

- a. Requests salmon sport fishing in the Feather River upstream of the Thermalito Afterbay Outfall area.

Response. Reject. The Commission adopted seasons will keep the upper Feather River closed for 2012 to reduce impacts on listed spring run salmon which has a much higher historical harvest rate above the Thermalito Afterbay Outfall area. 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.

(3) Bill Connelly, e-mail dated April 9, 2012

- a. Requests salmon sport fishing in the Feather River upstream of the Thermalito Afterbay Outfall area up to the Fish Barrier Dam.
- b. Feels the number of fish spawning in the river below the hatchery is too high and anglers should be allowed to catch them once the hatchery is full.
- c. Does not support existing regulations concerning snagging.
- d. Does not like the Wild Justice TV show.

Response:

- a. See Response 2a.
- b. Reject: See Response 2a.
- c. Reject: This comment does not address the Central Valley salmon fishery regulations and cannot therefore be addressed in this particular regulatory procedure.
- d. See Response 3c.

(4) Pete Gray, fax dated April 10, 2012

- a. Requests that salmon fishing be excluded from 1,000 feet above to 1,000 feet below the Thermalito Afterbay Outfall between June and October.
- b. Supports the proposed bag limit of 2 fish.
- c. Supports the proposed changes to subsections 7.50(b)(68)(C), (D) and (E).

Response:

- a. Reject: The Department proposed and the Commission adopted the opening up of the Thermalito Afterbay Outfall area in alignment with the goal to expand salmon fishing opportunities back to historical areas and dates where possible. The action is a compromise between reduced impacts on listed spring run salmon and offering increased fishing opportunities as Central Valley stocks are rebuilding. All areas of the upper river will remain closed in 2012
- b. Support noted. The Commission adopted the proposed regulations without any changes.

- c. See Response 4b.
- (5) Mike David, fax dated April 10, 2012
- a. Recommends Option A for the subsection 7.50(b)(68)(C).
 - b. Supports the proposed boundary changes to subsection 7.50(b)(68)(D).
 - c. Requests the season open on June 16 instead of July 16 in subsections 7.50(b)(68)(D) and (E)

Response:

- a. Reject. There is no option A.
 - b. See Response 4b.
 - c. Reject. The Commission adopted July 16 opening date to reduce impacts on listed spring run salmon.
- (6) Chris, e-mail dated April 10, 2012
- a. Requests the Feather River open from May 1 to December 16 from Highway 70 Bridge to Verona.

Response. Reject. See Responses 2a and 5c. The closing dates prior to December 16 above the Live Oak boat ramp were proposed to provide protection for spawning salmon and reestablish historic spawning area closures.

- (7) Jack Dredge, e-mail dated April 10, 2012
- a. Requests the Feather River open from May 1 to December 16 from Highway 70 Bridge to Thermalito Afterbay Outfall.

Response. See Response 2a.

- (8) Jack Dredge, Troy Krebs, William Taylor, Perry Russell, Anita Russell, and Michael Myers, e-mail dated April 10, 2012
- a. Requests the Feather River open from Highway 70 Bridge to Thermalito Afterbay Outfall

Response. See Response 2a.

- (9) Chris Hobbs, e-mail and attachment dated April 10, 2012:
- a. Requests the Feather River open from June 1 to December 15 from Highway 70 Bridge to Thermalito Afterbay Outfall
 - b. Requests that salmon fishing be excluded from 1,000 feet above to 1,000 feet below the Thermalito Afterbay Outfall to eliminate snagging.
 - c. Supports the proposed bag limit of 2 fish.

Response:

- a. See Response 6a.
- b. See Response 4a.
- c. See Response 4b.

(10) Charles Bucaria, Northern CA Council of Federation of Fly Fishers, oral testimony at the April 12, 2012 Commission meeting.

- a. Requests low flow regulations for the American River.
- b. Requests anti-snagging regulations similar to those in the state of Washington.

Response:

- a. See Response 3c and When flows are predicted to be low enough to strand fish, a conference protocol is implemented in which the Department, U. S. Bureau of Reclamation, and other stakeholders hold a conference call to decide what action, if any, is needed to protect fish populations in the lower American River. Fishing closures, if warranted, can be implemented on an emergency basis under that scenario.
- b. See Response 3c.

VI. 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

VII. Location of Department files:

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

VIII. 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 will keep severe restrictions in place for California's Central Valley salmon fisheries. The no change alternative may be adopted if there are low Sacramento River Fall Chinook salmon returns to the Central Valley river system.

(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, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of law.

IX. 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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations range from no salmon fishing in 2012 to a normal Central Valley salmon season; therefore, the potential impacts range from 0 to 166 jobs. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages consumption of a nutritious food.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's salmon resources.

(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.

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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 6, 2012 meeting and develop the final PFMC regulatory recommendations to the National Marine Fisheries Service at their April 6, 2012 meeting.

Although there are no PFMC regulatory options to review at this time, there exists a possibility of ocean water closures off California. 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, Mokelumne, and Sacramento rivers to encompass possible PFMC 2012 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 2011 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2012 Ocean Salmon Fisheries*, are available in late February 2012.

Present Regulations

The current regulations allow for salmon fishing in the American, Feather and Sacramento rivers to achieve the 2011 PFMC harvest target of 61,400 adult Sacramento River Fall Chinook, but the Mokelumne River is closed to salmon fishing.

Proposed Regulations

A range of varied season dates are proposed to continue salmon fishing in the American, Feather and Sacramento rivers and expand angler access in the Feather and Mokelumne rivers. The following changes to current regulations are proposed to encompass the final PFMC recommendations and align annual season closing dates to protect listed species and salmon spawning grounds.

