



STANISLAUS COUNTY FISH AND WILDLIFE COMMITTEE



3800 CORNUCOPIA WAY, SUITE D, MODESTO, CALIFORNIA 95358

THURSDAY, JANUARY 23, 2020

Meeting Time: 4:00 p.m.

**Location: Agricultural Center, 3800 Cornucopia Way, Rooms H & I, Modesto, CA 95358
(Stanislaus Building)**

AGENDA

Call Meeting to Order & Introductions:

The Stanislaus County *Fish & Wildlife Committee (F&WC)* encourages public participation and welcomes the public's interest.

Members of the public may be heard on any item of the Fish and Wildlife Committee's Agenda. A person addressing the Committee will be limited to five (5) minutes, unless the Chairperson of the Committee grants a longer period of time. The Committee will allow comments by members of the public on an agenda item only during consideration of the item.

Requests for Funds & Project Updates:

1. None.

Correspondence:

1. Notice for the California Pacific Herring Fishery Management Plan (Herring FMP) Implementing Regulations, published in the California Regulatory Notice Register July 19, 2019, Notice Number A2019-0709-05
- 2.

Agenda Items:

1. Introduction of Attendees
2. Correspondence
3. Public Comment(s)
4. Approval of October 24, 2019 Meeting Minutes
5. Wildlife Management Report
6. Fishery Report
7. Wildlife Enforcement Report
8. Wood Duck Report
9. Old Business
10. Committee Comments

Adjourn: Next meeting – Thursday, April 23, 2020, at 4:00 p.m.

Please notify the Department of Parks and Recreation at 525-6750 in advance if you will be attending this meeting and require special accommodation for the meeting.

REASONABLE ACCOMMODATIONS: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Committee Secretary at (209) 525-6770. Notification 72 hours prior to the meeting will enable the Department to make reasonable arrangements to ensure accessibility to this meeting. Agendas can also be found online at <http://www.stancounty.com/parks/fish-wildlife-committee.shtm> subject to staff's ability to post prior to the meeting. Materials related to an item on this Agenda submitted to the Committee after distribution of the agenda packet are available for public inspection during normal business hours at the main office of the Department of Parks and Recreation, 3800 Cornucopia Way, Suite D, Modesto, CA 95358.



STANISLAUS COUNTY FISH AND WILDLIFE COMMITTEE



PARKS AND RECREATION
Jaclyn Dwyer, Director
Ed Ayers, Chair

3800 CORNUCOPIA WAY, SUITE D, MODESTO, CALIFORNIA 95358



MINUTES

OCTOBER 24, 2019, AT 4:00 P.M.

3800 CORNUCOPIA WAY, 2ND FLOOR, CONFERENCE ROOM
MODESTO, CA 95358-9494

(Agendas can be found online at <http://www.stancounty.com/parks/fish-wildlife-committee.shtm>)

COUNTY FISH & WILDLIFE MEMBERS PRESENT:

Vernon Gladney, D1
Tom Sexton, D1
Ed Ayers, D2
Phil McKay, D2
Jim Atherstone, D3
Bob Bashaw, D5
Kern Hunewill, D5

STATE FISH & WILDLIFE REPRESENTATIVE(S):

- Lieutenant Darren Walther
- Adam Cahn
- Jeff Moran

PARKS & RECREATION STAFF PRESENT:

- Dianne Parkinson
- Veronica Torres

EXCUSED/ABSENT:

Jason Guignard, D1
Ken Meidl, D4

GUESTS PRESENT:

- Kern Hunewill
- Brian Mollard

A. CALL TO ORDER & INTRODUCTIONS

Ed Ayers called the meeting to order, and introductions were made of all in attendance.

Ed Ayers

B. REQUESTS FOR FUNDS/PROJECT UPDATES

None

ACTIONS & REPORTER

Ed Ayers

C. CORRESPONDENCE

The Committee acknowledged the correspondence received.

ACTIONS & REPORTER

Ed Ayers

D. PUBLIC COMMENTS

None.

ACTIONS & REPORTER

Ed Ayers

E. STANISLAUS WILDLIFE CARE CENTER "DONATIONS"

The Stanislaus Wildlife Care Center entered into an agreement with Parks and Recreation to donate \$25 a month to Parks and Recreation. These funds have been entered into the Fish & Wildlife account by mistake for the last 6 months. The Department is requesting a motion to transfer \$125.00 from the Fish & Wildlife account to the Parks and Recreation account.

ACTIONS & REPORTER

*Dianne Parkinson
Kern Hunewill
Vern Gladney*

Kern Hunewell motioned to accept the transfer of these funds, and Vern Gladney seconded the motion. The motion was unanimously carried.

F. APPROVAL OF MINUTES	ACTIONS & REPORTER
Kern Hunewell motioned to accept the October 24, 2019 Minutes, and Jim Atherstone seconded the motion. The motion was unanimously carried.	<i>Ed Ayers Kern Hunewell Jim Atherstone</i>
G. WILDLIFE MANAGEMENT REPORT	ACTIONS & REPORTER
Tom reported that most of the issues he encounters in the Wildlife Management Complex are dogs. Some report spotting mountain lions and coyotes, but more often than not it turns out to be dogs.	<i>Tom Sexton</i>
H. FISHERY REPORT	ACTIONS & REPORTER
Salmon is starting to show up and once they start opening the flows we will see them on a regular basis and will come real quick.	<i>Ed Ayers</i>
I. WILDLIFE ENFORCEMENT REPORT	ACTIONS & REPORTER
Ed mentioned we received the Wildlife Enforcement Report and stated they did a very good job on the report. Ed asked if there was anything else that needed to be added besides what is on the report. Darren Walter followed up by stating the next phase would be prosecution of those arrested. Darren also mentioned they are working with a fairly new District Attorney, who is very much pro-fish and game and they have been receiving very good prosecution results.	<i>Ed Ayers Darren Walther</i>
J. WOOD DUCK REPORT	ACTIONS & REPORTER
Vernon received a call from a gentleman by the name of Mike Sutton. He works for Fish & Wildlife in the fisheries in LaGrange and mentioned he has an 11-year-old scout that wants to do a project with duck boxes. Vern will give Ed his contact information. Ed stated that the Wood Duck Nesting Program is now ran by the California Waterfowl and stated that if anybody knows of people who are interested in the Wood Duck Nesting Program, to let him know and they can either be taken on or at least provide them with some direction.	<i>Ed Ayers Vernon Gladney</i>
K. OLD BUSINESS AND COMMITTEE COMMENTS	ACTIONS & REPORTER
<ol style="list-style-type: none"> 1. The committee accepted to appoint Regular Member, Jason Guignard, as an Alternate Member. 2. Ed introduced and appointed Brian Mollard as a Regular Member to replace Jason Guignard. 3. Tom asked for an update on the Nutria. Darren reported that the program to eradicate the Nutria is now out of the "emergency" phase and are now in the long term eradication phase. The program, which will have offices in Stockton and Los Banos for the regional area, has hired a lot of staff including biologists and have purchased the necessary equipment. The goal is full eradication. Over 700 Nutria have been eradicated to date; the vast majority of eradication happened in Merced. 4. Vernon mentioned that Mike Sutton, who is a retired teacher and now works for Fish & Wildlife, would like to be an Alternate Member. Vernon will give Ed his contact information. 5. It was announced that the Salmon Festival will be held on Saturday, November 9th in Knights Ferry. 	<i>Ed Ayers</i> <i>Tom Sexton Ed Ayers Darren Walther</i> <i>Vernon Gladney</i>

- 6. Ed thanked Dianne for assisting as the secretary during the past few months. Ed also announced that the next meeting will take place in a new location. Veronica Torres informed the attendees the next meeting will be held in the new Parks and Recreation Department which is located in this same complex in the Tuolumne Building just across from the Stanislaus Building.
- 7. Ed announced there is currently \$52,375 in the Fish & Wildlife fund and asked to get the word out to people who might be looking for funding to help out their cause.
- 8. Tom Sexton asked for an update on the Habitat Project at Woodward Reservoir. Brian Mollard reported there were no recommendations from the committee to fund this project due to a fishing concern.
- 9. Phil McKay reported on the Del Puerto Canyon in regards to the guzzlers and when they would be allowed access to the park. The Parks and Rec staff informed him the park was closed at that time and would not re-open until mid-October due to the fire season. Now that the park is open, the committee agreed to tentatively schedule the cleaning project for November 23, 2019.

*Ed Ayers
Veronica Torres*

Ed Ayers

*Tom Sexton
Brian Mollard*

Phil McKay

L. ADJOURNMENT & NEXT MEETING

ACTIONS & REPORTER

There being no further business, Jim Atherstone motioned to adjourn the meeting and Bob Bashaw seconded the motion. The meeting was adjourned at 5:30 p.m. The next regular meeting of the Fish and Wildlife Committee will be held on:

*Ed Ayers
Jim Atherstone
Bob Bashaw*

**Thursday, January 23, 2020 at 4:00 p.m.
Conference Room - Tuolumne Bldg.
3800 Cornucopia Way, Modesto, CA 95358**

Prepared By: *Veronica Torres, Fish & Wildlife Secretary*

209-525-6750

Agendas can also be found online at subject to staff's ability to post prior to the meeting. Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection during normal business hours at the main office of the Department of Parks and Recreation, 3800 Cornucopia Way, Suite D, Modesto, CA 95358.

