

State of California
Fish and Game Commission
Final Statement of Reasons for Regulatory Action

Amend Sections 2.00 through 8.00 and 29.85
Title 14, California Code of Regulations
Re: Inland Sport Fishing Regulations Update

I. Dates of Statements of Reasons

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|---------------------------------------|--------------------------|
| (a) Initial Statement of Reasons | Date: March 15, 2022 |
| (b) Pre-adoption Statement of Reasons | Date: July 15, 2022 |
| (c) Final Statement of Reasons | Date: September 13, 2022 |

II. Dates and Locations of Scheduled Hearings

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|-------------------------|-----------------------|--------------------------------|
| (a) Notice Hearing | | |
| | Date: April 21, 2022 | Location: Monterey/Trinidad |
| (b) Discussion Hearing | | |
| | Date: June 16, 2022 | Location: Los Angeles/Trinidad |
| (c) Continuation notice | | |
| | Date: August 3, 2022 | |
| (d) Adoption Hearing | | |
| | Date: August 17, 2022 | Location: Loleta |

III. Update

At the August 17, 2022 Fish and Game Commission (Commission) meeting, the Commission adopted the Department of Fish and Wildlife's (Department) recommended amendments to sections 2.00 through 8.00 and 29.85 in Title 14 of the California Code of Regulations (CCR) as set forth in the attached Approved Regulatory Text. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

A continuation notice concerning minor changes to the proposed regulations was sent to interested parties on August 3, 2022. The notice concerned revisions to the proposed regulatory language in sections 7.40 and 8.00, Title 14, CCR. No revisions were made to the other sections of this rulemaking.

Description of Specific Edits to the Regulatory Text

- Section 8.00(a)(2)(A): "closed to hook and line fishing" is removed. This is due to clarifications in added subsections.
- Subsection 8.00(a)(2)(A): added to read "Legal fishing methods other than angling are permitted."

- Subsection 8.00(a)(2)(A): added to read “From the mouth to the Cock Robin Island Bridge, angling from shore for non-salmonids is permitted” to narrow the restrictions on angling to targeted non-salmonid species while retaining angling opportunities for other species of fish in the area.
- Subsection 8.00(b)(2): “in Mendocino County” is added for consistency with previously existing regulations that are not intended to be changed with concurrent updates.
- Section 8.00: The entire section is renumbered due to the length and complexity of the provisions of Section 8.00. Renumbering does not have any effect on the meaning or enforceability of the regulations but aids in the reading and identification of each provision.
- Section 7.40: References to Section 8.00 are corrected because of its renumbering.

These changes were minor and sufficiently related to the originally proposed regulatory action. All other amendments described in the Initial Statement of Reasons dated March 15, 2022, and approved for notice in April, are unchanged.

IV. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations

May 27, 2022 – Humboldt County Board of Supervisors (letter).

The Humboldt County Board of Supervisors (BOS) requests: (1) that more data and studies be conducted on the Eel River estuary to help guide the future fisheries regulatory management decision, and (2) that the Commission take into account the potential collateral impacts that closure of the Eel River estuary may have on the local recreational fishing economy and subsistence fishing needs. BOS is concerned that a temporary closure to the Eel River estuary will become permanent without additional scientific, economic and cultural analysis.

Department Response:

Under the provisions of the amended low-flow restrictions in Section 8.00, the Eel River estuary may close to salmonid fishing during seasonal low flows. The new provisions proposed in this PSOR in subsection 8.00(a) will allow for continuous fishing by methods other than angling (e.g., crab traps) and angling from the shore for non-salmonids.

Studies suggest that hook and release mortality is significant for salmon in the ocean (10 – 60% after a singular contact) (Cowen et al. 2007). Catch and release mortality in rivers with good flow conditions has been up to roughly 12% for single encounters (Bendock and Alenadersdottir 2011, Cowen et al. 2007, Linday et al. 2003). Less is known about catch and release mortality of Chinook in estuaries or after multiple encounters, but it is likely that these additional factors are additive, especially where upriver migration may be extremely limited. Repeated exposure/contact, increased temperatures, hormonal changes and stress associated with freshwater entry and maturation, threats of predation, and stress added by an inability to migrate undoubtedly magnify that mortality. If the Commission, which may be informed by the Department's scientific assessment, decides that a more rigorous data driven assessment of the fishery is required for scientifically defensible regulations, then

total closure of this fishery may be required until studies have been completed specific to impacts of the Lower Eel River catch and release fishery and the persistence and recovery of the CA Coastal Chinook Evolutionarily Significant Unit (ESU).

The potential socioeconomic impact of this regulation, while unquantified, is acknowledged. Steps have been taken in the development of this regulation to minimize the spatial, temporal, and species specific limitations that it imposes in an effort to lessen the impact to the socioeconomics of Humboldt County and to the subsistence needs of tribes and county residents.

Lastly, the intent of the regulation is to make permanent the closure of the fishery during periods of low flow, not during all flow conditions.

V. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

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

(b) No Change Alternative

The no change alternative would leave existing regulations in place.

(c) Consideration of Alternatives

In view of information currently possessed by the Commission, no 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 adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following 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.

Updated Informative Digest/Policy Statement Overview

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

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 bass 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), and (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)

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 (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.

Update

At the August 17, 2022 Commission meeting, the Commission approved the Department's recommended amendments, set forth in the Approved Regulatory Text.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action recommended by the Department as described in the ISOR, and as described by the Department and the Commission in the Pre-Adoption Statement of Reasons (PSOR). The changes described in the PSOR affect only regulation sections 7.40 and 8.00, Title 14, CCR, and were made available to all interested and affected parties on August 3, 2022.

The following PSOR changes were made to the proposed regulatory text:

- **Section 8.00(a)(2): “closed to hook and line fishing” is removed. This is due to clarifications in added subsections.**
- **Subsection 8.00(a)(2)(A): added to read “Legal fishing methods other than angling are permitted.”**
- **Subsection 8.00(a)(2)(A): added to read “From the mouth to the Cock Robin Island Bridge, angling from shore for non-salmonids is permitted” to narrow the restrictions on angling to targeted non-salmonid species while retaining angling opportunities for other species of fish in the area.**
- **Subsection 8.00(b)(2): “in Mendocino County” is added for consistency with previously existing regulations that are not intended to be changed with concurrent updates.**
- **Section 8.00: The entire section is renumbered due to the length and complexity of the provisions of Section 8.00. Renumbering does not have any effect on the meaning or enforceability of the regulations but aids in the reading and identification of each provision.**
- **Section 7.40: References to Section 8.00 are corrected because of its renumbering. These changes are without regulatory effect (do not change the meaning of the regulations). All other amendments to Section 7.40 described in the Initial Statement of Reasons dated March 15, 2022, and approved for notice in April, are unchanged**