

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

Amend Sections 1.05, 1.11, 1.18, 1.61, 1.74, 2.10, 2.25, 5.35, 5.41, 5.88,
Subsection (b) of Section 7.00, Subsection (b) of Section 7.50,
and Subsection (b) of Section 8.00; Repeal Section 1.60;
and Add Section 2.05,
Title 14, California Code of Regulations
Re: Freshwater Sport Fishing Regulations

- I. Date of Initial Statement of Reasons: June 2, 2017

- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: August 16, 2017
Location: Sacramento

 - (b) Discussion Hearing: Date: October 11, 2017
Location: Atascadero

 - (c) Adoption Hearing: Date: December 6, 2017
Location: San Diego

III. Description of Regulatory Action:

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

This California Department of Fish and Wildlife (Department) proposal combines Department and public requests for changes to Title 14, California Code of Regulations (CCR), for the 2017 Sport Fishing Regulations Review Cycle. This proposal will reduce foul-hooking of salmon, protect Shasta crayfish, protect salmon released above Shasta Dam, clarify regulations for artificial lures and bait, increase protection for Chinook Salmon and steelhead in the lower American River, increase bow fishing opportunities, update the sport fishing report card requirements, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

ROCK CREEK (SHASTA COUNTY) CLOSURE TO PROTECT SHASTA CRAYFISH

Shasta crayfish (*Pacifastacus fortis*) is listed as an Endangered Species pursuant to the California Endangered Species Act (Fish & G. Code, § 2050 et seq.)(Cal. Code Regs., tit. 14, § 670.5(B)) and the federal Endangered Species Act (16 U.S.C. § 1531 et seq.)(53 Fed.Reg. 38460-38465 (1988)). The current distribution for Shasta crayfish includes small and isolated spring fed areas in the Fall and Pit River drainages (Shasta County). Rock Creek, in the Hat Creek Drainage, was historically occupied by Shasta crayfish and was recently restored to provide refuge for and aid in the survival of the species. The Department is proposing to close Rock Creek to all fishing all year from Rock Creek spring downstream to Baum Lake. This proposal will aid in the protection of Shasta crayfish and its habitat.

Proposal: Add new subsection (b)(151.5) to Section 7.50, Special Fishing Regulations

Add Rock Creek, in the Hat Creek Drainage, to the Special Fishing Regulations with an all year fishing closure to protect Shasta crayfish.

CLARIFICATION OF NO TAKE OF SALMON IN THE SACRAMENTO AND MCCLOUD RIVERS AND TRIBUTARIES ABOVE SHASTA LAKE

The National Marine Fisheries Service (NMFS) and the US Bureau of Reclamation (BOR) are conducting feasibility studies for the reintroduction of winter-run and spring-run Chinook Salmon into the McCloud and Sacramento rivers. As part of a Fish Passage Pilot Project, federal agencies will be introducing an experimental release of Chinook Salmon into the Sacramento and McCloud drainages starting in 2017 or 2018 and continuing indefinitely. It is imperative that these rivers and their tributaries above Shasta Lake be closed to salmon fishing to reduce salmon loss and increase the success of the Fish Passage Pilot Project.

Proposal: Add new language to Section 7.00, District General Regulations, and to subsection (b)(115), McCloud River, in Section 7.50, Special Fishing Regulations.

Amend the Sierra District Regulations to clarify that all rivers and associated tributaries above Shasta Lake are closed to the take of salmon, and amend subsection (b)(115) to Section 7.50 to direct readers to the District General Regulations. These changes will protect Chinook Salmon when they are reintroduced into the upper Sacramento and McCloud rivers above the Shasta Lake.

AMERICAN RIVER (NIMBUS BASIN) FISHING CLOSURE

Under current regulations, the American River (in Sacramento County) from Nimbus Dam to the Hazel Avenue bridge piers is open to fishing all year (Section 7.50(b)(5)(A)), and from the Hazel Avenue bridge piers to the U.S. Geological

Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish weir is open to fishing January 1 through August 15 (Section 7.50(b)(5)(B)). The current request for closure is designed to protect Chinook Salmon and Central Valley steelhead trout, which will utilize this section of the river for both in-river spawning and rearing along with essential hatchery operations.