Commissioners
Eric Sklar, President
Saint Helena

Jacque Hostler-Carmesin, Vice President

McKinleyville

Russell E. Burns, Member

Napa

Peter S. Silva, Member

Jamul

Samantha Murray, Member

Del Mar

STATE OF CALIFORNIA
Gavin Newsom, Governor

Melissa Miller-Henson
Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
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fgc@fgc.ca.gov
www.fgc.ca.gov

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

October 29, 2019

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a 15-day continuation notice for the California Pacific Herring Fishery Management Plan (Herring FMP) Implementing Regulations, published in the California Regulatory Notice Register July 19, 2019, Notice Number Z2019-0709-05; adopted by the Fish and Game Commission (Commission) on October 10, 2019 in Valley Center.

This provides notice of documents added to the rulemaking file:

- Added Appendix S, Public Comments Received, Responses, and Changes to the Draft California Pacific Herring Fishery Management Plan (Attachment A)
- Final Herring FMP (which includes Appendix S), which the Commission adopted as presented on October 10, 2019, with modifications to the following sections, as detailed in Attachment B:
 - Executive Summary ("Recreational Regulations" – p. iv);
 - 7.8.7 ("Recreational Fishery" – p. 7-28);
 - 10.5.1 ("Alternatives considered but not carried forward" - p. 10-11).

This also provides notice that the Commission adopted the Herring FMP implementing regulations as proposed, except for subsection 163.1(d) and subsection 164(d)(1) where the Commission selected no change alternatives, as described in Attachment C.

These documents are available for inspection at the Fish and Game Commission office at 1416 Ninth Street, Suite 1320, Sacramento, California, 95814, Monday through Friday, except holidays between the hours of 8:00 a.m. and 5:00 p.m., and on the Commission's website www.fgc.ca.gov.

Comments must be emailed to FGC@fgc.ca.gov or mailed to Melissa Miller-Henson, Executive Director, California Fish and Game Commission, P.O. Box 944209, Sacramento, California 94244-2090, from October 29, 2019 through November 13, 2019.

Sincerely

Sheri Tiemann
Associate Governmental Program Analyst

Attachments

Appendix S Public Comments Received, Responses, and Changes to the Draft California Pacific Herring Fishery Management Plan

The Draft California Pacific Herring Fishery Management Plan (Draft Herring FMP) was received by the California Fish and Game Commission (Commission) at their June 2019 meeting. This appendix presents summaries of public comments received by the Commission on the Draft Herring FMP during the public comment period, and California Department of Fish and Wildlife (Department) responses indicating how public comments were addressed (Table S-1). This appendix also summarizes all changes to the Draft Herring FMP (Table S-2), which includes corrections to minor errors, as well as changes made in response to public comments received.

The Final Draft Herring FMP was received by the Commission for adoption at its October 2019 meeting; additional changes as adopted by the Commission in response to public comments, and corrections to minor errors, are included in this appendix and summarized in Table S-3.

Table S-1. Summary of public comments received on the Draft Herring FMP and Implementing Regulations, and Department responses.

Commenter Number	Commenter Name, Organization if Applicable, Comment Format, and Date	Herring FMP Section or New Title 14, CCR (Implementing Regulations) Section Referenced	Comment Summary	Response
1	<p>Edward Zeng Recreational Participant Email dated 6/18/2019</p>	<p>FMP Section 7.8.7; Title 14, CCR §28.62</p>	<p>1-a. The Herring FMP proposes a daily limit of 100 lb. For reasons stated in email (missing spawn windows, health of Herring consumption, low gear requirement for recreational Herring take, low overall recreational catches), Mr. Zeng requests that the daily bag limit be raised to a minimum of 300 lbs.</p>	<p>There are not adequate data available to assess the magnitude of recreational Herring catches, so it is unknown if overall recreational Herring catches are low. The daily limit of 10 gallons was chosen to allow for a satisfying recreational experience for individuals while ensuring that total Herring harvest remains sustainable.</p>
2	<p>Hua Bai Recreational Participant Email dated 6/18/2019</p>	<p>FMP Section 7.8.7; Title 14, CCR §28.62</p>	<p>2-a. Although a recreational limit is useful to prevent excess take, it is not practical to require recreational participants to have a scale that can weigh 100 lbs., as this requires purchase of extra equipment. An easier rule could be a big cooler full of Herring. Cooler can be sized so it is around 100lb to 200lb. This limit is easy to implement by all parties.</p>	<p>The daily bag limit of ten gallons is equivalent to two 5-gallon buckets, which are commonly owned pieces of equipment that allow participants and enforcement to assess compliance without having to weigh the Herring.</p>
3	<p>Charlie Zhao Recreational Participant Email dated 6/22/2019</p>	<p>FMP Section 7.8.7; Title 14, CCR §28.62</p>	<p>3-a. Because recreational take depends on targeting an ongoing spawning event, this type of fishing is typically a once-per-year opportunity. Mr. Zhao typically tries to take an entire year's worth of fish in a single trip (roughly equal to two 27-gal containers from Costco, for one-gallon zip lock bag consumption weekly for family all year). Even if people are commercializing recreational catch illegally, it does not affect ability of other recreational fishers to catch what they need. Mr. Zhao believes Herring are abundant, and that the commercial fishery takes much more, and has greater impact on population, than</p>	<p>The ten-gallon bag limit presented in implementing regulations is in line with the Department's goal of maintaining a satisfying recreational experience for participants. Recreational fishing limits are not intended to supply participants with a weekly food source throughout the year.</p>

5	<p>John Vogel Recreational Participant Email dated 7/23/2019</p>	<p>FMP Section 7.8.7; Title 14, CCR §28.62</p>	<p>5-a. The proposed limit for recreational Herring harvest is too low. Recreational Herring is a unique fishery with opportunity to catch only once or twice a year. He understands the need to prevent over harvest, but is not aware of a significant number of recreational participants harvesting huge quantities for illicit commercialization or waste. Wants a five 5-gallon bucket as a limit.</p>	<p>The limit for recreational take allows participants to take up to ten gallons (approximately 100 pounds, or 520 fish) per person. Families that would like to maximize the amount of fish they take legally may choose to have more family members participate in fishing. While the Department understands that, due to the pulse nature of spawning events, there may be limited fishing opportunities in a season, this limit is designed to balance providing a satisfying recreational experience with the needs of the resource.</p>
6	<p>Bradley S. Cain Recreational Participant Email dated 7/24/2019</p>	<p>FMP Section 7.8.7; Title 14, CCR §28.62</p>	<p>6-a. Displeased with 1 bucket limit for recreational take of Herring. 4 or 5-bucket limit is more reasonable. Spawning is unpredictable in nature and it is difficult for rec fishers to get to an active spawning event. Sometimes miss spawns entirely. When a decent spawn event can be effectively targeted, currently take enough to stock freezer for entire year's use (consumption and bait). One bucket would not allow this as it wouldn't last a year. Additionally, 1 bucket limit is overly restrictive given volume of commercial catch annually. Rec fishers do not impact fishery, unlike commercial. Please reconsider and adopt a limit of no less than 4 buckets per day.</p>	<p>The limit for the recreational Herring fishery is not designed to supply participants with a year-long supply of either bait or daily food. The goal of this limit is to sustainably manage the resource, which can experience intense recreational fishing pressure during nearshore spawning events, while allowing fishers a satisfying recreational experience. The proposed limit takes into consideration the needs of the Pacific Herring resource as well as that of both the commercial and recreational sectors.</p>
7	<p>Kirk Lombard Recreational Participant, Blogger and Author, Fishmonger Email dated 7/24/2019</p>	<p>FMP Section 7.8.7; Title 14, CCR §28.62</p>	<p>7-a. The proposed recreational limit range goes too far. Supports limits in general. A zero-bucket limit is an overreaction. Makes six points about recreational take of Herring, including limited number of days they are accessible from shore, and that most people only take a few buckets during spawns (problem of over harvest stems from a few bad apples). Mr. Lombard contrasts recreational take with commercial gillnet take (recreationally-caught fish are eaten locally, gillnet catch is exported) emphasizing local benefit of recreational take and poor quality of gillnet-acquired fish for eating. He points out high utilization by Asian Americans and high level of complaint from non-Asian Americans</p>	<p>While the Department understands that Herring are only available during a few nearshore spawning events, those events can experience intensive recreational pressure, with hundreds of participants targeting Herring. The limit is designed to allow participants a satisfying recreational experience while limiting the impacts of harvest on the schools that spawn in these nearshore areas.</p>

	(Continued)	Executive Summary, General		management in California. For this reason, these goals are given primacy in the Herring FMP. However, the Commission's forage species policy also played an important role in the development of the FMP objectives, as described in the Herring FMP. This error has been corrected in the Final Herring FMP.
9	Nick Sohrakoff Commercial Participant, Director's Herring Advisory Committee, FMP Steering Committee Member Email dated 7/29/2019	FMP Section 4.7.2	9-a. The SFBHRA (San Francisco Bay Herring Research Association) did not file a lawsuit. The lawsuit in referenced was filed by the SFHA (San Francisco Herring Association). Please correct the draft changing SFBHRA to SFHA to reflect the proper entity that filed the lawsuit.	
9	Nick Sohrakoff Oral Comment w/ Anna W. (Commenter 10) at FGC Meeting 8/8/2019	FMP General	9-b. General expression of support – DHAC supported FMP 12 years ago. SC was a successful collaborative effort, would like to fund a genetic study with Audubon for stocks in CA and southern Oregon.	The Herring FMP was the result of a great deal of work by many different stakeholders, and the Department hopes to continue future collaborations to benefit the resource.
10	Geoff Shester, Oceana and FMP Steering Committee; Anna Weinstein, Audubon California and FMP Steering	FMP Appendices	10-a. Appendix R is currently missing from the FMP due to an error. Based on an agreement by the Steering Committee, this Appendix was intended to describe an increased range of catch limit adjustments resulting from ecosystem considerations that the Department may use as scientific information improves, without an FMP amendment. We request that Appendix R be included in the FMP and that the public be afforded the opportunity to review and provide	Appendix R was drafted, but omitted from the Draft Herring FMP in error. Appendix R was included in an updated Draft FMP that was made available for public viewing and comment, and is included in the Final Herring FMP. Appendix R contains information on the development of the Harvest Control Rule framework, as well as guidance for amending the decision tree as the field of ecosystem-based fishery management develops. Any increase in the bounds on ecosystem-based

