 jobs.**

**Option 3 would result in a 100 percent reduction in the available angling days of the Central Valley salmon recreational fishing under a normal season. On a pro-rata basis, reducing the estimated business output for the State by this same percentage could result in a reduction of 166 jobs.**

(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. **There are no new reporting requirements imposed as a result of the proposed regulations.**

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

**There are no new reporting requirements to State agencies as a result of the proposed regulations. However, reduced recreational fishing opportunities would likely result in revenue impacts to the State, estimated to be up to \$1,819,069. This is due to reduced demand for recreational fishing licenses, permits, and or stamps, normally purchased from the State, increased enforcement, and outreach and education about the 2008 inland salmon season.**

(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: 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.

**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

John Carlson, Jr.  
Executive Director

Date: April 29, 2008