

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, 219, 255, 265, 270, 275, 315, 316.5, 399, 2084, 7149.4, and 7380 of the Fish and Game Code and to implement, interpret, or make specific sections 110, 200, 201, 203.1, 205, 255, 265, 270, 275, 7149.4, 7380, and 7381 of said Code, proposes to amend Sections 2.00, 2.25, 5.00, 5.15, 5.20, 5.41, 5.75, 5.79, 5.85, 5.87, 5.88, 7.00, 7.40, 7.50, 8.00, and 29.85 of Title 14, California Code of Regulations related to 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.

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 2022 Sport Fishing Regulatory Cycle. This proposal will amend bag and possession limits for black bass, striped bass, catfish, and trout; extend the low flow closure period for the North and Central Coast areas; and, add a low flow closure target for the San Lorenzo River and its tributaries. In addition, this proposal will make needed corrections to existing regulations. The proposed regulatory changes are needed for clarity and to improve regulatory enforcement. Detailed descriptions of the proposed changes are found in the Initial Statement of Reasons (ISOR).

The Department is proposing changes to the following regulations in Title 14, CCR:

- Section 2.00, Fishing Methods – General, subsection (a).
- Section 2.25, Bow and Arrow Fishing, subsection (a).
- Section, 2.30, Spearfishing, subsections (b) and (c).
- Section 5.00, Black Bass, subsections (b)(5) Barrett Lake, (b)(8) Cuyamaca Lake, and (b)(19) Otay Lake.
- Section 5.00, in which the following waters are removed from the special regulations, and are subject to statewide provisions (12" minimum and 5 trout per day): (b)(9) Eastman Lake, (b)(11) Hensley Lake, (b)(13) Isabella Lake, (b)(14) Kaweah Reservoir, and (b)(18) Success Reservoir.

- Section 5.15, Catfish and Bullheads, subsection (b)(4) Contra Costa County, Lafayette Lake.
- Section 5.20, Clams, Freshwater, subsection (d).
- Section 5.41, Landlocked Salmon, subsection (e)(1).
- Section 5.75, Striped Bass, subsections (d)(1) and (d)(2).
- Section 5.79 White Sturgeon Report Card and Tagging Requirements for Inland Waters, subsection (e).
- Section 5.85, Trout, subsections (a)(1), (a)(2), (a)(3)(A).
- Section 5.87, North Coast Salmon Report Card Requirement, subsection (h).
- Section 5.88, Steelhead Report and Restoration Card Requirements for Inland Waters.
- Section 7.00, District General Regulations, subsection (e) South Central District.
- Section 7.40, subsections (a)(2), (a)(3), (a)(4), (b)(25) Carmel River and tributaries above Los Padres Dam (Monterey County), (b)(34) Coyote Creek, (b)(40)(A)(1) Eel River, (b)(40)(A)(2) Eel River, (b)(72) Upper Penitencia Creek, and (b)(80) Sacramento River and mainstem below Keswick Dam.
- Section 7.50, Alphabetical List of Trout Waters with Special Fishing Regulations, subsections (a)(2); (b)(44)(B) Eagle Lake inside the breakwater at Gallatin Marina; (b)(44)(C) Eagle Lake tributaries, including Pine Creek; and (b)(56)(A) Heenan Lake.
- Section 8.00, Low-Flow Restrictions, subsections (a) Eel River, Mad River, Mattole River, Redwood Creek, Smith River and Van Duzen River. Stream closures: Special Low Flow Conditions; (a)(1) Eel River; (b) Mendocino, Sonoma, and Marin County coastal streams: Stream Closures: Special Low Flow Conditions; (b)(1) Mendocino County; (b)(2) Sonoma and Marin counties, except for the Russian River; (c) South Central Coast Streams – Special Low Flow Closures; (c)(1) Upper Penitencia Ck. (Santa Clara Co.) and Lower Coyote Ck.; and (c)(3) San Lorenzo River and all its tributaries.
- Section 29.85, Recreational Take of Crabs, subsection (a)

The proposed regulation changes pertaining specifically to the Fall River Complex are intended, in part, to facilitate resolution of CEQA litigation filed by the Fall River Conservancy and California Trout (Petitioners) against the Department and Fish and Game Commission (Commission).