10	NGO Letter (Continued)	FMP Appendices	Assessments for Tier 2 stocks and stating in the FMP that this is the criteria for overfished.	Appropriate page numbering has been applied to all appendices in the Final Herring FMP. Pending adoption, for ease of download, the FMP body and appendices will be made available separately.
10	NGO Letter (Continued)	FMP General	10-c. The number and size of the Appendices substantially increase the size of the overall FMP document, which as presented, will complicate navigation of the FMP by the public. While each Appendix provides important information and is referenced in the body of the FMP, we suggest the Appendices be available as separate documents from the main body of the FMP, and that each Appendix contain consistent page numbering and formatting to improve navigation of the FMP.	The term "quota" is frequently used interchangeably with "catch limit" in fisheries management. In addition, the Marine Life Management Act uses the term "quota" rather than "catch limit" in specifying the types of conservation and management measures that should be described in an FMP (Section 7802(c)). Furthermore, the term quota has been used historically in documents related to management of California's Pacific Herring fishery. For consistency with these documents, the Final FMP retains use of the word "quota".
10	NGO Letter (Continued)	FMP Section 2.13.2.2, Appendix D	10-d. Throughout the document, the term "quota" is used when referring to the annual catch limit. The term quota is problematic because in other contexts "quota" may refer to a minimum quantity or goal, rather than a maximum limit. To maintain consistency and clarity for the public, we request the FMP not use the term "quota" and instead use the term "catch limit."	Habitat maps for management areas where no commercial activity occurs at the time of FMP development are presented in Appendix D. However, the Humboldt Bay map in the Draft FMP Appendix D did not include spawn areas. Detailed maps of recent observed spawning locations are available for Humboldt Bay and have been included in the Final FMP. Section 2.13.2.3 has been edited to refer the reader to Appendix D for Humboldt Bay spawn areas.
10	NGO Letter (Continued)	FMP Section 7.7.2	10-e. In Section 2.13.2.3 (p. 2-26), the Department's maps of Herring spawning area extent and most-used spawning areas for Humboldt Bay should be included, in the manner San Francisco Bay's maps appear in that section. Also, these updated maps should be put into the Habitat section (pg. 319).	The primary management goals as outlined in the Herring FMP are those described in the MLMA, which is the overarching legal framework for fisheries management in
10	NGO Letter (Continued)	FMP Section 7.7.2	10-f. The Executive Summary (p. ii) and Section 7.7.2 state that complying with the Commission's Forage Species policy is a secondary goal. This prioritization undercuts the	

	Gordon and Betty Moore Foundation and the National Fish and Wildlife Foundation.		
10	<p>NGO Letter (Continued)</p>	FMP General	<p>Support for the Herring FMP is appreciated. Comments received have been responded to here and in the Final FMP as appropriate.</p>
11	<p>Anna Weinstein Audubon California Herring FMP Steering Committee +3,258 Individual Signatories Letter dated 7/31/2019</p>	FMP General	<p>Support for the Herring FMP is appreciated. Comments received have been responded to here and in the Final FMP as appropriate.</p>
11	<p>Anna Weinstein +3,258 Individual Signatories (Continued)</p>	FMP Appendices	<p>All appendices, including Appendix R (see response to Comment 9-a), are now available for the public to review, and include appropriate page numbering. Pending adoption, for ease of download, the FMP body and appendices will be made available separately.</p>
11	<p>Anna Weinstein +3,258 Individual Signatories (Continued)</p>	FMP Section 2.13.2.3, Appendix D	<p>Habitat maps for management areas where no commercial activity occurs at the time of Herring FMP development are presented in Appendix D. However, the Humboldt Bay map in the Draft Herring FMP Appendix D did not include spawn areas. Detailed maps of recent observed spawning locations are available for Humboldt Bay and have been included in the Final FMP. Section 2.13.2.3 has been edited</p>

12	<p>Nils Warnock Audubon Canyon Ranch (ACR) Letter dated 7/31/2019</p>	FMP Section 7.8.2.2	<p>12-a. ACR agrees with the Commission's recommendation to reduce the maximum number of permits allowed for Tomales Bay (from 35 to 15 via attrition), but further recommends that no new permits be issued for Tomales Bay (instead of beginning to issue once number of Tomales permits drops below 15). Rather, Tomales Bay would be best left as a protected area for Herring. Cites linked importance of Herring to seabirds, lack of commercial interest in Tomales Bay Fishery, and proximity to SF bay fishery as reasons.</p>	<p>The FMP specifies a management approach for Pacific Herring in Tomales Bay that is compatible with both conservation and fishing goals. Should there be renewed commercial interest in Herring fishing in Tomales Bay, the quota will be set at a small fraction of historical quotas to ensure that the Tomales Bay Herring stock can serve as food for predators as well as support a small commercial fishery, as described in Chapter 7.</p>
12	<p>Nils Warnock (Continued)</p>	FMP Section 7.8.7; Title 14, CCR §28.62	<p>12-b. ACR endorses FMP's recommendation of a recreational bag limit range of 0-100 lbs, equivalent to up to ten gallons, or two 5-gallon buckets of Herring, each containing 260 fish.</p>	<p>Support for the recreational bag limit in the Herring regulations is appreciated.</p>
12	<p>Nils Warnock (Continued)</p>	FMP Chapter 7 - Tomales Bay Spawning Biomass Surveys	<p>12-c. As current monitoring data are critical for helping managers steward resources, especially during these times of rapid climate change, ACR encourages the Commission to recommend renewed Herring monitoring in Tomales Bay.</p>	<p>The Herring FMP identifies management areas with active commercial fisheries as the highest priority for monitoring. As described in Chapter 7, an appropriate level of monitoring will resume in Tomales Bay should commercial fishing activity resume there.</p>
12	<p>Nils Warnock (Continued)</p>	FMP General	<p>12-d. With some suggested modifications, Herring FMP will provide strong guidance for the long-term sustainable mgmt. of Pacific Herring in California, including Tomales Bay.</p>	<p>Support for the Herring FMP is appreciated. Comments received have been responded to here and in the Final FMP as appropriate.</p>
13	<p>Pam Young Golden Gate Audubon Society Letter dated 7/31/2019</p>	FMP General	<p>13-a. General support for the Herring FMP, including use of the best available science to support sustainable management.</p>	<p>Support for the Herring FMP is appreciated.</p>
14	<p>Morgan Patton, West Marin Environmental Action</p>	FMP Section 7.8.7; Title 14, CCR §28.62	<p>14-a. Consistent with past comments and Audubon Canyon Ranch's comments, EAC supports the Herring FMP's daily bag limit two 5-gallon buckets of Pacific Herring</p>	<p>Support for the recreational bag limit in the Herring regulations is appreciated.</p>

14	<p>Morgan Patton, Ashley Eagle Gibbs EAC Second letter Dated 9/26/2019</p>	<p>FMP Chapter 7,</p>	<p>14-d. Reiterates comments from 8/1/2019 letter, specifically 1) support for the recreational limit, 2) support of overall management goals, which the recommendation that Tomales Bay be closed to commercial take, and 3) commercial take in Tomales Bay should not be allowed until certain research and monitoring is conducted.</p>	<p>understanding of California's Pacific Herring stocks.</p>
14	<p>Morgan Patton, Ashley Eagle Gibbs (Second letter Continued)</p>	<p>Title 14 CCR §28.60</p>	<p>14-e. Recommends that the recreational take of Herring roe be prohibited in Tomales Bay due to sensitive nature of the ecosystem there. Specifically, waterbird populations in Tomales Bay are in decline, Tomales Bay serves as important marine mammal habitat, and eelgrass in Tomales Bay is important to herring. Furthermore, eelgrass is likely to be mistaken for kelp and taken along with the recreational take of roe, even though this is prohibited.</p>	<p>See responses above to comments 14-a, 14-b, and 14-c.</p>
15	<p>Julie Thayer, Ph.D. Farallon Institute Letter dated 7/31/2019 in attachment to Email dated 8/1/2019</p>	<p>FMP Chapters 3, 7; Appendices E, F</p>	<p>15-a. Work conducted by the Farallon institute as a contractor on FMP development was not accurately represented in the draft FMP. Includes specific description of issues with information presented in Ch 3, Ch 7, and Appendix E, and F. Inaccurate representation of this work led to erroneous conclusions by Peer Review of FMP science. Requests that actual contractor work be presented in the appendices.</p>	<p>The daily limit of 25 lb wet weight, including roe and vegetation, is meant to allow for a satisfying recreational experience for individuals while ensuring that total Herring harvest remains sustainable. The Department recognizes the importance of eelgrass and other sensitive habitat types in Tomales Bay, and the prohibition on take of eelgrass is meant to prevent impacts to this important species during recreational fishing activity.</p> <p>The Farallon Institute was subcontracted to assist the Project Management Team with developing scientific advice for the management of Pacific Herring. This work produced a number of valuable contributions to the field of ecosystem-based fishery management, and the parts that were used in the development of the FMP's management framework were provided to the Peer Review, are reproduced in Appendices E and F. However, there were other components of the work produced that were evaluated by the Project Management Team, the Department, and the Steering Committee that were deemed to be not suitable for use in the management framework at this time. The Peer</p>

