

**California  
Fish and Game Commission  
Meeting Binder**



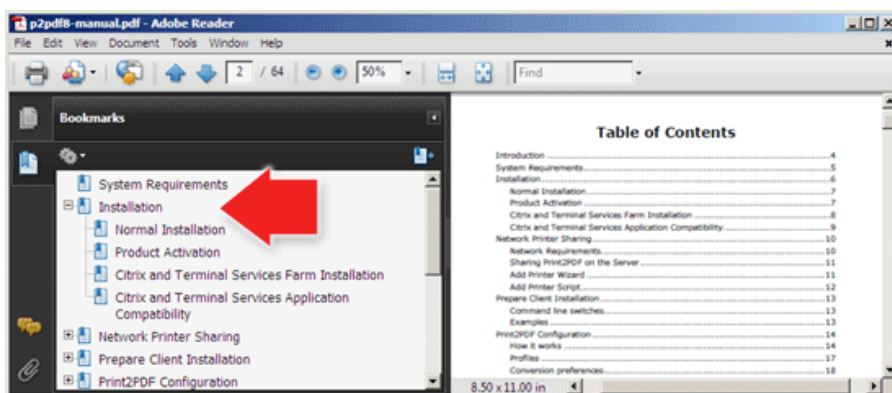
**April 13, 2017  
Teleconference**

## **EASY GUIDE TO USING THE BINDER**

1. Download and open the binder document using your Adobe Acrobat program/app.
2. If a bookmark panel does not automatically appear on either the top or left side of the screen, click/tap on the “bookmark symbol” located near the top left-hand corner.



3. To make adjustments to the view, use the Page Display option in the View tab. You should see something like:



4. We suggest leaving open the bookmark panel to help you move efficiently among the staff summaries and numerous supporting documents in the binder. It's helpful to think of these bookmarks as a table of contents that allows you to go to specific points in the binder without having to scroll through hundreds of pages.
5. You can resize the two panels by placing your cursor in the dark, vertical line located between the panels and using a long click /tap to move in either direction. ◀|▶
6. You may also adjust the sizing of the documents by adjusting the sizing preferences located on the Page Display icons found in the top toolbar or in the View tab.
7. Upon locating a staff summary for an agenda item, notice that you can obtain more information by clicking/tapping on any item underlined in blue.
8. Return to the staff summary by simply clicking/tapping on the item in the bookmark panel.
9. Do not hesitate to contact staff if you have any questions or would like assistance.

## OVERVIEW OF FISH AND GAME COMMISSION TELECONFERENCE MEETING

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- This is the 147<sup>th</sup> year of continuous operation of the California Fish and Game Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making. These meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.
- We are operating under Bagley-Keene Open Meeting Act and these proceedings are being recorded and broadcast via Cal-Span.
- In the unlikely event of an emergency, please note the location of the nearest emergency exits at your location. Additionally, for those in the Commission conference room, the restrooms are located outside the front door and down the hall to your left (women's immediately after the elevators and men's further down the hall).
- Items may be heard in any order pursuant to the determination of the presiding commissioner.
- The amount of time for each agenda item may be adjusted based on time available and the number of speakers.
- Speaker cards need to be filled out **legibly** and turned in to the staff **before** we start the agenda item. Please make sure to list the agenda items you wish to speak to on the speaker card.
- We will ask how many speakers we have at each location before taking public comment; please be prepared when your name is called. If you are not in the room when your name is called you may forfeit your opportunity to speak on the item.
- When you speak, please state your name and any affiliation. Please be respectful. Disruptions from the audience will not be tolerated. Time is precious so please be concise.
- To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, [www.fgc.ca.gov](http://www.fgc.ca.gov), and sign up for our electronic mailing lists.
- All petitions for regulation change must be submitted in writing on the authorized petition form, FGC 1, Petition to the California Fish and Game Commission for Regulation Change, available on the Commission's website.
- **Reminder!** Please silence your mobile devices and computers to avoid interruptions.

# INTRODUCTIONS FOR FISH AND GAME COMMISSION MEETINGS

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## **Fish and Game Commission**

|                         |                                |
|-------------------------|--------------------------------|
| Eric Sklar              | President (Saint Helena)       |
| Jacque Hostler-Carmesin | Vice-President (McKinleyville) |
| Anthony Williams        | Member (Huntington Beach)      |
| Russell Burns           | Member (Napa)                  |
| Peter Silva             | Member (El Cajon)              |

## **Commission Staff**

|                       |                           |
|-----------------------|---------------------------|
| Valerie Termini       | Executive Director        |
| Melissa Miller-Henson | Deputy Executive Director |
| Mike Yaun             | Legal Counsel             |
| Erin Chappell         | Wildlife Advisor          |
| Susan Ashcraft        | Marine Advisor            |
| Mary Brittain         | Administrative Assistant  |
| Sherrie Fonbuena      | Analyst                   |

## **California Department of Fish and Wildlife**

|                 |   |
|-----------------|---|
| Chuck Bonham    | Director  |
| Wendy Bogdan    | General Counsel   |
| Jordan Traverso | Deputy Director, Communications, Education and Outreach |
| David Bess      | Deputy Director and Chief, Law Enforcement Division     |
| Stafford Lehr   | Deputy Director, Wildlife and Fisheries Division        |
| Kevin Shaffer   | Fisheries Branch Chief                                  |
| T.O. Smith      | Wildlife Branch Chief                                   |
| Craig Shuman    | Marine Region Manager                                   |

I would also like to acknowledge special guests who are present:  
(i.e., elected officials, tribal chairpersons, other special guests)

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**Commissioners**  
**Eric Sklar**, President  
Saint Helena  
**Jacque Hostler-Carmesin**, Vice President  
McKinleyville  
**Anthony C. Williams**, Member  
Huntington Beach  
**Russell E. Burns**, Member  
Napa  
**Peter S. Silva**, Member  
El Cajon

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Valerie Termini, Executive Director**  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

## Fish and Game Commission



*Wildlife Heritage and Conservation  
Since 1870*

### **CORRECTED\* MEETING AGENDA – TELECONFERENCE** **April 13, 2017, 10:00 a.m.**

**Resources Building  
Jim Kellogg Conference Room  
1416 Ninth Street, Room 1320, Sacramento, CA 95814**

Members of the public may participate in the teleconference at the address above and at the following California Department of Fish and Wildlife offices:

- Conference Room, 50 Ericson Court, Arcata, CA 95521
- Conference Room, 7329 Silverado Trail, Napa, CA 94558
- Conference Room, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720
- **Small** Conference Room, Second Floor, **3883 Ruffin Road**, San Diego, CA 92123

**\* The only change to this agenda is to correct the San Diego location information.**

The meeting will be live streamed at [www.cal-span.org](http://www.cal-span.org), for listening purposes only.

**NOTE: See important meeting deadlines and procedures at the end of the agenda.**

Call to order/roll call to establish quorum

1. Approve agenda and order of items
2. Public forum for items not on agenda  
The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting. (Sections 11125, 11125.7(a), Government Code)
3. Adopt proposed changes to recreational Pacific halibut fishing regulations  
(Section 28.20, Title 14, CCR)
4. Adopt proposed changes to season dates, size limits and daily bag limits for May to November 2017 recreational ocean salmon fishing  
(Subsection 27.80(d), Title 14, CCR)

5. Adopt proposed changes to Klamath River sport fishing regulations  
(Subsection 7.50(b)(91.1), Title 14, CCR)
6. Discuss proposed changes to Central Valley salmon sport fishing regulations  
(Subsections 7.50(b)(5), (68) and (156.5), Title 14, CCR)
7. Discuss proposed changes to regulations concerning the use of dogs for the  
pursuit/take of mammals  
(Section 265, Title 14, CCR)

Adjournment

## CALIFORNIA FISH AND GAME COMMISSION 2017 MEETING SCHEDULE

**Note:** As meeting dates and locations can change, please visit [www.fgc.ca.gov](http://www.fgc.ca.gov) for the most current list of meeting dates and locations.

| MEETING DATE  | COMMISSION MEETING   | COMMITTEE MEETING   | OTHER MEETINGS |
|---------------|--|---|----------------|
| April 26-27   | Airtel Plaza Hotel<br>7277 Valjean Avenue<br>Van Nuys, CA 91406                            |   |                |
| May 24        |  | <b>Wildlife Resources</b><br>Resources Building<br>Auditorium, First Floor<br>1416 Ninth Street<br>Sacramento, CA 95814 |                |
| June 20       |  | <b>Tribal</b><br>Howonquet Hall Community Center<br>101 Indian Court<br>Smith River, CA 95567                           |                |
| June 21-22    | Howonquet Hall Community Center<br>101 Indian Court<br>Smith River, CA 95567               |   |                |
| July 20       |  | <b>Marine Resources</b><br>Flamingo Conference Resort & Spa<br>2777 Fourth Street<br>Santa Rosa, CA 95405               |                |
| August 16-17  | Resources Building<br>Auditorium, First Floor<br>1416 Ninth Street<br>Sacramento, CA 95814 |   |                |
| September 13  |  | <b>Wildlife Resources</b><br>California Tower<br>3737 Main Street<br>Highgrove Room 200<br>Riverside, CA 92501          |                |
| October 10    |  | <b>Tribal</b><br>SpringHill Suites by Marriott<br>900 El Camino Real<br>Atascadero, CA 93422                            |                |
| October 11-12 | SpringHill Suites by Marriott<br>900 El Camino Real<br>Atascadero, CA 93422                |   |                |
| November 9    |  | <b>Marine Resources</b><br>Marina   |                |
| December 6-7  | Handlery Hotel<br>950 Hotel Circle North<br>San Diego, CA 92108                            |   |                |

## **OTHER MEETINGS OF INTEREST**

### **Association of Fish and Wildlife Agencies**

- September 10-13, Sandy, UT

### **Pacific Fishery Management Council**

- June 8-14, Spokane, WA
- September 12-18, Boise, ID
- November 14-20, Costa Mesa, CA

### **Pacific Flyway Council**

- September, TBD

### **Western Association of Fish and Wildlife Agencies**

- July 6-11, Vail, CO

### **Wildlife Conservation Board**

- May 25, Sacramento
- August 24, Sacramento
- November 30, Sacramento



## **IMPORTANT COMMISSION MEETING PROCEDURES INFORMATION**

### **WELCOME TO A MEETING OF THE CALIFORNIA FISH AND GAME COMMISSION**

This is the 147<sup>th</sup> year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.

### **PERSONS WITH DISABILITIES**

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Reasonable Accommodation Coordinator at (916) 651-1214. Requests for facility and/or meeting accessibility should be received at least 10 working days prior to the meeting to ensure the request can be accommodated.

### **STAY INFORMED**

To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, [www.fgc.ca.gov](http://www.fgc.ca.gov), and sign up on our electronic mailing lists.

### **SUBMITTING WRITTEN COMMENTS**

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: **E-mail** to [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov); **delivery** to Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814; or **hand-deliver to a Commission meeting**.

### **COMMENT DEADLINES**

The **Written Comment Deadline** for this meeting is **5:00 p.m. on March 29, 2017**. Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Late Comment Deadline** for this meeting is **12:00 p.m. on April 7, 2017**. Comments received by this deadline will be marked "late" and made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting – Please bring two (2) copies of written comments to the meeting.

All materials provided to the Commission may be made available to the general public.

### **VISUAL PRESENTATIONS/MATERIALS**

Visual presentations will not be allowed at this meeting.

### **SPEAKING AT THE MEETING**

To speak on an agenda item, please complete a "Speaker Card" and give it to the designated staff member before the agenda item is announced. Cards will be available near

the entrance of the meeting room. Only one speaker card is necessary for speaking to multiple items.

1. Speakers will be called in groups; please line up when your name is called.
2. When addressing the Commission, give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
  - a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.
  - b. Individuals may receive advance approval for additional time to speak if requests for additional time to speak are received by email or delivery to the Commission office by the **Late Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.
  - c. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).
  - d. An individual may receive additional time to speak to an agenda item at the request of any commissioner.
5. If you are presenting handouts/written material to the Commission at the meeting, please provide two (2) copies to the designated staff member just prior to speaking.

## STAFF SUMMARY FOR APRIL 13, 2017

**2. PUBLIC FORUM****Today's Item****Information** ☒**Action** ☐

Receipt of verbal public comments for items not on the agenda.

**Summary of Previous/Future Actions (N/A)****Background**

Comments submitted in writing are traditionally held for receipt at regularly scheduled in-person FGC meetings. Therefore, written comments submitted following the Feb 8-9, 2017 FGC meeting will be received at the April 26-27, 2017 meeting in Van Nuys.

Today's agenda item is to receive verbal public comments for items not on the agenda. Under the Bagley-Keene Open Meeting Act, FGC cannot act on any matter not included on the agenda, except to schedule issues raised by the public for consideration at future meetings.

**Significant Public Comments (N/A)****Recommendation**

Consider whether any future agenda items are needed to address issues raised during public comment and that are within FGC's authority.

**Exhibits (N/A)****Motion/Direction**

Provide staff direction on scheduling any issues raised in public comment.

## STAFF SUMMARY FOR APRIL 13, 2017

**3. PACIFIC HALIBUT RECREATIONAL FISHING****Today's Item****Information** ☐**Action** ☒

Adopt proposed changes to recreational Pacific halibut fishing regulations.

**Summary of Previous/Future Actions**

- Notice hearing Dec 7-8, 2016; San Diego
- Discussion hearing Feb 8-9, 2017; Rohnert Park
- **Today's adoption hearing Apr 13, 2017; Teleconference**

**Background**

In Dec 2016, FGC authorized publication of a notice of its intent to amend the recreational Pacific halibut fishing regulations. The proposed changes to Section 28.20 modify the season to include a range from May 1 to Oct 31, which may include periodic closures, and update the reference to the Federal Register specifying the 2017 federal quota amount.

Pacific halibut is internationally managed under the authority of the Northern Pacific Halibut Act of 1982 between the USA and Canada. Pacific halibut along the U.S. West Coast is jointly managed through authorities of the International Pacific Halibut Commission, Pacific Fishery Management Council, and National Marine Fisheries Service (NMFS), in conjunction with West Coast state agencies. For consistency, FGC routinely adopts regulations to bring State law into conformance with federal and international law for Pacific halibut.

**Significant Public Comments**

1. One comment in support of a status quo season (Exhibit 4).

**Recommendation**

**FGC staff:** Adopt changes to the season structure as recommended by DFW, update the regulation to identify the Federal Register in which the 2017 federal quota amount is specified, and adopt the notice of exemption.

**DFW:** Adopt the open season for recreational take of Pacific halibut as follows: May 1-Jun 15, Jul 1-15, Aug 1-15, and Sep 1-Oct 31, or until the quota is reached, whichever comes first.

**Exhibits**

1. DFW memo, received Oct 6, 2016
2. Initial statement of reasons
3. Draft notice of exemption
4. Email from Tim Klassen, received Feb 12, 2017
5. DFW memo to FGC, received Mar 28, 2017, with DFW Mar 8, 2017 letter to NMFS attached.

## STAFF SUMMARY FOR APRIL 13, 2017

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission has determined, based on the record, this project is exempt from the California Environmental Quality Act pursuant to the guidelines in Public Resources Code sections 15307 and 15308, and adopts the proposed changes to Section 28.20 related to Pacific halibut recreational fishing regulations, as recommended by the Department of Fish and Wildlife.

## STAFF SUMMARY FOR APRIL 13, 2017

**4. OCEAN SALMON RECREATIONAL FISHING****Today's Item****Information** ☐**Action** ☒

Adopt proposed changes to ocean salmon recreational fishing regulations for May-Nov 2017.

**Summary of Previous/Future Actions**

- Notice hearing Dec 7-8, 2016; San Diego
- Discussion hearing Feb 8-9, 2017; Rohnert Park
- **Today's adoption hearing Apr 13, 2017; Teleconference**

**Background**

FGC annually adopts ocean salmon recreational fishing regulations in State waters to conform to federal rules. The Pacific Fishery Management Council (PFMC) coordinates West Coast management of recreational and commercial ocean salmon fisheries in the federal fishery management zone, 3 to 200 miles offshore Washington, Oregon and California. PFMC ocean salmon recommendations are subsequently implemented by the National Marine Fisheries Service, effective May 1 of each year. PFMC will take final action on proposed regulations for federal waters at its Apr 6-12, 2017 meeting.

The proposed regulations for State waters include a broad range of options in five geographic areas, from no fishing in all areas off California to limited fishing in all areas, to increase flexibility and encompass possible PFMC recommendations. At the Apr 13 FGC teleconference meeting, DFW will provide recommendations (which may be different for each area) for opening and closing dates, bag limits, minimum size, and days of the week open after considering the final federal regulations.

**Significant Public Comments (N/A)****Recommendation**

**FGC staff:** Adopt changes to the regulations as recommended by DFW during the teleconference meeting.

**Exhibits**

1. DFW memo, received Nov 2, 2016
2. Initial statement of reasons
3. Draft notice of exemption

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission has determined, based on the record, this project is exempt from the California Environmental Quality Act pursuant to the guidelines in Public Resources Code sections 15307 and 15308, and adopts changes to subsection 27.80(d), related to ocean salmon recreational fishing regulations, as recommended today by the Department of Fish and Wildlife.

## STAFF SUMMARY FOR APRIL 13, 2017

**5. KLAMATH RIVER BASIN SPORT FISHING****Today's Item****Information** ☐**Action** ☒

Adopt proposed changes to Klamath River Basin salmon sport fishing regulations.

**Summary of Previous/Future Actions**

- |                                   |                                     |
|-----------------------------------|-------------------------------------|
| • WRC vetting                     | Sep 21, 2016; WRC Sacramento        |
| • Notice hearing                  | Dec 7-8, 2016; San Diego            |
| • Discussion hearing              | Feb 8-9, 2017; Rohnert Park         |
| • <b>Today's adoption hearing</b> | <b>Apr 13, 2017; Teleconference</b> |

**Background**

In Dec, FGC authorized publication of notice of its intent to amend the Klamath River Basin salmon sport fishing regulations. The Klamath River Basin, which consists of the Klamath River and Trinity River systems, is managed through a cooperative system of State, Federal and tribal management agencies.

FGC annually adopts Klamath River Basin salmon sport fishing regulations consistent with federal fishery management goals. FGC will adopt specific salmon bag and possession limits after the Pacific Fishery Management Council reviews West Coast salmon stocks and makes recommendations regarding fishery allocations to the National Marine Fishery Service. Two tribal entities within the Klamath River Basin (Hoopa Valley Tribe and Yurok Tribe) maintain fishing rights for ceremonial, subsistence and commercial fisheries that are managed consistent with federal fishery management goals.

DFW has recommended that Subsection 7.50(b)(91.1) be proposed for amendment to:

1. *Change quota, bag limit and possession limit.* The proposed regulations include an allocation range of 0-67,600 adult (over 22") Klamath River Fall-run Chinook salmon (KRFC); bag limit between 0-4 KRFC with no more than 0-4 fish over 22" until the sub-quota is met, then 0 fish over 22"; possession limit between 0-12 KRFC with no more than 0-12 fish over 22" when the take of salmon over 22" is allowed
2. *Clean up for clarity and consistency.*

**Significant Public Comments (N/A)****Recommendation**

**FGC staff:** Adopt changes to the regulations as recommended by DFW during the teleconference meeting.

**Exhibits**

1. DFW memo, received Nov 2, 2016
2. Initial statement of reasons
3. Draft notice of exemption

## STAFF SUMMARY FOR APRIL 13, 2017

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission has determined, based on the record, this project is exempt from the California Environmental Quality Act pursuant to the guidelines in Public Resources Code sections 15307 and 15308, and adopts changes to subsection 7.50(b)(91.1), related to Klamath River Basin salmon sport fishing regulations, as recommended today by the Department of Fish and Wildlife.



## STAFF SUMMARY FOR APRIL 13, 2017

**6. CENTRAL VALLEY SALMON SPORT FISHING****Today's Item****Information** ☒**Action** ☐

Discuss proposed changes to Central Valley salmon sport fishing regulations for 2017-18 season.

**Summary of Previous/Future Actions**

- |                                     |                                       |
|-------------------------------------|---------------------------------------|
| • WRC vetting                       | Sep 21, 2016; Sacramento              |
| • Notice hearing                    | Dec 7-8, 2016; San Diego              |
| • Discussion hearing                | Feb 8-9, 2017; Rohnert Park           |
| • <b>Today's discussion hearing</b> | <b>April 13, 2017; Teleconference</b> |
| • Adoption hearing                  | Apr 26-27, 2017; Van Nuys             |

**Background**

In Dec, FGC authorized publication of notice of proposed changes to subsections 7.50(b)(5), (68) and (156.5), including a range of bag and possession limits in the American, Feather, and Sacramento rivers to encompass mid-Apr Pacific Fishery Management Council (PFMC) allocation recommendations for Central Valley salmon stocks. In addition, at its Dec meeting, FGC directed that the initial statement of reasons and proposed regulations be amended to include a closure of the Sacramento River between Keswick Dam and the Hwy 44 bridge to protect winter-run Chinook Salmon. See exhibits 1 and 2.

FGC annually adopts Central Valley salmon sport fishing regulations consistent with federal fishery management goals. FGC adopts specific salmon bag and possession limits after PFMC reviews West Coast salmon stocks and makes recommendations to the National Marine Fishery Service regarding fishery allocations; allocation recommendations are expected to be received just prior to this teleconference.

Specific bag and possession limits for Central Valley fall-run Chinook Salmon will be recommended by DFW and presented at this teleconference meeting. To allow state agencies a full 30 days to review the initial study and negative declaration, adoption is scheduled for Apr 26-27 in Van Nuys. See exhibits 3 and 4.

**Significant Public Comments (N/A)****Recommendation (N/A)****Exhibits**

1. DFW memo, received Nov 2, 2016
2. Initial statement of reasons, received Jan 2017
3. DFW memo with initial study/negative declaration, received Jan 18, 2017
4. Continuation notice, dated Mar 30, 2017

**Motion/Direction (N/A)**

## STAFF SUMMARY FOR APRIL 13, 2017

**7. USE OF DOGS FOR PURSUIT AND TAKE OF MAMMALS****Today's Item****Information** ☒**Action** ☐

Discuss proposed changes to regulations concerning the use of dogs for the pursuit and take of mammals.

**Summary of Previous/Future Actions**

- |   |                                       |
|---|---------------------------------------|
| • Notice hearing                        | Oct 19-20, 2016; Eureka               |
| • Discussion hearing                    | Dec 7-8, 2016; San Diego              |
| • Originally scheduled adoption hearing | Feb 8-9, 2017; Rohnert Park           |
| • Further discussion                    | March 15, 2017; Teleconference        |
| • <b>Today's further discussion</b>     | <b>April 13, 2017; Teleconference</b> |
| • Adoption hearing                      | April 26-27, 2017; Van Nuys           |

**Background**

In Apr 2016, FGC adopted changes to Section 265, Title 14, California Code of Regulations, deleting language restricting the use of global positioning system (GPS) collars and treeing switches for dogs aiding a hunter; this amendment effectively authorized the use of those devices as an aid in hunting. Subsequently a lawsuit was filed challenging the adoption alleging California Environmental Quality Act (CEQA) process deficiencies; FGC has determined that further rulemaking may be necessary to resolve that lawsuit.

The current rulemaking (Exhibit 1) and related CEQA analysis will help to further inform FGC about the issues related to regulating the use of dogs as an aid to hunting and associated equipment for those dogs. The proposed regulation inserts a provision prohibiting the use of treeing switches on dog collars when dogs are used as an aid in hunting and inserts a provision prohibiting the use of GPS-equipped dog collars when dogs are used as an aid in hunting; both provisions existed in the regulation prior to the Apr 2016 changes.

In Dec 2016, FGC discussion included a vote that directed staff to prepare a notice for further rulemaking to be considered by FGC immediately after and at the same meeting as any adoption of the currently proposed regulation, to consider authorizing GPS collars and treeing switches. In Feb 2017, FGC voted to continue the current rulemaking to include an additional discussion hearing during the Mar 15, 2017 teleconference meeting and re-schedule the final adoption until Apr 26-27, 2017. On Mar 15, FGC added a discussion hearing to the agenda for this teleconference meeting.

FGC requested that DFW staff develop an analysis of the impacts of both allowing GPS collars and treeing switches and prohibiting the use of that gear; DFW has completed that analysis, which is included as Exhibit 2.

**Significant Public Comments**

- Opposition to the proposed regulation from a half dozen individuals and organizations, including Assembly Member Randy Voepel (see exhibits 3-5 for examples).

## STAFF SUMMARY FOR APRIL 13, 2017

- Support for the proposed regulation from about a dozen individuals and organizations (see exhibits 6-8 for examples).

**Recommendation (N/A)****Exhibits**

1. ISOR, notice, and continuation  
notices: [http://www.fgc.ca.gov/regulations/2016/#265\\_2](http://www.fgc.ca.gov/regulations/2016/#265_2)
2. DFW memo with attachment
3. Email from San Diego County Wildlife Federation, received Mar 13, 2017
4. Two letters from Outdoor Sportsmen's Coalition of California, received Mar 24, 2017  
(similar letters received from Safari Club International and California Sportsmen's Lobby)
5. Letter from Assembly Member Randy Voepel, received Mar 29, 2017
6. Email from Katie and Jim Cather, received Mar 1, 2017
7. Letter from Protecting Earth & Animals with Compassion & Education, received Mar 29, 2017
8. Email from Mary and Donald Belkin, received Mar 29, 2017

**Motion/Direction (N/A)**

## Memorandum

2016 OCT -6 AM 10:40

Date: October 3, 2016

To: Valerie Termini, Executive Director  
Fish and Game Commission

From: Charlton H. Bonham  
Director



Subject: **Agenda Item for the December 7-8, 2016, Fish and Game Commission Meeting, Request to Publish Notice of the Commission's Intent to Amend Section 28.20, Title 14, California Code of Regulations, Re: Pacific Halibut**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to consider amending existing regulations for the recreational Pacific halibut (*Hippoglossus stenolepis*) fishery (Section 28.20, Title 14, CCR).

An Initial Statement of Reasons (ISOR) is attached, which proposes regulatory changes needed to align State regulations to federal regulations. This will allow for discussion and adoption at the February and April 2017 Commission meetings, respectively.

A Notice of Exemption (NOE) is also attached. Since the NOE is not anticipated to change, this early submission gives the Commission notice of the Department's recommendation to rely on a California Environmental Quality Act (CEQA) categorical exemption for the Pacific halibut rulemaking. The following paragraphs describe staff's analysis of use of a categorical exemption under the CEQA.

### **Categorical Exemptions to Protect Natural Resources and the Environment**

The Commission's adoption of these regulations is an action subject to CEQA. The review effort by Department staff pursuant to CEQA Guidelines section 15061 lead staff to conclude that adoption of the regulations would properly fall within the Class 7 and Class 8 categorical exemptions (CEQA Guidelines sections 15307, 15308). These two exemptions are related to agency actions to protect natural resources and the environment. The proposed regulations define annual fishing seasons, federal quota allocations, daily bag and sizes limits, and specify methods of take for alignment with enacted federal regulations. State conformance with federal regulations is also necessary to maintain continued State authority over its recreational Pacific halibut fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). In staff's view, because these regulations are intended to protect the sustainability of the fishery as a natural resource, the Commission's adoption of regulations is an activity that is the proper subject of CEQA's Class 7 and 8 categorical exemptions.



**No Exceptions to Categorical Exemptions Apply**

As to the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2, including the prospect of unusual circumstances and related effects, the Department's review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Department relevant to the issue and does not believe adoption of the regulations poses any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of wildlife preservation activities such as the current effort, there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or cumulative basis are expected. The intent of the proposed regulations is conformance of State regulations with federal regulations to maintain continued State authority over its recreational Pacific halibut fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are anticipated to achieve optimum yield in the fishery, but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery.

Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines section 15300.2.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246. The public notice for this rulemaking should identify Environmental Scientist, Melanie Parker as the Department's point of contact. Ms. Parker can be reached at (831) 649-2814 or [Melanie.Parker@wildlife.ca.gov](mailto:Melanie.Parker@wildlife.ca.gov).

Attachment

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Fish and Game Commission  
October 3, 2016  
Page 3

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STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 28.20  
Title 14, California Code of Regulations  
Re: Pacific Halibut

- I. Date of Initial Statement of Reasons: October 3, 2016
- II. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: December 7, 2016  
Location: San Diego, CA
  - (b) Discussion Hearing: Date: February 9, 2017  
Location: Rohnert Park, CA
  - (c) Adoption Hearing: Date: April 13, 2017  
Location: Teleconference
- III. Description of Regulatory Action:
  - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Pacific halibut is internationally managed under the authority of the Northern Pacific Halibut Act of 1982 (the “Act”; Title 16, Chapter 10, Subchapter IV, Sections 773 to 773k, U.S. Code) pursuant to the 1923 treaty between the United States of America and Canada for the Preservation of the [Pacific] Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). Provisions of the Convention establish the International Pacific Halibut Commission (IPHC) and outline general administrative and enforcement requirements by the respective parties.

Convention waters as defined include “... the waters off the west coasts of the United States and Canada ... within the respective maritime areas in which either Party exercises exclusive fisheries jurisdiction. For the purposes of this Convention, the “maritime area” in which a Party exercises exclusive fisheries jurisdiction includes without distinction areas within and seaward of the territorial sea or internal waters of the Party.” (Article I).



