

**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, 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, 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 sport fishing.

Informative Digest/Policy Statement Overview

The Pacific Fishery Management Council (PFMC) will develop the annual west coast ocean salmon fisheries regulatory options for public review at their March 13, 2009 meeting and develop the final PFMC regulatory recommendations to the National Marine Fisheries Service at their April 9, 2009 meeting. The PFMC coordinates west coast management of 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 (FMP)

Although there are no PFMC regulatory options to review at this time, there exists a strong possibility of ocean water closures off California and PFMC recommendations for sport salmon fishery closures in inland waters due to expected low Sacramento River Fall Chinook salmon returns to the Central Valley river system based upon 2008 PFMC projections.

Further Commission actions affecting the Central Valley (CV) salmon sport fishery may be developed after the annual PFMC reports, *Review of 2008 Ocean Salmon Fisheries* and *Preseason Report / Stock Abundance Analysis for 2009 Ocean Salmon Fisheries*, are available in late February 2009.

Present Regulations

The current regulations in place which have zero bag limits for Chinook salmon in all 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 1 to December 31.

Proposed Regulations

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

Option 1 - No Salmon Fishing in All Anadromous Central Valley Rivers and Streams

This option proposes to close all Central Valley salmon sport fishing and prohibit all methods of targeting salmon including catch and release fishing with the following changes:

- 1) Replace the salmon zero bag limit language within various 7.50 subsections with the following changes:
 - a. Add "Closed to salmon fishing" to make it clear to the general public that no fishing or fishing effort for salmon is allowed.
 - b. Add "No take or possession of salmon" to give Enforcement the means to cite anglers who attempt to catch and release salmon.
- 2) Replace the one salmon bag limit in Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 to December 31 with the same language described above in 1).
- 3) Replace the combined trout and salmon zero bag limit language within subsections 7.00(b)(1) and (d)(2) and various 7.50 subsections with the following changes:

- a. Add “0 trout or steelhead” and “Closed to salmon fishing” to make it clear to the general public that no fishing or fishing effort for salmon is allowed.
 - i. There is one exception for this change: subsection 7.50(b)(212)(B) where the trout portion of the bag limit will be “1 hatchery trout or 1 hatchery steelhead” to align it with (b)(212)(A) for native trout protection.
- b. Add “No take or possession of salmon” as a second sentence to give Enforcement the means to cite anglers who attempt to catch and release salmon.

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

Option 2 – Limited Fishing in Sacramento, Feather or American Rivers And No Salmon Fishing In All Other Anadromous Central Valley Waters

This option depends on Chinook salmon being available for Central Valley river sport harvest from PFMC coordination of west coast salmon management. The scope of this option is intentionally broad to allow for flexibility in the development of a final season structure and possibly reduce the length of any additional public notice requirements.

For the lower reaches of Sacramento, Feather and American rivers, the proposed changes are bag limit ranges of 1 or 2 for Chinook salmon for varied season dates and river reaches to be determined from July 16 to December 31 as shown below:

- 1) Sacramento River from 150 feet below the Lower Red Bluff (Sycamore) Boat Ramp to the Carquinez Bridge (includes Suisun Bay, Grizzly Bay and all tributary sloughs).
- 2) Feather River from the Highway 70 Bridge to the river’s mouth
- 3) American River below the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the river’s mouth.

For all other anadromous Central Valley waters, the proposed changes are to close the Central Valley salmon sport fishing and prohibit all methods of targeting salmon including catch and release fishing with the following changes:

- 1) Replace the salmon zero bag limit language within various 7.50 subsections with the following changes:
 - a. Add “Closed to salmon fishing” to make it clear to the general public that no fishing or fishing effort for salmon is allowed.
 - b. Add “No take or possession of salmon” to give Enforcement the means to cite anglers who attempt to catch and release salmon.
- 2) Replace the combined trout and salmon zero bag limit language within subsections 7.00(b)(1) and (d)(2) and various 7.50 subsections with the following changes:
 - a. Add “0 trout or steelhead” and “Closed to salmon fishing” to make it clear to the general public that no fishing or fishing effort for salmon is allowed.
 - i. There is one exception for this change: subsection 7.50(b)(212)(B) where the trout portion of the bag limit will be “1 hatchery trout or 1 hatchery steelhead” to align it with (b)(212)(A) for native trout protection.
 - b. Add “No take or possession of salmon” as a second sentence to give Enforcement the means to cite anglers who attempt to catch and release salmon.

This option will increase protection for Central Valley Chinook in all anadromous Central Valley rivers and streams while providing flexibility to develop a possible season, if salmon are available for inland sport harvest.

Option 3 - A possible combination of Option 1 and 2 for the Sacramento, Feather or American rivers may

be developed after more information is available from the PFMC.

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

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Yolo Fliers Club, Ballroom, 17980 County Road 94B, Woodland, California, on Wednesday, March 4, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard.

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 Wine and Roses Country Inn, Garden Ballroom, 2505 West Turner Road, Lodi, California, on Thursday, April 9, 2009 at 8:30 a.m., or as soon thereafter as the matter may be heard.

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 in the Fish and Game Commission Conference Room, 1416 Ninth Street, Room 1320, Sacramento, California, on Tuesday, April 21, 2009, at 9:30 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 before April 15, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. All comments must be received no later than April 21, 2009, 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, John Carlson, Jr., 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 John Carlson, Jr., or Sherrie Fonbuena at the preceding address or phone number. **Mr. Neil Manji, 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 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

John Carlson, Jr.
Executive Director

Dated: February 17, 2009

