

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 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 July 16 through December 11.
 - a. 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.

The Fish and Game Commission (Commission) adopted the Department's revised proposed modifications to the Central Valley salmon sport fishing seasons at its April 21, 2011 teleconference except for an early opener of July 16 instead of August 16 for the Feather River, subsection (D), from 1,000 feet below the Thermalito Afterbay Outfall to the mouth to provide additional fishing opportunities and economic benefit.

The Commission adopted the other changes to the regulations as originally proposed.

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

- (1) Chris Hobbs, two e-mails dated March 17, 2011 and April 15, 2011:
 - a. He requests salmon sport fishing in the Feather River upstream of the Thermalito Afterbay Outfall.
 - b. He requests the Feather River salmon season run from May to September.
 - c. He requests that salmon fishing be excluded from 1,000 feet above to 1,000 feet below the Thermalito Afterbay Outfall.

Response:

- a. Reject: The Commission-adopted seasons will keep the upper Feather River area closed for 2011 to reduce impacts on listed spring run salmon which has a much higher historical harvest rate above the Thermalito Afterbay Outfall. The Department will continue to monitor the fall and spring run Chinook salmon returns to the Feather River with the goal to expand future salmon fishing opportunities back to historical areas and dates where possible.
- b. Reject: The suggested May 1 opening date is not possible without additional 45 days public notice for this significant change and the September date is already included for the adopted areas open to salmon fishing.
- c. Accept: The 2,000 foot area bracketing the Thermalito Afterbay Outfall will remain closed for 2011.

- (2) Linda Dahlmeier, Mayor of City of Oroville, letter dated March 21, 2011:
- a. The City of Oroville requests that salmon sport fishing be open in the Feather River upstream of the Thermalito Afterbay Outfall to increase tourism revenue to the areas excluded during the 2010 salmon season.

Response:

- a. See Response 1a.

- (3) Jim Ayling, e-mail dated April 4, 2011:

- a. He requests a longer fishing season with a one fish bag limit to generate more fishing revenue.
- b. He requests salmon sport fishing in the Feather River upstream of the Thermalito Afterbay Outfall

Response:

- a. Reject: A longer fishing season is not possible without negatively impacting spring run salmon and winter run salmon. A one fish bag limit will reduce fishing opportunities and fishing revenue in comparison to the adopted regulations.
- b. See Response 1a.

- (4) 14 form e-mails dated from April 18, 2011 to April 20, 2011:

- a. They request that salmon sport fishing be open in the Feather River from Highway 70 upstream of the Thermalito Afterbay Outfall to the mouth (Verona) from May 1 to December 16.
- b. They state that the community needs a longer season to offset the negative economic impact to the towns along the Feather River from the past three years of salmon fishing closure.

Response:

- a. See Responses 1a and 1b. The Commission-adopted seasons will open most of the Feather River below the Thermalito Afterbay Outfall from July 16 to December 11 except for a six mile reach from the Thermalito Afterbay Outfall to Highway 70.
- b. Accept in part: The Commission expanded the Department's recommendation of an August 16 opener to a July 16 opener for the Feather River in response to offering increase economic opportunities without creating significant impacts on spring run salmon. The Department will continue to monitor the fall and spring run Chinook salmon returns to the Feather River with the goal to expand future salmon fishing opportunities back to historical areas and dates where possible.

(5) Ron LaForce, United Outdoorsmen Inc., and Bob Boucke, Johnson's Bait and Tackle, e-mail dated April 19, 2011 and oral testimony at the April 21, 2011 teleconference:

- a. They state that the Initial Statement of Reasons states there is no economic impact on local bait stores and fishing guides which they feel is not true.
- b. They request that salmon sport fishing be open in the Feather River below the Thermalito Afterbay Outfall on July 16 instead of August 16.
- c. They believe that the spring run salmon are already above the Thermalito Afterbay Outfall by June 30.
- d. They state that the data shows that spring run are in much higher abundance than during the pre-2007 fisheries when a 3 fish bag limit was allowed.
- e. They request that the impact of the southern Delta water exports be addressed.
- f. They request that the reduction in available spawning areas be addressed.
- g. They request that the salmon sport fishing season open before the children have to go back to school.
- h. They request that salmon sport fishing be open in the low flow area of the Feather River from Highway 70 upstream of the Thermalito Afterbay Outfall.
- i. They state that a July 16 opener on the Feather River will have minimal impact on spring run salmon.