The IPHC was established to conduct research and coordinate management activities in waters of the parties to the Act. Pacific halibut along the United States west coast is jointly managed through the IPHC, Pacific Fishery Management Council (PFMC), and the National Marine Fisheries Service (NMFS), in conjunction with west coast state agencies. The IPHC sets the annual Total Allowable Catch (TAC) for each of the Pacific halibut management areas (including the west coast – Area 2A) using stock assessment and research survey results, which are then effectuated through regulations by NMFS.

The PFMC coordinates west coast management of all recreational and commercial Pacific halibut fisheries in United States waters through the Area 2A Pacific Halibut Catch Sharing Plan (CSP), which constitutes a framework for recommending annual management measures to NMFS. The CSP framework also establishes the sharing formula used for allocating the Area 2A TAC among west coast fisheries, including the California recreational fishery. NMFS is responsible for specifying the final CSP language and management measures in federal regulations (50 CFR Part 300, Subpart E and Federal Register) and reporting season specifications on its halibut telephone hotline.

For species managed under federal fishery management plans and their regulations, the Fish and Game Commission (Commission) has usually taken concurrent action to conform State recreational regulations to federal regulations. This is done in recognition of federal jurisdiction and to ensure consistency and ease of use for constituents who are subject to both State and federal laws while fishing for or in possession of sport fish. Pacific halibut federal regulations are applicable in federal waters (three to 200 miles offshore) off Washington, Oregon and California. Each state adjacent to federal waters adopts corresponding fishery regulations for their own waters (zero to three miles offshore).

#### **PFMC Action Re: Pacific Halibut Fishing Off California**

At its November 2016 meeting, the PFMC will recommend changes to the 2017 CSP and recreational Pacific halibut fishery in California. Federal regulations are expected to become effective prior to May 1, 2017.

#### **Pacific Halibut Quota Management**

The established quota management system for the Pacific halibut recreational fishery ensures catches stay within the allowable quota.

Following the determination of the 2017 Area 2A TAC by the IPHC (in late January 2017), the Department of Fish and Wildlife (Department) may conduct additional public outreach to gather input to inform the NMFS decision on a preferred 2017 fishing season expected to keep catches

within the allowable quota. After consideration of the input received, the Department will recommend a preferred 2017 California recreational season structure to NMFS for approval. The approved season will be included in the final federal regulations and on the NMFS halibut hotline prior to the start of the season.

During the 2017 fishing season, the Department will actively monitor the fishery and coordinate with NMFS, the IPHC and PFMC weekly on the status of catches relative to the Pacific halibut quota. If catches are projected to meet or exceed the California quota, NMFS and the IPHC could take action to close or modify the fishery following consultation with the Department. The NMFS will provide notice of any inseason action to close the season in California via its halibut hotline; this is similar to the process used for recreational fisheries in Oregon and Washington.

The Department shall also inform the Commission and the public via a press release of any inseason changes in regulations triggered by achieving or expecting to exceed the quota. The latest fishing rules will be posted on the Department's website, the Recreational Groundfish Fishing Regulations Hotline, the NMFS Area 2A halibut hotline, and made available by contacting a Department office.

### **Present Regulations**

Current regulations for Pacific halibut authorize recreational fishing in waters off California from May 1 through 15, June 1 through 15, July 1 through 15, August 1 through 15, and September 1 through October 31 or until the quota has been projected to have been met, whichever comes first. The State and federal daily bag limit is one fish per angler and there is no minimum size limit.

Present regulations also establish methods of take and include the use of hook and line, harpoons, spears, and bow and arrow gear.

### **Proposed Amendments**

The Department is proposing the following regulatory changes to be consistent with PFMC recommendations and the CSP for Pacific halibut regulations in 2017. This approach will allow the Commission to adopt State recreational Pacific halibut regulations to conform in a timely manner to those taking effect in federal ocean waters on or before May 1, 2017.

The proposed regulatory changes to Section 28.20 would modify the seasons to include a range from May 1 to October 31 which may include periodic closures, and update the reference to the Federal Register specifying the 2017 federal quota amount. The final regulation will conform to the season, established by federal regulations, which begins in May 2017.

### **Goals and Benefits of the Regulation**

It is the policy of the State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the policy of the State to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport. Adoption of scientifically-based seasons and other regulations provides for the maintenance of sufficient populations of Pacific halibut to ensure their continued existence.

The benefits of the proposed regulations are consistency with international treaty and federal regulations and the sustainable management of California's Pacific halibut resources.

- (b) Authority and Reference Sections from Fish and Game Code and Code of Federal Regulations for Regulation:

Authority: Sections 200, 202, 205, 219, 220, 240 and 316, Fish and Game Code.

Reference: Sections 200, 202, 203.1, 205, 207, 215, 219, 220 and 316, Fish and Game Code, 50 CFR Part 300, Subpart E; and 50 CFR 300.66.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea.

Northern Pacific Halibut Act of 1982:

<http://www.gpo.gov/fdsys/pkg/USCODE-2010-title16/html/USCODE-2010-title16-chap10-subchapIV.htm>

Environmental Assessment and Regulatory Impact Review for Continuing Implementation of the Catch Sharing Plan for Pacific Halibut in Area 2A, 2014-2016:

<http://www.westcoast.fisheries.noaa.gov/publications/nepa/halibut/ea-halibut-2014.pdf>

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:
- September 17, 2016, PFMC meeting in Boise, ID.
  - November 16-21, 2016, PFMC meeting in Garden Grove, CA.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

- (b) No Change Alternative:

Under the No-Change Alternative, status quo management of the Pacific halibut resource would continue for 2017. This could result in misalignment between federal and State regulations when NMFS establishes new regulations for the California fishery for 2017 or if NMFS takes inseason action to modify or close the fishery. Inconsistency in regulations will create confusion among the public and may result in laws that are difficult to enforce.

It is critical to have consistent State and federal regulations establishing season dates, depth constraints and other management measures, and also critical that the State and federal regulations be effective concurrently. Consistency with federal regulations is also necessary to maintain State authority over its recreational Pacific halibut fisheries and avoid federal or international preemption

- (c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose 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 affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. 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 because the regulatory action does not substantially alter existing conditions.

- (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 in California, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities to participate in sport fisheries fosters conservation through education and appreciation of fish and wildlife.

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

The Commission does not anticipate any benefits to worker safety.

Additional benefits of the proposed regulations are consistency with federal regulations and promotion of businesses that rely on recreational Pacific halibut fishing.

- (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.

## VII. Economic Impact Assessment:

Recreational fisheries are broadly sub-divided between private anglers and commercial passenger fishing vessels. The economic impact of regulatory changes for recreational fisheries is estimated by tracking the resulting changes in fishing effort, angler trips and length of stay in the fishery areas. Distance traveled affects gas and other travel expenditures. Daytrips and overnight trips involve different levels of spending for gas, food, and accommodations at area businesses as well as different levels of sales tax impacts. Direct expenditures ripple through the economy, as receiving businesses buy intermediate goods from suppliers who then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses. Spending related to recreational fisheries thus multiplies throughout the economy with the indirect and induced effects of the initial direct expenditure.

In the aftermath of a 2014 Pacific halibut one month fishing closure, surveys<sup>a</sup> of anglers and businesses were conducted to gauge the

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<sup>a</sup> Hesselgrave, T., N. Enelow, and K. Sheeran, 2014. The Estimated Economic Impact of the Northern California Pacific Halibut Closure of August 2014 (recreational and charter boats), conducted by Ecotrust, funded by Humboldt Area Saltwater Anglers.

Takada, M., 2014. Analysis of the Economic Effects of the August Pacific Halibut Closure on California's North Coast Businesses, conducted by Humboldt State University, funded by California Department of Fish and Wildlife.

importance of the Pacific halibut fishery to anglers and local communities. Of 265 angler respondents, about 20 percent of Pacific halibut anglers traveled from outside of coastal northern California, while the majority of survey respondents were from California's north coast. The Department's 2014 surveys similarly found that 70 percent of anglers reported residing within California's three north coast counties (Mendocino, Humboldt, and Del Norte). Of the total reported trips (6,589), the respondent anglers each took on average more than 30 trips in the 2013/2014 seasons, and 34 percent included Pacific halibut as a primary target. Results indicated an even higher number (89 percent) pursued Pacific halibut as one of their primary target species, and 70 percent also pursued other species on trips for Pacific halibut. The average angler traveled 119 miles on land and 23 miles on water on their most recent Pacific halibut trip. Overall, angler expenditures averaged about \$250 per angler trip and both surveys concluded that recreational fishing for Pacific halibut is economically important to charter boat businesses, tackle and marine supply businesses, lodging establishments near fishing access points, and some businesses that provide traveler services such as: gas stations, markets, convenience stores, and restaurants.

The adoption of scientifically-based regulations provides for the maintenance of sufficient populations of sport fish to ensure their continued existence and future sport fishing opportunities that in turn support local and regional economies. In a 2012 Fisheries Economics Report by the NMFS, all marine recreational anglers trip-related and equipment expenditures sum to approximately \$1.7 billion in California. Coupled with the indirect and induced effects of this \$1.7 billion direct revenue contribution, the total realized economic benefit to California is estimated at \$2.7 billion in annual total economic output. This corresponds with about \$630 million in total wages to Californians, which affects about 13,000 jobs in the State, annually. The portion of this benefit specifically derived from or related to the Pacific halibut fishery is unknown.

The proposed regulations will modify State recreational Pacific halibut regulations to conform to federal rules. Currently, State regulations for Pacific halibut provide for an annual quota, season length, authorized methods of take, and bag limit.

In adopting these conforming regulations, the State relies on information provided in the federal Draft Environmental Assessment which includes analysis of impacts to California. (Environmental Assessment And Regulatory Impact Review For Continuing Implementation Of The Catch Sharing Plan For Pacific Halibut In Area 2A, 2014-2016)

<http://www.westcoast.fisheries.noaa.gov/publications/nepa/halibut/ea-halibut-2014.pdf>.

For public notice purposes to facilitate Commission discussion, the Department is proposing regulatory changes to encompass the range of federal Pacific halibut regulations that are expected to be in effect for 2017. The proposed regulatory changes may modify season length and update the reference to the Federal Register specifying the 2017 federal quota amount.

Economic impacts are not expected to change compared to 2016 because the fishery season when set, is expected to provide similar fishing opportunities as the previous year. Throughout 2017, the number of angler trips is expected to continue with little change from 2016. Thus, the estimated impact from angler spending is anticipated to be close to status quo.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The cumulative effects of the changes statewide are estimated to be neutral to job elimination and potentially positive to job creation in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The cumulative effects of the changes statewide are expected to be neutral to business elimination and have potentially positive impacts to the creation of businesses in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The cumulative effects of the changes statewide are expected to be neutral to positive to the expansion of businesses currently doing business in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.



- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities to participate in sport fisheries fosters conservation through education and appreciation of California's wildlife.

- (e) Benefits of the Regulation to Worker Safety:

The proposed regulations are not anticipated to impact worker safety conditions.

- (f) Benefits of the Regulation to the State's Environment:

It is the policy of this State to encourage the conservation, maintenance, and utilization of living marine resources under the jurisdiction and influence of the State for the benefit of all citizens (Section 1700, Fish and Game Code). Benefits of the proposed regulations include continuation of fishing opportunity, along with the continuation of the reasonable and sustainable management of recreational finfish resources. Adoption of scientifically-based seasons provide for the maintenance of sufficient populations of Pacific halibut to ensure their continued existence.

- (g) Other Benefits of the Regulation:

Concurrence with Federal Law:

Pacific halibut along the United States west coast is jointly managed through the IPHC, PFMC, and the NMFS, in conjunction with west coast state agencies. The PFMC annually reviews the status of Pacific halibut regulations. As part of that process, it recommends regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Halibut CSP. These recommendations coordinate management of recreational Pacific halibut in State (zero to three miles) and federal waters (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS.

California's sport fishing regulations need to conform to federal regulations to ensure that biological and fishery allocation goals are not exceeded and to provide uniformity in management and enforcement activities across jurisdictions.

## Informative Digest/Policy Statement Overview

Pacific halibut is internationally managed under the authority of the Northern Pacific Halibut Act of 1982 between the United States of America and Canada. Pacific halibut along the United States west coast is jointly managed through the International Pacific Halibut Commission (IPHC), Pacific Fishery Management Council (PFMC), and the National Marine Fisheries Service (NMFS), in conjunction with the west coast state agencies. The PFMC coordinates west coast management of all recreational and commercial Pacific halibut fisheries in United States waters through the Pacific Halibut Catch Sharing Plan (CSP), which constitutes a framework for recommending annual management measures. NMFS is responsible for specifying the final CSP language and management measures in federal regulations (50 CFR Part 300, Subpart E and the Federal Register) and noticing them on its halibut telephone hotline. Federal regulations for Pacific halibut are applicable in federal waters (three to 200 miles offshore) off Washington, Oregon, and California. Each state adjacent to federal waters adopts corresponding fishery regulations for their own waters (zero to three miles offshore).

For consistency, the California Fish and Game Commission (Commission) routinely adopts regulations to bring State law into conformance with federal and international law for Pacific halibut.

At its November 2016 meeting, the PFMC will recommend changes to the 2017 CSP and recreational Pacific halibut fishery in California. The November PFMC regulatory recommendation and NMFS final rule will be considered by the Commission when it takes its own regulatory action to establish the State's recreational Pacific halibut fishery regulations for 2017.

### **Summary of Proposed Amendments**

The Department of Fish and Wildlife (Department) is proposing the following regulatory changes to be consistent with PFMC recommendations and the CSP for Pacific halibut regulations in 2017. This approach will allow the Commission to adopt State recreational Pacific halibut regulations to conform in a timely manner to those taking effect in federal ocean waters on or before May 1, 2017.

The proposed regulatory changes modify Pacific halibut regulations to allow for timely conformance to federal fisheries regulations and inseason changes. The proposed regulatory changes would modify the seasons to include a range from May 1 to October 31 which may include periodic closures, and update the reference to the Federal Register specifying the 2017 federal quota amount. The final regulation will conform to the season established by federal regulations in May 2017.

The benefits of the proposed regulations are: consistency with federal regulations, the sustainable management of California's Pacific halibut resources, and health and welfare of anglers.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations (Fish and Game Code, sections 200, 202, and 205) and Pacific halibut fishing regulations specifically (Fish and Game Code, Section 316). The proposed regulations are consistent with regulations for sport fishing in marine protected areas (Section 632, Title 14, CCR) and with general sport fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the CCR and has found no other State regulations related to the recreational take of Pacific halibut.

## Regulatory Language

Section 28.20, Title 14, CCR, is amended to read:

### **§28.20. Halibut, Pacific.**

(a) Season:

(1) Pacific halibut may be taken only from [varied dates within the range from May 1 to October 31, and may include periodic closures]~~May 1 through 15, June 1 through 15, July 1 through 15, August 1 through 15, and September 1 through October 31~~, or until the quota is reached, whichever is earlier. Pacific halibut take is regulated by a quota that is closely monitored each year in alignment with federal regulations.

(2) The Pacific halibut quota is published in the Federal Register ~~81 FR 18789, April 1, 2016~~ [Volume and Date to be inserted by OAL]. The department shall inform the commission, and the public via a press release, prior to any implementation of restrictions triggered by achieving or expecting to exceed the quota. Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: [wildlife.ca.gov/Fishing/Ocean](http://wildlife.ca.gov/Fishing/Ocean), or by calling the Recreational Groundfish Fishing Regulations Hotline (831) 649-2801 or the National Marine Fisheries Service Area 2A Halibut Hotline (800) 662-9825 for recorded information, or by contacting a department office.

(b) Limit: One.

(c) Minimum size: None.

(d) Methods of Take:

(1) When angling, no more than one line with two hooks attached may be used.

(2) A harpoon, gaff, or net may be used to assist in taking a Pacific halibut that has been legally caught by angling. See Section 28.95 of these regulations for additional restrictions on the use of harpoons.

(3) Take by spearfishing is allowed pursuant to Section 28.90 of these regulations.

Note: Authority cited: Sections 200, 202, 205, 219, 220, 240 and 316, Fish and Game Code. Reference: Sections 200, 202, 203.1, 205, 207, 215, 219, 220 and 316, Fish and Game Code, 50 CFR Part 300, Subpart E; and 50 CFR Part 300.66.

# Notice of Exemption

## Appendix E

**To:** Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: N/A

**From:** (Public Agency): CA Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814

(Address)

Project Title: Amend Section 28.20, Title 14, California Code of Regulations, Re: Pacific Halibut

Project Applicant: N/A

Project Location - Specific:

Statewide

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

Pacific halibut is jointly managed by the International Pacific Halibut Commission, Pacific Fishery Management Council, National Marine Fisheries Service, and the west coast states. The Fish and Game Commission has taken concurrent action to conform State recreational regulations to federal regulations.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Cal. Code Regs., tit. 14, §§ 15307, 15308
- ☐ Statutory Exemptions. State code number: \_\_\_\_\_

Reasons why project is exempt:

See attached.

Lead Agency

Contact Person: Valerie Termini

Area Code/Telephone/Extension: (916) 653-4899

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: \_\_\_\_\_ Date: 4/13/2017 Title: Executive Director

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

## ATTACHMENT TO NOTICE OF EXEMPTION

April 13, 2017

### **Adoption of Pacific Halibut Regulations**

The California Fish and Game Commission (Commission) took final action under the Fish and Game Code and the Administrative Procedure Act (APA) with respect to the proposed project on April 13, 2017. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the regulations relying on the categorical exemption for “Actions by Regulatory Agencies for Protection of Natural Resources” contained in CEQA Guidelines Section 15307, and the categorical exemption for “Actions by Regulatory Agencies for Protection of the Environment” contained in CEQA Guidelines Section 15308. (Cal. Code Regs., tit. 14, §§ 15307, 15308.)

### **Categorical Exemptions to Protect Natural Resources and the Environment**

In adopting the Pacific halibut regulations to conform to federal regulations jointly adopted by the International Pacific Halibut Commission, Pacific Fishery Management Council, and National Marine Fisheries Service, the Commission relied for purposes of CEQA on the Class 7 and 8 categorical exemptions. In general, both exemptions apply to agency actions to protect natural resources and the environment. The regulations define annual fishing seasons, federal quota allocations, daily bag and size limits and specify methods of take for alignment with enacted federal regulations. The federal regulations are developed with the dual purpose of maintaining optimum yield while at the same time preventing overfishing and conserving the resource. State conformance with federal regulations is also necessary to maintain continued State authority over its recreational Pacific halibut fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). Because these regulations are intended to protect the sustainability of the fishery as a natural resource, Commission adoption of these regulations is an activity that is the proper subject of CEQA’s Class 7 and 8 categorical exemptions.

### **No Exceptions to Categorical Exemptions Apply**

As to the exceptions to categorical exemptions set forth in CEQA Guidelines Section 15300.2, including the prospect of unusual circumstances and related effects, the Commission review was guided by the California Supreme Court’s recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Commission relevant to the issue and does not believe adoption of the regulations creates any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of wildlife preservation activities such as the current effort, there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or a cumulative basis are expected. The intent of the proposed regulations is conformance of State regulations with federal regulations to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are anticipated to achieve optimum yield in the fishery, but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery.

Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

DRAFT

**From:**  
**Sent:** Sunday, February 12, 2017 4:51 AM  
**To:** FGC  
**Subject:** Pacific Halibut Regulations for 2017

I strongly support the status quo for the 2017 Pacific Halibut Regulations. As a charter boat operator in Eureka I have been booking Halibut trips for several months now based on last years regulations.

Tim Klassen Reel Steel Sport Fishing Eureka,CA.



## Memorandum

2017 MAR 28 AM 7:11

Date: March 27, 2017

To: Valerie Termini  
Executive Director  
Fish and Game Commission

From: Charlton H. Bonham  
Director



Subject: **Agenda Item for the April 13, 2017 Fish and Game Commission Teleconference - Request to Amend Section 28.20, Title 14, CCR**

The California Department of Fish and Wildlife (Department) would like to update the Fish and Game Commission (Commission) on its recommendation regarding the 2017 recreational Pacific halibut season dates. At the Commission's February 9, 2017 discussion hearing in Santa Rosa, the Department recommended the same season dates as 2015 and 2016. At the time, no public comments on the season had been received.

Following that meeting, public input was received by both the Department and the Commission expressing interest in additional open fishing days that align with holiday weekends. In response to this input, the Department analyzed the possibility of adding additional open days, and submitted comments to the National Marine Fisheries Service (NMFS) recommending a longer open season that would allow the fishery to be open over the Memorial Day weekend, in addition to Labor Day and Independence Day weekends. The Department's comment letter is attached.

Based on the 2017 Area 2A total allowable catch of 1,330,000 pounds, the 2017 Pacific halibut quota for the California subarea will be 34,580 pounds -- about 5,000 pounds more than the 2016 quota. Due to this quota increase, and considering the fishery catch trends observed during 2015 (Figure 1) and 2016 (Figure 2) and the comments received from the public, the Department recommends the Commission adopt an additional 16 open days in the 2017 season so that the entire month of May would be open, consistent with the Department's recommendation to NMFS.

The proposed dates are expected to continue to meet the goal of providing as much opportunity throughout the season while ensuring the quota is attained. The fishery would be open May 1 to June 15, July 1 to 15, August 1 to 15, and September 1 to October 31, or until the quota has been taken, whichever comes first, at which time the fishery will be closed for the remainder of the year. As in 2015 and 2016, the dates are not guaranteed days, and the season could be closed early if it is determined that projected catches will exceed the California quota.

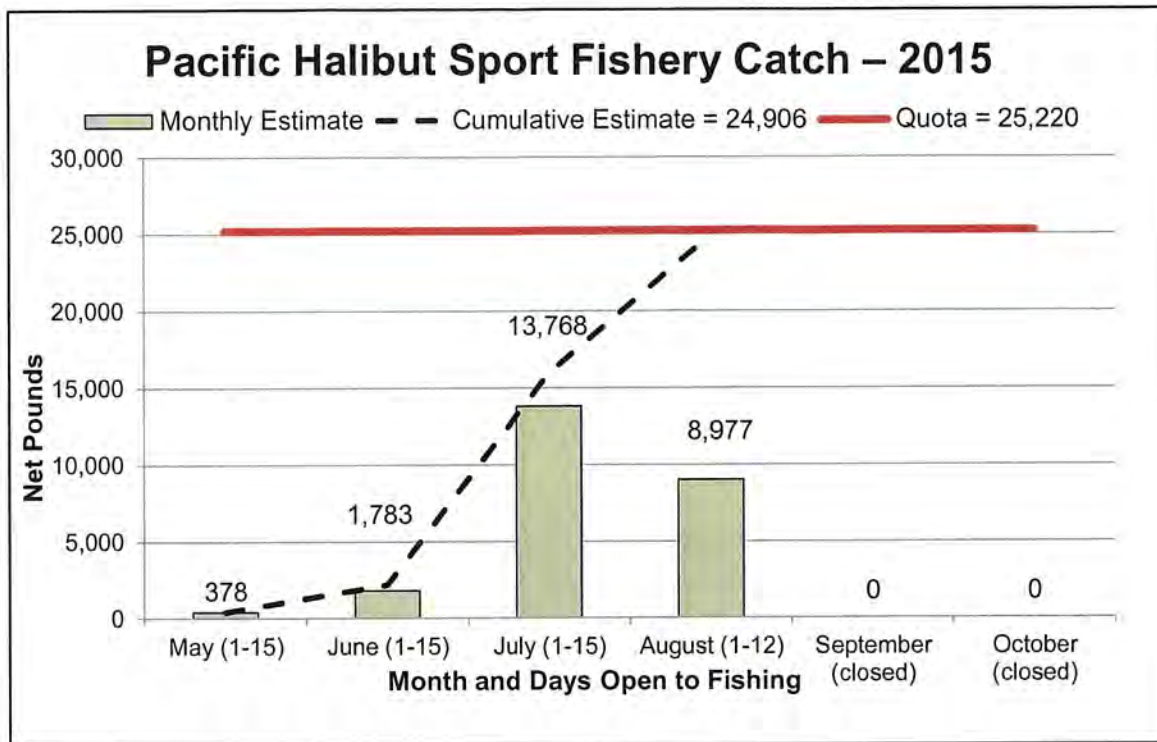


Figure 1. California recreational Pacific halibut monthly estimated catches, cumulative season total catches, and annual quota amount in net pounds for 2015. The fishery in 2015 was scheduled to be open May 1 to 15, June 1 to 15, July 1 to 15, August 1 to 15, and September 1 to October 31 or until the quota was taken. The fishery closed on August 13, 2015, after 57 open days of fishing, due to projected attainment of the quota. Data from CDFW.

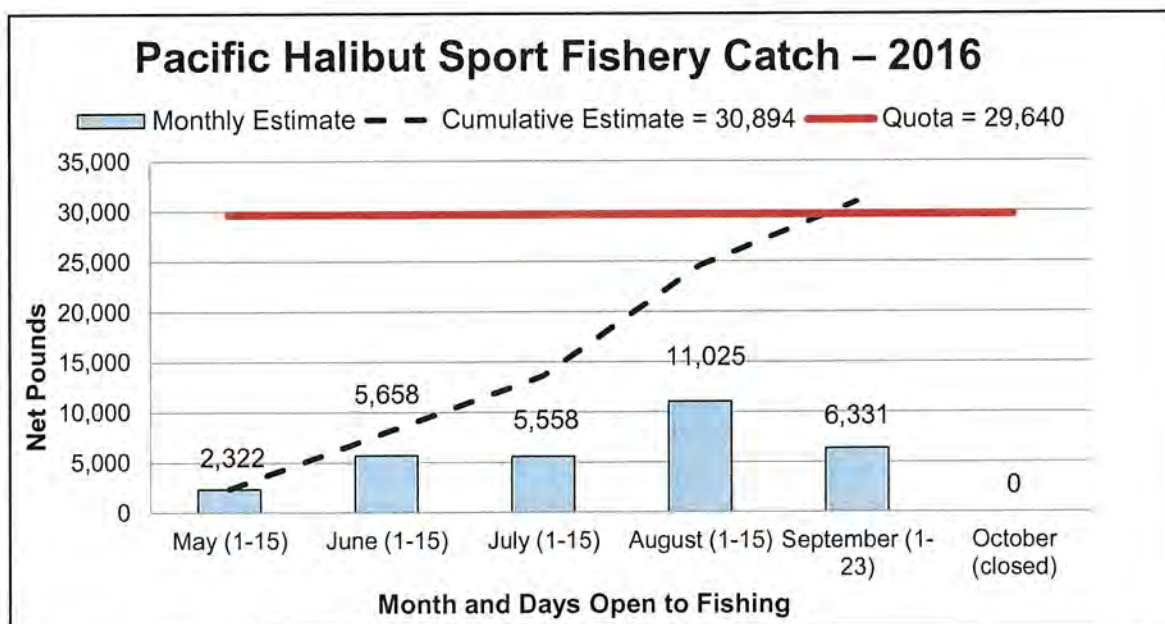


Figure 2. California recreational Pacific halibut monthly catch estimates, cumulative season total catches, and quota amount in net pounds for 2016. The fishery in 2016 was scheduled to be open May 1 to 15, June 1 to 15, July 1 to 15, August 1 to 15, and September 1 to October 31, or until the quota had been taken. The fishery closed on September 24, 2016, after 83 open days of fishing, due to projected attainment of the quota. Data from CDFW.



The Department analyzed projected catch during the proposed season dates (Figure 3) and does not expect the additional open days in May will have a substantial effect on the timing of quota attainment, especially when considering the increased 2017 quota. The Department notes that catch projections cannot account for the unpredictability of fishing effort, changes in catch rates, availability of alternative targets, weather, effects of moving to a 'derby fishery' mentality off California, and other factors that may affect angler behavior and/or catch.