In addition, the best available science that has recently become available about the Fall River Complex, including Bear Creek, indicates a unique spring system with a mix of Rainbow Trout life histories locally adapted to a spring fed and snow melt system. This information suggests that there are genetic differences among Rainbow Trout populations within the Fall River Complex. These findings derive from a research effort led by U.C. Davis with field assistance from the Department. This proposal will amend the current bag and possession limits for trout in the Fall River Complex and expand the geographic area to account for the best available science. The proposed regulation change will not allow a seasonal harvest, and will prohibit the use of barbed hooks to protect and conserve the unique trout fishery in the Fall River Complex. Prohibiting the harvest of trout will protect and conserve Rainbow Trout in the Fall River Complex.

The Department is proposing the following changes to subsection (b)(47) Fall River Complex, of Section 7.50, Title 14, CCR:

- Amend the current regulation to prohibit seasonal harvest of trout and implement a catch and release only fishery. The new regulation will allow year-round angling, with a 0 (zero) trout bag limit and gear restrictions that only allow for use of artificial lures with barbless hooks.
- Expand the geographic area to include Bear Creek (downstream of Pondosa Way bridge), Fall River Pond, and Fall River Lake.

Benefit of the Regulations:

It is the policy of this State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant water fisheries based in California in harmony with international law. 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 seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout to ensure their continued existence.

The benefits of the proposed regulations include up to date and streamlined trout fishing regulations that are consistent statewide, consistency with federal fishery management goals, sustainable management of California's trout fisheries, promotion of the general health and welfare of California residents, and promotion of businesses that rely on sport fishing throughout the state. The proposed changes will provide benefits by maximizing trout fishing opportunity, where possible, through the proposed extensions of fishing seasons and increases in bag and possession limits on both district and special regulations waters without adversely affecting native and non-native wild trout

populations. The proposed regulatory changes may increase participation in sport fishing by new anglers, and may increase retention of existing anglers through simpler regulations facilitating ease of compliance and comprehension.

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 trout sport fishing seasons, bag, and possession limits.

Public Participation

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at California Department of Transportation Building Conf Rm 1.040A,B,C, 100 S. Main Street, Los Angeles, California, **AND** Trinidad Rancheria, Administrative Office Conference Room, 1 Cher-Ae Lane, Trinidad, California 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 meeting 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 hearing to be held in Fortuna, California, on **Thursday, August 18, 2022**, at 8:30 a.m., or as soon thereafter as the matter may be heard. The specific location for this meeting is still being determined. As soon as this information is available, but not less than thirty days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published in the California Regulatory Notice Register and published on the Commission's website. Instructions for participation in the meeting 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 by 5:00 p.m. on August 4, 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 August 12, 2022.** All comments must be received no later than August 18, 2022, during the Commission meeting. 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, 715 P Street, 16th Floor, Sacramento, CA 95814.

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, 715 P Street, 16th Floor, Sacramento, California 95814, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or David Haug at FGC@fgc.ca.gov or at the preceding address or phone number.

Senior Environmental Scientist, Karen Mitchell, Department of Fish and Wildlife, (Karen.Mitchell@wildlife.ca.gov or (916)376-1917), 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

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource, 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 adverse impacts on the creation or elimination of jobs within the state. The Commission does not anticipate adverse impacts on the creation of new business, the elimination of existing businesses or the expansion of businesses in California. Minor variations in the bag and possession limits and/or the implementation of a size limits are unlikely to significantly impact the volume of business activity.

The Commission anticipates benefits to the environment by the sustainable management of fishery resources throughout the state. The Commission does not anticipate any benefits to the health and welfare of California residents or to worker safety.

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

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

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

None.

(e) Nondiscretionary Costs/Savings to Local Agencies

None.

(f) Programs Mandated on Local Agencies or School Districts

None.

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

None.

(h) Effect on Housing Costs

None.

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: May 9, 2022

Melissa Miller-Henson
Executive Director