The BOR and the Department have completed a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Nimbus Hatchery Fish Passage Project (Project). The primary goal of the Project is to maintain a fully functional system of collecting adult Chinook Salmon and Central Valley steelhead trout sufficient to meet the hatchery's mitigation goals. Phase 1 of the Project extends the Nimbus Hatchery fish ladder 1500 feet (.30 miles) upstream into the Nimbus Basin. With the completion of the new fish ladder, Phase 2 of the Project will permanently remove the existing Nimbus Hatchery fish weir, and spawning gravel injections will be completed within the section of river associated with Section 7.50 (b)(5)(B). A gravel restoration and side channel creation project to create spawning and rearing habitat in the Nimbus Basin was completed in 2014.

However, the Project has the potential to affect Chinook Salmon and Central Valley steelhead trout holding, spawning, and rearing in this section of the lower American River. Under current hatchery operations, large numbers of adult Chinook Salmon and Central Valley steelhead trout hold below the existing fish weir located below the Hazel Avenue bridge before being routed to the fish ladder located at the south end of weir. Fish that enter the hatchery that are not ripe for spawning are released back into the river through the outfall, located approximately 100 feet below the existing fish ladder. As a result, current hatchery operations utilize a small portion of the river below the weir to cycle fish in and out of the hatchery. However, once the existing fish ladder is moved upstream into the Nimbus Basin, the length of river utilized for hatchery operations will increase by approximately 1,500 feet. Upon completion of the Project, holding, spawning, and rearing Chinook Salmon and Central Valley steelhead trout will distribute throughout the hatchery operations area. As a result, the entire section of river should be closed to fishing all year to ensure successful hatchery operations.

Consequently, if the area is not closed to fishing by the Fall of 2018, anglers will continue fishing in the Nimbus Basin downstream to the USGS gauging station and target holding and spawning Chinook Salmon and Central Valley steelhead trout. Although Section 2.35 states that fishing shall not take place within 250 feet of a fish ladder, this would have little effect in protecting salmon and steelhead under the new configuration. The new ladder entrance would be greater than 250 feet from where salmon are expected to hold until the ladder is opened to allow salmon and steelhead into the Nimbus Hatchery. The proposed

closure would also provide the American River Trout Hatchery and Nimbus Hatchery with greater protection from contamination by the New Zealand Mud Snail (NZMS), which have been documented adjacent to the hatchery in Section 7.50(b)(5)(B).

Proposal: Amend subsections (b)(5)(A) and (b)(5)(B) of Section 7.50, Special Fishing Regulations

Combine subsections 7.50(b)(5)(A) and 7.50(b)(5)(B) and close this section of river to fishing all year.

ARTIFICIAL LURE AND BAIT DEFINITION CHANGES

The purpose of the regulation change is to clarify that no scents or flavors shall be used on lures on waters where only artificial lures with barbless hooks may be used. After consulting with wildlife officers on this subject, it has become clear there is some subjectivity in interpreting the current regulation which has resulted in inconsistency and confusion. By clarifying this definition, law enforcement will have increased success enforcing this rule and the public will have a clearer description of this rule.

The definition of a lure (Section 1.60) would be removed from the Freshwater Sport Fishing Regulations and only “artificial lure” would be used. With this change, three substitutions in the current regulations would need to be made: (1) Section 1.05, Angling; (2) Section 1.61, Non-buoyant Lure; and (3) Section 2.10(b)(3), Hook and Weight Restrictions. In all three sections lure would be changed to artificial lure. In addition, the definition of artificial lure would be amended to clarify that only non-scented and non-flavored lures may be used. Lastly, there is currently no definition of bait in Title 14. A definition of bait is needed to help clarify when scents and flavors can be used.

Proposal: Repeal Section 1.60, Lure; Amend Sections 1.05, Angling; 1.11, Artificial Lure; 1.61, Non-buoyant lure; and 2.10, Hook and Weight Restrictions; and add Section 1.18, Bait

Amend multiples sectons in Title 14 to align with the new definitions for artificial lure and bait.

ALLOW BOW AND ARROW FISHING FOR CATFISH

The bow and arrow fishing community has requested the opportunity to fish for catfish in certain waters in the state. Bowfishers have expressed that they often encounter catfish in their pursuit for carp and would like to be able to take catfish as well. This request was considered by Department law enforcement and regional biologists who determined that bowfishing could be allowed on waters with large carp populations and that are popular for bowfishing. These waters include the Sacramento San-Joaquin Delta, Lake Isabella in Kern County and Big Bear Lake in San Bernardino County. Allowing bowfishing for catfish on these waters will increase fishing opportunities for bowfishers.