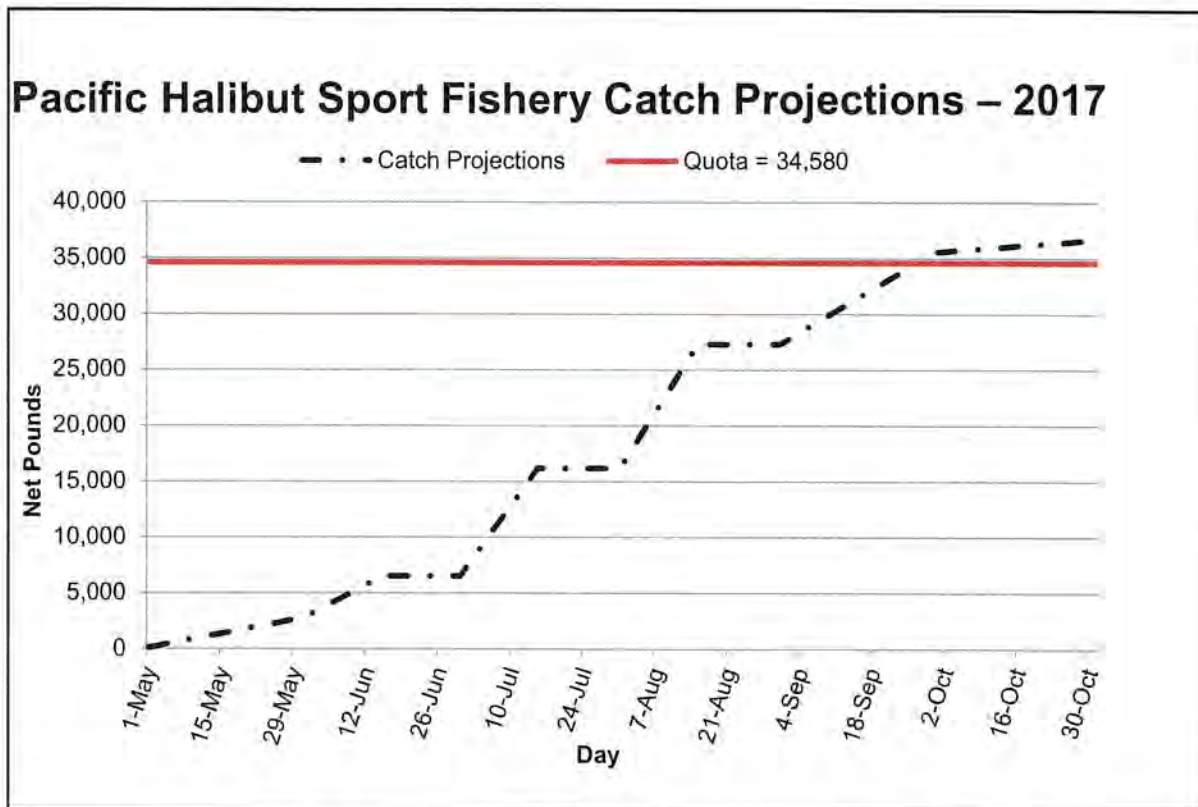


Figure 3. Projected 2017 recreational Pacific halibut catch in net pounds as the season progresses. Catch projections were generated by averaging catch estimates from 2015 and 2016. Projected date of quota attainment is September 26, 2017. Actual fishery performance may vary due to a variety of factors. Data from CDFW.

The Department would also like to acknowledge that angler compliance with the season dates has been outstanding, and the inseason monitoring and closure process has worked effectively to keep catches very close to the quota. These factors were also considered in recommending the additional open days.

Federal halibut regulations that will establish the season dates for California's sport fishery are expected to be effective prior to the May 1 start of the fishery. The Department recommends the Commission adopt these same dates at its April teleconference to maintain consistency between state and federal regulations.

Valerie Termini, Executive Director  
Fish and Game Commission  
March 27, 2017  
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If you have any questions or need additional information, please contact  
Melanie Parker, Environmental Scientist, Marine Region, at (831) 649-2814, or at  
[Melanie.Parker@wildlife.ca.gov](mailto:Melanie.Parker@wildlife.ca.gov).

Attachment

ec: **Department of Fish and Wildlife**

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EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



March 9, 2017

Barry A. Thom  
Regional Administrator  
National Marine Fisheries Service, West Coast Region  
7600 Sand Point Way NE.  
Seattle, WA 98115-0070

Subject: PACIFIC HALIBUT FISHERIES; CATCH SHARING PLAN

Dear Mr. Thom:

In response to your proposed rule dated February 23, 2017, the California Department of Fish and Wildlife (CDFW) provides these comments on the 2017 recreational fishing season for the California subarea as described in the Pacific Halibut Catch Sharing Plan (CSP). CDFW is recommending a change to the status quo season structure (described below) and will continue our inseason catch monitoring and management process to ensure that the annual catch stays within the California quota.

#### **Background**

Prior to 2015, the recreational Pacific halibut fishery in California was managed using a fixed fishing season set in advance and the total catch was determined post-season; there was no inseason management to hold catches to the quota. Beginning in 2015, provisions in the CSP provided California an increased recreational Pacific halibut allocation (and quota) and at that time CDFW implemented inseason management measures to hold catches to the quota.

Based on the 2017 Area 2A Total Allowable Catch (TAC) of 1,330,000 pounds, the 2017 Pacific halibut quota for the California subarea will be 34,580 pounds. Given the increase in the quota and fishery catch trends during 2016, CDFW proposes providing additional open days for the 2017 season. CDFW will continue tracking and monitoring catches inseason on a weekly basis in 2017 and will coordinate through the season with the National Marine Fisheries Service (NMFS), Pacific Fishery Management Council and International Pacific Halibut Commission on the need for closure of the fishery upon attainment, or projected attainment, of the quota.

#### **Recommended Season Dates**

Due to the increase in the California quota amount, the fishery performance in 2016, and comments received by California constituents, CDFW proposes the following open fishing dates with a goal of providing as much opportunity throughout the season while ensuring the quota is fully harvested.

Barry Thom, Regional Administrator  
West Coast Region, NFMS  
March 9, 2017  
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May 1-June 15  
July 1-July 15  
August 1-August 15  
September 1-October 31

The fishery would be open within the dates above until the quota has been taken, or until October 31, whichever comes first, at which time the fishery would close for the remainder of the year. The above fixed season dates are not guaranteed days and the season could be closed early if it is determined projected catches will exceed the California quota.

Although many factors drive fishing effort and catch, CDFW estimates catch expectations for 2017 under an assumption that catch rates will be similar to those seen in 2015 and 2016. CDFW notes that catch projections cannot account for the unpredictability of fishing effort, changes in catch rates, availability of alternative targets, weather, effects of moving to a 'derby fishery' mentality off California, and other factors that may affect angler behavior and/or catch.

The proposed open season dates above would now include May 16-May 31 and reflect a 16-day increase from the 2016 dates. In making this recommendation, CDFW considered requests from the public to offer additional opportunity over holiday weekends, while also noting that the inseason monitoring, closure and notification processes have worked extremely well for compliance, and have also worked well to keep catches very close to the quota. CDFW expects that the additional open days in May could produce higher catch totals than have been observed in recent years in the month of May. However, since total catches for the month of May have been historically low - with a maximum catch of 4,795 pounds when the full month has been open - CDFW does not expect the additional open days in May will have a substantial effect on the timing of quota attainment, especially when factoring in the increased 2017 quota.

If you have any questions or need additional information, please contact Ms. Deb Wilson-Vandenberg, our CDFW Pacific halibut staff, at (831) 649-2892 or [Deb.Wilson-Vandenberg@wildlife.ca.gov](mailto:Deb.Wilson-Vandenberg@wildlife.ca.gov).

Sincerely,



Marci Yaremko, State-Federal Fisheries Program Manager  
California Department of Fish and Wildlife  
[Marci.Yaremko@wildlife.ca.gov](mailto:Marci.Yaremko@wildlife.ca.gov)



Barry Thom, Regional Administrator  
West Coast Region, NFMS  
March 9, 2017  
Page 3

ec:

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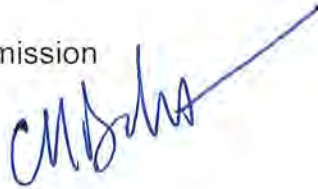
Elizabeth Pope, Senior Environmental Scientist Specialist  
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## Memorandum

Date: <sup>Nov. 1,</sup>  
~~October 5,~~ 2016

To: Valerie Termini  
Executive Director  
Fish and Game Commission

From: Charlton H. Bonham  
Director



Subject: **Agenda Items for the December 7-8, 2016 Fish and Game Commission Meeting**  
**Re: Request for Notice Authorization to Amend Ocean Salmon Fishing**  
**Regulations for 2017**

Attached for the December 7-8, 2016 meeting of the Fish and Game Commission (Commission) are two rulemaking proposals for the 2017 Ocean Salmon fishing season. The first package proposes to amend subsection 27.80 (c) to establish open fishing days, bag limits, and minimum size restrictions for April 2017. The second package proposes to amend subsection 27.80 (d) to establish open fishing days, bag limits, and minimum size restrictions for the salmon season in effect on or after May 1, 2017.

Existing Title 14 regulations specify ocean salmon recreational fishing regulations that were valid only for the 2016 season. The proposed amendments to Section 27.80 (c) contained in the first ISOR would allow the Commission to adopt regulations at its March 2017 Teleconference meeting that would establish any ocean salmon recreational fishing regulations for the month of April 2017, in conformance with federal rules.

The proposed amendments to Section 27.80 (d) contained in the second ISOR would allow the Commission to adopt regulations at its April 2017 Teleconference meeting that would establish any ocean salmon recreational fishing regulations on or after May 1, 2017, in conformance with federal rules that will be recommended by the Pacific Fishery Management Council on April 12, 2017. The range of alternatives contained in the second ISOR are the same as those contained in the first ISOR (open fishing days/times, areas, size limits), but the resulting regulations apply only for May 1, 2017 through the end of the year.

The Department of Fish and Wildlife (Department) requests the Commission authorize publication of notice of its intent to amend the above referenced subsections of Section 27.80, Title 14, CCR, to establish ocean salmon recreational fishing regulations for the 2017-fishing season. While the proposed rulemakings are related, they should be noticed separately to conform to timelines driven by the federal regulatory process.



A Notice of Exemption (NOE) is also attached. Since the NOE is not anticipated to change, this early submission gives the Commission notice of the Department's recommendation to rely on a California Environmental Quality Act (CEQA) categorical exemption for ocean salmon. The following paragraphs describe staff's analysis of use of a categorical exemption under the CEQA.

### **Categorical Exemptions to Protect Natural Resources and the Environment**

The Commission's adoption of these regulations is an action subject to CEQA. The review effort by Department staff pursuant to CEQA Guidelines section 15061 lead staff to conclude that adoption of the regulations would properly fall within the Class 7 and Class 8 categorical exemptions (CEQA Guidelines sections 15307, 15308). These two exemptions are related to agency actions to protect natural resources and the environment. The proposed regulations will define annual fishing seasons, daily bag and sizes limits, and specify methods of take for alignment with enacted federal regulations. State conformance with federal regulations is also necessary to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are intended to protect the sustainability of the fishery as a natural resource. In staff's view, the Commission's adoption of regulations is an activity that is the proper subject of CEQA's Class 7 and 8 categorical exemptions.

### **No Exceptions to Categorical Exemptions Apply**

As to the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2, including the prospect of unusual circumstances and related effects, the Department's review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Department relevant to the issue and does not believe adoption of the regulations creates any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of wildlife preservation activities such as the current effort; there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or a cumulative basis are expected. The intent of the proposed regulations is conformance of State regulations with federal regulations to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are anticipated to achieve optimum yield in the fishery, but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery.

Valerie Termini, Executive Director  
Fish and Game Commission  
October 5, 2016  
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Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines section 15300.2.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246. The public notice for this rulemaking should identify Environmental Scientist, Barry Miller as the Department's point of contact. Mr. Miller can be reached at (707) 576-2860 or [Barry.Miller@wildlife.ca.gov](mailto:Barry.Miller@wildlife.ca.gov).

Attachment

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Valerie Termini, Executive Director  
Fish and Game Commission  
October 5, 2016  
Page 4

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STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Subsection (d) of 27.80  
Title 14, California Code of Regulations  
Re: Ocean Salmon Sport Fishing Regulations effective May 1, 2017

I. Date of Initial Statement of Reasons: September 21, 2016

II. Dates and Locations of Scheduled Hearings:

- |     |                     |  |
|-----|---------------------|--|
| (a) | Notice Hearing:     | Date: December 7, 2016<br>Location: San Diego, CA    |
| (b) | Discussion Hearing: | Date: February 9, 2017<br>Location: Rhonert Park, CA |
| (c) | Adoption Hearing:   | Date: April 13, 2017<br>Location: Teleconference     |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Pacific Fishery Management Council (PFMC) coordinates west coast management of recreational and commercial ocean salmon fisheries in the federal fishery management zone (three to 200 miles offshore) along the coasts of Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented by the National Marine Fisheries Service (NMFS) effective on May 1 of each year.

California's recreational salmon fishing regulations need to conform to the federal regulations to achieve optimum yield in California under the federal Salmon Fishery Management Plan. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational fishery in State waters (zero to three miles offshore) which are consistent with these federal fishery management goals.

It is critical to have consistent State and federal regulations establishing season dates, bag/size limits and other management measures, and also critical that the State and federal regulations be effective concurrently in order to maintain continuity of management and enforcement.

Conformance with federal regulations is also necessary to maintain continued State authority over its recreational salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [16 USC §1856 (b)(1)].

### **PFMC Regulatory Outlook**

On March 14, 2017, the PFMC will propose a suite of ocean salmon fishery regulatory options after reviewing the most up-to-date salmon abundance information for target stocks and salmon species of special concern, including Sacramento River Winter Run Chinook which is listed as endangered under both federal and State Endangered Species Acts. These options will go out for public review and the final PFMC recommendations for federal waters will be made on April 12, 2017. The federal regulations will go into effect on or after May 1, 2017 and may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

The range of proposed regulatory options available for the Commission's consideration is designed to encompass the range of options that will be under consideration by the PFMC.

### **Commission Regulatory Outlook**

Although there are no proposed PFMC regulatory options to consider until March, the ocean salmon sport fishing regulations in effect on or after May 1, 2017 could range from no fishing in all areas off the California coast to limited salmon fishing for varied areas and dates between May 1 and November 12, 2017. The final PFMC recommendations made on April 12, 2017 will serve as the basis for the State's ocean salmon sport fishery regulations for May 2017 through the end of the year.

### **Present Regulations**

Regulations for 2016 [subsections 27.80(c) and (d)] authorized ocean salmon recreational fishing seven days per week north of Horse Mountain including Humboldt Bay from May 16 through May 31, June 16 through June 30, July 16 through August 16, and September 1 through September 5, 2016. Between Horse Mountain and Point Arena, ocean salmon

recreational fishing was authorized seven days per week from April 2 to November 13, 2016. Between Point Arena and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 2 to October 31, 2016. Between Pigeon Point and Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 2 to July 15, 2016. For areas south of Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 2 to May 31, 2016. The bag limit for all areas in 2016 was two fish per day (all species except coho). The areas north of Point Arena had a minimum size limit of 20 inches total length. The area between Point Arena and Pigeon Point had a minimum size limit of 24 inches total length through April 30, 2016 and 20 inches total length thereafter. Areas south of Pigeon Point had a minimum size limit of 24 inches total length. Since the existing regulations pertained only to the 2016 season, amendment of these regulations is essential to allow for any fishing in State waters during 2017.

### **Concurrent Regulatory Action**

Two separate Commission actions are necessary to conform State regulations to federal rules that will apply in 2017. This proposed regulation will amend subsection 27.80(d), establishing ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for May 2017 through the end of the year. The Commission also will be considering ocean salmon sport fishing regulations that would be effective for the period April 1-30, 2017 in a separate rulemaking package, tentatively scheduled for adoption in March 2017.

### **Proposed Regulations**

For public notice purposes and to facilitate Commission discussion, the Department of Fish and Wildlife (Department) is proposing the following regulations to encompass the range of federal ocean salmon regulations that are expected to be in effect on or after May 1, 2017. This approach will allow the Commission to adopt the State's ocean salmon recreational fishing regulations to conform to those in effect in federal ocean waters shortly after the federal rules are promulgated.

- (1) North of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 1 through September 30, 2017. The proposed daily bag limit will be from zero to two fish, and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through September 2017.
- (2) Between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 12, 2017. The proposed daily bag limit will be from zero to two fish, and the

proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through November 2017.

- (3) Between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 12, 2017. The proposed daily bag limit will be from zero to two fish, and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through November 2017.
- (4) Between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 1, 2017. The proposed daily bag limit will be from zero to two fish, and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through October 2017.
- (5) South of Point Sur: The season, if any, may occur within the range of May 1 to October 1, 2017. The proposed daily bag limit will be from zero to two fish, and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined by the Commission, considering federal regulations applicable to this area for May through October 2017.

It is the policy of the State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the policy of the State to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the ocean and other waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport. Adoption of scientifically-based ocean salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

The benefits of the proposed regulations are concurrence with federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 220, 240, 316.5 and 2084, Fish and Game Code.

Reference: Sections 200, 202, 205, 316.5 and 2084, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

Pacific Fishery Management Council. Pacific Coast Salmon Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California as Revised Through Amendment 19. March 2016.

([http://www.pcouncil.org/wp-content/uploads/2016/03/FMP-through-A-19\\_Final.pdf](http://www.pcouncil.org/wp-content/uploads/2016/03/FMP-through-A-19_Final.pdf))

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

#### IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

- (b) No Change Alternative:

The no change alternative would maintain existing regulations which do not provide an ocean salmon recreational fishing season within the May to November 2017 period. The State must conform its ocean recreational fishing regulations for salmon in State waters (zero to three miles offshore) to the federal regulations for consistency and to avoid public confusion. Preemption of State regulatory authority by the NMFS could occur if State regulations are in conflict with federal regulations.



(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose 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 affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. 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:

Although the recommendations of the PPMC for the 2017 ocean salmon season are unknown at this time, the Department anticipates that recreational salmon fishing effort will be similar to the 2015 season. For the purpose of evaluating potential economic impacts of the 2017 ocean salmon regulations, the Commission analyzed possible reductions in ocean salmon recreational effort ranging from 0-percent (no change) to a 5-percent and a 10-percent reduction from the number of angling trips in 2015. The base year used for estimating the 2017 economic impacts is the 2015 salmon season, the latest full year of economic data.

The projections conducted for 2017, representing 100-percent (82,000 angler days), and 95-percent (77,900 angler days), and 90-percent (74,000) levels of ocean salmon angling effort, are not likely to precipitate significant statewide adverse economic impacts directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Additionally, any reduction in angling opportunity would be undertaken with the intent of ensuring the health of the resource and thus also preventing longer term adverse economic impacts.

Data from the Department indicate that during the 2015 salmon season, recreational fishermen participated in 82,000 angler days of ocean salmon fishing and generated an estimated \$13.7 million (2016\$) in total economic output to the State. The projected levels of fishing effort for the 2017 salmon season are 82,000 angler days, 78,000 angler days, and

73,800 angler days, equivalent to 100-, 95-, and 90-percent levels of effort, respectively. With these projected 2017 levels of angler effort, the associated fishing expenditures by fishermen would generate an estimated \$13.7 million, \$13 million and \$12.3 million (2016\$) in total economic output for the State, respectively. Thus, relative to the 2015 salmon season, the total incremental effects (direct, indirect, and induced) of the 2017 projections on State economic output range from no change (the same \$13.7 million); a 5-percent decrease (-\$684 thousand); to a 10-percent decrease (-\$1.4 million) in total economic output from the recreational ocean salmon fishery.

- (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:

Approximately 111 jobs were indirectly supported by recreational ocean salmon angling during the 2015 salmon season. Thus, relative to the 2015 salmon season, the 2017 projections (100-, 95-, and 90-percent levels of effort) represent potential incremental effects on employment ranging from zero new jobs (no change) to a loss of 6 to 11 jobs statewide; the potential incremental effects on the creation or elimination of businesses is anticipated to range from no impact to insignificant impacts on the elimination of businesses in the state. A 10-percent decrease in angling effort may have minimal impacts in some localized areas that lack industry diversification and have a heavy reliance on recreational fishing and tourism; and potential incremental effects on the expansion of businesses range from no effect to the minor contraction of some business activities in the recreational ocean salmon fishing areas.

The Commission anticipates benefits to the health and welfare of California residents. Salmon sport fishing contributes to increased mental health of its practitioners, provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

The Commission anticipates benefits to the State's environment in the sustainable management of salmon resources.

Additional benefits of the proposed regulations are concurrence with federal law, and promotion of businesses that rely on recreational ocean salmon fishing.

The Commission does not anticipate benefits to worker safety.

- (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.

## VII. Economic Impact Assessment

The PFMC coordinates west coast management of recreational and commercial ocean salmon fisheries in the federal fishery management zone (three to 200 miles offshore) along the coasts of Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented by the NMFS effective on May 1 of each year.

Although the recommendations of the PFMC for the 2017 ocean salmon season are unknown at this time, the Department anticipates that recreational salmon fishing effort will be similar to the 2016 season. For the purpose of evaluating potential economic impacts of the 2017 ocean salmon regulations, the Commission analyzed possible reductions in ocean salmon recreational effort ranging from 100-percent (no change) to 95-percent and 90-percent of the 2015 season. The base year used for estimating impacts is the 2015 salmon season because it is the latest full year of economic data. The following Tables 1 and 2 report the potential impacts of the anticipated range of harvest levels from 100-, 95-, and 90-percent of the 2015 harvest.

Table 1

| Total Projected Economic Contribution Of California's Ocean Salmon Sport Fishery -- Calculations Worksheet and Summary Tables |                                      |                        |                                       |                          |                     |                              |
|---|--------------------------------------|------------------------|---------------------------------------|--------------------------|---------------------|------------------------------|
| Projected Economic Impacts Of 2017 Salmon Fishery To California's Economy   |                                      |                        |                                       |                          |                     |                              |
| 9/7/2016  |                                      |                        |                                       |                          |                     |                              |
| Ocean Salmon Angling  | Number of Salmon Angler Trips (days) | Direct Impact (2016\$) | Final Economic Output Impact (2016\$) | Earnings Impact (2016\$) | Employment (# jobs) | State & Local Taxes (2016\$) |
| 100% Seasonal Activity Level  | 82,000                               | \$ 9,613,235           | \$ 13,672,168                         | \$ 5,449,643             | 111                 | \$ 992,396                   |
| 95% Seasonal Activity Level   | 77,900                               | \$ 9,132,573           | \$ 12,988,559                         | \$ 5,177,161             | 106                 | \$ 942,776                   |
| 90% Seasonal Activity Level   | 73,800                               | \$ 8,651,912           | \$ 12,304,951                         | \$ 4,904,679             | 100                 | \$ 893,156                   |
| Economic Multipliers*   |                                      |                        | 1.422                                 | 0.567                    | 11.566              | 0.103                        |

Note:  
 \*Multipliers are derived from MIG IMPLAN economic models for the State of California.  
 All dollar amounts are adjusted to year 2016 prices, denoted as 2016\$, using US Dept of Commerce Implicit Price Deflators for Gross Domestic Product - Table 1.1.9. <http://www.bea.gov>

Table 2

| Projected Incremental Change from 2015 Fishing Levels, in Angler Trips                 |  |                                    |   |                                      |  |   |
|--|--|------------------------------------|---|--------------------------------------|--|---|
| Impact Summary for Projected 2017 Ocean Salmon Angling Levels, Compared to 2015 Levels | Incremental Change in Number of Salmon Angler Trips (days) | Incremental Direct Impact (2016\$) | Incremental Final Economic Output Impact (2016\$) | Incremental Earnings Impact (2016\$) | Incremental Employment Impact (# jobs) | Incremental State & Local Tax Impact (2016\$) |
| 100% Seasonal Activity Level   | 0  | \$ -                               | \$ -  | \$ -                                 | 0                                      | \$ -  |
| 95% Seasonal Activity Level  | (4,100)  | \$ (480,662)                       | \$ (683,608)                                      | \$ (272,482)                         | -6                                     | \$ (49,620)                                   |
| 90% Seasonal Activity Level  | (8,200)  | \$ (961,324)                       | \$ (1,367,217)                                    | \$ (544,964)                         | -11                                    | \$ (99,240)                                   |

Note: All dollar amounts are adjusted to year 2016 prices, denoted as 2016\$, using US Dept of Commerce Implicit Price Deflators for Gross Domestic Product - Table 1.1.9. <http://www.bea.gov>.

In 2015, the ocean salmon recreational fishery generated an estimated \$13.7 million (2016\$) in total economic output to the State. A 5-percent decrease in angling effort would result in a \$684 thousand reduction in total economic output for the State and a 10-percent decrease in angling effort would result in a \$1.4 million reduction in total economic output for the State, relative to the 2015 season. As a general rule, for every 5,000 salmon harvested in the ocean recreational fishery, there is approximately \$1.0 million in potential total economic contribution to the State.

While not integrated into the economic impacts estimation method, in all scenarios alternative fishing resources and recreational activities for anglers may offset any potential losses to fishing port businesses and jobs described below.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Using the 2015 salmon season as a base year for comparison, the California ocean salmon recreational fishery supports an estimated 111 jobs in the State. Generally, for every 5,000 salmon harvested in the ocean recreational fishery, there are approximately 7.3 jobs supported in the State. Three projected fishing activity levels were evaluated, which entail various levels of restrictions on the ocean salmon recreational fishery, as follows:

Projection 1. A seasonal level of fishing activity of 82,000 angler days.

Relative to the 2015 season's estimated angler activity of 82,000 days, Projection 1 (100-percent) represents no change to the 2015 number of

angler days. This projected change could result in no net change in the number of jobs in California businesses that support the salmon recreational fishery.

Projection 2. A seasonal level of fishing activity of 77,900 angler days, or approximately 95-percent of fishing activity in Projection 1.

Compared to the 2015 season, this represents a 5-percent incremental reduction in angler days. This projected change could result in the potential loss of 6 jobs to California businesses that support the ocean salmon recreational fishery.

Projection 3. A seasonal level of fishing activity of 73,800 angler days, or approximately 90-percent of fishing activity in Projection 1.

Compared to the 2015 season, this represents a 10-percent incremental reduction in angler days. This projected change could result in the potential loss of 11 jobs to California businesses that support the ocean salmon recreational fishery.

(See Tables 1 and 2 above for details on how employment, wages, economic output for the State of California, and effects on State and local taxes are derived.)

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The three projections of expected fishing activity represent potential indirect impacts to businesses providing goods and services to the ocean salmon recreational fishermen, as follows:

Projection 1. A seasonal level of fishing activity of 82,000 angler days.

Relative to the 2015 season, Projection 1 represents no potential indirect impact to businesses.

Projection 2. A seasonal level of fishing activity of 77,900 angler days, or approximately 95-percent of fishing activity in Projection 1.

Relative to the 2015 season, Projection 2 represents a potential indirect impact to businesses of approximately \$684 thousand in reduced economic output statewide. Projection 2 is not anticipated to result in significant reduced demand for new businesses or the potential elimination of businesses in the State and in localized areas that have a heavy reliance on recreational fishing and tourism. Many ocean fishing port businesses offer alternative fishing resources and activities for salmon anglers.

Projection 3. A seasonal level of fishing activity of 73,800 angler days, or approximately 90-percent of fishing activity in Projection 1.

Relative to the 2015 season, Projection 3 represents a potential for some indirect impact to businesses with an estimated \$1.4 million in reduced economic output statewide. This may result in some reduced demand for new businesses but no elimination of businesses are expected to be precipitated across the State. In some localized areas that lack industry diversification and have a heavy reliance on recreational fishing and associated tourism the impacts may be more pronounced. However, many ocean fishing port businesses offer alternative fishing resources and activities for salmon anglers.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

Projection 1. A seasonal level of fishing activity of 82,000 angler days.

Relative to the 2015 season, Projection 1 represents no change in economic impacts to businesses.

Projection 2. A seasonal level of fishing activity of 77,900 angler days, or approximately 95-percent of fishing activity in Projection 1.

Relative to the 2015 season, Projection 2 represents a potential indirect impact to businesses of approximately \$684 thousand in decreased economic output statewide. This is not anticipated to significantly impact businesses in the State that directly and indirectly support recreational ocean salmon anglers.

Projection 3. A seasonal level of fishing activity of 73,800 angler days, or approximately 90-percent of fishing activity in Projection 1.

Relative to the 2015 season, Projection 3 represents a potential indirect impact to businesses of approximately \$1.4 million in reduced economic output statewide. This is not anticipated to significantly impact businesses in the State that directly and indirectly support recreational ocean salmon anglers.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The proposed regulations are to conform to federal fisheries management allowable harvest levels, intended to sustain the fishery for the enjoyment of all California residents.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulations are to conform to federal fisheries management allowable harvest levels, and intended to sustain the fishery. As such, the agency is not aware of any consequences to worker safety that could arise from the proposed regulations.

(f) Benefits of the Regulation to the State's Environment:

The proposed regulations comply with federal law and sustainable management practices designed to safeguard California's ocean salmon resources.

(g) Other Benefits of the Regulation:

Concurrence with Federal Law: California's sport and commercial ocean salmon fishing regulations need to conform to the new federal regulations to achieve optimum yield in California. The PFMC annually reviews the status of west coast salmon populations. As part of that process, it recommends west coast adult salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the federal Salmon Fishery Management Plan. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, California, and California inland sport salmon fisheries. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS and as sport salmon regulations for State marine and inland waters by the Commission.

Continuation of activities dependent on the salmon fishery: Resource sustainability supports the continuation of activities dependent on the salmon fishery. Maintaining healthy populations of salmon can translate into significant economic contributions to the State: In 2015, recreational ocean salmon activities contributed as much as \$13.7 million in total economic output, \$5.4 million in wages, and 111 jobs for Californians.

## Informative Digest (Policy Statement Overview)

The Pacific Fishery Management Council (PFMC) coordinates west coast management of recreational and commercial ocean salmon fisheries in the federal fishery management zone (three to 200 miles offshore) along the coasts of Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented by the National Marine Fisheries Service (NMFS) effective on May 1 of each year.

California's recreational salmon fishing regulations need to conform to the federal regulations to achieve optimum yield in California under the federal Salmon Fishery Management Plan. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational fishery in State waters (zero to three miles offshore) which are consistent with these federal fishery management goals.