15	Julie Thayer, Ph.D. (Continued)	FMP Sections 2.4, 5.6, Chapter 8	15-e. Importance of temporal variability in spawning should be explicitly stated in the FMP (w/ specific recommendations for Sections 2.4, 5.6, and Chapter 8).	The observed temporal variability in Herring spawning is stated a number of times throughout the Herring FMP. In particular, Section 2.4 and Figure 2-4 describe the available information on this variability. Section 8.6 also flags changes in observed spawning habitat over time as a key uncertainty and avenue for future research.
15	Julie Thayer, Ph.D. (Continued)	FMP Appendices	15-f. The FMP is prohibitively large and difficult to navigate due to myriad of appendices, both current and historical information. Suggest final document only include immediately-relevant supplemental material such as formulas and decision trees, w/ clear page numbering. Historical info should be separated into distinct files that can be downloaded separately, and are also clearly referenced.	California's Herring fishery is complex, with a long history of management. The FMP serves as a central repository for all of the available information on Pacific Herring and its management in California. Pending adoption, for ease of download, the FMP body and appendices will be made available separately.
16	Jennifer Fearing Fearless Advocacy Oral comment at FGC meeting 8/8/2019	FMP General	16-a. Strong support for adoption in October. The FMP is a tremendous step forward for Ecosystem-Based Management. Appreciate CDFW incorporating Appendix R	Support for the Herring FMP is appreciated. Appendix R was drafted but was omitted in error (see response to Comment 9-a). It has been included in an updated draft of the FMP and is available for review.
16	Jennifer Fearing (Continued)	FMP Section 7.5.3	16-b. As per NGO Letter (see Commenter 9), recommendations to strengthen MLMA compliance w/out altering timeline for adoption, request Fish and Game Commission direct CDFW to address those recommendations prior to adoption.	Section 7.5.3 has been amended in the Final Herring FMP to include criteria for determining when a given management area's spawning stock biomass is considered overfished or otherwise depressed under Tier 2. If the stocks drops below these limits, the quotas will be set to zero to promote stock rebuilding. This brings the management plan into compliance with the MLMA, which states that FMPs must specify overfishing limits and rebuilding plans.

				package in 2020 to address the remaining HEOK issues.
17	Geoff Shester (continued)	Implementing Regulations		<p>The spawning stock biomass estimate of 8,030 is one of the lowest on record, however existing regulations establish a 750 ton gillnet quota during the 2019-20 season. This quota allows for a gillnet-sector target harvest rate (this year's quota as a percentage of last year's biomass) of 9.3%, which the Department considers to be precautionary.</p>
17	Geoff Shester (continued)	Implementing Regulations		<p>The Fish and Game Commission selected a ten-gallon recreational bag limit from the 0-10 gallon range provided by the Department.</p>
18	Dan Yoakum Commercial Participant Letter dated 9/24/2019 Attached to Email dated 10/02/2019	FMP and Regulations General		<p>Department staff engaged with Mr. Yoakum, in his capacity as the HEOK-sector representative, by way of multiple, formal, in-person meetings, as well as numerous phone calls, regarding the proposed regulations. The Department has committed to working with Mr. Yoakum to resolve some of the concerns with the proposed HEOK regulations mentioned in his letter, including meeting at a Marine Resources Committee meeting on November 5, 2019 and the possibility of a follow-up rulemaking in 2020 to address the remaining HEOK issues. Regarding specific issues identified by Mr. Yoakum with this regulatory package, see responses to comments 18-b through 18-h below.</p>
18	Dan Yoakum (continued)	FMP Section 7.8.1.1, Title 14 CCR §55.02(d)		<p>Proposed regulations in §55.02(d) state that the Director of the Department shall set quotas for all sectors according to Chapter 7 of the FMP. Under the FMP, HEOK permits are separate from Herring gillnet permits. Section 7.8.1.1 of the FMP's Chapter 7 describes HEOK quota as being set to a product weight equivalent to approximately 1% of the total quantity of eggs produced by the most recent SSB. The permit quotas under regulation prior to the FMP were</p>

18	Dan Yoakum (continued)	Title 14 CCR §164(d)(1)(E) and (F)	18-f. Gear requirements for the allowable length of corklines and their marking requirements ignore that lines must be broken down into smaller segments in order to be operated.	Department program staff worked with Law Enforcement Division to develop this requirement, the intent of which is that any line engaged in fishing be 1,200 feet in length or less and adequately marked at each end.
18	Dan Yoakum (continued)	Title 14 CCR §164(f)	18-g. The noise rule in 164(f) is unnecessary, as the HEOK sector is quiet by nature. Including this rule leaves HEOK participants open to harassment.	This requirement has always applied to all Herring permittees in §163 (including HEOK) prior to FMP-implementing regulations. Under FMP-implementing regulations, harvest of HEOK is addressed in §164, including noise reduction requirements.
18	Dan Yoakum (continued)	Title 14 CCR §163(e)(3)(B)	18-h. The requirement that the HEOK permittee be aboard any vessel engaged in harvesting, processing, or transporting herring eggs is not workable, as help is not hung aboard the vessel. Dan recommends that the requirement be changed to 'in the vicinity' of the vessel, so that permittees may be allowed to work from, for example, their raft(s).	Department program staff worked with Law Enforcement Division to develop this requirement, the intent of which is that the permittee be present during harvest, processing, or transporting of HEOK product. Language such as "in the vicinity" is vague, and could potentially be interpreted in such a way that no permittee need be present during these operations, which is not sufficient from an enforcement standpoint. However, the Department will clarify this requirement in a follow-up rulemaking in 2020 (see response to comment 18-a).
18	Dan Yoakum Oral comment at FGC meeting 10/10/2019	FMP and Regulations General	18-i. There are many problems with the regs and the HEOK fishery that came about because CDFW took recommendations but did not reach out to review them, just kept pushing it off and never talked about the changes they made.	See responses above to comment 18-a. The Department has committed to working with Mr. Yoakum to resolve some of the concerns with the proposed HEOK regulations mentioned in this letter, including meeting at a Marine Resources Committee meeting on November 5, 2019 and the possibility of a follow up rulemaking in 2020 to address the remaining HEOK issues.
18	Dan Yoakum (continued)	FMP and Regulations (Reiterated)	18-j. Reiterated comments from 9/24/2019 letter, specifically 1) maintain individual quotas. 2) Continue to allow weekend landings. And 3) to fish HEOK, you have to be able to get off the vessel while fishing HEOK.	See responses above to comment 18-b, 18-c, and 18-h.

Table S-2. Summary of minor corrections and changes to the Draft Herring FMP.

Document Section	Page Number	Correction
Title page	NA	<p align="center">Draft California Pacific Herring Fishery Management Plan</p> <p align="center">Draft</p> <p align="center">August 08, 2019 October 25, 2019</p>
Executive Summary	ii	<p>The overarching goal of this FMP is to ensure the long-term sustainable management of the Herring resource consistent with the requirements of the Marine Life Management Act (MLMA) and the Commission's forage species policy. In particular, it seeks to:</p> <ul style="list-style-type: none"> • describe the effects of climate change on California's Herring stocks, and identify environmental and ecosystem indicators that can inform effective management.
Executive Summary	iv	<p>The currently used method is available as a backup should data be unavailable or should environmental changes compromise the predictive power of the model. The FMP adopts this multi-indicator predictive model as an option for estimating the coming year's SSB in the San Francisco Bay management area, contingent upon availability of necessary input data and continued predictive power by the model. Spawn deposition surveys remain the default method for determining SSB.</p>
Acknowledgements	xxii	<p>Finally, the <u>Gordon and Betty Moore Foundation</u> and the <u>National Fish and Wildlife Foundation</u> provided the necessary funding to support the Project Management Team, composed of Dr. Sarah Valencia, Huff McGonigal, and David Crabbe.</p>
2.8, Figure 2-5 caption	2-10	<p>Figure 2-5. Observed age distribution of the research catch in San Francisco Bay, Percent at age, by number, of ripe fish for the San Francisco Bay spawning stock biomass. Based on age composition of the research catch (excluding age-1 fish), 1982-83 through 2017-18 seasons. Note that no sampling was conducted in final age composition was not determined for the 1990-91 and 2002-03 seasons.</p>

		<p>For Tomales Bay and Humboldt Bay, the stock is considered overfished or otherwise depressed at stock sizes that are less than 20% of the long-term average biomass (including historical and contemporary SSB estimates) for each respective management area. For Crescent City Harbor, the stock is considered overfished or otherwise depressed at SSB estimates less than 66 tons, which is approximately three times the average historical catch in that management area.</p> <p>All necessary data are available by the end of September each year, and prior to the beginning of the fishing season, which begins in December.</p> <p>While the predictive model provides a promising avenue for incorporating additional indicators into Herring management, as well as for improving predictive accuracy, the model needs to be tested before it is used to set quotas. To do this, the model must have three consecutive years where a) all of the data required are available, and b) demonstrate that over those three years it has greater predictive skill than the spawn-deposition survey alone. At that point the model's use depends on availability of required data and the model's continued predictive skill (see Section 7.6.2.1, Appendix E). When these two requirements are met, the Department may decide to use the predictive model in yearly quota setting.</p>
7.6.2.1	7-10	
7.6.3	7-12	
7.7.1, Figure 7-2 caption	7-13	<p>HCR Harvest Control Rule describing the relationship between estimated SSB and unadjusted quota for subsequent season of the San Francisco Bay Herring commercial fishery.</p>
7.7.2.3	7-21	<p>Should one or more of the criteria in the decision tree recommend that the Department consider reducing the quota, a 300-ton (272 metric ton) reduction in the harvest should be applied the target harvest rate may be reduced by up to 1% (Figure 7-3).</p>
7.7.2.3	7-22	<p>Conversely, if an increase is warranted, a 300-ton increase to the quota should be applied the target harvest rate may be increased by up to 1% (Figure 7-3).</p>
9.2	9-4	<p>Additionally, as the science evolves, the Department may adjust the magnitude of changes to the quota recommended by the decision tree up to the limits defined in Appendix R Section 7.7.2.3, provided the supporting science is clearly documented (see Appendix R).</p>
All appendices	multiple	<p>Insert incomplete and/or missing page numbers into all pages of all appendices</p>

Table S-3. Summary of minor corrections and changes to the Final Draft Herring FMP as adopted.