Proposal: Amend Section 2.25, Bow and Arrow Fishing

Amend Section 2.25 to allow bowfishing for bullheads and catfish in the Sacramento-San Joaquin River Delta, Big Bear Lake in San Bernardino County, and Lake Isabella in Kern County.

REVISION OF MENDOCINO, SONOMA, AND MARIN COUNTIES' LOW FLOW CLOSURE TIME PERIOD TO ALIGN WITH THE ADULT STEELHEAD SEASON

Section 8.00(b) establishes a season for special low flow conditions for Mendocino, Sonoma, and Marin County coastal streams; however, the current end date extends the length of the low flow season past the adult steelhead fishing season on most coastal streams (except Russian River) which provides an unnecessary protection and may potentially confuse anglers. The current sport fishing regulations allow fishing in coastal streams of Mendocino, Sonoma, and Marin counties from the fourth Saturday in May through March 31, except for the Russian River which is open all year. Gear restrictions change from November 1 through March 31 to accommodate fishing for adult steelhead on all Mendocino, Sonoma, and Marin County coastal streams. There is no need for the season of special low flow conditions to extend beyond March 31, as most streams (except Russian River) are closed to any fishing from April 1 until the fourth Saturday in May, which is prior to the end of the current low flow season. The Russian River is the exception because it is open year round due to other sport fisheries such as American shad and smallmouth bass. For consistency, the Russian River should be included in this change, but it would result in the potential reduction of protected days under a low flow closure between April 1 and the fourth Saturday in May (52-57 days depending upon the calendar year). The loss of this additional protection on the Russian River is not likely to be significant as the bulk of the steelhead will have spawned and angler effort targeting steelhead will be low in the months of April and May. The steelhead population on the Russian River is also unlike other coastal streams because it is supplemented with hatchery steelhead. Additionally, the Russian River is a flow regulated stream and flows are likely to be higher in April and May than other coastal streams and less likely to be subject to a low flow closure due to water releases. Conforming the low flow closure season with the end of the adult steelhead fishing season on Mendocino, Sonoma, and Marin County coastal streams helps simplify regulations and reduces confusion between the fishing season and low flow closure season and it would not significantly impact the Russian River steelhead population in the event of low flow conditions in the months of April and May.

Proposal: Amend Subsection (b) of Section 8.00, Low-Flow Restrictions

Revise Section 8.00(b) to redefine the season of the Special Low Flow Conditions to coincide with the end of the adult steelhead fishing season on March 31.

CRAYFISH

In alignment with the proposal to close Rock Creek to fishing to protect Shasta crayfish, Section 5.35 will need to be amended to add Rock Creek to the list of waters where take of crayfish is prohibited. Rock Creek is a tributary to Baum Lake, which is an instream lake of Hat Creek in the Hat Creek Drainage.

Proposal: Amend Section 5.35, Crayfish

Amend Section 5.35 to add Rock Creek to the list of waters where fishing for crayfish is prohibited.

STEELHEAD REPORT AND RESTORATION CARD REQUIREMENTS

Department staff reassessed the fisheries management objectives of the Steelhead Report and Restoration Card and determined that the data being collected, location codes, and reporting instructions and requirements can be simplified. In order to accomplish this, verbiage within Section 5.88 must be changed.

Proposal: Amend Section 5.88, Steelhead Report and Restoration Card Requirements

Remove reference to “wild” steelhead because it is not legal to retain a wild steelhead, and remove the requirement to report the number of hours that were fished for steelhead.

SPORT FISHING REPORT CARD REQUIREMENTS

Section 1.74 establishes guidelines for report card regulations including reporting harvest authorized by a report card; however, this section does not include a mechanism for confirmation that data from a report card has been reported. This proposal requires report card holders who submit data online to write the provided confirmation number on their report card and retain the report card until for 90 days after the reporting deadline.

When a report card is lost, a licensee may wish to obtain a duplicate, or may simply need to fulfill the harvest reporting requirement before the reporting deadline. Section 1.74 does not currently provide guidelines for licensees who have lost their report card and need to report their harvest, but do not need to obtain a duplicate report card. This proposal updates procedures regarding lost report cards to provide guidelines for obtaining a duplicate report card, and also for reporting harvest from a lost report card without obtaining a duplicate report card.