### **Present Regulations**

Regulations for 2016 [subsections 27.80(c) and (d)] authorized ocean salmon recreational fishing seven days per week north of Horse Mountain including Humboldt Bay from May 16 through May 31, June 16 through June 30, July 16 through August 16, and September 1 through September 5, 2016. Between Horse Mountain and Point Arena, ocean salmon recreational fishing was authorized seven days per week from April 2 to November 13, 2016. Between Point Arena and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 2 to October 31, 2016. Between Pigeon Point and Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 2 to July 15, 2016. For areas south of Point Sur, ocean salmon recreational fishing was authorized seven days per week from April 2 to May 31, 2016. The bag limit for all areas in 2016 was two fish per day (all species except coho). The areas north of Point Arena had a minimum size limit of 20 inches total length. The area between Point Arena and Pigeon Point had a minimum size limit of 24 inches total length through April 30, 2016 and 20 inches total length thereafter. Areas south of Pigeon Point had a minimum size limit of 24 inches total length. Since the existing regulations pertained only to the 2016 season, amendment of these regulations is essential to allow for any fishing in State waters during 2017.

### **Proposed Regulations**

Two separate Commission actions are necessary to conform State regulations to federal rules that will apply in 2017. This proposed regulation would amend subsection 27.80(d), establishing salmon fishing regulations for May 1 through the end of 2017. Recreational salmon fishing regulations for the month of April 2017 will be considered in a separate rulemaking action, tentatively scheduled for adoption in March 2017.

For public notice purposes and to facilitate Commission discussion, the Department of Fish and Wildlife is proposing the following regulations to encompass the range of federal ocean salmon regulations that are expected to be in effect on or after May 1, 2017. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in federal ocean waters.

- (1) North of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 1 through September 30, 2017.



- (2) Between Horse Mountain and Pigeon Point: The season, if any, may occur within the range of May 1 to November 12, 2017.
- (3) South of Pigeon Point: The season, if any, may occur within the range of May 1 to October 1, 2017.
- (4) For all areas, the proposed daily bag limit will be from zero to two fish, and the proposed minimum size will be from 20 to 26 inches total length.

The exact opening and closing dates, along with daily bag limit, minimum size, and days of the week open will be determined in April 2017 by the Commission considering federal regulations and may be different for each subarea.

The benefits of the proposed regulations are concurrence with federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The legislature has delegated authority to the Commission to adopt sport fishing regulations in general (Sections 200, 202 and 205, Fish and Game Code) and salmon sport fishing regulations specifically (Section 316.5, Fish and Game Code). The proposed regulations are consistent with regulations for sport fishing in marine protected areas (Section 632, Title 14, CCR) and with general sport fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of salmon in the ocean.

## Regulatory Language

Subsection (d) of Section 27.80, Title 14, CCR, is amended to read:

### **§27.80. Salmon.**

(d) Open Fishing Days, Daily Bag Limits, and Minimum Size in effect on or after May 1, ~~2016~~2017.

(1) North of Horse Mountain (40°05'00" N. lat.) and in Humboldt Bay.

(A) Open to salmon fishing ~~May 16 to May 31, June 16 to June 30, July 16 to August 16, and September 1 to September 5~~[varied dates within the range from May 1 to September 30, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

Exception: See Section 27.75 for specific fishery closure areas around the Smith, Klamath and Eel rivers.

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~20~~[20-26] inches total length [specify date range as needed].

(2) Between Horse Mountain and Point Arena (38°57'30" N. lat.).

(A) Open to salmon fishing ~~May 1 to November 13~~[varied dates within the range from May 1 to November 12, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~20~~[20-26] inches total length [specify date range as needed].

(3) Between Point Arena and Pigeon Point (37°11'00" N. lat.).

(A) Open to salmon fishing ~~May 1 to October 31~~[varied dates within the range from May 1 to November 12, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~24 inches total length through April 30, 2016 and 20 inches total length thereafter~~[20-26] inches total length [specify date range as needed].

(4) Between Pigeon Point and Point Sur (36°18'00" N. lat.).

(A) Open to salmon fishing ~~May 1 to July 15~~[varied dates within the range from May 1 to October 1, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~24~~[20-26] inches total length [specify date range as needed].

(5) South of Point Sur.

(A) Open to salmon fishing ~~May 1 to May 31~~[varied dates within the range from May 1 to October 1, may include periodic closures], ~~2016~~2017. Fishing is authorized ~~7~~[0-7] days per week [specify open days of week and date range as needed].

(B) Daily Bag Limit: ~~2~~[0-2] salmon per day. See subsection (b) above and subsection (e) below.

(C) Minimum Size: ~~24~~[20-26] inches total length [specify date range as needed].

Note: Authority cited: Sections 200, 202, 205, 220, 240, 316.5 and 2084, Fish and Game Code. Reference: Sections 200, 202, 205, 316.5 and 2084, Fish and Game Code.

# Notice of Exemption

## Appendix E

**To:** Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: N/A

**From:** (Public Agency): CA Fish and Game Commission  
1416 Ninth Street, Room Room 1320  
Sacramento, CA 95814

(Address)

Project Title: Amend Section 27.80, Title 14, California Code of Regulations, Re: Ocean Salmon

Project Applicant: N/A

Project Location - Specific:

Statewide

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

Ocean Salmon is jointly managed by the Pacific Fishery Management Council and National Marine Fisheries Service, in conjunction with the west coast states. The Fish and Game Commission has taken concurrent action to conform State recreational regulations to federal regulations.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Cal. Code Regs., tit. 14, §§ 15307, 15308
- ☐ Statutory Exemptions. State code number: \_\_\_\_\_

Reasons why project is exempt:

See attached.

Lead Agency

Contact Person: Valerie Termini

Area Code/Telephone/Extension: (916) 653-4899

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: \_\_\_\_\_ Date: 4/13/2017 Title: Executive Director

☐ Signed by Lead Agency ☒ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

April 13, 2017

## **ATTACHMENT TO NOTICE OF EXEMPTION Adoption of Ocean Salmon Regulations**

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act with respect to the rulemaking mentioned on April 13, 2017. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the regulations relying on the categorical exemption for “Actions by Regulatory Agencies for Protection of Natural Resources” contained in CEQA Guidelines Section 15307, and the categorical exemption for “Actions by Regulatory Agencies for Protection of the Environment” contained in CEQA Guidelines Section 15308. (Cal. Code Regs., tit. 14, §§ 15307, 15308.)

### **Categorical Exemptions to Protect Natural Resources and the Environment**

In adopting the ocean salmon regulations to conform to federal regulations developed by the Pacific Fishery Management Council and adopted by the National Marine Fisheries Service, the Commission relied for purposes of CEQA on the Class 7 and 8 categorical exemptions. In general, both exemptions apply to agency actions to protect natural resources and the environment. The regulations define annual fishing seasons, daily bag and size limits and specify methods of take for alignment with enacted federal regulations. The federal regulations are developed with the dual purpose of maintaining optimum yield while at the same time preventing overfishing and conserving the resource. State conformance with federal regulations is also necessary to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). Because these regulations are intended to protect the sustainability of the fishery as a natural resource, the Commission’s adoption of these regulations is an activity that is the proper subject of CEQA’s Class 7 and 8 categorical exemptions.

### **No Exceptions to Categorical Exemptions Apply**

As to the exceptions to categorical exemptions set forth in CEQA Guidelines Section 15300.2, including the prospect of unusual circumstances and related effects, the Commission review was guided by the California Supreme Court’s recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Commission relevant to the issue and does not believe adoption of the regulations creates any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of wildlife preservation activities such as the current effort, there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or a cumulative basis are expected. The intent of the proposed regulations is conformance of State regulations with federal regulations to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are anticipated to achieve optimum yield in the fishery, but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery.

Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

DRAFT

## Memorandum

2016 NOV -2 AM 11:21

Date: Nov. 1  
October 6, 2016

To: Valerie Termini  
Executive Director  
Fish and Game Commission

From: Charlton H. Bonham  
Director



Subject: **Agenda Item for the December 7-8, 2016 Fish and Game Commission Meeting**  
**Re: Request for Notice Authorization to Amend Subsection (b)(91.1) of Section 7.50, Title 14, CCR, Klamath River Basin Sport Fishing Regulations**

Please find attached the ISOR package for the 2017 Klamath River Basin sport fishing regulations. As in the past, specific bag and possession limits for Klamath River Basin adult fall-run Chinook Salmon will be adopted after federal (Pacific Fisheries Management Council) review of west coast salmon stocks and fishery allocations have been proposed.

A Notice of Exemption (NOE) is also attached. Since the NOE is not anticipated to change, this early submission gives the Commission notice of the Department's recommendation to rely on a California Environmental Quality Act (CEQA) categorical exemption for the Klamath River Basin sport fishing regulations. The following paragraphs describe staff's analysis of use of a categorical exemption under the CEQA.

### **Categorical Exemptions to Protect Natural Resources and the Environment**

The Commission adoption of these regulations is an action subject to CEQA. The review effort by Department staff pursuant to CEQA Guidelines section 15061 lead staff to conclude that adoption of the regulations would properly fall within the Class 7 and Class 8 categorical exemptions (CEQA Guidelines sections 15307, 15308). These two exemptions are related to agency actions to protect natural resources and the environment. The proposed regulations define annual fishing seasons; daily bag and size limits; and specify methods of take for alignment with enacted federal regulations. State conformance with federal regulations is necessary to avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). In staff's view, because these regulations are intended to protect the sustainability of the fishery as a natural resource, the Commission's adoption of regulations is an activity that is the proper subject of CEQA's Class 7 and 8 categorical exemptions.



**No Exceptions to Categorical Exemptions Apply**

As to the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2, including the prospect of unusual circumstances and related effects, the Department's review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Department relevant to the issue and does not believe adoption of the regulations poses any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of wildlife preservation activities such as the current effort; there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or cumulative bases are expected. The intent of the proposed regulations is conformance of State regulations with federal regulations to avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are anticipated to achieve optimum yield in the fishery, but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery.

Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines section 15300.2.

If you have any questions or need additional information, please contact Kevin Shaffer, Acting Chief, Fisheries Branch, by telephone at (916) 327-8841 or by e-mail at [Kevin.Shaffer@wildlife.ca.gov](mailto:Kevin.Shaffer@wildlife.ca.gov). The public notice should identify Senior Environmental Scientist, Wade Sinnen, as the Department's point of contact for this rulemaking. Mr. Sinnen can be reached by telephone at (707) 822-5119 or by e-mail at [Wade.Sinnen@wildlife.ca.gov](mailto:Wade.Sinnen@wildlife.ca.gov).

Attachment

ec: Stafford Lehr, Deputy Director  
Wildlife and Fisheries Division  
[Stafford.Lehr@wildlife.ca.gov](mailto:Stafford.Lehr@wildlife.ca.gov)

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Valerie Termini, Executive Director  
Fish and Game Commission  
October 6, 2016  
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STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Subsection (b)(91.1) of Section 7.50  
Title 14, California Code of Regulations  
Re: Klamath River Basin Sport Fishing Regulations

I. Date of Initial Statement of Reasons: September 7, 2016

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: December 8, 2016  
Location: San Diego

(b) Discussion Hearing: Date: February 8, 2017  
Location: Rhonert Park

(c) Adoption Hearing: Date: April 13, 2017  
Location: Teleconference

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Klamath River Basin, which consists of the Klamath River and Trinity River systems, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean sport, ocean commercial, river sport and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport (inside three miles) and the Klamath River Basin sport fisheries which are consistent with federal fishery management goals.

Two tribal entities within the Klamath River Basin, the Hoopa Valley Tribe and the Yurok Tribe, maintain fishing rights for ceremonial, subsistence and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations for the river are promulgated by the Hoopa and Yurok tribes.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

### **Klamath River Fall-Run Chinook Salmon**

Klamath River fall-run Chinook Salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2017 KRFC in-river sport fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook Salmon**

The Klamath River Basin also supports Klamath River spring-run Chinook Salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river sport fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest will be monitored on the lower Klamath River in 2017 and ensuing years by creel survey.

### **KRFC Allocation Management**

The PFMC 2016 allocation for the Klamath River Basin sport harvest was 1,110 adult KRFC. Preseason stock projections of 2017 adult KRFC abundance will not be available from the PFMC until March 2017. The

2017 basin allocation will be recommended by the PFMC in April 2017 and presented to the Commission for adoption prior to its April 2017 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river sport fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2017 regulatory cycle.

The Commission may modify the KRFC in-river sport salmon harvest allocation which is normally 15 percent of the non-tribal PFMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

The annual KRFC in-river harvest allocation is split into four geographic areas with subquotas assigned to each. They are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the sport fishery allocation;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the sport fishery allocation;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the sport fishery allocation; and
4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the sport fishery allocation.

The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort and ensure equitable harvest of adult KRFC in the upper Klamath River and Trinity River. The subquota system requires the Department to monitor angler harvest of adult KRFC in each geographic

area. All areas will be monitored on a real time basis except for the following:

Klamath River upstream of Weitchpec and the Trinity River: Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River for the 2017 season. The Department has reviewed salmon harvest and run-timing data for these areas. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates historic creel survey data from the Klamath River downstream of Iron Gate Dam to the confluence with the Pacific Ocean and the Trinity River downstream of Lewiston Dam to the confluence with the Klamath River. The HPM is driven by the positive relationship between KRFC harvested in the lower and upper Klamath River and the Trinity River. The HPM will be used by the Department to implement fishing closures to ensure that anglers do not exceed established subquota targets.

### **Current Sport Fishery Management**

The KRFC in-river sport harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river sport harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following dates:

#### **Klamath River**

1. January 1 through August 14 - General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

#### **Trinity River**

1. January 1 through August 31 – General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

No changes are proposed for the Klamath River spit area.

No changes are proposed for the Blue Creek area.

The following changes to current regulations are proposed:

#### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2017 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook Salmon – of which no more than [0-4] fish over 22 inches total length may be retained until the subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook Salmon of which [0–12] fish over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

Necessity: The recommended ranges allow the Commission to make the final adjustments for alignment with the federal 2017 regulatory process. The final KRFC bag and possession limits will align with the final federal regulations to meet biological and fishery allocation goals specified in law or established in the PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

#### OTHER

Other changes are proposed for clarity and consistency. The capitalization of common species names is being done for consistency with American Fisheries Society standards. Since the proposed regulations apply to all anadromous waters within the Klamath River Basin located in California, the term “Lower” in reference to the Klamath River

Basin is proposed to be deleted from the regulations. The Upper Klamath River Basin contains no anadromous waters and is located in Oregon.

### **Benefits of the Proposed Regulations**

It is the objective of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the objective of this State to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this practice include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

The benefits of the proposed regulations are conformance with federal law, sustainable management of Klamath River Basin fish resources, and promotion of businesses that rely on sport salmon fishing in the Klamath River Basin.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 202, 205, 215 and 316.5, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

*In-River Sport Fishing Economics Technical Report*, National Oceanographic and Atmospheric Administration, National Marine Fisheries Service, September 2011.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:



No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The use of more liberal regulations for bag limits, possession limits and fishing methods. For KRFC salmon, more liberal regulations would be less desirable than those proposed because they could create risk of an intense fishery reaching or exceeding the quota in a very short time. Reaching the quota in a very short time could be damaging to the local economy. Exceeding the allowable harvest could be damaging to the KRFC salmon stocks.

(b) No Change Alternative:

The No Change Alternative would leave the current 2016 daily bag and possession limit regulations in place and would not conform to the PFMC Klamath River Basin quota for 2017. The change is necessary to continue appropriate harvest rates and an equitable distribution of the harvestable surplus.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose 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 affected private persons and equally effective in implementing the preferred practice of conformance to the PFMC Klamath River Basin quota for 2017.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. 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 regulations are projected to have minor impact on the net revenues to local businesses servicing sport fishermen. If the 2017 KRFC quota is reduced, visitor spending may correspondingly be reduced and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. However, this will not likely affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower Klamath River Basin businesses which provide goods and services related to fishing. 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 proposed regulations range from no fishing of KRFC adult salmon to a Klamath River Basin salmon season similar to 2016. The Commission anticipates some impact on the creation or elimination of jobs in California. The potential employment impacts range from 0 to 45 jobs which are not expected to create, eliminate or expand businesses in California. The Commission anticipates impacts on the creation, elimination or expansion of businesses in California ranging from no impact to reduced revenues to approximately 30 businesses that serve sport fishing activities. However, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of steelhead and grilse KRFC salmon is permitted than under a complete closure to all fishing. 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, consequently promoting 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 a healthy outdoor activity and the consumption of a nutritious food.

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

The Commission does not anticipate any benefits to worker safety because the proposed action does not affect working conditions.

(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.

VII. Economic Impact Assessment:

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The regulatory amendments of subsections of Section 7.50 under consideration will set the 2017 Klamath River Basin salmon sport fishing regulations to conform to the PFMC Fall-run Chinook Salmon allocation guidelines. The Klamath River Basin is anticipated to be open for sport salmon fishing at levels similar to the 2016 quotas; however the possibility of marine fishery area closures still exists. Ocean closures may in turn result in PFMC recommendations for Klamath River Basin sport salmon fishery closures for the take of adult salmon. Adverse or positive impacts to jobs and businesses will depend on the 2017 KRFC allocation ultimately adopted by the PFMC and the specific regulations promulgated by the Commission.

The proposed regulations present a range from 100 percent of last year's Klamath River Basin salmon season to 0 percent or no salmon fishing on adult Chinook Salmon (greater than 22 inches) in 2017. Under all scenarios sport fishing will be allowed for steelhead and grilse fall-run Chinook Salmon (2 year-old salmon 22 inches or less) regardless of PFMC regulations, thus any adverse impacts to businesses would be less severe than under a complete closure of fishing.

Based on a 2011 NMFS report on In-River Sport Fishing Economics of the Klamath River, under a normal season non-resident Klamath River Basin sport salmon and steelhead anglers contribute about \$3,432,424 in direct expenditures, resulting in about \$4,151,127 (2016\$) in total economic output to California businesses. This revenue supports about 70 jobs in the State.

Table 1. Klamath Salmon and Steelhead Total Economic Output

| Klamath Sport Fishing | Salmon       | Steelhead    | Total        |
|-----------------------|--------------|--------------|--------------|
| Total Output          | \$ 2,659,983 | \$ 1,448,993 | \$ 4,108,977 |
| Labor Income          | \$ 1,230,739 | \$ 670,430   | \$ 1,901,168 |
| Jobs                  | 45.3         | 24.7         | 69.9         |

Three adult salmon catch projections evaluated here are as follows: 100 percent of the 2016 Klamath River Basin adult salmon catch limit; 50 percent of the 2016 basin adult salmon catch limit; and 0 percent of the 2016 basin adult salmon catch limit.

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Projection 1. 100 percent of the 2016 adult salmon catch limit: The Commission does not anticipate any adverse impacts on the creation or

elimination of jobs, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

An assumption of the NMFS report is that increases in expenditures by resident anglers associated with expanded fishing opportunities would be accommodated by reduced expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, increases in local expenditures associated with increases in local fishing opportunities would be accomplished by diverting money that they would otherwise spend outside the local area. Thus the economic impact analysis focuses on non-resident angler expenditures, which represent ‘new money’ whose injection serves to stimulate the local economy.

The NMFS study excluded the Trinity River, the largest tributary to the Klamath. The Trinity River is allocated 33 percent of the Klamath River Basin fall-run Chinook Salmon total allocation. Using the Trinity allocation as a measure of salmon angler effort, and thus impacts on associated businesses that support anglers, the total non-resident angler contribution to the entire Klamath River Basin (including the Trinity River) is estimated to be \$4,151,127 (2016\$) in total economic output. This revenue, again using a 33 percent increase to account for the Trinity River, provides an estimated total of 70 jobs in the State (assuming that personnel costs also rise with inflation). This is a conservative estimate of total economic impact as it counts only non-resident angler expenditures. Non-resident salmon or steelhead angler average expenditures are estimated to be \$108.52 (2016\$) per angler day (for lodging, food, gasoline, fishing gear, boat fuel, and guide fees) based on a NMFS sponsored survey. Resident average expenditures per angler day are estimated to be 60 percent less (markedly reduced lodging, gasoline and food expenditures) which yields an estimate of \$43.40 per angler day. Resident anglers comprise about 36 percent of Klamath River Basin anglers.

Projection 2. 50 percent of the 2016 adult salmon catch limit: The Commission anticipates some impact on the creation or elimination of jobs which is offset due the continued sport fishing allowed for steelhead and grilse fall-run Chinook salmon (2 year-old salmon 22 inches or less). A 50 percent salmon catch reduction will likely reduce visitor spending by slightly less than 50 percent, given price elasticities of demand for salmon fishing activity of less than one. As the “price” of fishing per unit catch increases the demand for fishing trips declines by a lesser extent, particularly in the short-run. While difficult to predict, job losses associated with a 50 percent reduction in the salmon catch limit are

expected to be less than half of the estimated total jobs supported by salmon angler visits (i.e. fewer than 23 jobs).

Projection 3. 0 percent of the 2016 adult salmon catch limit: In the event of fisheries closures in some or all Klamath River Basin areas, the Commission anticipates less than 50 percent reduction in fishery-related jobs. As mentioned earlier, sport fishing for steelhead and grilse fall-run Chinook Salmon (2-year-old salmon less than 22 inches) will still be allowed, thus lessening any job losses. A closure on the take of adult Chinook Salmon was instituted in 2006 and only steelhead and grilse salmon could be legally harvested that year. The effect of the 2006 closure, as measured by angler days on the Klamath River, resulted in an approximate 50 percent drop in angler days, compared to the 2000-2005 average (12,000 angler days vs. 23,300 angler days). Job creation or elimination tends to lag in adjustment to changes in consumer demand. Thus, the potential impacts of a closure on the take of adult Chinook Salmon are estimated to result in the loss of less than 45 jobs due to the continued sport fishing allowed for steelhead and grilse fall-run Chinook Salmon (2 year-old salmon 22 inches or less).

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

Projection 1: 100 percent of the 2016 adult salmon catch limit: The Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses, as the quotas would not decrease effort nor curtail the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2016 adult salmon catch limit: The Commission anticipates a decline in visits to the fishery areas of less than 50 percent due the continued sport fishing allowed for steelhead and grilse fall-run Chinook Salmon (2 year-old salmon 22 inches or less). This may result in some decline in business activity, but the Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses directly related to fishing activities. However, with less effort being expended on salmon fishing, the possibility of substitute activities and the growth of businesses to serve those activities exists.

Projection 3. 0 percent of the 2016 adult salmon catch limit: In the event of salmon fisheries closures in some or all Klamath River Basin areas, the Commission anticipates a decline in regional spending and thus reduced revenues to the approximately 30 businesses that serve sport fishing activities with unknown impacts on the creation of new business or the

elimination of existing businesses. However adverse impacts will be mitigated by the continued opportunity to harvest steelhead and grilse salmon. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, consequently, the long-term viability of these same small businesses.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

Projection 1. 100 percent of the 2016 adult salmon catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California as the quotas would not increase effort nor increase the number of visitors and thus probable visitor expenditures in the fisheries areas.

Projection 2. 50 percent of the 2016 adult salmon catch limit: The Commission does not anticipate any impacts on the expansion of businesses in California. Decreases in expenditures by resident anglers associated with reduced fishing opportunities may be offset by increased expenditures on other locally purchased goods and services – with no net change in local economic activity. For non-resident anglers, however, decreases in local expenditures associated with decreases in local fishing opportunities may result in increases in other expenditures outside the Klamath River Basin area.

Projection 3. 0 percent of the 2016 adult salmon catch limit: In the event of salmon fisheries closures in some or all Klamath River Basin areas, the Commission does not anticipate any expansion of businesses in California. Decreases in expenditures by anglers associated with reduced fishing opportunities may be partially offset by increased expenditures on other locally purchased goods and services as visitors fish for steelhead, grilse salmon, or substitute salmon fishing with other recreational pursuits.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

Under all projections, the Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Klamath River Basin sport salmon and steelhead fisheries encourages a healthy outdoor activity and the consumption of a nutritious food. Salmon and steelhead sport fishing also contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Salmon and steelhead sport fishing also provides opportunities for multi-

generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

- (e) **Benefits of the Regulation to Worker Safety:**  
Under all projections, the Commission does not anticipate benefits to worker safety because the proposed regulations will not impact working conditions.

- (f) **Benefits of the Regulation to the State's Environment:**

Under all projections, the Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmonid resources. It is the objective of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the objective of this State to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this approach include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon and steelhead to ensure their continued existence.

- (g) **Other Benefits of the Regulation:**

Concurrence with Federal Law: California's salmon sport fishing regulations need to conform to the new Federal regulations to achieve optimum yield in California. The PFMC annually reviews the status of west coast salmon populations. As part of that process, it recommends west coast adult salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan. These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries off the coasts of Washington, Oregon, and California and California inland sport salmon fisheries. These recommendations are subsequently implemented as ocean fishing regulations by the NMFS and as sport salmon regulations for State marine and inland waters by the Commission.



### **Informative Digest/Policy Statement Overview**

The Klamath River Basin, which consists of the Klamath River and Trinity River systems, is managed through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean sport, ocean commercial, river sport and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport (inside three miles) and the Klamath River Basin sport fisheries which are consistent with federal fishery management goals.

Two tribal entities within the Klamath River Basin, the Hoopa Valley Tribe and the Yurok Tribe, maintain fishing rights for ceremonial, subsistence and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations for the river are promulgated by the Hoopa and Yurok tribes.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches are defined as adult salmon (ages 3-5) and salmon less than or equal to 22 inches are defined as grilse salmon (age 2).

#### **Klamath River Fall-Run Chinook Salmon**

Klamath River fall-run Chinook Salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The 2017 KRFC in-river sport fishery allocation recommended by the PFMC is currently unknown. All proposed closures for adult KRFC are designed to ensure sufficient spawning escapement in the Klamath River Basin and equitably distribute harvest while operating within annual allocations.

### **Klamath River Spring-Run Chinook Salmon**

The Klamath River System also supports Klamath River spring-run Chinook Salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PFMC. The in-river sport fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest will be monitored on the Lower Klamath River in 2017 and ensuing years by creel survey.

### **KRFC Allocation Management**

The PFMC 2016 allocation for the Klamath River Basin sport harvest was 1,110 adult KRFC. Preseason stock projections of 2017 adult KRFC abundance will not be available from the PFMC until March 2017. The 2017 basin allocation will be recommended by the PFMC in April 2017 and presented to the Commission for adoption prior to its April 2017 meeting.

For public notice requirements, the Department of Fish and Wildlife (Department) recommends the Commission consider an allocation range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river sport fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2017 regulatory cycle.

The Commission may modify the KRFC in-river sport salmon harvest allocation which is normally 15 percent of the non-tribal PFMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

The annual KRFC in-river harvest allocation is split into four geographic areas with subquotas assigned to each. They are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the sport fishery allocation;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the sport fishery allocation;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the sport fishery allocation; and

4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the sport fishery allocation.

The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort and ensure equitable harvest of adult KRFC in the upper Klamath River and Trinity River. The subquota system requires the Department to monitor angler harvest of adult KRFC in each geographic area. All areas will be monitored on a real time basis except for the following:

Klamath River upstream of Weitchpec and the Trinity River: Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River for the 2017 season. The Department has reviewed salmon harvest and run-timing data for these areas. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates historic creel survey data from the Klamath River downstream of Iron Gate Dam to the confluence with the Pacific Ocean and the Trinity River downstream of Lewiston Dam to the confluence with the Klamath River. The HPM is driven by the positive relationship between KRFC harvested in the lower and upper Klamath River and the Trinity River. The HPM will be used by the Department to implement fishing closures to ensure that anglers do not exceed established subquota targets.

### **Current Sport Fishery Management**

The KRFC in-river sport harvest allocation is divided into geographic areas and harvest is monitored under real time subquota management. KRSC in-river sport harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following dates:

#### **Klamath River**

1. January 1 through August 14 - General Season KRSC. For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

#### Trinity River

1. January 1 through August 31 – General Season KRSC.  
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

#### **Proposed Changes**

No changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

No changes are proposed for the Klamath River spit area.

No changes are proposed for the Blue Creek area.

The following changes to current regulations are proposed:

#### KRFC QUOTA MANAGEMENT: Seasons, Bag and Possession Limits

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2017 Klamath River Basin quota is adopted. As in previous years, no retention of adult KRFC salmon is proposed for the following areas, once the subquota has been met.

The proposed open seasons and range of bag and possession limits for KRFC salmon stocks are as follows:

1. Klamath River - August 15 to December 31
2. Trinity River - September 1 to December 31
3. Bag Limit - [0-4] Chinook Salmon – of which no more than [0-4] fish over 22 inches total length may be retained until the subquota is met, then 0 fish over 22 inches total length.
4. Possession limit - [0-12] Chinook Salmon of which [0–12] fish over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

Necessity: The recommended ranges allow the Commission to make the final adjustments for alignment with the federal 2017 regulatory process. The final KRFC bag and possession limits will align with the final federal regulations to meet biological and fishery allocation goals specified in law or established in the

PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

#### OTHER

Other changes are proposed for clarity and consistency.

#### **Benefits of the Proposed Regulations**

It is the objective of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State. In addition, it is the objective of this State to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this practice include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based Klamath River Basin salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of salmon to ensure their continued existence.

The benefits of the proposed regulations are conformance with federal law, sustainable management of Klamath River Basin fish resources, and promotion of businesses that rely on sport salmon fishing in the Klamath River Basin.

#### **Consistency and Compatibility with Existing Regulations**

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Sections 200, 202, 205, 315, and 316.5, Fish and Game Code). Commission staff has searched the California Code of Regulations and has found no other State regulations related to sport fishing in the Klamath River Basin.