Response:

- a. The projected economic impact from changing from the restricted 2010 season to the much longer 2011 season will have a positive economic impact to the local bait shops and fishing guides.
- b. Accept: See Response 4b.
- c. Coded-wire-tagged spring run salmon were encountered in the 2010 fishery below the Thermalito Afterbay Outfall from July 31 to August 15, but the Commission decided to accept the projected low impact to spring run salmon associated with a July 16 opener.
- d. The 2008-2010 spring run returns to the Feather River Hatchery (mean of 1,200 adult fish) are 1/3 of their 2003-2007 return levels (mean of 3,700 adult fish).
- e. This comment is outside the scope of the Central Valley salmon fishery regulations and cannot therefore be addressed in this particular regulatory procedure.
- f. See Response 5e.
- g. Accept in part: The Commission expanded the Department's recommendation of an August 16 opener to a July 16 opener for the Feather River.

- h. See Response 1a.
- i. Accept: See Response 5c.

(6) Tod Shallenberger, e-mail dated April 19, 2011:

- a. He requests that salmon sport fishing be open in the Feather River from Highway 70 upstream of the Thermalito Afterbay Outfall to the mouth.

Response:

- a. See Response 1a.

(7) Joel Baiocchi, e-mail dated April 19, 2011:

- a. He requests that salmon sport fishing be open in the Feather River from Highway 70 down to the Thermalito Afterbay Outfall.
- b. He believes the salmon fishing season should be based on science and supports adaptive management.
- c. He believes that the state's water transportation and sales have caused the greatest damage to the salmon resource and therefore should remedy the damage.

Response:

- a. See Response 1a.
- b. The Commission adopted a July 16 to December 11 season that has low impact on spring run salmon and no impact on winter run salmon.
- c. See Response 5e.

(8) Derek Pickus, e-mail dated April 20, 2011:

- a. He requests that salmon sport fishing be open in the Feather River from Highway 70 down to the Thermalito Afterbay Outfall.

Response:

- a. See Response 1a.

(9) AJ Dill, two e-mails dated from April 20, 2011:

- a. He requests that salmon sport fishing open in the Feather River below the Thermalito Afterbay Outfall earlier than August 16.
- b. He requests that salmon sport fishing be open in the Feather River from Highway 70 down to the Thermalito Afterbay Outfall.
- c. He requests that the use of long leaders and bead fishing be addressed.
- d. He states that spring run salmon are in the headwaters of the Feather River by July 1.
- e. He requests that fishermen be allowed to take "unused" hatchery fish.

- f. He states that spring run salmon are taken in the ocean and therefore should be allowed to be taken in-river.
- g. He states that there are no longer any spring run salmon that are native to the Feather River because the habitat that distinguishes them is now at the bottom of lakes and reservoirs.

Response:

- a. Comment accepted. See Response 4b.
- b. See Response 1a.
- c. Snagging is already prohibited. Methods of take are outside the scope of this regulatory package, but may be considered in a future rulemaking file.
- d. See Response 5c.
- e. The take of hatchery trout and hatchery steelhead is already allowed in the open sections of the Feather River, but salmon fishing above Thermalito Afterbay Bay will also impact spring run salmon.
- f. Ocean salmon fishing seasons are outside the scope of the Central Valley salmon fishing regulations and are adopted annually in a separate rulemaking. Ocean salmon fishing seasons are devised to have minimal impacts on listed species. Take of listed species is prohibited by the state and federal laws.
- g. Salmon runs are distinguished by the season when the majority of the run enters freshwater as adults, not distinguished by habitat. Also see Response 5c.

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 include 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. 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 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 I 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.
- 2) 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.
- 3) 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.

In the April 13, 2011 Preadoption Statement of Reasons, the Department provided its revised proposed modifications to the Central Valley salmon sport fishing seasons in response to the 2011 PFMC final recommendation.

The following modifications to the originally-proposed regulatory language will 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 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 July 16 through December 11.
 - a. 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.**

The Fish and Game Commission (Commission) adopted the Department's revised proposed modifications to the Central Valley salmon sport fishing seasons at its April 21, 2011 teleconference except for an early opener of July 16 instead of August 16 for the Feather River, subsection (D), from 1,000 feet below the Thermalito Afterbay Outfall to the mouth to provide additional fishing opportunities and economic benefit.

The Commission adopted the other changes to the regulations as originally proposed.