Proposal: Amend Section 1.74, Sport Fishing Report Card Requirements

Amend Section 1.74 to update procedures for reporting online and for lost report cards.

RESTRICT LEADER LENGTH TO LESS THAN SIX FEET TO REDUCE POTENTIAL FOUL-HOOKING (SNAGGING) OF SALMON AND STEELHEAD

The Department and the California Fish and Game Commission (Commission) have struggled for years to eliminate and/or regulate snagging salmon. This has proven difficult given that some of the spawning aggregations, habitat, and creative snagging techniques that have evolved over time. Water operations, changes in angling ethics, and population growth likely have also contributed to this ongoing problem. After struggling with these issues statewide, the Commission directed the Department to find a solution.

In 2014, the Department formulated a snagging working group to help evaluate the issue through a structured decision making process. Both Department staff and angling stakeholders participated in multiple meetings. One action resulting from this effort was a directed study to assess the efficacy of a reduced leader length in relation to the “flossing” fishing technique based angling/snagging rig. Although this technique/rig is not the only gear that can be used to purposefully foul-hook salmon, it is currently legal and very effective when used in the right habitat (Feather, American, Sacramento, Yuba, and Klamath rivers) with high densities of spawning/migrating salmon. The results of the study showed a significant correlation with foul-hooking (82-94%) regardless of the leader length and a reduction in landing rates for the shortest leader.

Proposal: Add Section 2.05 to Title 14, Leader Length Restriction

Add the leader length restriction to Title 14, Chapter 2, Article 1, to reduce foul-hooking of salmon and steelhead in anadromous waters.

Updates to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission’s exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, moving the Commission’s organization and meeting from Section 206 to Section 110 of the Fish and Game Code, moving the Commission’s effective date procedures from Section 215 to Section 270 of the Fish and Game Code, and moving the Commission’s authority to adopt emergency regulations from Section 240 to Section 399 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202, 206, 215, and 240 are removed from, and sections 110, 265, 270, and 399 are added to, the authority and reference citations for this rulemaking. Senate Bill 1473 also repealed subdivision (b) of Section 220 of the Fish and Game Code; therefore, Section 220 is removed from the list of authority and reference citations for this rulemaking.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

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

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

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

Authority: Sections 200, 205, 219, 265, 270, 315, 316.5, 399, 1050, 1053.1, 1055.1, 7380 and 8491, Fish and Game Code.

Reference: Sections 110, 200, 205, 206, 255, 265, 270, 316.5, 399, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381, 7382, 8490 and 8491, Fish and Game Code.

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

None.

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

None.

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

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

proposed changes.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Smith River Petition

Petition #2016-023; received by the Commission at its Oct 2016 meeting; at Dec 2016 meeting Commission granted petition for consideration in the 2017 rulemaking for the 2018-19 season.

Petitioner recommends that the Department ban the use of roe as bait for fishing for salmon and steelhead. Petitioner also recommends closing the middle and south forks of the Smith River to fishing in November and December to protect spawning salmon.

Department Response

The current Smith River fishing regulations provide for protection of salmon and steelhead. The Smith River special fishing regulations include limited harvest, seasonal closures, a permanent section closure, and restricted angling gear (Section 7.50(b)(180)). The proposed fishing regulation changes listed in the petition (2016-023) show a local concern for the sport salmon fishery, but are unlikely to achieve the desired outcome based on past and current fish monitoring data for the Smith River. For example, the salmon trends in the Smith River do not indicate a declining trend over time, but show a stable population with normal variability (USFS 1960, Moyle 2002, Larson 2014). Alternatively, local Pacific Oceans trends, which are likely a mix of Oregon and California stocks have shown declines over time and should not be an indicator of Smith River salmon status.

As noted in the petition, hooking mortality as described in the “1997/98 Smith River Survey Summary” report did indicate a 26% swallowing rate for bait and 0% for flies, but the following year 1998/99 Sparkman (2000) indicated 17% of fly caught fish swallowed the hook. While there is no doubt that fish may swallow a hook with any angling method used, the annual variability described in these studies leads to some uncertainty about targeting specific gear types and expectations. In addition, the angler surveys grouped steelhead and salmon together comparing hook swallowing, although steelhead represented the majority of the catch (70-83%) in all years (petitioner is concerned about salmon hook swallowing).