## Regulatory Language

### Subsection (b)(91.1) of Section 7.50. Alphabetical List of Waters with Special Fishing Regulations.

(b)

| <i><b>Body of Water</b></i> | <i><b>Open Season and<br/>Special Regulations</b></i>   | <i><b>Daily Bag<br/>and<br/>Possession<br/>Limit</b></i> |
|-----------------------------|---|--|
|                             | <p>(91.1) Anadromous Waters of the Klamath River <del>basin</del><u>Basin</u> Downstream of Iron Gate Dam and Lewiston dams<del>(Lower Klamath River Basin)</del>. The regulations in this subsection apply only to waters of the Klamath River <del>system</del><u>Basin</u> which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River <u>Basin</u> which are inaccessible to anadromous salmon and trout, <del>for example,</del> portions of the Klamath River system upstream of Iron Gate Dam, portions of the Trinity River system upstream of Lewiston Dam, and the Shasta River and tributaries upstream of Dwinnel Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00(a)(4)).</p> <p>(A) Hook and Weight Restrictions.</p> <ol style="list-style-type: none"> <li>1. Only barbless hooks may be used. (For definitions regarding legal hook types, hook gaps and rigging see Chapter 2, Article 1, Section 2.10.)</li> <li>2. During closures to the take of adult salmon, it shall be unlawful to remove any adult Chinook <del>salmon</del><u>Salmon</u> from the water by any means.</li> </ol> <p>(B) General Area Closures.</p> <ol style="list-style-type: none"> <li>1. No fishing is allowed within 750 feet of any Department of Fish and Wildlife fish-counting weir.</li> <li>2. No fishing is allowed from the Ishi Pishi Road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.</li> <li>3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers and Blue Creek.</li> <li>4. No fishing is allowed from June 15 through September 14 in the Klamath River from 500 feet above the mouth of Blue Creek to 500 feet downstream of the mouth of Blue Creek.</li> </ol> <p>(C) Klamath River Basin Possession Limits.</p> <ol style="list-style-type: none"> <li>1. Trout Possession Limits. <ol style="list-style-type: none"> <li>a. The <del>brown trout</del><u>Brown Trout</u> possession limit is 10-<del>brown trout</del>.</li> <li>b. The hatchery trout or hatchery steelhead possession limits are as follows:</li> </ol> </li> </ol> |  |

| <b><i>Body of Water</i></b> | <b><i>Open Season and<br/>Special Regulations</i></b>   | <b><i>Daily Bag<br/>and<br/>Possession<br/>Limit</i></b> |
|-----------------------------|---|--|
|                             | <p>(i) Klamath River - 4 hatchery trout or hatchery steelhead.<br/> (ii) Trinity River - 4 hatchery trout or hatchery steelhead.<br/> 2. Chinook Salmon Possession Limits.<br/> a. Klamath River downstream of the Highway 96 bridge at Weitchpec from January 1 to August 14 and the Trinity River downstream of the Old Lewiston Bridge to the confluence of the South Fork Trinity River from January 1 to August 31: 2 Chinook <del>salmon</del><u>Salmon</u>.<br/> b. Klamath River from August 15 to December 31 and Trinity River from September 1 to December 31: 6<del>[0-12]</del> Chinook <del>salmon</del><u>Salmon</u>. No more than 3<del>[0-4]</del> Chinook <del>salmon</del><u>Salmon</u> over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.<br/> (D) Klamath River Basin Chinook Salmon Quotas.<br/> The Klamath River fall-run Chinook <del>salmon</del><u>Salmon</u> take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely monitored from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the <i>Open Season and Special Regulations</i> column.<br/> 1. Quota for Entire Basin.<br/> The 2016<del>2017</del> Klamath River Basin quota is 4,140<del>[0-67,600]</del> Klamath River fall-run Chinook <del>salmon</del><u>Salmon</u> over 22 inches total length. The department shall inform the commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)<br/> 2. Subquota Percentages.<br/> a. The subquota for the Klamath River upstream of the Highway 96 bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.<br/> (i) The subquota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec is 17% of the total Klamath River Basin quota.<br/> (ii) The subquota for the Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat is 16.5% of the total Klamath River Basin quota.<br/> (iii) The subquota for the Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota.<br/> b. The subquota for the <del>Lower</del><u>lower</u> Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.<br/> (i) The Spit Area (within 100 yards of the channel through the sand spit formed at the</p> |  |

| <b><i>Body of Water</i></b>   | <b><i>Open Season and<br/>Special Regulations</i></b>  | <b><i>Daily Bag<br/>and<br/>Possession<br/>Limit</i></b>  |
|---|--|---|
| <p>Klamath River mouth) will close when 15% of the total Klamath River Basin quota is taken downstream of the Highway 101 bridge.</p> <p>(E) Klamath River Basin Open Seasons and Bag Limits.</p> <p>All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook <del>salmon</del><u>Salmon</u> in combination unless otherwise specified.</p> |  |   |
| 1. Bogus Creek and tributaries.   | Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used.   | 2 hatchery trout or hatchery steelhead**  |
| 2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to the mouth.  |  |   |
| a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.   | January 1 to August 14   | 0 Chinook <del>salmon</del> <u>Salmon</u><br>2 hatchery trout or hatchery steelhead**   |
|   | Fall Run Quota <del>189</del> <u>[0-11,492]</u> Chinook Salmon August 15 to December 31, <del>2016</del> <u>2017</u> .   | 2 <del>[0-4]</del> Chinook <del>salmon</del> <u>Salmon</u> - no more than 4 <del>[0-4]</del> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>2 hatchery trout or hatchery steelhead** |
|   | Fall Run Quota Exception: Chinook <del>salmon</del> <u>Salmon</u> over 22 inches total length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook <del>salmon</del> <u>Salmon</u> spawning escapement at Iron Gate Hatchery exceeds 8,000 fish. Daily bag and possession limits specified for fall-run Chinook <del>salmon</del> <u>Salmon</u> apply |   |



| <b><i>Body of Water</i></b>  | <b><i>Open Season and<br/>Special Regulations</i></b>   | <b><i>Daily Bag<br/>and<br/>Possession<br/>Limit</i></b>  |
|--|---|---|
|  | during this exception.  |   |
| b. Klamath River downstream of the Highway 96 bridge at Weitchpec.   | January 1 to August 14.   | 2 Chinook <del>salmon</del> <u>Salmon</u><br>2 hatchery trout or hatchery steelhead**   |
|  | Fall Run Quota <del>555</del> <u>[0-33,800]</u> Chinook Salmon August 15 to December 31, <del>2016</del> <u>2017</u> .  | 2 <del>[0-4]</del> Chinook <del>salmon</del> <u>Salmon</u> - no more than 4 <del>[0-4]</del> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>2 hatchery trout or hatchery steelhead** |
|  | <p>Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after 15% of the Total Klamath River Basin Quota has been taken.</p> <p>All legally caught Chinook <del>salmon</del><u>Salmon</u> must be retained. Once the adult (greater than 22 inches) component of the total daily bag limit has been retained anglers must cease fishing in the spit area.</p> |   |
| 3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork. | November 1 through February 28.   | 2 hatchery trout or hatchery steelhead**  |
| 4. Scott River main stem down-stream of the Fort Jones-Greenview bridge to   | Fourth Saturday in May through February 28.   | 2 hatchery trout or hatchery steelhead**  |

| <b><i>Body of Water</i></b>  | <b><i>Open Season and<br/>Special Regulations</i></b>   | <b><i>Daily Bag<br/>and<br/>Possession<br/>Limit</i></b>   |
|--|---|--|
| the confluence with the Klamath River.   |   |  |
| 5. Shasta River main stem downstream of the Interstate 5 bridge north of Yreka to the confluence with the Klamath River. | Fourth Saturday in May through August 31 and November 16 through February 28.   | 2 hatchery trout or hatchery steelhead**   |
| 6. Trinity River and tributaries.  |   |  |
| a. Trinity River main stem from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge.                          | April 1 through September 15. Only artificial flies with barbless hooks may be used.  | 2 hatchery trout or hatchery steelhead**   |
| b. Trinity River main stem downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat.           | January 1 to August 31.   | 2 Chinook <del>salmon</del> <u>Salmon</u><br>5 <del>brown trout</del> <u>Brown Trout</u><br>2 hatchery trout or hatchery steelhead**   |
|  | Fall Run Quota 483 <del>[0-11,154]</del> Chinook Salmon September 1 through December 31, 2016 <u>2017</u> .   | 2 <del>[0-4]</del> Chinook <del>salmon</del> <u>Salmon</u> - no more than 4 <del>[0-4]</del> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 <del>brown trout</del> <u>Brown Trout</u><br>2 hatchery trout or hatchery steelhead** |
|  | Fall Run Quota Exception: Chinook <del>salmon</del> <u>Salmon</u> over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall-run Chinook <del>salmon</del> <u>Salmon</u> spawning escapement at Trinity River Hatchery |  |

| <b>Body of Water</b>  | <b>Open Season and<br/>Special Regulations</b>   | <b>Daily Bag<br/>and<br/>Possession<br/>Limit</b>  |
|---|--|--|
|   | exceeds 4,800 fish. Daily bag and possession limits specified for fall-run Chinook <del>salmon</del> <u>Salmon</u> apply during this exception.  |  |
| c. Trinity River main stem downstream of the Highway 299 West bridge at Cedar Flat to the Denny Road bridge at Hawkins Bar. | January 1 through August 31.   | 2 Chinook <del>salmon</del> <u>Salmon</u><br>5 <del>brown trout</del> <u>Brown Trout</u><br>2 hatchery trout or hatchery steelhead**   |
|   | September 1 through December 31.   | Closed to all fishing.   |
| d. New River main stem downstream of the confluence of the East Fork to the confluence with the Trinity River.              | September 15 through November 15. Only artificial lures with barbless hooks may be used.   | 2 hatchery trout or hatchery steelhead**   |
| e. Trinity River main stem downstream of the Denny Road bridge at Hawkins Bar to the mouth of the South Fork Trinity River. | January 1 to August 31.  | 2 Chinook <del>salmon</del> <u>Salmon</u><br>5 <del>brown trout</del> <u>Brown Trout</u><br>2 hatchery trout or hatchery steelhead**   |
|   | Fall Run Quota <del>483</del> <u>0-11,154</u> Chinook Salmon September 1 through December 31, <del>2016</del> <u>2017</u> . This is the cumulative quota for subsections 6.e. and 6.f. of this <del>table</del> <u>table</u> . | 2 <del>[0-4]</del> Chinook <del>salmon</del> <u>Salmon</u> - no more than 4 <del>[0-4]</del> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 <del>brown trout</del> <u>Brown Trout</u><br>2 hatchery trout or hatchery steelhead** |
| f. Trinity River main stem downstream of the mouth of the South Fork Trinity River to the confluence with the               | January 1 to August 31.  | 0 Chinook <del>salmon</del> <u>Salmon</u><br>5 <del>brown trout</del> <u>Brown Trout</u><br>2 hatchery trout or  |

| <b>Body of Water</b>   | <b>Open Season and Special Regulations</b>  | <b>Daily Bag and Possession Limit</b>  |
|--|---|--|
| Klamath River.   | Fall Run Quota <del>183</del> <u>11,154</u> Chinook Salmon September 1 through December 31, <del>2016</del> <u>2017</u> . This is the cumulative quota for subsections 6.e. and 6.f. of this table. | hatchery steelhead**<br><br>2 <del>[0-4]</del> Chinook <del>salmon</del> <u>Salmon</u> - no more than 4 <del>[0-4]</del> fish over 22 inches total length until subquota is met, then 0 fish over 22 inches total length.<br>5 <del>brown trout</del> <u>Brown Trout</u><br>2 hatchery trout or hatchery steelhead** |
| g. Hayfork Creek main stem downstream of the Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.                                  | November 1 through March 31. Only artificial lures with barbless hooks may be used.   | 2 hatchery trout or hatchery steelhead**   |
| h. South Fork Trinity River downstream of the confluence with the East Fork of the South Fork Trinity River to the South Fork Trinity River bridge at Hyampom. | November 1 through March 31. Only artificial lures with barbless hooks may be used.   | 2 hatchery trout or hatchery steelhead**   |
| i. South Fork Trinity River downstream of the South Fork Trinity River bridge at Hyampom to the confluence with the Trinity River.                             | November 1 through March 31.  | 0 Chinook <del>salmon</del> <u>Salmon</u><br>2 hatchery trout or hatchery steelhead**  |

\* Wild Chinook ~~salmon~~Salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

\*\*Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code. Reference: Sections 200, 202, 205, 215 and 316.5, Fish and Game Code.

# Notice of Exemption

## Appendix E

**To:** Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: N/A

**From:** (Public Agency): CA Fish and Game Commission  
1416 Ninth Street, Room Room 1320  
Sacramento, CA 95814

(Address)

Project Title: Amend Section 7.50(b)(91.1), Title 14, CCR, Re: Klamath River Sport Fishing Regulations

Project Applicant: N/A

Project Location - Specific:

Statewide

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

Klamath River Basin fisheries are managed through a cooperative system of State, federal, and tribal management agencies. The Fish and Game Commission has taken concurrent action to conform State recreational regulations to federal regulations to ensure consistency with both State and federal laws.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Cal. Code Regs., tit. 14, §§ 15307, 15308
- ☐ Statutory Exemptions. State code number: \_\_\_\_\_

Reasons why project is exempt:

See attached.

Lead Agency

Contact Person: Valerie Termini

Area Code/Telephone/Extension: (916) 653-4899

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: \_\_\_\_\_ Date: 4/13/2017 Title: Executive Director

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

April 13, 2017

**ATTACHMENT TO NOTICE OF EXEMPTION  
Adoption of Klamath River Sport Fishing Regulations**

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act (APA) with respect to the proposed project on April 13, 2017. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the regulations relying on the categorical exemption for “Actions by Regulatory Agencies for Protection of Natural Resources” contained in CEQA Guidelines Section 15307, and the categorical exemption for “Actions by Regulatory Agencies for Protection of the Environment” contained in CEQA Guidelines Section 15308. (Cal. Code Regs., tit. 14, §§ 15307, 15308.)

**Categorical Exemptions to Protect Natural Resources and the Environment**

In adopting the Klamath River sport fishing regulations consistent with federal regulations developed by the Pacific Fishery Management Council, and adopted by the National Marine Fisheries Service, the Commission relied for purposes of CEQA on the Class 7 and 8 categorical exemptions. In general, both exemptions apply to agency actions to protect natural resources and the environment. The regulations define annual fishing seasons, daily bag and size limits and specify methods of take for consistency with enacted federal regulations.

**No Exceptions to Categorical Exemptions Apply**

As to the exceptions to categorical exemptions set forth in CEQA Guidelines Section 15300.2, including the prospect of unusual circumstances and related effects, the Commission review was guided by the California Supreme Court’s recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff has reviewed all of the available information possessed by the Commission relevant to the issue and does not believe adoption of the regulations creates any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the given example of wildlife preservation activities such as the current effort, there is nothing unusual about the proposed regulations.

In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or a cumulative basis are expected. The intent of the proposed regulations is consistency of State regulations with federal regulations to maintain continued State authority over its recreational ocean salmon fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). The regulations are anticipated to achieve optimum yield in the fishery,

but also to prevent overfishing and thereby take into consideration the potential for negative impacts on the fishery.

Therefore, staff does not believe that the Commission's reliance on the Class 7 and Class 8 categorical exemptions is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

The federal salmon regulations are developed with the dual purpose of maintaining optimum yield while at the same time preventing overfishing and conserving the resource. State consistency with federal regulations is also necessary to avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (16 USC §1856 (b)(1)). Because these regulations are intended to protect the sustainability of the fishery as a natural resource, Commission adoption of these regulations is an activity that is the proper subject of CEQA's Class 7 and 8 categorical exemptions.

DRAFT



STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Subsections (b)(5), (b)(68), and (b)(156.5) of Section 7.50,  
Title 14, California Code of Regulations  
Re: Alphabetical List of Waters with Special Fishing Regulations:  
Central Valley Chinook Salmon Sport Fishing

I. Date of Initial Statement of Reasons: September 16, 2016

II. Dates and Locations of Scheduled Hearings:

|                         |           |                  |
|-------------------------|-----------|------------------|
| (a) Notice Hearing:     | Date:     | December 8, 2016 |
|                         | Location: | San Diego        |
| (b) Discussion Hearing: | Date:     | February 8, 2017 |
|                         | Location: | Rohnert Park     |
| (c) Adoption Hearing:   | Date:     | April 13, 2017   |
|                         | Location: | Teleconference   |

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The current, 2016, sport fishing regulations, California Code of Regulations, Title 14, Section 7.50, allow for Chinook Salmon fishing in the American, Feather and Sacramento rivers. Each year the Department of Fish and Wildlife (Department) recommends new Chinook Salmon bag and possession limits for consideration by the Fish and Game Commission (Commission). The regulation change is necessary to align the 2017 fishing limits with up-to-date management goals as set forth below.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2017 meeting and develop the final PFMC regulatory recommendations for adoption by NMFS at its April 2017 meeting. Based on the regulations adopted by NMFS, the Department will recommend specific bag and possession limits to the Commission during a scheduled teleconference meeting on April 13, 2017.

The regulations for the American, Feather, and Sacramento rivers may:

- (1) allow for additional harvest of Chinook Salmon to reduce impacts to spawning habitat if low instream flow conditions persist due to the existing drought;
- (2) increase or decrease the current Chinook Salmon bag and possession limits based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season; and
- (3) establish special closure area for winter-run Chinook Salmon protection on the Sacramento River between Keswick Dam and Highway 44 bridge from April 1 to July 31.

The Commission will then consider the Department's recommendations and consider and adopt final regulations. This is anticipated to occur at the Commission's April 13, 2017 teleconference meeting.

### Proposed Regulations

Because the PFMC/NMFS recommendations are not known at this time, a range (shown in brackets in the text below) of bag and possession limits is indicated where it is desirable to continue Chinook Salmon fishing in the American, Feather and Sacramento rivers. The open seasons and proposed range of bag and possession limits for Central Valley fall-run Chinook Salmon stocks are as follows:

#### American River, subsection 7.50(b)(5)

- (A) From Nimbus Dam to the Hazel Avenue bridge.

July 16 through December 31 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (B) From Hazel Avenue bridge to the USGS gauging station cable crossing near Nimbus Hatchery.

July 16 through August 15 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (C) From the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park.

July 16 through December 31 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

- (D) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge.

July 16 through October 31 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

(E) From the Jibboom Street bridge to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

Feather River, subsection 7.50(b)(68)

(D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to the Live Oak boat ramp.

July 16 through October 15 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

(E) From the Live Oak boat ramp to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

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

(C) From Deschutes Road bridge to the Red Bluff Diversion Dam.

August 1 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

(D) From the Red Bluff Diversion Dam to the Highway 113 bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

(E) From the Highway 113 bridge to the Carquinez Bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook Salmon and a possession limit of [0-8] Chinook Salmon.

Special Winter-Run Closure

Sacramento River winter-run Chinook Salmon suffered losses to juvenile natural production of 95% and greater for the years 2014 and 2015 brood years due to low reservoir storage and elevated water temperatures caused by the ongoing drought. Chinook Salmon return to their natal rivers and streams every three years to spawn. In 2017 the drought depleted natural juveniles from the 2014 brood year will return as adults to spawn. Therefore, it is vital to protect this year's predicted small cohort to prevent extinction of winter-run Chinook Salmon. State and federal agencies are working together to help ensure there is sufficient cold water to allow for successful spawning survival. This could be accomplished via the State Water Resources Control Board process or a change in the appropriate reasonable and prudent alternative actions outlined in the 2009 Biological Opinion on the Long-Term Operations of the Central Valley Project and State Water Project.

The Drought Operations Plans have outlined measures to try and prevent extinction of winter-run Chinook Salmon which include: increased hatchery production, enhanced monitoring, and increased rescue efforts. Maximizing adult spawning numbers is critical to the population. Department staff has evaluated the recent winter-run Chinook Salmon spawning locations and have concluded that the majority of winter-run spawning occurs above the Highway 44 bridge.

Although fishing for winter-run Chinook salmon in this reach of the Sacramento River is not allowed under current regulations, incidental by-catch by anglers has been documented to occur, especially during low flow periods. Even if returned to the water, incidental by-catch adds unnecessary stress on winter-run Chinook Salmon resulting in the potential loss of adults before spawning. A fishing closure in the holding and spawning areas of winter-run will add to protections for a Federal and State Endangered fish facing a high risk of extinction.

The Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam (RBDD) is a Commission designated Wild Trout Water and provides some of the best rainbow trout fishing in California. The proposed closure from Keswick Dam to the Highway 44 bridge is a 5.5 mile (about nine percent) reduction in areas open to fishing upstream of the RBDD.

Although this represents a small portion of the fishery, it is one of the most popular reaches for both shore based and boat anglers. The Department acknowledges the importance of this sport fishery and understands any closure to angling will likely have a substantial effect to both local anglers and anglers travelling from other parts of the State.

However, given the gravity and magnitude of the current situation facing winter-run Chinook Salmon, the Department is proposing a permanent closure of fishing (April 1 through July 31) in this area and will annually assess the success of all efforts to protect the winter-run Chinook Salmon population.

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

(B) From 650 feet below Keswick Dam to Deschutes Road bridge.

1. From 650 feet below Keswick Dam to the Highway 44 bridge.

January 1 through March 31 with a bag limit of 2 hatchery trout or hatchery steelhead and 4 hatchery trout or hatchery steelhead in possession.

Closed to all fishing from April 1 to July 31.

Open from August 1 through December 16 with a bag limit of 2 hatchery trout or hatchery steelhead and 4 hatchery trout or hatchery steelhead in possession.

2. From the Highway 44 bridge to the Deschutes Road bridge.

All year with a bag limit of 2 hatchery trout or hatchery steelhead and 4 hatchery trout or hatchery steelhead in possession.

Other changes are proposed for clarity and consistency. The capitalization of common species names is being done for consistency with American Fisheries Society standards.

As set forth in Fish and Game Code section 1700, it is “the policy of the state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state and to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the oceans and other waters under the jurisdiction and influence of the state.

This policy shall include [as applicable to inland fisheries] all of the following objectives:

- (a) The maintenance of sufficient populations of all species of aquatic organisms to insure their continued existence.
- (c) The maintenance of a sufficient resource to support a reasonable sport use, where a species is the object of sport fishing, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport.
- (e) The management, on a basis of adequate scientific information promptly promulgated for public scrutiny, of the fisheries under the state’s jurisdiction, and the participation in the management of other fisheries in which California fishermen are engaged, with the objective of maximizing the sustained harvest.”

Adoption of scientifically-based Central Valley Chinook Salmon bag and possession limits provides for the maintenance of sufficient populations of Chinook Salmon to ensure their continued existence. The benefits of the proposed regulations are in concurrence with federal law, sustainable management of Central Valley Chinook Salmon resources, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 215 and 316.5, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change: None.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

#### IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place. The no-change alternative would not be consistent with state policy to maintain harmony with federal and international law related to fisheries management, and the proposed regulations will allow the state to harmonize its bag and possession limits with NMFS' regulations.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose 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 affected private persons and equally effective in implementing the statutory policy or other provision of law.

#### V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

#### VI. 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 minor variations in the bag and possession limits as may be established in the regulations are, by themselves, unlikely to impact business or jobs.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Chinook Salmon sport fishery encourages consumption of a nutritious food. The Commission anticipates benefits to the environment by the sustainable management of California's Chinook Salmon resources.

Adoption of scientifically-based Central Valley Chinook Salmon bag and possession limits provides for the maintenance of sufficient populations of Chinook Salmon to ensure their continued existence. The benefits of the proposed regulations are in concurrence with federal law, sustainable management of Central Valley Chinook Salmon resources, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

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

- (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.

## VII. Economic Impact Assessment

### (a) Creation or Elimination of Jobs, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California

The Commission does not anticipate any substantial 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, that provide services to inland sport fishermen from the proposed regulations. The proposed changes in subsections 7.50(b)(5), (b)(68), and (b)(156.5) affect the bag and possession limits for Chinook Salmon in the American, Feather, and Sacramento rivers. These minor variations in the bag and possession limits as may be established in the regulations are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of fishing trips and the economic contributions from them are expected to remain more or less the same.

### (b) Benefits of the Regulation to the Environment

As set forth in Fish and Game Code section 1700, it is “the policy of the state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state and to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the oceans and other waters under the jurisdiction and influence of the state.”

In accordance with this policy, adoption of scientifically-based inland Chinook Salmon seasons and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

### (c) Health and Welfare of California Residents

The Commission anticipates benefits to the health and welfare of California residents. Chinook Salmon is a nutritious food source and providing inland sport fishery opportunities encourages consumption of this nutritious food. Sport fishing also contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California’s environment by younger generations, the future stewards of California’s natural resources.

### (d) Benefits to Worker Safety

The Commission does not anticipate any benefits to worker safety from the proposed regulations because inland sport fishing does not impact working conditions.



### Informative Digest/Policy Statement Overview

The current, 2016, sport fishing regulations allow for Chinook Salmon fishing in the American, Feather and Sacramento rivers. The Department of Fish and Wildlife (Department) is recommending new Chinook Salmon bag and possession limits in the American, Feather, and Sacramento rivers for the 2017 season.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2017 meeting and develop the final PFMC regulatory recommendations for adoption by NMFS at its April 2017 meeting.

Based on the action taken by NMFS and the recommendation of the Department, the Commission will adopt bag and possession limits for the American, Feather, and Sacramento rivers which may:

- (1) allow for additional harvest of Chinook Salmon if low instream flow conditions persist due to the existing drought to reduce impacts to spawning habitat;
- (2) increase or decrease the current Chinook Salmon bag and possession limits based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season; and
- (3) establish special closure area for winter-run Chinook Salmon protection on the Sacramento River between Keswick Dam and Highway 44 bridge from April 1 to July 31.

### Benefits of the regulations

As set forth in Fish and Game Code section 1700 it is “the policy of the state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state and to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the oceans and other waters under the jurisdiction and influence of the state.

Adoption of scientifically-based Central Valley Chinook Salmon bag and possession limits provides for the maintenance of sufficient populations of Chinook Salmon to ensure their continued existence. The benefits of the proposed regulations are in concurrence with Federal law, sustainable management of the Central Valley Chinook Salmon resources, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

### Consistency with State and Federal Regulations

Article IV, section 20 of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate recreational fishing in waters of the state (Fish & Game Code, §§ 200, 202, 205). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to recreational fishing seasons, bag and possession limits. Further, the Commission has determined that the proposed regulations are neither incompatible nor inconsistent with existing federal regulations.