Document Section	Page Number	Correction
Executive Summary	vi	<p>Recreational Regulations – Prior to this FMP, there was no limit for the recreational take of Herring. To address this, the FMP recommends a range between 0 and 100 pounds, which is equivalent to up to 10 gallons (or two 5-gallon buckets); es-establishing a daily bag limit through regulation. ThisThe established bag limit is <u>should be easily enforceable and provides for a satisfying and sustainable recreational experience while deterring illegal commercialization of the fishery.</u></p>
7.8.7	7-28	<p>This FMP establishes that a daily bag limit for recreational fishing <u>be adopted through regulation.</u> ThisThe FMP recommends a range between 0 and 100 lb (45 kg) daily bag limit <u>be established at which is equivalent to up to ten gallons, or two 5-gallon buckets of Herring, each containing approximately 260 Herring.</u> Based on input from stakeholders this is considered to be an appropriate amount to provide a reasonable and sustainable amount of recreational harvest for participants. ThisThe possession limit <u>is also</u> is <u>designed to be clear and easily enforceable.</u> For reference, two 5-gallon buckets of Herring are equivalent to 100 lb of herring, or approximately 260 Herring per bucket. Currently, there are no estimates of the recreational catch available, but thisa possession limit will provide Department staff with a means of estimating recreational take via counting the number of recreational anglers observed during each spawning event.</p>
10.5.1	10-11	Deleted Section 10.5.1.
10.5.2	10-11	Renumbered Section 10.5.2 as Section 10.5.1.

Revisions in the final Herring FMP
based on California Fish and Game Commission action on October 10, 2019

Executive Summary, 4th paragraph under section titled “Changes to streamline and modernize the regulations” (page vi), is revised to read:

Recreational Regulations – Prior to this FMP, there was no limit for the recreational take of Herring. To address this, the FMP recommends a range between 0 and 100 pounds, which is equivalent to up to 10 gallons (or two 5-gallon buckets), as establishing a daily bag limit through regulation. ~~This~~ The established bag limit is ~~should be~~ easily enforceable and provides for a satisfying and sustainable recreational experience while deterring illegal commercialization of the fishery.

Section 7.8.7 is revised to read:

This FMP establishes that a daily bag limit for recreational fishing be adopted through regulation. ~~This~~ The FMP recommends a range between 0 and 100 lb (45-kg) daily bag limit be established at which is equivalent to up to ten gallons, or two 5-gallon buckets of Herring, each containing approximately 260 Herring. Based on input from stakeholders this is considered to be an appropriate amount to provide a reasonable and sustainable amount of recreational harvest for participants. This The possession limit is ~~also~~ should also be designed to be clear and easily enforceable. For reference, two 5-gallon buckets of Herring are equivalent to 100 lb of herring, or, approximately 260 Herring per bucket. Currently, there are no estimates of the recreational catch available, but ~~this~~ a possession limit will provide Department staff with a means of estimating recreational take via counting the number of recreational anglers observed during each spawning event.

Section 10.5.1 is removed, and remaining section renumbered:

~~10.5.1 A Recreational Bag Limit of 100 Pounds~~

~~In soliciting public comment on the proposed management strategy in the Herring FMP, many recreational participants responded that a 50 pound daily bag limit (one 5-gallon bucket) was sufficient to meet their needs, there were some recreational participants who felt that this amount of catch was too limiting because there are so few spawns during the year that are close enough to a public pier or beach where it is accessible to recreational participants. Some participants commented that they share Herring with family members and would like to see a higher bag limit of 100 pounds (two 5-gallon buckets) to facilitate this. While it is true that not all spawning events are accessible to recreational fishermen, those that are have experienced very intense fishing pressure, with reports of hundreds of fishermen on piers, jetties and in the intertidal zone, fishing with hook and line or cast nets, therefore the recreational fishing pressure on some spawning events may be significant. This alternative is not being analyzed as it is the Department’s goal to protect the sustainability of the resource while maintaining a satisfying recreational experience and based on feedback this can likely be achieved with a bag limit of 50 pounds.~~

~~10.5.2~~ 10.5.1 Alternative Fishing Methods

Attachment C - Herring FMP Implementing Regulations 15-Day Notice

Commission adopted the no change alternative for subsection 163.1(d) and Subsection 164(d)(1).

Subsection 163.1(d) is corrected based on feedback from commercial industry members.

[Noticed alternative from 163.1(d)]

(d) Net Tending. Permitted vessels shall be in the immediate proximity, not exceeding one nautical mile, of any single gill net being fished.

[No change alternative – original text moved from 163(f)(2)(A)]

(d) Net Tending. Permitted vessels shall be in the immediate proximity, not exceeding three nautical miles, of any single gill net being fished.

Subsection 164(d)(1) fixes an inadvertent error in the proposed regulatory text in the Initial Statement of Reasons.

[Noticed alternative from 164(d)(1)]

(1) Not more than two (2) rafts; or two (2) lines; or one (1) raft and one (1) line may be used per permit.

[No change alternative – original text moved from 164(j)(1)]

(1) Not more than two (2) rafts and/or two (2) lines may be used per permit.

Note: The approved regulatory text has been redrafted to reflect the current regulatory language that exists in Title 14, with renumbering of sections 163, 163.1, 163.5 and 164 and addition of regulatory language to reflect the requirements set forth in the California Pacific Herring Fishery Management Plan that this approved regulatory text will implement.

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Fish and Game Commission
BOARD OF SUPERVISORS



2019 DEC 30 P 2:23

Wildlife Heritage and Conservation
Since 1870

January 3, 2020

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to sections 502 and 507, Title 14, California Code of Regulations, relating to Waterfowl hunting season 2020-2021

Please note the date of the public hearing related to this matter and associated deadlines for receipt of written comments. Additional information and associated documents may be found on the Fish and Game Commission website at <https://fgc.ca.gov/Regulations/2019-New-and-Proposed>.

Melanie Weaver, Senior Environmental Scientist, has been designated to respond to questions on the substance of the proposed regulations. She can be reached at (916) 445-3717 or via email at Melanie.Weaver@wildlife.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon D. Snellstrom".

Jon D. Snellstrom
Associate Governmental Program Analyst

Attachment

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 265 and 355, Fish and Game Code and to implement, interpret or make specific Sections 502 and 507; Title 14, California Code of Regulations, relating to annual waterfowl regulations.

Informative Digest/Policy Statement Overview

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. The proposed Frameworks for the 2020-21 season were approved by the flyway councils and will be considered for adoption at the Service's Regulations Committee meeting October 8-9, 2019. The proposed Frameworks allow for a liberal duck season which includes: a 107-day season, 7 daily duck limit including 7 mallards but only 2 hen mallards, 1 pintail, 2 canvasback, 2 redheads, and 2 scaup (during an 86 day season; daily bag limit decrease from 3 to 2); and closing no later than January 31. Duck daily bag limit ranges and duck season length ranges are provided to allow the Commission flexibility.

A range of season length and bag limit (zero bag limit represents a closed season) is also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2020. The regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The regulatory package will be prescribed per the Black Brant Harvest Strategy pending results of the survey, well before the Commission's adoption meeting. See the table in the Informative Digest for the range of season and bag limits. Lastly, Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The recommended changes to Section 502 are:

- 1) Open the duck season on the second Saturday in October and close January 20 in subsection 502(d)(1)(B) for the Northeastern Zone. This recommendation reduces the duck season length to 103 days.
- 2) Open the duck season on the fourth Saturday of October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone. This recommendation reduces the duck season length to 100 days.
- 3) Open the regular goose season on the fourth Saturday in October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone. This recommendation reduces the season length to 100 days.
- 4) Open the Late Season for geese on the weekend after the Youth Hunt Days in subsection 502(5)(B) for the Balance of State Zone and in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area. If item 5 (below) is enacted, the Late Season for geese

would occur after the Veterans and Active Military Personnel Waterfowl Hunting Days.

- 5) Designate two days as Veterans and Active Military Personnel Waterfowl Hunting Days (VAMP Days hereafter) for the Northeastern, Southern San Joaquin Valley, Southern California, and Balance of State zones. This recommendation creates a new subsection, 502(f)(1)(A)(B)(C)1-4 and renumbering will occur for the subsequent section (Falconry Take of Ducks subsection becomes 502(g)(1)).
- 6) Allow up to five days of falconry-only season in subsection 502(g)(1)(B)2. for the Balance of State Zone, in subsection 502(g)(1)(B)3. for the Southern San Joaquin Valley Zone and in subsection 502(g)(1)(B)4. for the Southern California Zone.

Current regulations in Section 507(a)(4), Title 14, CCR, continue to describe the shotgun size and shot shell type authorized for the taking of migratory game birds.