For all areas, the current language to describe no salmon fishing in all areas is "Closed to salmon fishing. No take or possession of salmon". The Department proposes to use "Closed to the take of salmon" instead to reduce public confusion and assist enforcement activities.

American River, subsection 7.50(b)(5)

- 1) Subsection (A) between Nimbus Dam and the Hazel Avenue bridge and subsection (D) between the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park and the Jibboom Street bridge.
 - a. Proposed range of varied open dates between July 16 and December 31 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 2) Subsection (B) between Hazel Avenue bridge and the USGS gauging station cable crossing near Nimbus Hatchery.
 - a. Proposed range of varied open dates between July 16 and August 15 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 3) Subsection (C) between the USGS gauging station cable crossing near Nimbus

Hatchery and the SMUD power line crossing the southwest boundary of Ancil Hoffman Park.

- a. Proposed range of varied open dates between July 16 and October 31 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 4) Subsection (E) between the Jibboom Street bridge and the mouth.
 - a. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - b. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.

Feather River, subsection 7.50(b)(68)

- 1) Subsection (C) between the Highway 70 bridge and the unimproved boat ramp above the Thermalito Afterbay Outfall.
 - a. The lower boundary is proposed to move upstream to open up salmon fishing access to the Thermalito Afterbay Outfall area in new subsection (D).
 - b. Proposed to remain closed to salmon fishing all year with existing trout and steelhead limits
- 2) New subsection (D) between the unimproved boat ramp above the Thermalito Afterbay Outfall and the Live Oak boat ramp.
 - a. Proposed to remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead limits.
 - b. Proposed range of varied open dates between July 16 and October 15 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - c. Proposed to remain closed to salmon fishing from October 16 to December 31 with existing trout and steelhead bag limits.
- 3) Subsection (E) between the Live Oak boat ramp and the mouth.
 - a. Proposed to remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead limits
 - b. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - c. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.

Mokelumne River, subsection 7.50(b)(124)

- 1) All subsections will be revised to clarify the regulations and organize the subsections from upper reach to lower reach to align with the rest of Section 7.50.
- 2) Subsection (A) between Camanche Dam and Highway 99 bridge.
 - a. Proposed to remain closed to salmon fishing from January 1 to March 31 and from the fourth Saturday in May to July 15 with existing trout and steelhead limits.
 - b. Proposed range of varied open dates between July 16 and October 15 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 3) Subsection (B) between Highway 99 bridge and the Woodbridge Irrigation District Dam including Lodi Lake.
 - a. Proposed to remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead bag limits.
 - b. Proposed range of varied open dates between July 16 and December 31 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
- 4) Subsection (C) between the Woodbridge Irrigation District Dam and the Lower Sacramento Road bridge.

- a. Proposed to remain closed to all fishing all year.
 - b. The lower boundary's "Woodbridge vehicle bridge" is defined as "the Lower Sacramento Road bridge".
- 5) Subsection (D) between the Lower Sacramento Road bridge and the mouth.
- a. Proposed to remain closed to salmon fishing from January 1 to July 15 with existing trout and steelhead bag limits.
 - b. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - c. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
 - d. For purposes of this regulation, the lower boundary is proposed to be defined as Mokelumne River and its tributary sloughs east of Highway 160 and north of Highway 12.

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

- 1) Subsection (C) between Deschutes Road bridge and the Red Bluff Diversion Dam.
 - a. Proposed range of varied open dates between August 1 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - b. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
- 2) Subsection (E) between the Red Bluff Diversion Dam and the Highway 113 bridge.
 - a. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - b. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
- 3) Subsection (F) between the Highway 113 bridge and the Carquinez Bridge.
 - a. Proposed range of varied open dates between July 16 and December 16 with a bag limit of 2 Chinook salmon and existing trout and steelhead bag limits.
 - b. Proposed to remain closed to salmon fishing from December 17 to December 31 with existing trout and steelhead bag limits.
 - c. This area's description includes Suisun Bay, Grizzly Bay and all tributary sloughs. The proposed regulation will specify this area includes Suisun Bay, Grizzly Bay and all tributary sloughs west of Highway 160.

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

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of the Central Valley salmon resources, and promotion of businesses that rely on Central Valley salmon sport fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate sport fishing regulations.

On April 5, 2012, the Pacific Fishery Management Council (PFMC) recommended a 74,200 Sacramento River fall run Chinook salmon harvest guideline for the Central Valley river salmon fisheries.

On April 11, 2012, the Fish and Game Commission (Commission) adopted the regulations as originally proposed, selecting the Department's recommendation for the maximum length for the 2012 Central Valley salmon sport fishing seasons.

Additional minor changes are included to improve clarity and reduce public confusion.

ADDENDUM TO FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend subsections (b)(5), (b)(68), (b)(124) and (b)(156.5) of Section 7.50,
Title 14, California Code of Regulations
Re: Central Valley Salmon Sport Fishing

Continuation of

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

(9) Chris Hobbs, e-mail and attachment dated April 10, 2012:

(d) States that the new subsections make the proposed regulations very confusing to understand.

Response:

(d) Comment regarding confusion noted: In response to requests from other anglers to provide as much fishing opportunity as possible, the regulations will open the area from approximately 1000 feet above the Thermalito Afterbay Outfall to 1000 feet below the Thermalito Afterbay Outfall which has been closed for four years. Opening this section of the Feather River will provide for maximum fishing opportunity while still providing protection for spring run salmon. The Department recommended and the Commission adopted boundaries at structures (boat ramps) that are easily recognized by anglers using this area as the upper and lower boundaries of new subsection (D). The no change alternative for these subsections would result in the Thermalito Afterbay Outfall area, a highly preferred fishing location, remaining closed to salmon fishing which would restrict fishing opportunity unnecessarily. See also Response to comment 4a.