While the Department agrees there are salmon spawning above the “forks” of the Smith River, mainstem Middle and South fork access is mainly limited to shore anglers as drift boats face harsher drift/water

conditions and typical do not fish above the forks. The proposed area/seasonal closure would be targeting a specific user group with no substantial evidence to support the perceived protection for salmon during this time.

Striped Bass Petition

Petition #2016-003; received by the Commission at its Feb 2016 meeting; at April 2016 meeting Commission granted petition for consideration in the 2017 rulemaking for the 2018-19 season.

The petitioner requests a change to the bag, possession, and size limits for striped bass on the San Joaquin River between Friant Dam and Highway 140 in Fresno, Madera, and Merced counties. Petitioner recommends increasing the daily bag limit for striped bass to 10, with no size limit in the San Joaquin River.

Department Response

The Department does not support the proposal because it will not likely accomplish the overall intended purpose, increase juvenile salmon survival at a level of statistical significance, given striped bass life history (ability to recolonize) and lack of prey preference. The confounding part of the striped bass predation issue relative to the San Joaquin River and its tributaries is that, pending location, there can exist both resident and anadromous populations of striped bass. Though the resident population is reduced, in theory, with greater harvest, the anadromous population can overcome any reductions made to resident populations thereby negating any population reduction effects.

Spearfishing Petition

Petition #2016-006; received by the Commission at its Jun 2016 meeting; at Aug 2016 meeting Commission granted petition for consideration in the 2017 rulemaking for the 2018-19 season.

The petitioner requests that the Department make the freshwater spearfishing regulations the same as the freshwater bow and arrow fishing regulations.

Department Response

The Department does not support this proposal because of the safety issues associated with spearfishing as well as potential conflicts with other more common angling and recreational activities. In addition, extensive evaluations would need to be conducted to determine impacts to lakes and streams due to year-round spearfishing. Furthermore, with the current spearfishing regulations, there are already rules and regulations in place at lakes and rivers that are under the jurisdiction of federal, local,

and state agencies, and private organizations that do not permit the use of weapons upon those lands. Allowing the proposal would certainly convolute the new regulation (as it already has) and will not be consistent with what is already established by these organizations.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

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

VI. Impact of Regulatory Action:

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

(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 is not anticipated to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide.

(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 expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide. Therefore, the Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing business or the expansion of businesses in California.

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

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

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

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

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

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

VII. Economic Impact Assessment:

The proposed regulations will revise and update inland sport fishing regulations starting in 2018. Currently, the seasons, size limits, and bag and possession limits for sport fishing are periodically reviewed by the California Department of Fish and Wildlife and the California Fish and Game Commission. This set of amendments will reduce foul-hooking of salmon, protect Shasta crayfish, protect salmon released above Shasta Dam, clarify regulations for artificial lures and bait, increase protection for Chinook Salmon and steelhead in the lower American River, increasing bow fishing opportunities, update the sport fishing report card requirements, and make needed corrections.

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

The adoption of scientifically-based regulations provides for the maintenance of sufficient populations of inland sport fish to ensure their continued existence and future sport fishing opportunities that in turn support businesses related to the fishery economy.

The most recent 2011 U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife associated recreation in California reports about 1.35 million resident and nonresident inland sport fish anglers contributed about \$1.2 billion in trip and equipment expenditures to the State's economy. With the addition of the indirect and induced effects of this \$1.2 billion direct revenue contribution, the total economic benefit to California's economy is estimated to be about \$2.03 billion. This corresponds with about \$960 million in total wages to Californians and about 16,000 jobs in the State annually.

This regulatory action may impact businesses that provide services to sport fishermen but these effects are anticipated to range from none to small positive

impacts, depending on the regulations ultimately adopted by the Commission. Sport fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that sport fish in California may be positively affected to some degree from increases to business that may result under the range of proposed regulations. These anticipated impacts may vary by geographic location. Additionally, economic impacts to these same businesses may result from a number of factors unrelated to the proposed changes to inland sport fishing regulations, including weather, fuel prices, and success rates in other recreational fisheries that compete for angler trips.