The Commission is recommending deleting the reference to lead and No BB which was already amended by legislation:

- 1) ... Shotgun shells may not be used or possessed that contain shot size larger than ~~No. BB~~ in-lead or T shot in steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service. All shot shall be loose in the shell.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

Goals and Benefits of the Regulation:

The benefits of the proposed regulations are consistency with federal law and the sustainable management of the State's waterfowl resources. Positive impacts to jobs and/or businesses that provide services to waterfowl hunters will be realized with the continued adoption of waterfowl hunting seasons in 2020-21.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

Consistency with State Regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Sections 502 and 507 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium,

First Floor, 1416 Ninth Street, Sacramento, California, on Friday, February 21, 2020, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium, First Floor, 1416 Ninth Street, Sacramento, California, on Thursday, April 16, 2020, 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 noon April 10, 2020 at the address given below, or by email to FGC@fgc.ca.gov. All comments (both oral and written) must be received no later than April 16, 2020, at the hearing in Sacramento, California. If you would like copies of any modifications to this proposal, please include your name and mailing address. **Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090.**

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, P.O. Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or Jon Snellstrom at the preceding address or phone number. **Melanie Weaver, Senior Environmental Scientist, has been designated to respond to questions on the substance of the proposed regulations. She can be reached at (916) 445-3717 or via email at Melanie.Weaver@wildlife.ca.gov.**

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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 would provide additional recreational opportunity to the public and could result in minor increases in hunting days and hunter spending on equipment, fuel, food and accommodations.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The proposed waterfowl regulations will set the 2020-21 waterfowl hunting season dates and bag limits within the federal Frameworks. Little to minor positive impacts to jobs and/or businesses that provide services to waterfowl hunters may result from the proposed regulations for the 2020-21 waterfowl hunting season.

The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife-associated recreation for California, estimated that migratory bird hunters contributed about \$169,115,000 to businesses in California during the 2011 migratory bird hunting season. The impacted businesses are generally small businesses employing a few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of the same small businesses.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:
None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

David Thesell
Program Manager

Dated: December 24, 2019

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Fish and Game Commission



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January 3, 2020

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to sections 360, 361, 362, 364 and 364.1, Title 14, California Code of Regulations, relating to Mammal hunting season 2020-2021

Please note the date of the public hearing related to this matter and associated deadlines for receipt of written comments. Additional information and associated documents may be found on the Fish and Game Commission website at <https://fgc.ca.gov/Regulations/2020-New-and-Proposed>.

Brad Burkholder, Environmental Program Manager, has been designated to respond to questions on the substance of the proposed regulations. He can be reached at (916) 445-1829 or via email at Brad.Burkholder@wildlife.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon D. Snellstrom".

Jon D. Snellstrom
Associate Governmental Program Analyst

Attachment

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 203, 203.1, 265, 332, 460, 1050, 3051, 3452, 3453, 3953, 4334, 4370, 4902, Fish and Game Code and to implement, interpret or make specific Sections 360, 361, 362, 364 and 364.1; Title 14, California Code of Regulations, relating to annual adjustments to mammal hunting tag quotas.

Informative Digest/Policy Statement Overview

Section 360: Existing regulations provide for the number of deer hunting tags in subsection 360(c) Additional Hunts. The proposed action provides a recommended range of tag numbers for each hunt from which a final number will be determined, based on the post-winter status of each deer herd. These ranges are necessary at this time because the final number of tags cannot be determined until spring herd data are collected in March/April and analyzed. The proposed action changes the number of tags for all existing hunts (except those on military installations) to a series of ranges as indicated in the table below.

Deer: Section 360(c) Additional Hunts, Tag Allocations

- Hunt number G-1 (Late Season Buck Hunt for Zone C-4); Current 2019, 2,710; Proposed 2020 Range [0 - 5,000]
- Hunt number G-3 (Goodale Buck Hunt); Current 2019, 25; Proposed 2020 Range [0 – 50]
- Hunt number G-6 (Kern River Deer Herd Buck Hunt); Current 2019, 50; Proposed 2020 Range, [0 – 100]
- Hunt number G-7 (Beale Either-Sex Deer Hunt); Current 2019 20 Military* [20 Military*]
- Hunt number G-8 (Fort Hunter Liggett Antlerless Deer Hunt); Current 2019 10 Military* & 10 Public [20*]
- Hunt number G-9 (Camp Roberts Antlerless Deer Hunt); Current 2019, 0; Proposed 2020 Range, [30*]
- Hunt number G-10 (Camp Pendleton Either-Sex Deer Hunt); Current 2019, 250 Military*; Proposed 2020 Range, [250 Military*]
- Hunt number G-11 (Vandenberg Either-Sex Deer Hunt); Current 2019, 0; Proposed 2020 Range, [0 – 500]
- Hunt number G-12 (Gray Lodge Shotgun Either-Sex Deer Hunt); Current 2019, 30; Proposed 2020 Range [0 – 50]
- Hunt number G-13 (San Diego Antlerless Deer Hunt); Current 2019, 300; Proposed 2020 Range [0 – 300]
- (Hunt number G-19 (Sutter-Yuba Wildlife Areas Either-Sex Deer Hunt); Current 2019, 25; Proposed 2020 Range [0 – 50]
- Hunt number G-21 (Ventana Wilderness Buck Hunt) Current 2019, 25; Proposed 2020 Range [0 – 100]
- Hunt number G-37 (Anderson Flat Buck Hunt); Current 2019, 25; Proposed 2020 Range [0 – 50]
- Hunt number G-38 (X-10 Late Season Buck Hunt); Current 2019, 300; Proposed 2020 Range [0 – 300]

- Hunt number G-39 (Round Valley Late Season Buck Hunt); Current 2019, 2; Proposed 2020 Range [0 – 150]
- Hunt number M-3 (Doyle Muzzleloading Rifle Buck Hunt); Current 2019, 20; Proposed 2020 Range [0 – 75]
- Hunt number M-4 (Horse Lake Muzzleloading Rifle Buck Hunt); Current 2019, 10; Proposed 2020 Range [0 – 50]
- Hunt number M-5 (East Lassen Muzzleloading Rifle Buck Hunt); Current 2019, 5; Proposed 2020 Range [0 – 50]
- Hunt number M-6 (San Diego Muzzleloading Rifle Either-Sex Deer Hunt); Current 2019, 80; Proposed 2020 Range [0 – 100]
- Hunt number M-7 (Ventura Muzzleloading Rifle Either-Sex Deer Hunt); Current 2019, 150; Proposed 2020 Range [0 – 150]
- Hunt number M-8 (Bass Hill Muzzleloading Rifle Buck Hunt); Current 2019, 20; Proposed 2020 Range [0 – 50]
- Hunt number M-9 (Devil's Garden Muzzleloading Rifle Buck Hunt); Current 2019, 15; Proposed 2020 Range [0 – 100]
- Hunt number M-11 (Northwestern California Muzzleloading Rifle Buck Hunt); Current 2019, 0; Proposed 2020 Range [0 – 200]
- Hunt number MA-1 (San Luis Obispo Muzzleloading Rifle/Archery Either-Sex Deer Hunt); Current 2019, 150; Proposed 2020 Range [0 – 150]
- Hunt number MA-3 (Santa Barbara Muzzleloading Rifle/Archery Buck Hunt); Current 2019, 150; Proposed 2020 Range [0 – 150]
- Hunt number J-1 Lake Sonoma Apprentice Either-Sex Deer Hunt); Current 2019, 25; Proposed 2020 Range [0 – 25]
- Hunt number J-3 (Tehama Wildlife Area Apprentice Buck Hunt); Current 2019, 15; Proposed 2020 Range [0 – 30]
- Hunt number J-4 Shasta-Trinity Apprentice Buck Hunt); Current 2019, 15; Proposed 2020 Range [0 – 50]
- Hunt number J-7 (Carson River Apprentice Either-Sex Deer Hunt); Current 2019, 0; Proposed 2020 Range [0 – 50]
- Hunt number J-8 (Daugherty Hill Wildlife Area Apprentice Either-Sex Deer Hunt); Current 2019, 15; Proposed 2020 Range [0 – 20]
- Hunt number J-9 (Little Dry Creek Apprentice Shotgun Either-Sex Deer Hunt); Current 2019, 5; Proposed 2020 Range [0 – 10]
- Hunt number J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt); Current 2019, 25 Military & 60 Public; Proposed 2020 Range [30*]
- Hunt number J-11 (San Bernardino Apprentice Either-Sex Deer Hunt); Current 2019, 40; Proposed 2020 Range [0 – 50]
- Hunt number J-12 (Round Valley Apprentice Buck Hunt); Current 2019, 10; Proposed 2020 Range [0 – 20]
- Hunt number J-13 (Los Angeles Apprentice Either-Sex Deer Hunt); Current 2019, 40; Proposed 2020 Range [0 – 100]
- Hunt number J-14 (Riverside Apprentice Either-Sex Deer Hunt); Current 2019, 30; Proposed 2020 Range [0 – 75]
- Hunt number J-15 (Anderson Flat Apprentice Buck Hunt); Current 2019, 10; Proposed 2020 Range [0 – 30]

- Hunt number J-16 (Bucks Mountain-Nevada City Apprentice Either-Sex Deer Hunt); Current 2019, 75; Proposed 2020 Range [0 – 75]
- Hunt number J-17 (Blue Canyon Apprentice Either-Sex Deer Hunt); Current 2019, 25; Proposed 2020 Range [0 – 25]
- Hunt number J-18 (Pacific-Grizzly Flat Apprentice Either-Sex Deer Hunt); Current 2019, 75; Proposed 2020 Range [0 – 75]
- Hunt number J-19 (Zone X-7a Apprentice Either-Sex Deer Hunt); Current 2019, 25; Proposed 2020 Range [0 – 40]
- Hunt number J-20 (Zone X-7b Apprentice Either-Sex Deer Hunt); Current 2019, 20; Proposed 2020 Range [0 – 20]
- Hunt number J-21 (East Tehama Apprentice Either-Sex Deer Hunt); Current 2019, 50; Proposed 2020 Range [0 – 80]

* Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs. Military only tags are designated for Department of Defense and eligible personnel as authorized by the Installation Commander.

