

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, 1050 and 2003 of the Fish and Game Code and to implement, interpret or make specific sections 67, 200, 205, 711, 1050, 2003 of said Code, proposes to amend section 230, Title 14, California Code of Regulations (CCR), relating issuance of permits for contests offering prizes for the taking of game fish.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14, CCR.

The California Department of Fish and Wildlife (Department) is recommending that Commission amend Section 230 to resolve issues with the current permit issuance requirements and processes which do not meet the needs of today's contest applicants.

Under current regulations (Section 230), the Department may issue two types of permits depending on expected number of participants and amount of prizes and inducements offered at each contest. Applicants may submit permit applications beginning July 1 for contests to be held the following calendar year. Issuance of Type A contests are issued through a random drawing conducted by the Department during the month of July preceding the contest date. Applications for Type B contests are accepted July 1 of the year preceding the contest and issued on a first come first serve basis. To protect the welfare of fish populations, additional restrictions are placed on contests targeting black bass. All contest applicants must submit a report of contest results to the department within 30 days of the conclusion of the contest.

The proposed regulation changes include: 1) adding a definitions section to define some terms in Section 230, both existing and proposed; 2) redefining the contest permit types in Section 230 (Type A and Type B permits) and adding two new permit types (Type C and Type D permits) to allow for new types of contests being held today; 3) revising the requirements and procedures to apply for and obtain permits to ensure that all applicants have the same opportunity to conduct fishing contests; 4) revising the number of contests the Department issues per water per month to ensure a satisfactory angling experience for all resource user groups and to allow the Department to consider potential impacts to resources when issuing permits; 5) increasing the observer fee to reflect the current salaries of Department environmental scientists and game wardens charged with monitoring fishing contests for regulation compliance; 6) broadening the criteria to add additional conditions to permits to protect the resource; 7) changing the requirements on how to submit applications and report forms; 8) Require notice to applicants and permittees before the Department denies or revokes a permit application, a permit change request, or a permit; 9) clarifying and broadening the bases for denial and revocation; and 10) adding language allowing an applicant or permittee to request the Department to reconsider any denial or revocation.

Benefit of the Regulations

The goals and benefits of these regulations will establish contest conditions that provide for the welfare and conservation of fish populations and the environment, and limit the impact to other recreational users while also allowing the offering of prizes for the taking of game fish.

The fishing contest types offered to today's anglers has changed significantly. There has also been an increased demand for fishing contest permits, especially for contests targeting black bass. To ensure the welfare of fish populations, the department limits the number and type of contests that may be held on each water each day. The regulation changes proposed herein will provide for equitable distribution of contest permits as well as ensure for the welfare of fish populations.

Consistency and Compatibility with Existing Regulations

Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Commission has reviewed its own regulations and finds that the proposed regulatory action is 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 the permitting of game fish contests.

Public Participation

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing to be held on Thursday, May 19, 2022, at 8:30 a.m. or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing to be held on Thursday, June 16, 2022, at 8:30 a.m. or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899.

It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on May 6, 2022 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 June 13, 2022. All comments must be received no later than June 16, 2022, during the webinar/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 strikethrough 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, 715 P 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 Jenn Greaves at FGC@fgc.ca.gov or at the preceding address or phone number. Karen Mitchell,

Senior Environmental Scientist (Specialist), California Department of Fish and Wildlife, Fisheries Branch, designated to respond to questions on the substance of the proposed regulations. Ms. Mitchell can be reached at (916) 376-1917 or tournaments@wildlife.ca.gov.

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. 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 regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the game fish contests are specific to water bodies within the state of California.

- (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 Commission does not anticipate any benefits to the health and welfare of California residents or worker safety.

The new regulations will benefit the environment by expanding the Department's authority to consider potential impacts to the resources when issuing permits. Existing Section 230 states that the Department shall issue a permit if the fishery or health of individual fish are not impacted. The new regulations allow for a holistic consideration of potential impacts to the environment and other resource users before issuing a permit.

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

Fish and Game Code Section 2003 provides that an "application for [a fishing contest permit] shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit." Last year, the application fee was \$68.50. For 2022, the fee is being adjusted for inflation to

\$70.30 in accordance with Fish and Game Code Section 713. The total cost for application is \$72.41, which includes a 3% non-refundable ALDS fee (Section 700.4(e)).

In addition, the contest observer fee is proposed to increase from \$100 to \$275. Although a contest observer is rarely required, this adjustment is necessary to allow the Department to more fully recover staff salary and benefit costs when an observer is required. To minimize the fee increase, travel time and vehicle expenses have not been included. Thus, the amount charged for a Department contest observer will allow for only the partial recovery of necessary expenses incurred by the Department.

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

None. No change in costs or savings to state agencies are expected as a direct result of the proposed amendments to Section 230. However, the Department has estimated that the initial offering process continues to engage staff time throughout the state, and particularly Fisheries Branch staff in the Department's headquarters. Currently, there is no fee to submit a form DFW 774 to participate in the initial offering. The Department cost per entry is estimated to be approximately \$230.92. The Department receives an average of 70 forms DFW 744 per year. The total annual staff time costs (with benefits and overhead) are estimated to be approximately \$16,165 in a typical year.

(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.

Other Benefits of the Regulatory Action

The proposed changes to Section 230 and form DFW 775 and new forms DFW 774, 776, and 777 will enable the Department to align the fishing contest permit application process to better meet the needs of today's applicants. The Department has seen a tremendous demand for the limited number of permits that are issued to popular waters. Revising the application procedure will help minimize financial impacts to permit applicants.

Fishing contests are popular with sport fish anglers. Revising the permit application process will facilitate the continuation of the many annual fishing contests and may encourage new contests.

Providing fishing contests may encourage new anglers to participate in sport fishing activities, keep those anglers already engaged, or encourage anglers who have not sport fished in recent years to join this outdoor activity that they previously participated in.

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: April 19, 2022

Melissa Miller-Henson
Executive Director