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

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

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

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

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

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

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

The Commission anticipates benefits to the health and welfare of California residents. Trout and salmon are a nutritious food source and increasing inland sport fishery opportunities encourages consumption of this nutritious food. Sport fishing also contributes to increased mental

health of its practitioners as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

(e) Benefits of the Regulation to Worker Safety:

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

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

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

Informative Digest/Policy Statement Overview

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The Department is proposing the following changes to current regulations:

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Shasta crayfish (*Pacifastacus fortis*) is listed as an Endangered Species pursuant to the California Endangered Species Act (Fish & G. Code, § 2050 et seq.)(Cal. Code Regs., tit. 14, § 670.5(B)) and the federal Endangered Species Act (16 U.S.C. § 1531 et seq.)(53 Fed.Reg. 38460-38465 (1988)). The current distribution for Shasta crayfish includes small and isolated spring fed areas in the Fall and Pit River drainages (Shasta County). Rock Creek, in the Hat Creek Drainage, was historically occupied by Shasta crayfish and was recently restored to provide refuge for and aid in the survival of the species. The Department is proposing to close Rock Creek to all fishing all year from Rock Creek spring downstream to Baum Lake. The proposed closure will protect Shasta crayfish and its habitat.

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The National Marine Fisheries Service (NMFS) and the US Bureau of Reclamation (BOR) are conducting feasibility studies for the reintroduction of winter and spring-run Chinook Salmon into the McCloud and Sacramento rivers. As part of a Fish Passage Pilot Project, federal agencies will be introducing an experimental release of Chinook Salmon into the Sacramento and McCloud drainages starting in 2017 or 2018 and continuing indefinitely. It is imperative that these rivers and their tributaries above Shasta Lake are closed to salmon fishing to reduce salmon loss and increase the success of the Fish Passage Project.

Proposal: Add new language to Subsection (b) of Section 7.00, District General Regulations, and to subsection (b)(115), McCloud River, in Section 7.50, Special Fishing Regulations.

Amend the Sierra District Regulations to clarify that all rivers and associated tributaries above Shasta Lake are closed to the take of salmon, and amend subsection (b)(115) of Section 7.50 to direct readers to the District General Regulations. These changes will protect Chinook Salmon when they are reintroduced into the upper Sacramento and McCloud rivers above the Shasta Lake.

AMERICAN RIVER (NIMBUS BASIN) FISHING CLOSURE

Under current regulations, the American River (in Sacramento County) from Nimbus Dam to the Hazel Avenue bridge piers is open to fishing all year (Section 7.50 (b)(5)(A)), and from the Hazel Avenue bridge piers to the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish weir is open to fishing January 1 through August 15 (Section 7.50(b)(5)(B)). The current request for closure is designed to protect Chinook Salmon and Central Valley steelhead trout, which will utilize this section of the river for both in-river spawning and rearing along with essential hatchery operations.

The BOR and the Department have completed a joint EIS/EIR for the Nimbus Hatchery Fish Passage Project (Project). The primary goal of the Project is to maintain a fully functional system of collecting adult Chinook Salmon and Central Valley steelhead trout sufficient to meet the hatchery's mitigation goals. Phase 1 of the Project extends the Nimbus Hatchery fish ladder 1500 feet (.30 miles) upstream into the Nimbus Basin. With the completion of the new fish ladder, Phase 2 of the Project will permanently remove the existing Nimbus Hatchery fish weir, and spawning gravel injections will be completed within the section of river associated with section 7.50(b)(5)(B). A gravel restoration and side channel creation project to create spawning and rearing habitat in the Nimbus Basin was completed in 2014.

However, the Project has the potential to affect Chinook Salmon and Central Valley steelhead trout holding, spawning, and rearing in this section of the lower American River. Additionally, under current hatchery operations, large numbers of adult Chinook Salmon and Central Valley steelhead trout hold below the existing fish weir located below the Hazel Avenue bridge before being routed to the fish ladder located at the south end of weir. Fish that enter the hatchery that are not ripe for spawning are released back into the river through the outfall, located approximately 100 feet below the existing fish ladder. As a result, current hatchery operations utilize a small portion of the river below the weir to cycle fish in and out of the hatchery. However, once the existing fish ladder is moved upstream into the Nimbus Basin, the length of river utilized for hatchery operations will increase by approximately 1,500 feet. With completion of the Project, holding, spawning, and rearing Chinook Salmon and Central Valley steelhead trout will distribute throughout the hatchery operations area. As a result, the entire section of river should be close to fishing all year to ensure successful hatchery operations.