Existing regulations for Additional Hunts G-8 (Fort Hunter Liggett Antlerless Deer Hunt) and J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt) provide for hunting to begin on October 7 and continue for three consecutive days and reopen on October 14 and continue for two consecutive days, including the Columbus Day holiday. The proposal would modify the season to account for the annual calendar shift. The proposal would change the season dates to open on October 3 and October 10, for two and three consecutive days respectively and include the Columbus Day holiday.

Section 361: Existing regulations provide for the number of deer hunting tags for existing area-specific archery hunts. The proposed action provides a recommended range of tag numbers for each hunt from which a final number will be determined, based on the post-winter status of each deer herd. These ranges are necessary at this time because the final number of tags cannot be determined until spring herd data are collected and analyzed in March/April and analyzed.

The proposed action changes the number of tags for all existing hunts (except those on military installations) to a series of ranges as indicated in the table below.

Archery Deer Hunting: Section 361(b)

- A-1 (C Zones Archery Only Hunt); Current 2019 1,945; Proposed 2020 [0 - 3,000]
- A-3 (Zone X-1 Archery Hunt); Current 2019 100; Proposed 2020 [0 - 1,000]
- A-4 (Zone X-2 Archery Hunt); Current 2019 10; Proposed 2020 [0 - 100]
- A-5 (Zone X-3a Archery Hunt); Current 2019 40; Proposed 2020 [0 - 300]
- A-6 (Zone X-3b Archery Hunt); Current 2019 70; Proposed 2020 [0 - 400]
- A-7 (Zone X-4 Archery Hunt); Current 2019 120; Proposed 2020 [0 - 400]
- A-8 (Zone X-5a Archery Hunt); Current 2019 15; Proposed 2020 [0 - 100]
- A-9 (Zone X-5b Archery Hunt); Current 2019 5; Proposed 2020 [0 - 100]
- A-11 (Zone X-6a Archery Hunt); Current 2019 50; Proposed 2020 [0 - 200]

- A-12 (Zone X-6b Archery Hunt); Current 2019 90; Proposed 2020 [0 - 300]
- A-13 (Zone X-7a Archery Hunt); Current 2019 45; Proposed 2020 [0 - 200]
- A-14 (Zone X-7b Archery Hunt); Current 2019 25; Proposed 2020 [0 - 100]
- A-15 (Zone X-8 Archery Hunt); Current 2019 40; Proposed 2020 [0 - 100]
- A-16 (Zone X-9a Archery Hunt); Current 2019 140; Proposed 2020 [0 - 500]
- A-17 (Zone X-9b Archery Hunt); Current 2019 300; Proposed 2020 [0 - 500]
- A-18 (Zone X-9c Archery Hunt); Current 2019 350; Proposed 2020 [0 - 500]
- A-19 (Zone X-10 Archery Hunt); Current 2019 100; Proposed 2020 [0 - 200]
- A-20 (Zone X-12 Archery Hunt); Current 2019 100; Proposed 2020 [0 - 500]
- A-21 (Anderson Flat Archery Buck Hunt); Current 2019 25; Proposed 2020 [0 - 100]
- A-22 (San Diego Archery Either-Sex Deer Hunt); Current 2019 1,000; Proposed 2020 [0 - 1,500]
- A-24 (Monterey Archery Either-Sex Deer Hunt); Current 2019 100; Proposed 2020 [0 - 200]
- A-25 (Lake Sonoma Archery Either-Sex Deer Hunt); Current 2019 35; Proposed 2020 [0 - 75]
- A-26 (Bass Hill Archery Buck Hunt); Current 2019 30; Proposed 2020 [0 - 100]
- A-27 (Devil's Garden Archery Buck Hunt); Current 2019 5; Proposed 2020 [0 - 75]
- A-30 (Covelo Archery Buck Hunt); Current 2019 40; Proposed 2020 [0 - 100]
- A-31 (Los Angeles Archery Either-Sex Deer Hunt); Current 2019 1,000; Proposed 2020 [0 - 1,500]
- A-32 (Ventura/Los Angeles Archery Late Season Either-Sex Deer Hunt); 250; Proposed 2020 [0 - 300]
- A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt); Current 2019 50*; Proposed 2020 (25 Military and 25 Public) 50*

* Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs. Military only tags are designated for Department of Defense and eligible personnel as authorized by the Installation Commander.

Existing regulations for Hunt A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt) provide for hunting to open beginning the first Saturday in October and continue through November 12, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31. The current proposal would modify the season to account for the annual calendar shift by changing the season dates to open beginning the first Saturday in October and continue through November 11, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

Section 362: The current regulation in Section 362, Title 14, CCR, provides for limited hunting of Nelson bighorn rams in specified areas of the State. The proposed change is intended to adjust the number of tags available for the 2020 season based on bighorn sheep fall/winter population surveys conducted by the Department. Final tag quota recommendations will be made pending completion of all surveys and data analyses. quota recommendations will be made pending completion of all surveys and data analyses.

Nelson Big Horn Sheep hunt zones followed by 2020 proposed range of tags.

- Zone 1 – Marble/Clipper Mountains [0-5]
- Zone 2 - Kelso Peak/Old Dad Mountains [0-4]
- Zone 3 - Clark/Kingston Mountain Ranges [0-4]
- Zone 4 - Orocopia Mountains [0-2]
- Zone 5 - San Gorgonio Wilderness [0-3]
- Zone 6 - Sheep Hole Mountains [0-2]
- Zone 7 - White Mountains [0-6]
- Zone 8 - South Bristol Mountains [0-3]
- Zone 9 – Cady Mountains [0-4]
- Zone 10 – Newberry, Rodman, Ord Mountains [0-6]
- Open Zone Fund-Raising Tag [0-1]
- Marble/Clipper/South Bristol Mountains Fund-Raising Tag [0-1]
- Cady Mountains Fund-Raising Tag [0-1]

Section 364: Current regulations in Section 364, Title 14, CCR, provide definitions, hunting zone descriptions, season dates, and elk license tag quotas. In order to achieve elk herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas, seasons, hunt areas and other criteria in response to dynamic environmental and biological conditions. The proposed amendments to Section 364 will establish the 2020 tag quotas, season dates, and tag distribution within each hunt adjusting for annual fluctuations in populations.

1. Subsections 364(r) through (aa) specify elk license tag quota ranges for each hunt in accordance with management goals and objectives.
2. Modify Season Dates. Due to military use constraints at Fort Hunter Liggett, hunt dates are annually subject to change and may be adjusted or cancelled by the Commanding Officer.

Section 364.1: Current regulations in Section 364.1, SHARE Elk Hunts, T14, CCR, specify elk tag quotas for each hunt area. In order to achieve elk herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas in response to dynamic environmental and biological conditions.

Preliminary tag quota ranges are indicated pending final 2020 tag allocations in accordance with elk management goals and objectives. Survey data collected between August 2019, and March 2020, will be the basis for the final tag numbers recommended to the Commission at the April 2020 adoption hearing.

Goals and Benefits of the Regulation:

The proposed regulations will contribute to the sustainable management of native big game mammal populations in California. Existing elk herd management goals specify objective levels for the proportion of bulls to cows in the herds. These ratios are maintained and managed in part by periodically modifying the number of tags. The final recommended number of tags will be based upon findings from annual harvest, herd composition counts, and population estimates where appropriate.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

Consistency with State Regulations

The Commission, pursuant to Fish and Game Code Sections 200 and 203, has the sole authority to regulate native big game mammal hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to elk tag allocations are consistent with Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium, First Floor, 1416 Ninth Street, Sacramento, California, on Friday, February 21, 2020, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium, First Floor, 1416 Ninth Street, Sacramento, California, on Thursday, April 16, 2020 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 noon April 10, 2020 at the address given below, or by email to FGC@fgc.ca.gov. All comments (both oral and written) must be received no later than April 16, 2020, at the hearing in Sacramento, California. If you would like copies of any modifications to this proposal, please include your name and mailing address. **Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090.**

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, P.O. Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and

inquiries concerning the regulatory process to Melissa Miller-Henson or Jon Snellstrom at the preceding address or phone number. **Brad Burkholder, Environmental Program Manager, has been designated to respond to questions on the substance of the proposed regulations. He can be reached at (916) 445-1829 or via email at Brad.Burkholder@wildlife.ca.gov.**

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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 action adjusts tag quotas for existing hunts and modifies season dates for hunts on military land. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

- (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 action will not have significant impacts on the creation or elimination of jobs or the creation of new businesses or the elimination of existing businesses within

California because it is unlikely to result in a change in hunting effort. The proposed action does not provide benefits to worker safety because it does not address working conditions.