### Regulatory Language

Section 7.50, Title 14, CCR is amended to read as follows:

#### **§ 7.50. Alphabetical List of Waters with Special Fishing Regulations.**

**. . . [No changes to subsections (a) through (b)(4)]**

| <i>Body of Water</i>  | <i>Open Season and<br/>Special Regulations</i>              | <i>Daily Bag and<br/>Possession Limit</i>  |
|---|---|--|
| (5) American River (Sacramento Co.)   |   |  |
| (A) From Nimbus Dam to the Hazel Avenue bridge piers.   | Jan. 1 through July 15.                                     | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession  |
|   | July 16 through Dec. 31.                                    | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession<br>2[0-4] Chinook Salmon<br>4[0-8] Chinook salmon<br>salmon Salmon in possession |
| (B) From Hazel Avenue bridge piers to the U.S. Geological Survey gauging station cable crossing about 300 yards | Jan. 1 through July 15.<br>Only barbless hooks may be used. | 2 hatchery trout or hatchery steelhead**   |

|  |   |  |
|--|---|--|
| downstream from the Nimbus Hatchery fish rack site.  |   | 4 hatchery trout or hatchery steelhead** in possession   |
|  | July 16 through Aug. 15. Only barbless hooks may be used. | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead** in possession<br><del>2</del> <u>[0-4]</u> Chinook <del>salmon</del> <u>Salmon</u><br><del>4</del> <u>[0-8]</u> Chinook <del>salmon</del> <u>Salmon</u> in possession |
| (C) From the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site to the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park. | Jan. 1 through July 15. Only barbless hooks may be used.  | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead** in possession   |
|  | July 16 through Oct. 31. Only barbless hooks may be used. | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead** in possession<br><del>2</del> <u>[0-4]</u> Chinook <del>salmon</del> <u>Salmon</u><br><del>4</del> <u>[0-8]</u> Chinook   |

|  |                          |   |
|--|--------------------------|---|
|  |                          | <del>salmon</del> <u>Salmon</u> in possession   |
| (D) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park downstream to the Jibboom Street bridge. | Jan. 1 through July 15.  | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession   |
|  | July 16 through Dec. 31. | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession<br>2[0-4] Chinook <del>salmon</del> <u>Salmon</u><br>4[0-8] Chinook <del>salmon</del> <u>Salmon</u> in possession |
| (E) From the Jibboom Street bridge to the mouth.   | Jan. 1 through July 15.  | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession   |
|  | July 16 through Dec. 16. | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or   |

|  |                          |   |
|--|--------------------------|---|
|  |                          | hatchery<br>steelhead**<br>in possession<br><del>2</del> [0-4] Chinook<br><del>salmon</del> <u>Salmon</u><br><del>4</del> [0-8] Chinook<br><del>salmon</del> <u>Salmon</u> in<br>possession |
|  | Dec. 17 through Dec. 31. | 2 hatchery<br>trout or<br>hatchery<br>steelhead**<br>4 hatchery<br>trout or<br>hatchery<br>steelhead**<br>in possession   |

... [No changes to subsections (b)(6) through (b)(67)]

| <i>Body of Water</i>   | <i>Open Season and Special Regulations</i> | <i>Daily Bag and Possession Limit</i> |
|--|--|---------------------------------------|
| (68) Feather River below Fish Barrier Dam (Butte, Sutter and Yuba cos.). |  |                                       |
| (A) From Fish Barrier Dam to Table Mountain bicycle bridge in Oroville.  | Closed to all fishing all year.            |                                       |

|  |  |  |
|--|--|--|
| (B) From Table Mountain bicycle bridge to Highway 70 bridge.   | Jan. 1 through July 15. Only barbless hooks may be used. | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession  |
| (C) From Highway 70 bridge to the unimproved boat ramp above the Thermalito Afterbay Outfall.                      | All year.  | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession  |
| (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp. | Jan. 1 through July 15.                                  | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession  |
|  | July 16 through Oct. 15.                                 | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession<br>2[0-4] Chinook salmon<br>4[0-8] Chinook salmon<br>in possession |

|   |                          |   |
|---|--------------------------|---|
|   | Oct. 16 through Dec. 31. | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession   |
| (E) From 200 yards above Live Oak boat ramp to the mouth. For purposes of this regulation, the lower boundary is defined as a straight line drawn from the peninsula point on the west bank to the Verona Marine boat ramp. | Jan. 1 through July 15.  | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession   |
|   | July 16 through Dec. 16. | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession<br>2 <del>[0-4]</del> Chinook <del>salmon</del> <u>Salmon</u><br>4 <del>[0-8]</del> Chinook <del>salmon</del> <u>Salmon</u> in possession |
|   | Dec. 17 to Dec. 31.      | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead**<br>in possession   |



... [No changes to subsections (b)(68.1) through (b)(156)]

| <i>Body of Water</i>   | <i>Open Season and Special Regulations</i>                          | <i>Daily Bag and Possession Limit</i>  |
|--|---|--|
| (156.5) Sacramento River and tributaries below Keswick Dam (Butte, Colusa, Contra Costa, Glenn, Sacramento, <u>Shasta</u> , Solano, Sutter, Tehama and Yolo cos.). | Also see Sierra District General Regulations (See Section 7.00(b)). |  |
| (A) Sacramento River from Keswick Dam to 650 feet below Keswick Dam.   | Closed to all fishing all year.                                     |  |
| (B) Sacramento River from 650 feet below Keswick Dam to the Deschutes Road bridge.   | <del>All year. Only barbless hooks may be used.</del>               | <del>2 hatchery trout or hatchery steelhead**<br/>4 hatchery trout or hatchery steelhead** in possession</del> |
| <u>1. Sacramento River from 650 feet below Keswick Dam to the Highway 44 bridge.</u>   | <u>Jan. 1 to Mar. 31. Only barbless hooks may be used.</u>          | <u>2 hatchery trout or hatchery steelhead**<br/>4 hatchery trout or hatchery steelhead** in possession</u>     |
|  | <u>Closed to all fishing from Apr. 1 through July 31.</u>           |  |
|  | <u>Aug. 1 through Dec. 31. Only barbless hooks may be used.</u>     | <u>2 hatchery trout or hatchery steelhead**<br/>4 hatchery trout or hatchery steelhead** in possession</u>     |
| <u>2. Sacramento River from the Highway 44 bridge to the Deschutes Road bridge.</u>  | <u>All year. Only barbless hooks may be used.</u>                   | <u>2 hatchery trout or hatchery steelhead**<br/>4 hatchery trout or hatchery steelhead** in possession</u>     |
| (C) Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam.  | Jan. 1 through July 31.   | 2 hatchery trout or hatchery steelhead**<br>4 hatchery trout or hatchery steelhead** in                        |

|  |                          |   |
|--|--------------------------|---|
|  |                          | possession  |
|  | Aug. 1 through Dec. 16.  | 2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession<br><del>2</del> <u>[0-4]</u> Chinook <del>salmon</del> <u>Salmon</u><br><del>4</del> <u>[0-8]</u> Chinook <del>salmon</del> <u>Salmon</u> in possession |
|  | Dec. 17 through Dec. 31. | 2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession   |
| (D) Sacramento River from Red Bluff Diversion Dam to the Hwy 113 bridge near Knights Landing. Note: It is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa and Tisdale Weirs. | Jan. 1 through July 15.  | 2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession   |
|  | July 16 through Dec. 16. | 2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession<br><del>2</del> <u>[0-4]</u> Chinook <del>salmon</del> <u>Salmon</u><br><del>4</del> <u>[0-8]</u> Chinook <del>salmon</del> <u>Salmon</u> in possession |
|  | Dec. 17 through Dec. 31. | 2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession   |
| (E) Sacramento River from the Hwy 113 bridge near Knights Landing to the   | Jan. 1 through July 15.  | 2 hatchery trout or hatchery steelhead** 4 hatchery trout or  |

|  |                          |   |
|--|--------------------------|---|
| Carquinez Bridge (includes Suisun Bay, Grizzly Bay and all tributary sloughs west of Highway 160). Note: It is unlawful to take fish 0-250 feet downstream from the overflow side of the Fremont and Sacramento Weirs. |                          | hatchery steelhead** in possession  |
|  | July 16 through Dec. 16. | 2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession<br>2[0-4] Chinook <del>salmon</del> Salmon<br>4[0-8] Chinook <del>salmon</del> Salmon in possession |
|  | Dec. 17 through Dec. 31. | 2 hatchery trout or hatchery steelhead** 4 hatchery trout or hatchery steelhead** in possession   |

**. . . [No changes subsections 7.50(b)(157) through (b)(212)]**

\* Wild Chinook ~~salmon~~Salmon are those not showing a healed adipose fin clip and not showing a healed left ventral fin clip.

\*\*Hatchery trout or steelhead in anadromous waters are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip (adipose fin is present).

Note: Authority cited: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code. Reference: Sections 200, 202, 205, 215 and 316.5, Fish and Game Code.

## Memorandum

2016 NOV -2 AM 11:21

Date: <sup>Nov. 1</sup>  
~~October 10~~, 2016

To: Valerie Termini  
Executive Director  
Fish and Game Commission

From: Charlton H. Bonham  
Director



**Subject: Agenda Item for the December 8-9, 2016 Fish and Game Commission Meeting  
Re: Request for Notice Authorization to Amend Subsections (b)(5), (b)(68), and  
(b)(156.5) of Section 7.50, Title 14, California Code of Regulations, Central Valley  
Chinook Salmon Sport Fishing Regulations**

Please find attached the Initial Statement of Reasons (ISOR) to amend subsections (b)(5), (b)(68), and (b)(156.5) of Section 7.50, Title 14, California Code of Regulations, for Central Valley Chinook Salmon sport fishing regulations.

The California Department of Fish and Wildlife (Department) is proposing a range of bag and possession limits in the American, Feather, and Sacramento rivers to encompass possible Pacific Fishery Management Council (PFMC) 2017 recommendations for Central Valley salmon stocks expected in mid-April. The scope of this proposal is intentionally broad to increase flexibility for development of the final Central Valley Chinook Salmon seasons. Specific bag and possession limits for Central Valley adult fall-run Chinook Salmon will be presented to the Fish and Game Commission after the final PFMC recommendations are adopted by the National Marine Fisheries Service at its April 2017 meeting.

If you have any questions or need additional information, please contact Acting Fisheries Branch Chief, Kevin Shaffer by telephone at (916) 327-8841 or by e-mail at [Kevin.Shaffer@wildlife.ca.gov](mailto:Kevin.Shaffer@wildlife.ca.gov). The public notice should identify Environmental Program Manager, Roger Bloom as the Department's point of contact for this rulemaking. Mr. Bloom can be reached at (916) 445-3777 or by e-mail at [Roger.Bloom@wildlife.ca.gov](mailto:Roger.Bloom@wildlife.ca.gov).

Attachment

ec: Stafford Lehr, Deputy Director  
Wildlife and Fisheries Division  
[Stafford.Lehr@wildlife.ca.gov](mailto:Stafford.Lehr@wildlife.ca.gov)

Valerie Termini, Executive Director  
Fish and Game Commission  
October 10, 2016  
Page 2

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# Memorandum

Date: January 10, 2017

To: Valerie Termini  
Executive Director  
Fish and Game Commission

From: Stafford Lehr  
Deputy Director



Subject: **Initial Study/Negative Declaration for Proposed Amendments to Central Valley Salmon Sport Fishing Regulations, Title 14, California Code of Regulations**

In compliance with the California Environmental Quality Act, the Department of Fish and Wildlife has prepared the enclosed *Initial Study/Negative Declaration for Proposed Amendments to Central Valley Salmon Sport Fishing Regulations, Title 14, California Code of Regulations* for the Fish and Game Commission 2017 Sport Fishing Regulation Cycle.

If you have any questions regarding the enclosed documents, please contact Karen Mitchell, Senior Environmental Scientist, at (916) 445-0826 or at [Karen.Mitchell@wildlife.ca.gov](mailto:Karen.Mitchell@wildlife.ca.gov).

Attachment

cc: Kevin Shaffer, Chief  
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Roger Bloom  
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STATE OF CALIFORNIA  
NATURAL RESOURCES AGENCY  
FISH AND GAME COMMISSION  
NEGATIVE DECLARATION  
FOR  
PROPOSED AMENDMENTS  
TO  
CENTAL VALLEY SALMON SPORT FISHING REGULATIONS  
TITLE 14, CALIFORNIA CODE OF REGULATIONS

Prepared by:

California Department of Fish and Wildlife  
Fisheries Branch

This Report Has Been Prepared Pursuant to the  
California Environmental Quality Act of 1970  
State of California  
Natural Resources Agency  
Fish and Game Commission

State Clearinghouse #

**INITIAL STUDY AND NEGATIVE DECLARATION  
FOR  
PROPOSED AMENDMENTS  
TO  
CENTRAL VALLEY SALMON SPORT FISHING REGULATIONS  
TITLE 14, CALIFORNIA CODE OF REGULATIONS**

**The Project**

The Fish and Game Commission (Commission) proposes to amend the Central Valley salmon sport fishing regulations as set forth in Title 14 of the California Code of Regulations. The current 2016 sport fishing regulations, California Code of Regulations, Title 14, Section 7.50, allow for salmon fishing in the American, Feather and Sacramento rivers. Each year the Department of Fish and Wildlife (Department) evaluates the potential need to amend the existing Chinook salmon bag and possession limits, and open seasons, to align with up to date management goals. Any proposed changes to the salmon fishing regulations are presented to the Commission for consideration.

**The Findings**

The initial study and the Commission's review of the project showed that the project will not have any significant or potentially significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. The project will not have a significant effect on aesthetics, agriculture and forest resources, air quality, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, and utilities and service systems.

**Basis of the Findings**

Based on the initial study, implementing the proposed project will not have any significant or potentially significant effects on the environment. Therefore, a negative declaration is filed pursuant to the California Environmental Quality Act, Public Resource Code Section 21080, subdivision (c).

This proposed negative declaration consists of the following:

- Introduction – Project Description and Background Information on the Proposed Amendments to Central Valley Salmon Sport Fishing Regulations
- Initial Study Environmental Checklist Form
- Explanation of the Response to the Initial Study Environmental Checklist Form



**PROJECT DESCRIPTION AND BACKGROUND INFORMATION  
FOR  
PROPOSED AMENDMENTS  
TO  
CENTRAL VALLEY SALMON SPORT FISHING REGULATIONS  
TITLE 14, CALIFORNIA CODE OF REGULATIONS**

**Introduction**

Annually, the Department of Fish and Wildlife (Department) recommends Central Valley salmon sport fishing regulations to the Fish and Game Commission (Commission). The Commission then makes the final determination on what amendments to the regulations should be implemented, and is the lead agency for the purposes of CEQA. Under Fish and Game Code Section 200, the Commission has the authority to regulate the taking or possession of fish in the sport fishing context.

**Project goals and objectives**

The goal of this project is to amend the Central Valley salmon sport fishing regulations in furtherance of the state's policy on conservation, maintenance, and utilization of California's aquatic resources. Fish and Game Code Section 1700 declares the state's policy is to encourage the conservation, maintenance and utilization of California's aquatic resources. This section includes the following objectives:

1. Maintain sufficient populations of all aquatic species to ensure their continued existence.
2. Maintain sufficient resources to support a reasonable sport use.
3. Manage using best available science and public input.

**Background**

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2017 meeting and develop the final PFMC regulatory recommendations for adoption by NMFS at its April 2017 meeting. Based on the regulations adopted by NMFS, the Department will recommend specific bag and possession limits to the Commission during a scheduled teleconference call on April 13, 2017.

The new regulations for the American, Feather, and Sacramento rivers may:

- (1) allow for additional harvest of salmon if low instream flow conditions persist due to the existing drought to reduce impacts to spawning habitat; and
- (2) increase or decrease the current salmon bag and possession limits based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season.
- (3) establish special closure area for winter-run Chinook Salmon protection on the Sacramento River between Keswick Dam and Highway 44 bridge from April 1 to July 31.

### **Project Location**

Central Valley salmon sport fishing addressed by this environmental document occurs in the waters of the American, Feather, and Sacramento rivers in northern California, in the counties of Siskiyou, Shasta, Tehama, Colusa, Butte, Yuba, Sutter, Placer, El Dorado, Sacramento, Yolo, Solano, and Contra Costa.

### **Schedule**

If adopted by the Commission and approved by the Office of Administrative Law, the proposed regulatory amendments described below will go into effect June 1, 2017.

### **Project Description**

Because the PFMC/NMFS recommendations are not known at this time, a range (shown in brackets in the text below) of bag and possession limits is indicated where it is desirable to continue Chinook Salmon fishing in the American, Feather and Sacramento rivers. The open seasons and proposed range of bag and possession limits for Central Valley fall-run Chinook Salmon stocks are as follows:

#### American River, subsection 7.50(b)(5)

- (A) From Nimbus Dam to the Hazel Avenue bridge.

July 16 through December 31 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

- (B) From Hazel Avenue bridge to the USGS gauging station cable crossing near Nimbus Hatchery.

July 16 through August 15 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

- (C) From the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park.

July 16 through December 31 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

- (D) From the SMUD power line crossing at the southwest boundary of Ancil

Hoffman Park to the Jibboom Street bridge.

July 16 through October 31 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

(E) From the Jibboom Street bridge to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

Feather River, subsection 7.50(b)(68)

(D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to the Live Oak boat ramp.

July 16 through October 15 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

(E) From the Live Oak boat ramp to the mouth.

July 16 through December 16 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

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

(C) From Deschutes Road bridge to the Red Bluff Diversion Dam.

August 1 through December 16 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

(D) From the Red Bluff Diversion Dam to the Highway 113 bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

(E) From the Highway 113 bridge to the Carquinez Bridge.

July 16 through December 16 with a bag limit of [0-4] Chinook salmon and a possession limit of [0-8] Chinook salmon.

Special Winter-Run Closure

Sacramento River winter-run Chinook Salmon suffered losses to juvenile natural production of 95% and greater for the years 2014 and 2015 brood years due to low reservoir storage and elevated water temperatures caused by the ongoing drought. Chinook Salmon return to their natal rivers and streams every three years to spawn. In 2017 the drought depleted natural juveniles from the 2014 brood year will return as adults to spawn. Therefore, it is vital to protect this year's predicted small cohort to

prevent extinction of winter-run Chinook Salmon. State and federal agencies are working together to help ensure there is sufficient cold water to allow for successful spawning survival. This could be accomplished via the State Water Resources Control Board process or a change in the appropriate reasonable and prudent alternative actions outlined in the 2009 Biological Opinion on the Long-Term Operations of the Central Valley Project and State Water Project.

The Drought Operations Plans have outlined measures to try and prevent extinction of winter-run Chinook Salmon which include: increased hatchery production, enhanced monitoring, and increased rescue efforts. Maximizing adult spawning numbers is critical to the population. Department staff have evaluated the recent winter-run Chinook Salmon spawning locations and have concluded that the majority of winter-run spawning occurs above the Highway 44 bridge.

Although fishing for winter-run Chinook salmon in this reach of the Sacramento River is not allowed under current regulations, incidental by-catch by anglers has been documented to occur, especially during low flow periods. Even if returned to the water, incidental by-catch adds unnecessary stress on winter-run Chinook Salmon resulting in the potential loss of adults before spawning. A fishing closure in the holding and spawning areas of winter-run will add to protections for a Federal and State Endangered fish facing a high risk of extinction.

The Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam (RBDD) is a Commission designated Wild Trout Water and provides some of the best rainbow trout fishing in California. The proposed closure from Keswick Dam to the Highway 44 bridge is a 5.5 mile (about nine percent) reduction in areas open to fishing upstream of the RBDD.

Although this represents a small portion of the fishery, it is one of the most popular reaches for both shore based and boat anglers. The Department acknowledges the importance of this sport fishery and understands any closure to angling will likely have a substantial effect to both local anglers and anglers travelling from other parts of the State.

However, given the gravity and magnitude of the current situation facing winter-run Chinook Salmon, the Department is proposing a permanent closure of fishing (April 1 through July 31) in this area and will annually assess the success of all efforts to protect the winter-run Chinook Salmon population.

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

(B) From 650 feet below Keswick Dam to Deschutes Road bridge.

1. From 650 feet below Keswick Dam to the Highway 44 bridge.

January 1 through March 31 with a bag limit of 2 hatchery trout or hatchery steelhead and 4 hatchery trout or hatchery steelhead in possession.

Closed to all fishing from April 1 to July 31.

Open from August 1 through December 16 with a bag limit of 2 hatchery trout or hatchery steelhead and 4 hatchery trout or hatchery steelhead in possession.

2. From the Highway 44 bridge to the Deschutes Road bridge.

All year with a bag limit of 2 hatchery trout or hatchery steelhead and 4 hatchery trout or hatchery steelhead in possession.

## ENVIRONMENTAL CHECKLIST FORM

1. Project Title:  
Proposed Amendments to Central Valley Salmon Sport Fishing Regulations, Title 14, California Code of Regulations
2. Lead Agency Name and Address:  
California Fish and Game Commission  
1416 Ninth Street  
Sacramento, CA 95814
3. Contact Person and Phone Number:  
Valerie Termini, (916) 653-4899
4. Project Location:  
The Sacramento, Feather, and American rivers.
5. Project Sponsor's Name and Address:  
California Department of Fish and Wildlife  
Fisheries Branch  
830 S Street  
Sacramento, CA 95811
6. General Plan designation:  
N/A (statewide)
7. Zoning:  
N/A (statewide)
8. Description of Project:  
Potentially amend the daily bag and possession limits for the Central Valley salmon sport fishery to maintain consistency with the Department's mission to manage California's diverse fisheries resources for their ecological value, their use and for the public's enjoyment.
9. Surrounding land uses and setting:  
N/A
10. Other Public Agencies Whose Approval Is Required:  
None

## ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

|                          |                                    |                          |                                 |                          |                           |
|--------------------------|------------------------------------|--------------------------|---------------------------------|--------------------------|---------------------------|
| <input type="checkbox"/> | Aesthetics                         | <input type="checkbox"/> | Agriculture and Forestry        | <input type="checkbox"/> | Air Quality               |
| <input type="checkbox"/> | Biological Resources               | <input type="checkbox"/> | Cultural Resources              | <input type="checkbox"/> | Geology/Soils             |
| <input type="checkbox"/> | Greenhouse Gas Emissions           | <input type="checkbox"/> | Hazards and Hazardous Materials | <input type="checkbox"/> | Hydrology/Water Quality   |
| <input type="checkbox"/> | Land Use/Planning                  | <input type="checkbox"/> | Mineral Resources               | <input type="checkbox"/> | Noise                     |
| <input type="checkbox"/> | Population/Housing                 | <input type="checkbox"/> | Public Services                 | <input type="checkbox"/> | Recreation                |
| <input type="checkbox"/> | Transportation/Traffic             | <input type="checkbox"/> | Tribal Cultural Resources       | <input type="checkbox"/> | Utilities/Service Systems |
| <input type="checkbox"/> | Mandatory Findings of Significance |                          |                                 |                          |                           |

This project will not have a "Potential Significant Impact" on any of the environmental factors listed above; therefore, no boxes are checked.

## DETERMINATION:

On the basis of this initial evaluation:

|                                     |   |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | I find that the proposed project COULD NOT have a significant effect on the environment, and a <b>NEGATIVE DECLARATION</b> will be prepared.  |
| <input type="checkbox"/>            | I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A <b>MITIGATED NEGATIVE DECLARATION</b> will be prepared.   |
| <input type="checkbox"/>            | I find that the proposed project MAY have a significant effect on the environment, and an <b>ENVIRONMENTAL IMPACT REPORT</b> is required.   |
| <input type="checkbox"/>            | I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An <b>ENVIRONMENTAL IMPACT REPORT</b> is required, but it must analyze only the effects that remain to be addressed. |
| <input type="checkbox"/>            | I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or <b>NEGATIVE DECLARATION</b> pursuant to  |

|  |  |
|--|--|
|  | applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required. |
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**Valerie Termini, Executive Director**

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**Date**



|  | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact                           |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| <b>I. AESTHETICS:</b> Would the project:   |                                |  |                              |                                     |
| a) Have a substantial adverse effect on a scenic vista   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>II. AGRICULTURE AND FOREST RESOURCES:</b> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project: |                                |  |                              |                                     |

|  | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact                           |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Result in the loss of forest land or conversion of forest land to non-forest use?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>III. AIR QUALITY:</b> Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.<br>Would the project:  |                                |  |                              |                                     |
| a) Conflict with or obstruct implementation of the applicable air quality plan?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

|  | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact        | No Impact                           |
|--|--------------------------------|--|-------------------------------------|-------------------------------------|
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?                         | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Expose sensitive receptors to substantial pollutant concentrations?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) Create objectionable odors affecting a substantial number of people?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| <b>IV. BIOLOGICAL RESOURCES:</b> Would the project:  |                                |  |                                     |                                     |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

|  | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact                           |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>V. CULTURAL RESOURCES:</b> Would the project:   |                                |  |                              |                                     |
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Disturb any human remains, including those interred outside of formal cemeteries?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>VI. GEOLOGY AND SOILS:</b> Would the project:   |                                |  |                              |                                     |
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

|  | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact                           |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| ii) Strong seismic ground shaking?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| iii) Seismic-related ground failure, including liquefaction?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| iv) Landslides?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Result in substantial soil erosion or the loss of topsoil?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>VII. GREENHOUSE GAS EMISSIONS:</b><br>Would the project:  |                                |  |                              |                                     |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>VIII. HAZARDS AND HAZARDOUS MATERIALS:</b> Would the project:   |                                |  |                              |                                     |

|  | Potentially<br>Significant<br>Impact | Less Than<br>Significant<br>with<br>Mitigation<br>Incorporated | Less Than<br>Significant<br>Impact | No Impact                           |
|--|--------------------------------------|--|------------------------------------|-------------------------------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                                   | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?   | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |

|   | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact                           |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| <b>IX. HYDROLOGY AND WATER QUALITY:</b> Would the project:  |                                |  |                              |                                     |
| a) Violate any water quality standards or waste discharge requirements?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| f) Otherwise substantially degrade water quality?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

|   | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact                           |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| area structures which would impede or redirect flood flows?   |                                |  |                              |                                     |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>X. LAND USE AND PLANNING:</b> Would the project:   |                                |  |                              |                                     |
| a) Physically divide an established community?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>XI. MINERAL RESOURCES:</b> Would the project:  |                                |  |                              |                                     |
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>XII. NOISE:</b> Would the project result in:   |                                |  |                              |                                     |
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Exposure of persons to or generation of  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |



|   | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact                           |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| excessive groundborne vibration or groundborne noise levels?  |                                |  |                              |                                     |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>XIII. POPULATION AND HOUSING:</b>  |                                |  |                              |                                     |
| Would the project:  |                                |  |                              |                                     |
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| <b>XIV. PUBLIC SERVICES:</b>  |                                |  |                              |                                     |

|   | Potentially<br>Significant<br>Impact | Less Than<br>Significant<br>with<br>Mitigation<br>Incorporated | Less Than<br>Significant<br>Impact | No Impact                           |
|---|--------------------------------------|--|------------------------------------|-------------------------------------|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:   |                                      |  |                                    |                                     |
| Fire protection?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| Police protection?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| Schools?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| Parks?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| Other public facilities?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| <b>XV. RECREATION:</b>  |                                      |  |                                    |                                     |
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?   | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| <b>XVI. TRANSPORTATION/TRAFFIC:</b>   |                                      |  |                                    |                                     |
| Would the project:  |                                      |  |                                    |                                     |
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |

|  | Potentially<br>Significant<br>Impact | Less Than<br>Significant<br>with<br>Mitigation<br>Incorporated | Less Than<br>Significant<br>Impact | No Impact                           |
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| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?   | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?   | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| e) Result in inadequate emergency access?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| <b>XVII. TRIBAL CULTURAL RESOURCES:</b><br>Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geologically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: |                                      |  |                                    |                                     |
| a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or   | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |

|  | Potentially Significant Impact | Less Than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact                           |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. |                                |  |                              |                                     |
| <b>XVIII. UTILITIES AND SERVICE SYSTEMS:</b> Would the project:  |                                |  |                              |                                     |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| g) Comply with federal, state, and local statutes and regulations related to solid waste?  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

|  | Potentially<br>Significant<br>Impact | Less Than<br>Significant<br>with<br>Mitigation<br>Incorporated | Less Than<br>Significant<br>Impact | No Impact                           |
|--|--------------------------------------|--|------------------------------------|-------------------------------------|
| <b>XVIII. MANDATORY FINDINGS OF SIGNIFICANCE</b>   |                                      |  |                                    |                                     |
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?   | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?  | <input type="checkbox"/>             | <input type="checkbox"/>                                       | <input type="checkbox"/>           | <input checked="" type="checkbox"/> |

## **EXPLANATION OF RESPONSES TO INITIAL STUDY ENVIRONMENTAL CHECKLIST**

### **I. AESTHETICS**

- a) The project will not have an adverse effect on a scenic vista. Such an impact will not occur because the project will not involve any construction, land alternation, or modification of any buildings or structures.
- b) The project will not damage scenic resources such as trees, rock outcroppings, and historic buildings. Such an impact will not occur because the project will not involve any construction, land alteration, or modification of any buildings or structures.
- c) The project will not substantially degrade the existing visual character or quality of the work sites and their surroundings. Such an impact will not occur because the project will not involve any construction, land alternation, or modification of any buildings or structures.
- d) The project will not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

### **II. AGRICULTURE RESOURCES**

- a) The project will not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to non-agricultural use. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- b) The project will not conflict with existing zoning for agricultural use or a Williamson Act contract. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- c) The project will not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timber zoned Timberland Production. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- d) There will be no loss of forest land and the project will not result in the conversion of forest land to non-forest use. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- e) The project will not involve other changes in the existing environment, which due to their location or nature, could result in conversion of Farmland to non-agricultural use. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.

### **III. AIR QUALITY**

- a) The project will not conflict with or obstruct implementation of the applicable air quality plan. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- b) The project will not violate any air quality standard or contribute substantially to an existing or projected air quality violation. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.
- c) The project will not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable Federal or State ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors). Such an impact will not occur because the project involves no ongoing sources of air pollution.
- d) The project will not expose sensitive receptors to substantial pollutant concentrations. Such an impact will not occur because the project will not increase pollutant concentrations.
- e) The project will not create objectionable odors affecting a substantial number of people.

### **IV. BIOLOGICAL RESOURCES**

- a) The project will not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by the CDFW, National Marine Fisheries Service (NMFS) or U. S. Fish and Wildlife Service (USFWS).

An increase in the daily bag and possession limit for Central Valley fall-run Chinook salmon would not directly or indirectly affect candidate, sensitive, or special-status species. Although listed fish species including Central Valley steelhead, Central Valley spring-run Chinook salmon, and winter-run Chinook salmon could be present in the lower American, Sacramento, or Feather rivers during the Central Valley fall-run Chinook salmon sport fishing season, existing sport fishing regulations prohibit take of these species.

The intent of the proposed seasonal fishing closure on the Sacrament River from April 1 through July 31 is to protect federally endangered winter-run Chinook Salmon and would not have an adverse effect on candidate, sensitive, or special-status species in the project area.

- b) The project will not have an adverse effect on any riparian habitat or other sensitive natural communities identified in local or regional plans, policies and regulations, or

by the CDFW or the USFWS. Such an impact will not occur because the project will not involve any construction, land alternation, or land use changes.

- c) The project will not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.
- d) The project will not substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.
- e) The project will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Such an impact will not occur because the project will not result in any construction, land alteration, or land use changes.
- f) The project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.

## **V. CULTURAL RESOURCES**

- a) The project will not cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5. There is no ground disturbing work and thus no potential to affect historical resources.
- b) The project will not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. There is no ground disturbing work and thus no potential to affect archaeological resources.
- c) The project will not directly or indirectly destroy any unique paleontological resources or sites, or unique geologic features. There is no ground disturbing work and thus no potential to affect paleontological resources.
- c) The project will not disturb any human remains, including those interred outside of formal cemeteries. There is no ground disturbing work and thus no potential to affect human remains.