Consequently, if the regulations are not changed by the Fall of 2018, anglers will continue fishing in the Nimbus Basin downstream to the USGS gauging station and

target holding and spawning Chinook Salmon and Central Valley steelhead trout. Although Section 2.35 states that fishing shall not take place within 250 feet of a fish ladder, this would have little effect in protecting salmon and steelhead under the new configuration. The new ladder entrance would be greater than 250 feet from where salmon are expected to hold until the ladder is opened to allow salmon and steelhead into the Nimbus Hatchery. The regulation change would also provide the American River Trout Hatchery and Nimbus Hatchery with greater protection from contamination by the New Zealand Mud Snail (NZMS), which have been documented adjacent to the hatchery in Section 7.50(b)(5)(B).

Proposal: Amend subsections (b)(5)(A) and (b)(5)(B) of Section 7.50, Special Fishing Regulations

Combine subsections 7.50(b)(5)(A) and 7.50(b)(5)(B) and close this section of river to fishing all year.

ARTIFICIAL LURE AND BAIT DEFINITION CHANGES

The purpose of the regulation change is to clarify that no scents or flavors shall be used on lures on waters where only artificial lures with barbless hooks may be used. After consulting with wildlife officers on this subject, it has become clear there is some subjectivity in interpreting the current regulation which has resulted in inconsistency and confusion. By clarifying this definition, enforcement will have a lesser problem enforcing this rule and the public will have a clearer description of this rule.

The definition of a lure (Section 1.60) would be removed from the Freshwater Sport Fishing Regulations and only “artificial lure” would be used. With this change, three substitutions in the current regulations would need to be made: (1) Section 1.05 Angling; (2) Section 1.61, Non-buoyant Lure; and (3) Section 2.10(3), Hook and Weight Restrictions. In all three sections lure would be changed to artificial lure. In addition, the definition of artificial lure would be amended to clarify that only non-scented and non-flavored lures may be used. Lastly, there is currently no definition of bait in Title 14. A definition of bait is needed to help clarify when scents and flavors can be used.

Proposal: Repeal Section 1.60, Amend Section 1.11, Artificial Lure, and add Section 1.18, Bait

Amend the current definition of artificial lure and add a definition of bait.

ALLOW BOW AND ARROW FISHING FOR CATFISH

The bow and arrow fishing community has requested the opportunity to fish for catfish in certain waters in the state. Bowfishers have expressed that they often encounter catfish in their pursuit for carp and would like to be able to take catfish as well. This request was considered by CDFW law enforcement and regional biologists who determined that bowfishing for bullhead and catfish could be allowed on waters with large carp populations and that are popular for bowfishing. These waters include the Sacramento San-Joaquin Delta, Lake Isabella in Kern County and Big Bear Lake in San Bernardino

County. Allowing bowfishing for catfish on these waters will increase fishing opportunities for bowfishers.

Proposal: Amend Section 2.25, Bow and Arrow Fishing

Amend Section 2.25 to allow bowfishing for bullhead and catfish in the Delta, Big Bear Lake, and Lake Isabel.

REVISION OF MENDOCINO, SONOMA, AND MARIN COUNTIES LOW FLOW CLOSURE TIME PERIOD TO ALING WITH THE ADULT STEELHEAD SEASON

Section 8.00(b) established a season for special low flow conditions for Mendocino, Sonoma, and Marin County coastal streams; however, the current end date extends the length of the low flow season past the adult steelhead fishing season on most coastal stream (except Russian River) which provides an unnecessary protection and may potentially confuse anglers. The current sport fishing regulations provides fishing in coastal streams of Mendocino, Sonoma, and Marin counties from the fourth Saturday in May through March 31, except for the Russian River which is open all year. Gear restrictions change from November 1 through March 31, to accommodate fishing for adult steelhead on all Mendocino, Sonoma, and Marin County coastal streams. There is no need for the season of special low flow conditions to extend beyond March 31, as most streams (except Russian River) are closed to any fishing from April 1 until the fourth Saturday in May, which is prior to the end of the current low flow season. The Russian River is the exception because it is open year round due to other sport fisheries such as American shad and smallmouth bass. For consistency, the Russian River should be included in this change, but it would result in the potential reduction of protected days under a low flow closure between April 1 and the fourth Saturday in May (52-57 days depending upon the calendar year). The loss of this additional protection on the Russian River is not likely to be significant as the bulk of the steelhead will have spawned and angler effort targeting steelhead will be low in the months of April and May. The steelhead population on the Russian River is also unlike other coastal streams because it is supplemented with hatchery steelhead. Additionally, the Russian River is a flow regulated stream and flows are likely to be higher in April and May than other coastal streams and less likely to be subject to a low flow closure due to water releases. Conforming the low flow closure season with the end of the adult steelhead fishing season on Mendocino, Sonoma, and Marin County coastal streams helps simplify regulations and reduces confusion between the fishing season and low flow closure season and it would not significantly impact the Russian River steelhead population in the event of low flow conditions in the months of April and May.

