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STATE OF CALIFORNIA
Fish and Game Commission

February 24, 2012

TO ALL INTERSESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to Section 7.50, Title 14, California Code of Regulations, relating to Central Valley salmon sport fishing, which will be published in the California Regulatory Notice Register on February 24, 2012.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Mr. Stafford Lehr, Department of Fish and Game, Fisheries Branch, phone (916) 327-8840, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Sherrie Fonbuena

Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

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 200, 202, 205, 206, 215 and 316.5 of said Code, proposes to amend Section 7.50, Title 14, California Code of Regulations, relating to Central Valley salmon sport fishing.

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.

<u>Sacramento River below Keswick Dam, subsection 7.50(b)(156.5)</u>

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 Commission does not anticipate non-monetary benefits to the protection of public health

and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

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

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mission Inn Hotel, 3649 Mission Inn Avenue, Riverside, California, on Wednesday, March 7, 2012 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 Red Lion Hotel, 1929 4th Street, Eureka, California, on Wednesday, April 11, 2012, at 8:30 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 6, 2012 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 10, 2012. All comments must be received no later than April 11, 2012, at the hearing in Eureka, 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, Sonke Mastrup, 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 Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Mr. Stafford Lehr, Chief, Fisheries Branch, telephone at (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 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.

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

FISH AND GAME COMMISSION

Sonke Mastrup
Executive Director

Dated: February 14, 2012