## **VI. GEOLOGY AND SOILS**

- a i) The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault. Such an impact will not occur because the project will not involve ground disturbing work.
- a ii) The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking. Such an impact will not occur because the project will not involve ground disturbing work.
- a iii) The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction. Such an impact will not occur because the project will not involve ground disturbing work.
- a iv) The project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides. Such an impact will not occur because the project will not involve ground disturbing work.
- b) The project will not result in substantial soil erosion or the loss of topsoil. Such an impact will not occur because the project will not involve ground disturbing work.
- c) The project will not be located on a geologic unit or soil that unstable, or that would become unstable and potentially result in on- or off- site landslides, lateral spreading, subsidence, liquefaction, or collapse. Such an impact will not occur because the project will not involve ground disturbing work.
- d) The project will not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property. Such an impact will not occur because the project will not involve ground disturbing work.
- d) The project will not create any sources of waste water requiring a septic system

## **VII. GREENHOUSE GAS EMISSIONS**

- a. The project will not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. The project will not involve any construction, land alternation, or land use changes.
- b. The project will not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHG. The impacts of GHG produced by the use of vehicles to and from the Sacramento River during the angling season will

be negligible.

## **VIII. HAZARDS AND HAZARDOUS MATERIALS**

- a) The project will not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. The project will not involve the transport, use, or disposal of hazardous materials.
- b) The project will not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. The project will not involve the transport, use, or disposal of hazardous materials.
- c) The project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. The project will not involve the transport, use, or disposal of hazardous materials.
- d) The project will not be located on any site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.
- e) The project will not be located within an airport land use plan area.
- f) The project will not be located within the vicinity of a private airstrip.
- g) The project will not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. The project will not involve any construction, land alteration, or land use changes.
- h) The project will not expose people or structures to a significant risk of loss, injury, or death involving wild land fires. The project will not involve any construction, land alteration, or land use changes.

## **IX. HYDROLOGY AND WATER QUALITY**

- a) The project will not violate any water quality standards or waste discharge requirements. The project will not involve any construction, land alteration, water use, or water discharge.
- b) The project will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. The project will not involve any construction, land alteration, or groundwater use.
- c) The project will not substantially alter the existing drainage pattern of the work sites in a manner that would result in substantial erosion or siltation on- or off-site because the project will not involve any construction or land alteration.

- d) The project will not substantially alter the existing drainage pattern of the work sites, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site because the project will not involve any construction or land alteration.
- e) The project will not create or contribute runoff water that would exceed the capacity of existing or planned storm-water drainage systems, or provide substantial additional sources of polluted runoff because the project will not involve any construction or land alteration.
- f) The project will not substantially degrade water quality. The project will not involve any construction or land alteration, and thus will not have any adverse impacts on water quality.
- g) The project will not place housing within a 100-year flood hazard area as mapped on any flood hazard delineation map. No housing will be created as part of this project.
- h) The project will not place within a 100-year flood hazard area structures which would significantly impede or redirect flood flows. No new structures will be associated with this project.
- i) The project will not expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam. The project will not involve any construction, land alteration, or land use changes.
- j) The project will not expose people or structures to a significant risk of inundation by seiche, tsunami, or mudflow. The project will not involve any construction, land alteration, or land use changes.

## **X. LAND USE AND PLANNING**

- a) The project will not physically divide an established community. The project will not involve any construction, land alteration, or land use changes.
- b) The project does not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. The project will not involve any construction, land alteration, or land use changes.
- e) The project will not conflict with any Habitat Conservation or Natural Community Conservation plan. The project will not involve any construction, land alteration, or land use changes.

## **XI. MINERAL RESOURCES**

- a) The project will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.
- b) The project will not result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. Such an impact will not occur because the project will not involve any construction, land alteration, or land use changes.

## **XII. NOISE**

- a) The project will not result in exposure of persons to, or generation of noise levels in excess of, standards established in the local general plan or noise ordinance, or applicable standards of other agencies. The project will not involve construction or physical alteration of land, and its implementation will not generate noise levels in excess of agency standards.
- b) The project will not result in exposure of persons to, or generation of, excessive ground-borne vibration or ground-borne noise levels. The project will not involve construction or physical alteration of land.
- c) The project will not result in a substantial permanent increase in ambient noise levels in the project vicinity. The project will not involve construction or physical alteration of land, or the creation of any permanent noise sources.
- f) The project will not result in a substantial temporary, or periodic, increase in ambient noise levels in the project vicinity above levels existing without the project. The project will not involve construction or physical alteration of land.
- e) The project will not be located within an airport use plan or within two miles of a public airport or public use airport.
- g) The project will not be located within the vicinity of a private airstrip.

## **XIII. POPULATION AND HOUSING**

- a) The project will not induce substantial population growth in an area, either directly or indirectly. Such an impact will not occur because the project will not construct any new homes, businesses, roads, or other human infrastructure.
- b) The project will not displace any existing housing and will not necessitate the construction of replacement housing elsewhere.

- c) The project will not displace any people and will not necessitate the construction of replacement housing elsewhere.

#### **XIV. PUBLIC SERVICES**

- a) The project will not have any significant environmental impacts associated with new or physically altered governmental facilities. The project will not involve any construction, land alteration, or land use changes.

#### **XV. RECREATION**

- a) The project will not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.
- b) The project will not involve any construction, land alternation, or land use changes. There will be no construction or expansion of recreational facilities.

#### **XVI. TRANSPORTATION/TRAFFIC**

- a) The project will not conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.
- b) The project will not conflict, either individually or cumulatively, with any applicable congestion program established by the county congestion management agency for designated roads or highways.
- c) The project will not result in any change in air traffic patterns.
- d) The project will not alter terrestrial features or is incompatible with uses of equipment.
- e) The project will not result in inadequate emergency access. The project does not involve construction.
- g) The project will not significantly affect parking capacity or demand for parking.

#### **XVII. TRIBAL CULTURAL RESOURCES**

- a) The Project will not cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public

Resources Code section 5020.1(k). There is no ground disturbing work and thus no potential to affect tribal cultural resources.

- b) The Project will not cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. There is no ground disturbing work and thus no potential to affect tribal cultural resources.

## **XVIII. UTILITIES AND SERVICE SYSTEMS**

- a) The project will not produce wastewater.
- b) The project will not require, or result in the construction of, new water or wastewater treatment facilities or expansion of existing facilities. Such an impact will not occur because the project will not produce wastewater.
- c) The project will not require or result in the construction of new storm water drainage facilities or expansion of existing facilities.
- d) The project will have sufficient water supplies available to serve the project from existing entitlements and resources.
- e) The project will not produce wastewater.
- f) The project will not generate solid waste requiring disposal in a landfill.
- g) The project will not create solid waste. Thus, the project will be in compliance with federal, state, and local statutes related to solid waste.

## **XVIII. MANDATORY FINDINGS OF SIGNIFICANCE**

- a) The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. The project is consistent with the Department's mission to manage California's diverse fisheries resources for their ecological value, their use and for the public's enjoyment.
- b) The project does not have adverse impacts that are individually limited, but cumulatively considerable. Cumulative adverse impacts will not occur because there are no potential adverse impacts due to project implementation.

- c) The project does not have environmental effects that will cause substantial adverse effects on humans, either directly or indirectly. The project will not involve any construction, land alteration, or the creation of new infrastructure.

**Commissioners**  
**Eric Sklar, President**  
Saint Helena

**Jacque Hostler-Carmesin, Vice President**  
McKinleyville  
**Anthony C. Williams, Member**  
Huntington Beach  
**Russell Burns, Member**  
Napa  
**Peter Silva, Member**  
El Cajon

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Valerie Termini, Executive Director**  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814  
(916) 653-4899  
[www.fgc.ca.gov](http://www.fgc.ca.gov)

## Fish and Game Commission



*Wildlife Heritage and Conservation*  
*Since 1870*

March 30, 2017

### TO ALL AFFECTED AND INTERESTED PARTIES:

**Re: Central Valley Chinook Salmon Sport Fishing, Subsections (b)(5), (b)(68), and (b)(156.5) of Section 7.50, Title 14, California Code of Regulations; published in California Notice Register, January 20, 2017, Notice File No. Z2017-0109-02, Register 2017, No. 3-Z.**

**NOTICE WAS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a proposed adoption hearing to be held via teleconference originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Thursday, April 13, 2017, at 8:30 a.m., or as soon thereafter as the matter may be heard. It was requested all comments must be received no later than April 13, 2017, at the teleconference hearing.

**NOTICE IS NOW GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a discussion hearing to be held via teleconference, originating in the Fish and Game Commission conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, on Thursday, April 13, 2017, at 8:30 a.m., or as soon thereafter as the matter may be heard.

**IT IS NOW FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a new proposed adoption hearing to be held in Airtel Plaza Hotel, 7277 Valjean Ave., Van Nuys, California, on Wednesday, April 26, 2017, at 8:00 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 5:00 p.m. on April 12, 2017 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on April 21, 2017. All comments must be received no later than April 26, 2017, at the hearing in Van Nuys, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

Additional information and all associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/2017/index.aspx#cv>.

Sincerely,

Melissa Miller-Henson  
Deputy Executive Director



State of California  
Department of Fish and Wildlife

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COMMISSION

2017 APR -5 PM 4:42

## Memorandum

Date: March 27, 2017

To: Valerie Termini  
Executive Director  
Fish and Game Commission

From: Charlton H. Bonham  
Director



Subject: **Agenda Item for the April 15 Fish and Game Commission Teleconference Meeting Re: Proposed Changes to Regulations Concerning the Use of Dogs for the Pursuit and Take of Mammals (Section 265, Title 14, CCR)**

Attached is a briefing paper developed as an informational item for Fish and Game Commission (FGC) use during the public discussion regarding the use of GPS collars or dog collars equipped with "treeing switches" for the pursuit and take of mammals.

The FGC adopted a regulation change proposal eliminating the prohibition on the use of these types of dog collars for pursuing/taking mammals submitted by the Department at their April, 2016 meeting in Santa Rosa. CEQA issues raised following that decision led to the development of this briefing paper. It is intended to provide additional information to assist the FGC in making a decision to either reinstate the ban on this equipment or uphold the previous decision. This document is not intended to be a substitute for an environmental document; it is just additional information to inform the discussion on this topic.

If you have any questions or need additional information, please contact T.O. Smith at [Timothy\(TO\).Smith@wildlife.ca.gov](mailto:Timothy(TO).Smith@wildlife.ca.gov) or (916) 445-3555. The Department's point of contact for this rulemaking is Craig Stowers, Environmental Program Manager at (916) 445-3553 or by email at [Craig.Stowers@wildlife.ca.gov](mailto:Craig.Stowers@wildlife.ca.gov).

### Attachment

ec: Stafford Lehr, Deputy Director  
Wildlife and Fisheries Division  
[Stafford.Lehr@wildlife.ca.gov](mailto:Stafford.Lehr@wildlife.ca.gov)

David Bess, Chief  
Law Enforcement Division  
[David.Bess@wildlife.ca.gov](mailto:David.Bess@wildlife.ca.gov)

Wendy Bogdan, Chief Counsel  
Office of the General Counsel  
[Wendy.Bogdan@wildlife.ca.gov](mailto:Wendy.Bogdan@wildlife.ca.gov)

Valerie Termini, Executive Director  
Fish and Game Commission  
March 27, 2017  
Page 2

T.O. Smith, Chief  
Wildlife Branch  
[Timothy\(TO\).Smith@Wildlife.ca.gov](mailto:Timothy(TO).Smith@Wildlife.ca.gov)

Craig Stowers,  
Game Program Manager  
Wildlife Branch  
[Craig.Stowers@wildlife.ca.gov](mailto:Craig.Stowers@wildlife.ca.gov)

Craig Martz, Program Manager  
Regulations Unit  
Wildlife and Fisheries Division  
[Craig.Martz@wildlife.ca.gov](mailto:Craig.Martz@wildlife.ca.gov)

## **I. Introduction**

### **A. Background on the regulation**

The prohibition on the use of treeing (or activity) switches and Global Positioning System (GPS) collars on dogs for the pursuit of mammals was implemented in July, 1994. (§265(d), Title 14, California Code of Regulations).<sup>1</sup> Treeing switches and GPS collars had been primarily used by hunters pursuing species which typically “tree” such as bear, mountain lion, and bobcat. Proponents of the prohibition argued that the use of these collars on dogs pursuing mammals (primarily bears) violated the ethical concept of “fair-chase” by making it easier for hunters to find the animals they were pursuing.

As a result of discussions and recommendations made by the Fish and Game Commission’s (Commission) Wildlife Resources Committee (WRC) in 2015, the Commission proposed to eliminate §265(d) to simplify and make more understandable the regulations in question. Regulatory changes since 1994 – including the legislative ban on hunting mountain lions in the early 1990’s (§4800, FGC) and the more recent prohibition regarding the use of dogs to take bear, bobcat, elk, bighorn sheep and antelope (§265 (a)(2), T14, CCR) – appeared to have rendered the prohibitions contained in §265(d) largely unnecessary, therefore §265(d) was proposed for deletion.

With this deletion, dogs could only be used to pursue deer (one dog per hunter during the general season only) and wild pigs (no more than three dogs per hunter). Treeing switches are not used in the pursuit of these species because they are not treed. The use of GPS collars on dogs pursuing deer and/or pigs would allow the hunter to find and locate crippled game more efficiently, would allow the hunter to locate lost dogs, and would allow enforcement to track hunter trespass in a manner not available to them now (by using data from the dog’s GPS collar as evidence during hunter trespass investigations). These rationales were used to support the lifting of the ban.

The lifting of the ban has resulted in significant debate before the Commission. This briefing paper has been prepared to provide a brief general summary of the issues raised in that discussion about whether to allow or disallow the use of GPS collars for take of deer during the general deer season and wild pigs. The information contained herein may be supplemented or changed if additional information is developed or identified.

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<sup>1</sup> Former section 265(d) stated: Prohibition on Treeing Switches and Use of Global Positioning System Equipment.

(1) Treeing Switches. Electronic dog retrieval collars containing functioning treeing switches (devices consisting of a switch mechanism that results in a change in the transmitted signals when the dog raises its head to a treed animal) are prohibited on dogs used for the pursuit/take of mammals.

(2) Global Positioning System Equipment. Electronic dog retrieval collars employing the use of global positioning system equipment (devices that utilize satellite transmissions) are prohibited on dogs used for the pursuit/take of mammals.

This paper is not intended to be a substitute for document prepared pursuant to the California Environmental Quality Act (CEQA); the Commission will fully comply with CEQA at the time it makes a final decision. Neither is it being used in support of a CEQA “approval”. An “approval” is a “decision by a public agency which commits the agency to a definite course of action.” CEQA Guideline section 15352. The Commission is not at that stage yet in its process to consider the regulation regarding GPS collars and treeing switches.

## **B. Procedural posture**

On September 9, 2015, the WRC discussed eliminating the GPS collar and treeing switch prohibition. The WRC recommended this change to the full Commission. In November, 2015, CDFW prepared for the Commission’s consideration, a regulatory repeal of sections 265(d) (1) relating to treeing switches and (d) (2) relating to GPS collars. After hearings in both December, 2015, and February, 2016, the Commission approved the proposed repeal at its April 14, 2016 meeting. The regulation was approved by the Office of Administrative Law and became effective on July 27, 2016.

On May 16, 2016, however, the Public Interest Coalition (PIC) filed a petition in Superior Court in Sacramento County (Case No. 34-2016-80002350) seeking a Writ of Mandate invalidating FGC’s action. That petition alleges that FGC failed to comply with the procedural requirements of CEQA at the time it lifted the ban. As part of that case, the Commission entered into a stipulation with PIC that states:

(T)he Commission intends to notice consideration of further amendment to section 265 and to conduct further CEQA analysis; and...the Commission’s decision following further CEQA analysis could have a substantial impact on this litigation....(The) Commission will make a final decision on any noticed amendment to Section 265 not later than its regularly scheduled meeting in June, 21-22, 2017. (Stipulation and Order to Stay Proceedings, p. 2)

To accomplish the elements of the stipulation, the Commission went to notice at its October, 2016, meeting to consider reinstituting the prohibition on GPS collars and treeing switches. Discussion on this topic has taken place at the Commission’s December, 2016, and February, 2017, meetings. CDFW is asking for the Commission to provide some direction (not a decision) to it so it can assist the Commission with its compliance with the CEQA at the time it makes a final decision on possible new regulations.

## **II. Discussion**

### **A. What are GPS collars?**

GPS dog collars contain a transmitter that triangulates signals from a minimum of 3 satellites in order to provide an exact location to a receiver used by the hunter/dog handler. The receiver can identify individual way-points (individual locations the dog has been) as well as the track (a series of waypoints) of the dog through the environment in which it is hunting/tracking. GPS collars are usually more expensive than other types of collars. Collars typically used for hunting purposes range from \$179 (Smart Waterproof GPS Collar Tracker for Pets) to \$450 (Garmin Astro 320/T5 Bundle). Although more expensive, hunters purchase and use them as a “security system” to protect their dogs, both seen as valuable property and hunting companions.

Prior to GPS technology, many dog handlers used radio-telemetry collars to track their dogs. Radio-telemetry collars send a VHF signal to the dog handler’s receiver unit. Using a directional antenna (Yagi), the operator can determine the direction of the collar based on the strength of the signal as the antenna is moved. Fast, loud beeps indicate the handler is getting close to the dog. Radio-telemetry collars are fairly inexpensive, ranging from \$80 (Sportdog Beeper Dog Collar 400) to \$169 (Sportdog Hound Tracking Collar). The use of radio-telemetry dog collars for the pursuit/take of deer and wild pigs is currently legal and will remain so under any scenario currently considered in connection with the proposed change.

### **B. What are treeing switches?**

A “treeing” or “activity” switch<sup>2</sup> is a device on a dog collar which sends different strength signals to a receiver depending upon the position of the dog’s head (a slow signal is sent when the dog’s head is down, a faster signal is sent when the dog’s head is raised indicating an animal has been “treed”). The hunter can use this signal to locate the dog, and presumably the treed animal, in much the same way as a GPS collar only without the precision a GPS collar provides. Without an electronic treeing switch, a hunter who is pursuing game must listen for hounds beginning to howl (referred to as baying) at a treed animal and follow the sound of the baying.

### **C. What is “fair-chase”?**

“Fair Chase”<sup>3</sup> is the ethical, sportsmanlike, and lawful pursuit and taking of any free-ranging wild, native North American big game animal in a manner that does not give the hunter an improper advantage over such animals. Fundamental to all hunting is the concept of conservation of natural resources. Hunting in today’s

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<sup>2</sup> Definition located at [wildlifematerials.com](http://wildlifematerials.com)

<sup>3</sup> Boone and Crockett Club, [boone-crockett.org](http://boone-crockett.org)

world involves the regulated harvest of individual animals in a manner that conserves, protects, and perpetuates the hunted population. The hunter engages in a one-to-one relationship with the quarry and his or her hunting should be guided by a hierarchy of ethics related to hunting, which includes the following tenets:

1. Obey all applicable laws and regulations.
2. Respect the customs of the locale where the hunting occurs.
3. Exercise a personal code of behavior that reflects favorably on your abilities and sensibilities as a hunter.
4. Attain and maintain the skills necessary to make the kill as certain and quick as possible.
5. Behave in a way that will bring no dishonor to the hunter, the hunted, or the environment.
6. Recognize that these tenets are intended to enhance the hunter's experience of the relationship between predator and prey, which is one of the most fundamental relationships of humans and their environment.

Therefore, if an aspect of hunting is perceived as giving a hunter an unfair advantage over the target species, then it is said to violate the ethical concept of "fair chase". Any hunter who wishes to enter an animal in the Boone & Crockett and/or Pope & Young (animals taken by archery equipment) record books must first certify in writing that the animal was taken under the principles of fair chase. These principles have been adopted by hunting and wildlife conservation organizations such as the Rocky Mountain Elk Foundation, Mule Deer Foundation, California Deer Association, and the Wild Sheep Foundation.

### **1. How do collars/switches promote "fair-chase"?**

Since the Fish and Game Commission banned the use of dogs for pursuing big-game species except for deer (during the general season only) and wild pigs, dogs fitted with GPS collars would be used primarily to find wounded animals. In the event of hunter-injured wildlife, dogs help locate the injured deer or pig thereby preventing the animal from going to waste. Avoiding waste is a component of hunting ethics and is prohibited under California law (§4304 Fish and Game Code). All hunters are expected to go to the fullest extent reasonable to recover any wounded game animal and a dog can be effective in this effort. Proponents for the use of this equipment advocate that the humane treatment of hunting dogs is they are not left in the field in the event they become lost. Dogs that have become separated from the hunter would be more easily found. The treeing switch regulation was not proposed for change because it promoted fair chase, but because it has become obsolete since neither deer nor pigs can be treed and the pursuit of those species that do climb trees has been otherwise legislatively prohibited.

## **2. How do collars/switches hinder “fair-chase”?**

These devices could make it easier for hunters to locate animals to kill. Since dogs can track wildlife faster than humans, opponents of the devices claim the hunter has an unfair advantage when using GPS-collared dogs because dogs can keep up with the animal being pursued, and the hunter can follow along using the GPS markers at a slower pace to catch up with the hunted animal. Opponents of the use of these collars have also asserted hunters could stay in their campgrounds and release their GPS-collared dogs, only to catch up with them later when the dogs have located a target species. Opponents argue the same could be true for treeing switches.

It is unlikely and highly unusual for hunters to use these collars in the manner suggested by the opponents of the change due to an increased probability of losing their dogs. Opponents argue it is possible some poachers may use these collars to take species for which the use of dogs is entirely prohibited by existing law or regulation.

## **D. Other effects on hunting**

### **1. Number of hunters**

Over the period 2012-2016, California issued an average of 183,294 first and second deer tag applications per year<sup>4</sup>. After deducting the number of second deer tags sold, the Department estimates that there were approximately 103,402 individual deer hunters during that same time period. Unfortunately, it is impossible at this time to provide information regarding the use of dogs to take deer as that question is not asked of hunters reporting take. Using dogs to hunt deer is primarily an eastern method of hunting white-tailed deer and is not a common practice in California<sup>4</sup>. However, as more people relocate to California they are bringing their traditions with them and some deer hunters are currently using dogs to hunt deer.

Because the Department does not track the number of hunters using dogs to hunt deer, it cannot conclude that there is any impact on the number of hunters from either permitting or prohibiting GPS collars or treeing switches.

An average of 54,775 pig tags were sold from 2012-2016<sup>5</sup>. Assuming approximately 17-20% of successful pig hunters used dogs<sup>4</sup>, from 9,312 to 10,955 of these hunters used dogs to assist in the take of wild pigs. Private landowners are now able to kill depredating pigs under the “immediate

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<sup>4</sup> California Department of Fish and Game. 2004. Final Environmental Document for Wild Pig Hunting. 133pp.

<sup>5</sup> California Department of Fish and Wildlife. 2017. License Sales Statistics. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59821&inline>.

encounter” provision of the pig depredation regulation, and this has had a negative impact on the sales of pig tags. The trend is downward; in 2012 60,349 pig tags were sold but in 2016 only 40,361 pig tags were sold. This downward trend is expected to continue as more private landowners deal with the problem themselves and pig populations decline due to other population reduction efforts.

## **2. Hunter success**

Estimated hunter success for deer hunters in 2014 was 21.6% (more accurate figures will be available for the 2016 season with the implementation of mandatory reporting for all deer hunters whether successful or not). Hunter success data for wild pig hunters is not tracked; mandatory reporting for wild pig hunters has not been implemented to date.

The use of dogs for deer hunting was evaluated in the 2004 Final Environmental Document Regarding Deer Hunting<sup>6</sup>. Studies conducted in 1986<sup>7</sup> on white-tailed deer suggest hunters with dogs have a higher success rate than hunters without dogs. This study also indicates that in areas where hunters use dogs, deer experience more stress, but that no significant effects on fertilization, reproductive, and survival rates were found. The study concluded the use of dogs for hunting deer does not impact the reproductive potential of deer populations.

The use of dogs for wild pig hunting was evaluated in the 2004 Final Environmental Document for Wild Pig Hunting. This document determined the regulated use of dogs to hunt wild pigs (approximately 17-20% of wild pig hunters reported using dogs to hunt wild pigs) has not resulted in significant negative impacts on wild pigs, other wildlife, or their habitats in the past. However, public comments generated by the Draft Environmental Document for Wild Pig Hunting indicated some individuals are philosophically opposed to hunting pigs with dogs. They claimed it caused needless pain and suffering because the dog pursued the animal until it was caught and killed. It is important to remember the dogs are used to find and hold the pigs until the hunters kill them, not the dogs. This same document concludes hunters using dogs to hunt pigs have a higher success rate and lower wounding losses than hunters not using dogs.

Both Final Environmental Documents indicate an increase in hunter success may be expected when using dogs to locate downed or crippled game. If GPS-collared dogs are used to find target species, then it will likely increase hunter success. This hunter success is likely to be marginal because most

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<sup>6</sup> California Department of Fish and Game. 2004. *Final Environmental Document Regarding Deer Hunting*. 351 pp.

<sup>7</sup> Spencer, G. 1986. *Hunting Deer with Dogs*. Special Staff Report, Wildlife Division, Texas Parks and Wildlife Department. 71 pp.



hunters who would use GPS collars are likely now using radio-telemetry collars on their dogs.

Again, because wounded animals can be located more easily with collared dogs, there is likely to be less waste of hunter shot deer and wild pigs.

### **3. Use of dogs generally**

#### **a. Hunting**

In California dogs are now primarily used in hunting upland game and waterfowl species. Historically dogs were used to track and tree bears, bobcats, and mountain lions but other legislative and regulatory changes now prohibit the use of dogs for these species. Although dogs may still be used while hunting deer and pigs, the Department does not currently track that information. Deer hunters may use one dog while deer hunting during the general season; these dogs are most commonly used to work dense cover hunters can't access in order to flush deer and/or to trail wounded deer or find carcasses in heavily vegetated areas. Pig hunters are allowed to use up to three dogs; these dogs are used to locate pigs in dense cover and to hold them in the vicinity while a hunter approaches. While dog owners are expected to keep their dogs under control at all times the use of a leash for hunting purposes is not required in California.

#### **b. Training**

Dogs can roughly be categorized as follows: 1) retrievers are primarily used for waterfowl hunting; 2) flushing dogs which are primarily used on upland game species to find, flush, and retrieve game; 3) pointers which are almost exclusively used to find upland game species; 4) trackers/trailers which are primarily hounds which find, trail, and bring to bay the target animal.

With regard to the fourth category of dogs described above (trackers/trailers) California has identified four (4) "dog training zones" (§265(a) (4)(A-D)) and dog training seasons have been established in order to allow hunters to train their dogs without impacting other wildlife species during their normal reproductive/off-spring rearing seasons. These "no training" seasons typically run from April 1<sup>st</sup> to the opening day of general deer season in those areas.

GPS collars can assist during training periods when inexperienced dogs are more likely to get lost. If a dog is being trained, being able to locate it quickly is extremely important so the untrained dog doesn't harm the target individual. Its owner can track it down and call it off more quickly and more accurately with GPS.

**c. Should the FGC consider welfare of dogs in hunting regulations?**

Commenters in opposition to the lifting of the prohibition on GPS collars and treeing switches argue the welfare of hunting dogs is the responsibility of the dog owner/ handler, not the responsibility of the Commission. Presumably this suggests the welfare of lost dogs should not be a consideration in the Commission's regulation.

In this regard, the Commission's jurisdiction as to game mammals is contained in Fish and Game Code section 203. It provides any regulation of the Commission may do "any or all of the following as to any or all species or subspecies: ...prescribe the manner and the means of taking." And "take" pursuant to Fish and Game Code section 86 means "...hunt, pursue, catch, capture or kill" or attempt to do any of these things. Further, section 203.1 specifies that when adopting regulations pursuant to section 203, the Commission "shall consider...the welfare of individual animals...." It is not specified if this reference to individual animals includes only the target species being regulated or other animals that are used as a manner and means of the taking like hunting dogs.

**d. Use of leashes**

While dogs are required to be under control at all times while in the field, California law does not currently require dogs to be leashed while actively hunting. As dogs are commonly used to access terrain and/or vegetation is challenging if not impossible for the hunter to access, the use of a leash under those circumstances would be difficult. That said, for example, the State of Montana only allows dogs to be used to track wounded big-game species and the dog must be on a leash no longer than 50 feet while doing so.

**4. Non-target species impacts**

As the use of radio-telemetry collars is currently authorized for training and hunting purposes, impacts to non-target species from authorizing the use of GPS collars will not increase. Neither of the two previously identified Environmental Documents identified any significant impacts to non-target species through the use of dogs.

Dogs are typically trained to locate specific species of animals in order to maximize the hunter's opportunity to be successful for whatever they are hunting. For example, pointing dogs for upland game birds receive training to prevent them from locating and chasing after non-target species such as deer. Since not all dogs are trained to the same standards, it is likely that minimal impacts to non-target species will occur (as may happen under the current regulation). However, ethical hunters spend countless hours and

significant sums of money to have their dogs trained to locate certain species of wildlife primarily to maximize their opportunity and to minimize impacts to non-target species.