Proposal: Amend Subsection (b) of Section 8.00, Low-Flow Restrictions

Revise Section 8.00 (b) to redefine the season of the Special Low Flow Conditions to coincide with the end of the adult steelhead fishing season on March 31.

CRAYFISH

In alignment with the proposal to close Rock Creek to fishing to protect Shasta crayfish, Section 5.35 would need to be amended to add Rock Creek to the list of waters where

take of crayfish is prohibited. Rock Creek is in the Hat Creek Drainage in Shasta County.

Proposal: Amend Section 5.35, Crayfish

Amend Section 5.35 to add Rock Creek to the list of waters where fishing for crayfish is prohibited.

STEELHEAD REPORT AND RESTORATION CARD REQUIREMENTS

Department staff reassessed the fisheries management objectives of the Steelhead Report and Restoration Card and determined that the data being collected, location codes, and reporting instructions and requirements can be simplified. In order to accomplish this, verbiage within Section 5.88 must be changed.

Proposal: Amend Section 5.88, Steelhead Report and Restoration Card Requirements

Remove reference to “wild” steelhead because it is not legal to retain a wild steelhead, and remove the requirement to report the number of hours that were fished for steelhead.

SPORT FISHING REPORT CARD REQUIREMENTS

CCR Section 1.74 establishes guidelines for report card regulations including reporting harvest authorized by a report card; however, this section does not include a mechanism for confirmation that data from a report card has been reported. This proposal requires report card holders who submit data online to write the provided confirmation number on their report card and retain the report card until for 90 days after the reporting deadline.

When a report card is lost, a licensee may wish to obtain a duplicate, or may simply need to fulfill the harvest reporting requirement before the reporting deadline. Section 1.74 does not currently provide guidelines for licensees who have lost their report card and need to report their harvest, but do not need to obtain a duplicate report card. This proposal updates procedures regarding lost report cards to provide guidelines for obtaining a duplicate report card, and also for reporting harvest from a lost report card without obtaining a duplicate report card.

Proposal: Amend Section 1.74, Sport Fishing Report Card Requirements

Amend Section 1.74 to update procedures for reporting online and for lost report cards.

RESTRICT LEADER LENGTH TO LESS THAN SIX FEET TO REDUCE POTENTIAL FOUL-HOOKING (SNAGGING) OF SALMON AND STEELHEAD

The Department and the Fish and Game Commission (Commission) have struggled for years to eliminate and/or regulate snagging salmon. This has proven difficult given some of the spawning aggregations, habitat, and creative snagging techniques that have evolved over time. Water operations, changes in angling ethics, and population growth likely have also contributed to this ongoing problem. After struggling with these issues statewide, the Commission directed the Department to find a solution.

In 2014, the Department formulated a snagging working group to help evaluate the issue through a structured decision making process. Department staff and angling stakeholders participated in multiple meetings. One action resulting from this effort was a directed study to assess the efficacy of a reduced leader length in relation to the “flossing” fishing techniques based angling/snagging rig. Although this technique/rig is not the only gear that can be used to purposefully foul-hook salmon, it is currently legal and very effective when used in the right habitat (Feather, American, Sacramento, Yuba, and Klamath rivers) with high densities of spawning/migrating salmon. The results of the study showed a significant correlation with foul-hooking (82-94%) regardless of the leader length and a reduction in landing rates for the shortest leader.

Proposal: Add Section 2.05 to Title 14, Leader Length Restriction

Add the leader length restriction to Title 14, Chapter 2, Article 1, to reduce foul-hooking of salmon and steelhead in anadromous waters.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

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

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California’s trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.