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources:

(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 this proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

David Thesell
Program Manager

Dated: December 24, 2019

Commissioners
Eric Sklar, President
Saint Helena

Jacque Hostler-Carmesin, Vice President
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
Jamul

Samantha Murray, Member
Del Mar

STATE OF CALIFORNIA
Gavin Newsom, Governor

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

Melissa Miller-Henson
Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
fgc@fgc.ca.gov
www.fgc.ca.gov

January 10, 2020

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to sections 2.35 and 7.00, and subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50, Title 14, California Code of Regulations, relating to Central Valley sport fishing regulations, which will be published in the California Regulatory Notice Register on January 10, 2020.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments. Additional information and associated documents may be found on the Fish and Game Commission website at www.fgc.ca.gov/Regulations/2020-New-and-Proposed.

Karen Mitchell, Senior Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Mitchell can be reached by telephone at (916) 445-0826 or by email at Karen.Mitchell@wildlife.ca.gov.

Sincerely,

Craig Castleton
Associate Governmental Program Analyst

Attachment

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 205, 265, 270, 275, 315, 316.5, 399, and 2084 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 205, 255, 265, 270, 275, 316.5, and 2084 of said Code, proposes to amend Sections 2.35 and 7.00, and subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50, Title 14, California Code of Regulations, relating to Central Valley sport fishing regulations.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Current regulations in subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50 prescribe the 2019 seasons and daily bag and possession limits for Sacramento River fall-run Chinook Salmon (*Oncorhynchus tshawytscha*; SRFC) sport fishing in the American, Feather, Mokelumne, and Sacramento rivers, respectively. Collectively, these four rivers constitute the "Central Valley fishery" for SRFC for purposes of this document. 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) to align the 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 2020 meeting and will adopt its final regulatory recommendations at its April 2020 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest for the coming season. Based on the April 2020 recommendation by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 16, 2020 meeting. The Commission will then consider adoption of the Central Valley sport fishing regulations at its May 14, 2020 teleconference.

Proposed Regulations

CHINOOK SALMON BAG AND POSSESSION LIMITS

The Department recognizes the uncertainty of SRFC in-river harvest projections. Therefore, for the 2020 Central Valley fishery, the Department is presenting three regulatory options for the Commission's consideration to tailor 2020 Central Valley fishery management to target 2020 in-river fisheries harvest projections.

- Option 1 is the most liberal of the three options, and allows take of any size Chinook Salmon up to the daily bag and possession limits.

- Option 2 allows for take of a limited number of adult (age three to five) Chinook Salmon, with grilse (age two) Chinook Salmon making up the remainder of the daily bag and possession limits.
- Option 3 is the most conservative option, and allows for a grilse-only Chinook Salmon fishery.

All three options will also increase fishing opportunities on Chinook Salmon by extending the Chinook Salmon sport fishing season on the Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam from a closure date of December 16 to a closure date of December 31.

A minor correction will also be made to subsections 7.50(b)(124)(A), (B), and (D), to ensure consistency in the format in which the daily bag and possession limit for hatchery trout or hatchery steelhead is displayed in the regulatory text.

All options would be applicable to the following river segments and time periods:

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

- (B) 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 October 31
- (C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge, July 16 through December 31
- (D) From the Jibboom Street bridge to the mouth, July 16 through December 16

Feather River, subsection 7.50(b)(68):

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp, July 16 through October 31
- (E) From 200 yards above the Live Oak boat ramp to the mouth, July 16 through December 16

Mokelumne River, subsection 7.50(b)(124):

- (A) From Comanche Dam to Elliott Road, July 16 through October 15
- (B) From Elliott Road to the Woodbridge Irrigation District Dam and including Lodi Lake, July 16 through December 31
- (D) From the Lower Sacramento Road bridge to the mouth, July 16 through December 16

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

- (B) From Deschutes Road bridge to the Red Bluff Diversion Dam, August 1 through December 31

(C) From the Red Bluff Diversion Dam to the Highway 113 bridge, July 16 through December 16

(D) From the Highway 113 bridge to the Carquinez Bridge, July 16 through December 16.

The following options are provided for Commission consideration:

Option 1 – Any Size Chinook Salmon Fishery

This option is the Department's preferred option if the 2019 SRFC stock abundance forecast is sufficiently high to avoid the need to constrain inland SRFC harvest.

Bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

Option 2 – Limited Adult and Grilse Salmon Fishery

Bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over 27 inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over 27 inches total length.

Option 3 – Grilse Salmon Fishery Only

Bag limit of [0-4] Chinook Salmon less than or equal to 27 inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to 27 inches total length.

EXTEND CHINOOK SALMON SPORT FISHING SEASON ON THE SACRAMENTO RIVER

Sport fishing interests have requested the Chinook Salmon sport fishing season on the Sacramento River be extended from the current December 16 closure date to December 31 to enhance late-season fishing opportunity on the river. At issue is regulating the closure date to minimize contact in the fishery with federally and state-listed as endangered winter-run Chinook Salmon.

The Department supports extending the fishing season from December 16 to December 31 upstream of the Red Bluff Diversion Dam (River Mile (RM) 243), which will provide late season fishing for late-fall-run Chinook Salmon without negatively impacting winter-run Chinook Salmon.

Proposal: Amend subsection 7.50(b)(156.5)(C), Sacramento River

Extend the Chinook Salmon sport fishing season on the Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam to December 31.

REMOVE EXCEPTION FOR TAKE OF COHO SALMON IN THE FEATHER RIVER

Section 7.00 includes an exception for the take of Coho Salmon in Lake Oroville and Oroville-

Thermalito Complex, and the Feather River from the Diversion Pool Dam to the Fish Barrier Dam. Section 7.00 also includes an exception for incidentally hooked Coho Salmon in the same area. Coho Salmon have not been stocked in Lake Oroville since 2013. Coho Salmon are no longer planted in the Feather River water impoundments. Therefore, the exceptions for take and incidentally hooked Coho Salmon stated in Section 7.00 should be removed.

Proposal: Amend Section 7.00, Re: Take of Coho Salmon in the Feather River

Remove exception for take and incidentally hooked Coho Salmon in Lake Oroville and Oroville-Thermalito Complex, and the Feather River from the Diversion Pool Dam to the Fish Barrier Dam.

PROHIBIT FISHING AT CONCRETE FLOOD CONTROL WEIRS

Annually, during the rainy season, fish often get trapped below the concrete flood control weirs on the Sacramento River. Fish trapped in these areas are often state or federally-listed as endangered or threatened species and, therefore, should not be exposed to angling opportunity. Subsections 7.50(b)(156.5)(D) and (E) include a "Note" which states that it is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa, Tisdale, Fremont, and Sacramento weirs. However, there is no regulation in place that makes angling near flood control weirs unlawful. Section 2.35 prohibits angling near fishways and egg-taking stations, dams, weirs or racks with fishways or egg-taking stations, and the upstream side of fish screens; but does not apply to areas, except for Fremont Weir, described in the notes in subsections 7.50(b)(156.5)(D) and (E).

Proposal 1: Amend Section 2.35, Regarding Take of Fish at Weirs

Amend Section 2.35 to include and differentiate flood control weirs in the Central Valley from other types of weirs and include a fishing closure of 0-250 feet downstream from the overflow side of Moulton, Tisdale, Fremont, and Sacramento weirs.

Proposal 2: Amend subsections 7.50(b)(156.5)(D) and (E), Sacramento River

Remove Note which states it is unlawful to take fish 0-250 feet downstream from the overflow side of the Moulton, Colusa, Tisdale, Fremont, and Sacramento weirs. These fishing closures will now be stipulated in Title 14, Section 2.35, with the exception of the Colusa Weir.

Benefits of the Proposed Regulations

The Commission anticipates benefits to the environment in the sustainable management of Central Valley Chinook Salmon resources. Other benefits of the proposed regulations are consistency with federal fishery management goals, health and welfare of California residents, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

Consistency and Compatibility with Existing 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 and Game Code sections 200, 205, 315 and 316.5).

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 Chinook Salmon recreational fishing seasons, bag, and possession limits for Central Valley sport fishing.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the California Natural Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, 95814 on Friday, February 21, 2020 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the California Natural Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, 95814 on Thursday, April 16, 2020 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a teleconference hearing originating in the Commission's conference room, 1416 Ninth Street, Suite 1320, Sacramento, California, 95814, on Thursday, May 14, 2020, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before Friday, May 1, 2020 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on Monday, May 11, 2020. All comments must be received no later than Thursday, May 14, 2020, at the teleconference hearing. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or Craig Castleton at the preceding address or phone number. **Karen Mitchell, Senior Environmental Scientist, Department of Fish and Wildlife, (916) 445-0826 or Karen.Mitchell@wildlife.ca.gov, has been designated to respond to questions on the substance of the proposed regulations.**

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time

periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) **Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource, while providing inland sport fishing opportunities and thus, 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 significant adverse economic impacts but acknowledges the potential for short-term negative impacts on the creation or elimination of jobs within the state. The Commission anticipates no adverse impacts on the creation of new business, the elimination of existing businesses or the expansion of businesses in California (see Table 2). Minor variations in the bag and possession limits and/or the implementation of a size limit are unlikely to significantly impact the volume of business activity. The loss of up to 27 jobs with Option 3 is not expected to eliminate businesses because reduced fishing days will be partially offset by the extension of the salmon fishing season by two weeks on a portion of the Sacramento River from the Deschutes Road bridge to the Red Bluff Diversion Dam, and by opportunities to fish for grilse Chinook Salmon and other species.

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 Chinook Salmon resources in the Central Valley.

The Commission does not anticipate any benefits to worker safety.

Other benefits of the proposed regulations are concurrence with federal fishery management goals and promotion of businesses that rely on Central Valley sport fishing.

(c) **Cost Impacts on a Representative Private Person or Business:**

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: December 31, 2019

Melissa Miller-Henson
Executive Director