## **5. Use of technology in hunting**

There is no doubt advances in technology have made some hunters more efficient. Technological advances in firearms, optics, ammunition, protective clothing and other gear occur every year to the benefit of the hunter. Dogs have been used to find game since humans started hunting, but collars have not. The proposed regulation relates to one type of collar used in hunting (radio-telemetry) versus another (GPS). Each time new technology emerges, the Commission works with the Department to determine if its use is appropriate. GPS technology provides the hunter with additional options regarding hunting locations, and it has also served to bring many people home from areas they may not be familiar with. The use of these collars is not expected to result in more efficient hunters but rather more dogs that return home.

## **E. Other states' regulations**

Twenty-four states (largely Eastern and Southern states) have enacted regulations requiring a hunter to be specifically licensed for tracking and for dogs to be leashed while doing so. Several Eastern states have implemented a certification program for using dogs to trail wounded game (dogs are not allowed to pursue big-game species only trail them in these states). In these states, hunters are required to contact "certified trackers" in the event they wound and can't locate an animal. A list of certified trackers by area is maintained by the state, and hunters are responsible for contacting and paying the tracker to find the hunter's wounded animal. Some states (Oregon for example) do not allow the use of dogs for hunting most game mammals.

## **F. Enforcement considerations**

Use of GPS collars could benefit California's wildlife officers who are conducting poaching or hunter trespass-related investigations. Wildlife officers could potentially use GPS collar data to prove where a dog has been and to find poaching-related crime scenes whether in semi-urban private properties or extremely remote areas. GPS collar data has proven to be excellent evidence the court can evaluate during legal proceedings. Radio telemetry collars do not provide this type of evidence.

The adoption or denial of this regulation is not expected to have any measureable economic impact. GPS collars are already authorized for use while hunting for other species (for example upland game and waterfowl), and the number of hunters who would use them while hunting game mammals is expected to be minimal.

**From:** Gary Brennan  
**To:** [FGC](#)  
**Subject:** Letter of Opposition to Amend Section 265, Title 14 CCR  
**Date:** Monday, March 13, 2017 5:21:36 PM  
**Attachments:** [Letter to the CA F&G Commission.pdf](#)

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Dear Valerie Termini,

My name is Gary Brennan. I am the new President for the San Diego County Wildlife Federation. Our Federation is concerned about the pending Amend to Section 265, Title 14 CCR regarding the use of GPS and Treeing Switches on dogs used in the pursuit of mammals. I have attached a letter from our Federation regarding our concerns to be included in the record and minutes on March 15, 2017 at the meeting of the Fish and Game Commission or as soon thereafter as the matter may be heard.

A hard copy of this letter will be sent for the record, in the morning. If you have any questions, please feel free to contact me at the cell number below.

Sincerely,

*Gary F. Brennan*

President, San Diego County Wildlife Federation



March 12, 2017

Valerie Termini  
Executive Director  
California Fish and Game Commission  
1416 Ninth Street, Box 944209  
Sacramento, CA. 94244-2090

Dear Members of the California Fish and Game Commission

Subject: Letter of Opposition to Amend Section 265, Title 14 CCR

References:

- (a) TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations dated November 16, 2016
- (b) Bear Hunting Draft Environmental Document dated January 27, 2010

This letter is in reply to the request for comments regarding the amend of Section 265, Title 14, CCR, by adding new subsections (d)(1) and (d)(2) to prohibit the use of treeing switches and GPS collar equipment for dogs used in the taking of mammals.

In April 2016, the Fish and Game Commission adopted changes to Section 265, Title 14, California Code of Regulations authorizing the use of GPS collars and treeing switches for dogs aiding a hunter. Now that a petition was filed by the Public Interest Coalition, the commission has decided to reverse the previous ruling and make the use of GPS and treeing switches prohibited while hunting with dogs in California.

It is the opinion of the San Diego County Wildlife Federation, a Federation of local outdoor related clubs within San Diego County representing over 17,000 members, that the use of a GPS collar for the use of dogs while pursuing mammals is a safety issue for the dog owner and provides no ethical problems regarding Fair Chase. We oppose the reversal of the current law regarding the use of GPS collars on dogs in the pursuit of mammals

We, the San Diego County Wildlife Federation, would like to know what happened to the Draft Environmental Document (Sections 265, 365, 366, 367.5, 401, 708) Title 14, CCR regarding Bear Hunting (January 27, 2010) in which it was stated in Table One of the Summary of Impact that: "Modifying dog-use and training regulations to permit GPS collars and treeing



switches to be used on dogs while bear hunting had No Significant Impact and the Nature of Impact was None.” Additionally, on page 10 and 11 of the draft, it is stated:

## INTENDED USES OF THE ENVIRONMENTAL DOCUMENT

This environmental document has been prepared to assess the potential impacts of altering the regulations governing sport hunting of bears and the use/training of dogs for hunting in California. It has been prepared pursuant to the CEQA (Section 21080.5, Public Resource Code) and the CEQA Guidelines (Section 15250, Title 14, CCR). This document is an informational item to aid the Commission in the decision-making process and to inform the public of the potential effects of the proposed action of sport hunting of bears. Although the analysis of the proposed project and the alternatives to the proposed project address a wide range of bear management issues, this document is intended to act as the environmental document analyzing the potential effects of the proposed project, the existing bear hunting regulations, as well as related factors.

## THE FUNCTIONAL EQUIVALENT

CEQA requires all public agencies in the State to evaluate the environmental impacts of projects that they approve or carry out that may have a potential to significantly impact the environment. Most agencies satisfy this requirement by preparing an environmental impact report (EIR) or negative declaration (ND). However, an alternative to the EIR/ND requirement has been created for State agencies whose activities include the protection of the environment within their regulatory programs. Under this alternative, an agency may request certification of its regulatory program from the Secretary for Resources, after which the agency may prepare functionally equivalent environmental documents in lieu of EIRs or NDs.

The regulatory program of the Commission has been certified by the Secretary of Resources. Therefore, the Commission is eligible to submit this environmental document in lieu of an EIR or ND (Section 15252, CEQA Guidelines).

This environmental document contains a description and potential effects of the proposed project, cumulative impacts of the proposed project (Chapter 2), reasonable alternatives to the proposal (Chapter 3), and a discussion of adverse environmental effects related to the proposal and alternatives (Chapters 2 and 3). In addition, it considers relevant policies of the Legislature and Commission (Chapter 1). This environmental document presents information to allow a comparison of the potential effects of various actions considered by the Commission relative to the proposed project, as well as a range of alternatives. Although a given alternative may not achieve the project's objectives, it is considered to provide the Commission and the public with additional information related to the options available. Both the full project and no project alternatives are considered.

If CEQA rules were followed for the 2010 Bear Hunting Draft Environmental Document, and if it stated, in that document, that the use of GPS and tree switching devices were of no impact, then why are we reversing the decision of the Commission regarding the use of GPS devices? We know that during the CEQA process, it is difficult to reply, as required, to every

letter submitted during the process. If this was one of the reasons for the reversal, our Federation urges you to take the time to complete the task in accordance with the law, not just reverse the decision of the Commission.

Regarding the Impact of Regulatory Action/Results of the Economic Impact Assessment addressed in reference (a), the same information can be said for leaving the current law in place regarding authorizing the use of GPS collars and treeing switches for dogs aiding a hunter.

Telemetry use, while still an accepted method of locating collared dogs, is antiquated and actually causes more harm to the environment causing dog owners drive to various locations in order to try and triangulate the locations of the missing collared dogs. GPS collars allow accurate positional locating of lost or possibly injured dogs. It is real time, accurate information which a dog owner can use. The time it takes to use GPS versus telemetry can be a critical factor if the dog has been injured in aiding in the dog's recovery.

We also take note in Reference (a) where you state, "The rulemaking and the related CEQA analysis will also help to further inform the Commission about the issues related to regulating the use of dogs as an aid in hunting and associated equipment for those dogs. The proposed amended language would be necessary for such purposes." Due to California's increasing anti-hunting climate and organizations whose sole purpose is to stop the use of animals for use in any form of hunting, we feel that if the Commission reverses the current law, it will be increasingly harder to re-instate a rule regarding the use of GPS collars for hunting dogs used in the pursuit of mammals.

If Section 265, Title 14 CCR is retracted until the CEQA process is completed, we urge the Commission to reinstate the rule allowing the use of GPS collars for dogs in the pursuit of mammals in California as quickly as possible under CEQA and the law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary F. Brennan", with a long horizontal flourish extending to the right.

Gary F. Brennan, President  
San Diego County Wildlife Federation  
P.O. Box 607  
Solana Beach, Ca. 92075-0607

**From:** [Kathy Lynch](#)  
**To:** [Yaun.Michael@FGC](mailto:Yaun.Michael@FGC)  
**Cc:** [Kathy Lynch](#)  
**Subject:** Materials for April 13 Teleconference  
**Date:** Friday, March 24, 2017 2:18:06 PM  
**Attachments:** [CSL to FGC Dog Collars 3-8-17.doc](#)  
[OSCC to FGC GPS Collars for Dogs 3-8-17.doc](#)  
[OSCC to FGC GPS Collars for Dogs 12-5-16.doc](#)  
[SCI to FGC GPS Collars for Dogs 3-8-17.doc](#)  
[SCI to FGC GPS Collars for Dogs 12-5-16.doc](#)

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Attached please find letters submitted for the Fish and Game Commission for the March Commission teleconference that were received too late to be included in the briefing binder. (Letters from the Outdoor Sportsmen's Coalition of California and Safari Club International also have attachments referred to in the March letters.)

We would like to make sure that these letters included in the materials packet for the April 13, 2017 teleconference. The letters are comments on Agenda Item 7, Discuss proposed changes to regulations concerning the use of dogs for the pursuit/take of mammals.

Please let us know that the letters will be included in the posted Commission materials.

Thank you,  
Ann Anderson  
Assistant to Kathy Lynch

-----  
Lynch & Associates  
1127 11<sup>th</sup> Street, Suite 610  
Sacramento, CA 95814  
Tel: (916) 443-0202  
Fax: (916) 443-7353  
Cell: (916) 838-6600  
E-Mail: [lynch@lynchlobby.com](mailto:lynch@lynchlobby.com)

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# **Dedicated to Preserving Your Rights To Hunt and Fish In the State of California**

March 8, 2017

**VIA E-Mail**

Ms. Valerie Termini, Executive Director  
Fish and Game Commissioners  
California Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814

**Re: Discuss proposed changes to regulations concerning the use of dogs for the pursuit and take of mammals, March 15, 2017, [Agenda](#), Item 4**

Dear Ms. Termini and Commissioners:

The Outdoor Sportsmen's Coalition of California is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

This is to inform you of the opposition of the Outdoor Sportsmen's Coalition of California (OSCC) to the proposed repeal of recently adopted regulations which allow the use of Global Positioning System (GPS) collars for dogs while hunting mammals.

There are no scientific or other documented wildlife management reasons to ban the use of such collars.

GPS collars are a valuable and humane means of retrieving dogs from the field which, if not found, can wander for days and travel for miles when lost. Without such collars, lost dogs may unnecessarily suffer or even perish before they can be recovered.

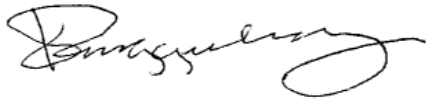
The banning of GPS collars would only serve the political purposes of those who oppose hunting and who seem to have little regard for the humane treatment of hunting dogs. There is no demonstrable scientific wildlife management justification for a ban.

The advocates of the proposed regulation to ban GPS collars on dogs for hunting mammals have apparently not considered that such an action could actually result in harm to wildlife as a lost and hungry dog will capture and eat whatever it can. Banning GPS collars would be counterproductive to the goals of good wildlife management.

For the above reasons, OSCC urges that the commission not adopt the current proposal that would reverse its earlier decision to allow the use of GPS collars while hunting mammals. Rejecting the proposed new regulation is the humane thing to do.

Please note that OSCC sent a letter on this subject to the commission for the December 2016 meeting. It was not reflected in the materials provided for this March 15<sup>th</sup> meeting, but it is attached to this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Ringgenberg', with a stylized, flowing script.

Keith Ringgenberg  
President, Outdoor Sportsmen's Coalition

cc: Outdoor Sportsmen's Coalition of California

Attachment: OSCC Letter, dated December 5, 2016



# **Dedicated to Preserving Your Rights To Hunt and Fish In the State of California**

December 5, 2016

**VIA E-Mail**

Ms. Valerie Termini, Executive Director  
Fish and Game Commissioners  
California Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814

**Re: Proposed Reversal of Regulation Allowing Use of GPS Collars for Dogs, December 8, 2016  
Agenda, Item 32**

Dear Ms. Termini and Commissioners:

The Outdoor Sportsmen's Coalition of California is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

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There are no scientific or other documented wildlife management reasons to ban the use of such collars.

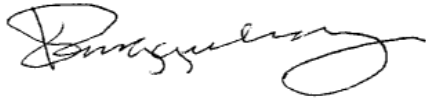
GPS collars are a valuable and humane means of retrieving dogs from the field which, if not found, can wander for days and travel for miles when lost. Without such collars, lost dogs may unnecessarily suffer or even perish before they can be recovered.

The banning of GPS collars would only serve the political purposes of those who oppose hunting and who seem to have little regard for the humane treatment of hunting dogs. There is no demonstrable scientific wildlife management justification for a ban.

The advocates of the proposed regulation to ban GPS collars on dogs for hunting mammals have apparently not considered that such an action could actually result in harm to wildlife as a lost and hungry dog will capture and eat whatever it can. Banning GPS collars would be counterproductive to the goals of good wildlife management.

For the above reasons, OSCC urges that the commission not adopt the current proposal that would reverse its earlier decision to allow the use of GPS collars while hunting mammals. Rejecting the proposed new regulation is the humane thing to do.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Ringgenberg', with a stylized, flowing script.

Keith Ringgenberg  
President, Outdoor Sportsmen's Coalition

cc: Outdoor Sportsmen's Coalition of California

STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0071  
(916) 319-2071  
FAX (916) 319-2171

Assembly  
California Legislature



**RANDY VOEPEL**  
ASSEMBLYMEMBER, SEVENTY-FIRST DISTRICT

RECEIVED  
CALIFORNIA  
FISH AND GAME  
COMMISSION

2017 MAR 29 PM 3:05

MLS

March 27, 2017

Ms. Valerie Termini  
Executive Director  
California Fish and Game Commission  
1416 Ninth Street, Box 944209  
Sacramento, CA 94244-2090

RE: Letter of Opposition to Amend Section 265, Title 14 CCR

Dear Ms. Termini and Members of the Commission:

It has been brought to my attention by multiple constituent groups that a proposed change in regulations as it pertains to the use of GPS and treeing switches, essentially reversing the decision of the Fish and Game Commission to Section 265, Title 14, California Code of Regulations that authorized the use of such devices.

I am fully aware that these groups have reached out to you, sharing their very serious and well-founded concerns with this potential change in regulations. I would like to request that you review these concerns and additionally, that you add my request that you reinstate the regulation allowing the use of GPS collars for dogs in pursuit of mammals in California as quickly as possible under CEQA and California law.

If you have any questions, or need further information, please don't hesitate to contact Gail Ramer, my District Director in the Santee District Office at (619)441-2322.

Sincerely,

A handwritten signature in blue ink, appearing to read "Randy Voepel", written over a horizontal line.

Randy Voepel  
Assemblyman, 71<sup>st</sup> District

**From:** Jim Cather  
**Sent:** Wednesday, March 01, 2017 4:59 PM  
**To:** FGC  
**Cc:** Katie Cather  
**Subject:** Ban GPS Collars NOW--No Delay

To: FGC March 1, 2017

GPS on collars on hounds will reduce wildlife protection and make code enforcement difficult. Activities which are now illegal—bear hound hunting, for example—will be conducted—as a “by product”—because the use of GPS collars will allow hounders to inform bear hunters when, and most importantly, precisely where, the dogs have treed a bear.

Contrary to what has been falsely stated by hounders: GPS collars have absolutely no nexus whatsoever to dog safety via timely—aka “immediate” intervention. As others have tried to explain, even on flat open space, being miles away will not allow immediate intervention. It’s much worse in rough terrain. Dog safety is not affected by wearing or not wearing GPS collars.

Deer hound hunting is banned in 39 states of the US. California is the only mainland state that allows deer-dog/hound hunting—other than nine deep south states, and many areas there are now banning the activity. Houndsmen claimed in testimony that they don’t create wildlife havoc and disruption because they can only have one dog per hunter. Conveniently, they neglected to reveal that there is absolutely **NO LIMIT** to the number of hunters that can be **in a deer hunting party**, and that every one of them may have a hound and release the dog to hunt deer. That easily creates a “pack of dogs” and has huge, significant impacts on wildlife. It’s only part of the many facts that hounders intentionally omit when snookering others and defending the barbaric practice of releasing dogs into wildlife habitat to chase any mammals or, often worse in terms of negative impacts, for training purposes.

The following is from testimony by a public speaker at the February meeting of Florida’s Fish and Wildlife Conservation Committee and accurately articulates the folly and mistake of allowing GPS collars on hounds. The only responsible decision by the FGC is to ban GPS collars and put the ban in effect without any delay.[\[1\]](#)

Testimony transcript:[\[2\]](#)

A real predator is biologically created to catch its prey. This includes canine teeth, claws, speed and agility, and a digestive suited to eating raw flesh. For those of us in the dog-rescue community, we are very familiar with throw away, injured, abused and abandoned hunting dogs. To a hunter, a dog is a tool used to overcompensate for his lack of athleticism as a human being who’s trying to hunt like a real predator. It also shows his lack of patience in stalking prey like the rest of the carnivorous animal kingdom.

A hound hunter is not concerned with fair chase but wants quicker results for his own pastime. Yes, we have the intelligence to create weapons, and stand on the shoulders of brilliant human adventurers to even the playing field for man’s relative physical weakness in hunting. But God gave us the choice to do good or bad with our intelligence. Intelligence does not mean you have the right to do something. It is subject to what you do with that intelligence. There is nothing natural about men chasing animals in the forests with ATV’s, using technology, attractants, food bait,

and high velocity weapons. No animal on earth can dodge a bullet or anticipate that they can be harmed from a far distance.

So using dogs is a callous method of locating and guaranteeing a quicker apprehension of prey. You don't need that. The animals are already disadvantaged. Its men and dogs, technology and motorized vehicles and weapons that make incredible unfair odds for the prey to escape. The use of dogs is unnecessarily painful, and the method of take is extraordinarily cruel and speaks to the violent nature of the people who enjoy watching an animal being torn apart by a pack of dogs. And then to be stabbed or shot after watching the dog be stretched, watching the animal be stretched and ripped apart by the dogs. And if you've never broken up a dog fight like we have in animal rescue community, and actually been injured, you really do not understand what it's like to be ripped apart by dogs. In an attack frame, it is common for dogs to attack each other—fights that we as rehabilitators know are difficult to break up, especially when there are two or more dogs.

So injuries to hunting dogs from the prey and other hunting dogs is common. These dogs are often seen as disposable. After injuries, some dogs are left without vet care to quote "see what happens" unquote. Some live with permanent injuries and infections, and a hunting dog is not considered a pet. Although there may be a few cases like that, by and large there is ranked abuse. It is considered a tool, that is, the animal's abuse, while out trying to abuse and kill other animals in the forest.

Mostly, using dogs give an unfair chase. It is unnatural, and it shows that human beings are not designed to be hunters. If they were designed to be hunters, they could go out into the forests with no clothing on, with no tools, run down, and capture pretty with their own hands. That's a hunter. All this use of tools overcompensates to de-level the playing field—that's what a coward is. Sorry guys.

We urge the FGC to do the right thing, once and for all: Ban GPS collars for all mammal hunting and training, and put the ban in effect without any delay—enough harm is already being done. If it's warranted, bring back GPS, but then, and only then, spend taxpayer dollars on doing a thorough—not half-baked—environmental analysis. The public is aghast that deer-dog hunting is even allowed and were then even more upset to learn that radio telemetry collars were allowed. Now that word is getting out about GPS, the common perception is that this is as ugly as dog fighting. It's nothing more than dog-on-deer hunt-to-kill for the pleasure of ghouls. Hopefully, GPS collars may just be the final straw.

Vote for the ban ASAP, and do not vote for any kind of delay to implement.

Gravely concerned,

Katie and Jim Cather

Loomis, CA



March 28, 2017

CA Fish and Game Commission  
1416 Ninth Street  
P.O. Box 944209  
Sacramento, CA 94244-2090

Subject: **APPROVE PERMANENT GPS Collar BAN  
for Hound-Mammal HUNTING and TRAINING**

Many studies have shown that dogs impact wildlife, especially when they are running loose in wildlife habitat—that's a given. By allowing GPS collars, all negative impacts of dog hunting on wildlife increase, especially as more untrained dogs are released.<sup>1</sup> GPS collars for mammal hunting have been debated in previous FGC meetings, have always been banned in California, and should remain so. By voting to **approve the ban as currently proposed**, the FGC will correct its ill-advised 2016 regulation amendment approval.

The FGC cites a CEQA lawsuit as its incentive for bringing back the ban, but aside from CEQA noncompliance, there are many other compelling reasons why the GPS ban regulation never should have been amended to allow GPS collars on dogs to hunt or train mammals. What is most disturbing and troubling is that the current rulemaking approval, that allows GPS, originated with specious claims of "dog welfare" at the expense of wildlife welfare. Supporters of GPS collars on mammal-hunting dogs made claims that are not true and cannot be substantiated, yet the FGC went ahead and dropped the GPS ban.

Despite the fact that domestic dog welfare concerns are not a function of the FGC—only the state's natural resources protection and wildlife welfare should be a priority—the most often repeated reasons for allowing GPS collars were dog safety and retrieval. The fact is that GPS collars in no way assure dog safety, and retrieval is not guaranteed either. Releasing dogs into rough terrain of wildlife habitat is to put them in harm's way. A responsible dog owner with a genuine concern for his/her dog safety would stay with their dog and never subject it to such injurious or lethal risks as houndsmen do.

Any claims of "timely intervention" with GPS collars is a ruse. Mammal dog hunting is most often conducted in wildlife habitat—heavy underbrush, rough terrain. There is absolutely no way a houndsman can reach a dog when it is miles away and every second counts. "Intervention" for dog safety and wildlife welfare must be immediate, but that is not possible when handlers are riding in a vehicle, possibly over seven miles away watching the dogs' progress on a screen.<sup>2</sup> How many times must these points be made until they are finally addressed?

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<sup>1</sup> It is reasonable and foreseeable to predict that houndsmen from the 39 mainland states that do not allow deer-dog hunting but do allow GPS, will come to California due to lifting the GPS ban. Therefore, impacts to wildlife will increase.

<sup>2</sup> Some GPS collar manufacturers claim their GPS collars have ranges up to ten miles.



To justify putting dogs at risk, houndsmen claim their dogs are bred to hunt and love it, as if that should influence rule making. How or why dogs are bred or what they love is irrelevant. Some dogs are bred and love to fight, but that should not influence decision makers to amend laws to allow dog fighting.

There is no evidence to even hint that a GPS collar will let the handler know that a dog is in distress or involved in an injurious or lethal altercation, has treed or cornered an illegal or protected animal, or is harassing, mauling or killing any wildlife. There is nothing to suggest GPS collars will reduce any risk of injury to the dogs as they crash through thick understory. The GPS collar is merely a locator, nothing more, and subject to reception factors and houndsman interpretation. Productive "intervention" can only be achieved by the houndsmen being in control of their hounds and being geographically or physically close to them.

Thus, the entire premise for dropping the GPS collar ban is bogus—proposed and adopted on a house of cards to cover up the fact that GPS collars reduce fair chase. Houndsmen put their hounds at risk and then put the onus of responsibility on the state to grant them even more technology that will harass and permanently disturb more wildlife, but dogs will still be vulnerable and exposed to all the dangers they face now.

The retrieval argument used by houndsmen is that they will not lose their dogs with GPS. That too is debatable due to GPS limitations—signal strength/loss, distance limits, etc. Even if we accept the no-dog-loss argument, there are many reliable alternatives to retrieving a lost or out-of-range dog that may be even more effective than GPS collars, which were suggested in public comments. The responsibility for dog rescue—solid recall training, keeping up with hounds on a hunt, keeping untrained hounds tethered—belongs with the houndsmen, not the FGC. Public trust must take precedence over imposing more negative impacts to wildlife.

Houndsmen in other states where deer-dog hunting is not allowed have already posted blogs and comments that they can now bring their deer-dogs to California to hunt deer with GPS collars. If houndsmen from out of state were required to register their hunting dogs at border check points, show proof of health via certificates, such recordkeeping might be a start to grasp exactly what is happening in the field with hound-mammal hunting and training.

We urge the FGC to ban GPS collars and implement immediately.

For the PEACE team,



Randall Cleveland

**Mary & Donald Belkin**

**Redding, CA**

**Sent by Email**

March 28, 2016

Fish and Game Commission  
1416 Ninth Street, Suite #1320  
Sacramento, CA 95814

Re: APPROVE BAN ON USE OF GPS COLLARS/TREEING SWITCHES  
IMPLEMENT BAN IMMEDIATELY FOLLOWING VOTE

Dear Commissioners:

This letter is written to urge you to uphold your Notice to Ban the use of GPS collars and treeing switches and to implement the ban immediately at your upcoming April meeting. We make this request so that adequate evaluation and review will be given via the CEQA process prior to reversing a long-held position by the commission against the use of these devices. We ask that our previous comments regarding this issue in our letter dated November 21, 2016, be incorporated by reference, herein.

The process of considering the expanded use of these technology devices has been confusing to the public and has felt rushed from the beginning. Simply put, it has been difficult to follow, and to the best of our ability from watching and listening to Cal-Span, we characterize the issue as follows: The commission first voted in April of 2016, to allow the use of GPS collars/ treeing switches on dogs for hunting without invoking environmental analysis as required under CEQA. Then, in October, 2016, the commission voted to reverse their previously approved regulation to allow GPS collars and began the process under a new notice to BAN these devices under CEQA. At the December, 2016 meeting, the motion was passed that if the amendment to ban the devices was adopted, that immediately following at the same meeting where it was adopted, to notice the language to allow GPS collars on dogs. Moreover, this motion was made on what was agendized as a discussion item. Again, at the meeting in February, the commission was to hold an "adoption hearing" but instead voted to approve both a continuation of the discussion and in the new regulation to dictate that its implementation would start or would NOT occur until one year after the passage by the Commission. The outcome of the March, 2017, meeting was that the commission was advised during the public forum that at least two public comments were omitted from their binder both of which were submitted in a timely manner. Both comments addressed the GPS collar issues. The Commission voted to continue the discussion to the April 13 teleconference meeting with the final action vote to be taken on April 26. Given this unanticipated change of position from meeting to meeting, this issue has been tough to follow. Please note we are not professionals in the resource field but believe that the process should be both transparent and easily understood by the general public. We have serious concerns on both counts.

In addition to the difficulty in following this process by the commission actions relative to its public agenda and contrary actions taken from one meeting to the next, we note there is an inconsistency between allowing the use of GPS collars/treeing switches and Fish and Game Code Section 3008. This section states than when hunting with dogs,

**The physical control of a dog by its owner while the dog is engaged in hunting in an area where the owner is otherwise authorized to hunt, shall be required by this code or regulations made pursuant thereto.**

Surely, there are compelling reasons for this regulation which require that dogs be under PHYSICAL control of the owner or handler. There are plenty of studies which show negative impacts from dogs (running at large) on wildlife. It is our understanding that GPS collars/ treeing switches do not control the dog, which may be a long distance away from the handler. Locating the dog may be the first step towards ultimately controlling it, but this device does not give the handler complete knowledge of the dog's behavior or the means to immediately intervene in a dog's harmful behavior, if it is harassing and/or attacking **non-climbing** wildlife or trampling sensitive vegetation, miles away from the handler. What kind of response time by the handler is adequate if a dog is up to no good and following its instincts as a predator? How would the handler know what a dog is doing significantly out of sight and control, much less intervene in a timely manner to avoid harassment and consequences to unintended wildlife and the environment? We have found studies which measure and document the negative impacts on wildlife from dogs even where the dogs are on leashes, and/or trails.

Of equal concern is the potential for untrained animals to be out at large. We therefore, believe that if dogs are to be used to facilitate hunting that they must first be sanctioned by the state, with permits and registration demonstrating they meet a minimum of standards (including vaccinations), as is the case in some other states. Furthermore, dogs used for locating wildlife do not recognize property lines, and as such, should be restricted for use in areas where there is a large minimum acreage, so as to minimize the potential for trespassing on private property whose landowners do not sanction running dogs on their property. In fact, where we live in cattle country, loose and running dogs are often shot with no questions asked and as a matter of practice, running dogs are not tolerated in rural agricultural areas of California, in our experience. This practice is supported by local ordinances.

Dogs levy significant negative impacts on the environment even when under responsible and ethical handlers' immediate physical control. Though using dogs may vastly increase hunter success, and represent fun to a segment of Californians, it represents a minority view, as Californians have already shown their vast support for prohibiting the use of dogs (altogether) on other species of animals. Though radio telemetry may be used, we believe that the impacts from dogs on the the resources from these devices have not been adequately addressed and stand at odds with Fish and Game Code Section 3008.

We urge you to vote the ban, with immediate implementation, and let the science do its job in a thorough and comprehensive analysis with appropriate public input and regard for the integrity of the CEQA process.

Thank you for your due diligence in this matter. Kindly advise by email that this letter has been received and taken into record.

Very truly yours,



Donald Belkin



Mary Belkin