

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action
Amend Subsections (b)(27) and (b)(79) of Section 7.40,
and Subsections (b)(7) and (b)(81) of Section 7.50
Title 14, California Code of Regulations
Re: Inland Sport Fishing Regulations Update

I. Date of Initial Statement of Reasons: May 17, 2023

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: June 14, 2023

Location: Sacramento

(b) Discussion Hearing

Date: August 22, 2023

Location: Fortuna

(c) Adoption Hearing

Date: October 11, 2023

Location: San Jose area

III. Description of Regulatory Action

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

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 includes changes to sections 7.40 and 7.50, for the 2023 sport fishing regulatory cycle. The proposed regulatory changes are needed to correct inaccuracies in the current regulations to reduce public confusion and improve regulatory enforcement.

The amendments include changes to the fishing boundaries for Chorro Creek in San Luis Obispo County and Los Gatos Creek in Santa Clara County, the addition of a new subsection to the Russian River that will identify fishing closures within the Russian River State Marine Recreation Management Area, and, deleting an error in regulation for Bear Creek in Shasta and Siskiyou counties.

(b) Proposed Regulations

The Department is proposing the following regulatory changes in special regulations for Section 7.40 (Hatchery Trout, Hatchery Steelhead, and Salmon) and Section 7.50 (Trout waters):

- **Subsection 7.40(b)(27), Chorro Creek (San Luis Obispo Co.)**

- Under current regulation, the lower portion of Chorro Creek to Morro Bay is open to fishing during the steelhead season, however, this portion overlaps with the Morro Bay State Marine Reserve, which does not allow fishing. The boundary of the Reserve is the mean high tide line which the Department is proposing as the new fishing boundary

resulting in a reduction of approximately 0.75 miles of Chorro Creek to fishing (Figure 1).

- The reach of the current regulation on Chorro Creek from South Bay Blvd to the confluence with Morro Bay is approximately 1.0 mile. The reach of the new regulation from South Bay Blvd to the mean high tide will be 0.25 miles legally open to fishing during the steelhead season.
- It is unknown how much fishing in this section of Chorro Creek within the Morro Bay State Marine Reserve occurs during steelhead season annually. Department staff reached out to State Parks staff (who occupy an office directly across the street from this section of Chorro Creek) who indicated that no anglers have been observed fishing this section in recent years.

Chorro Creek Proposed Regulation

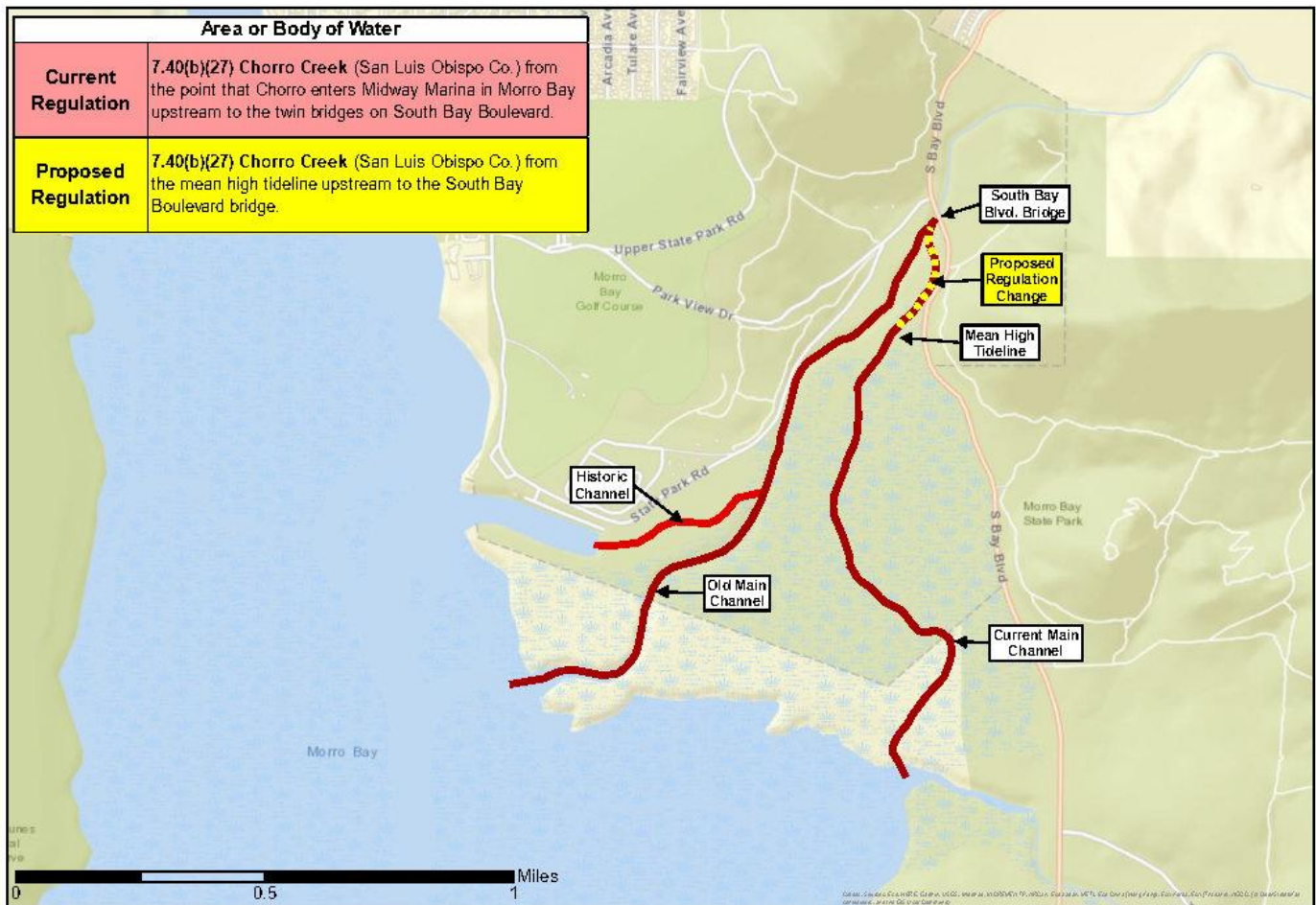


Figure 1. Map of proposed revisions to Chorro Creek sport fishing regulation in subsection 7.40(b)(27).

- **Subsection 7.40(b)(79), Russian River.**
 - Add subsection (D) for the Russian River State Marine Recreational Management Area (RRSMRMA) to inform anglers that fishing is not allowed in the portion of the Russian

River defined as the RRSMRMA. Currently, reference to the RRSMRMA is found only in the Ocean Sport Fishing Regulations booklet, but because anglers fishing the Russian River are targeting freshwater and anadromous species, they often only check the Freshwater Sport Fishing Regulations booklet. Because there is no reference to the RRSMRMA in the Freshwater Sport Fishing Regulations booklet, anglers may mistakenly fish in the RRSMRMA. The addition of subsection 7.40(b)(79)(D) for the RRSMRMA, which would reference Section 632(b)(37), would clarify that fishing is not allowed in the portion of the Russian River defined as the RRSMRMA.

- **Subsection 7.50(b)(7), Bear Creek.**

- The current sport fish regulations list Bear Creek, Shasta and Siskiyou cos. in two different Special Fishing Regulation (7.50(b)) sections which describe conflicting regulations for the same water. The legacy regulation for Bear Creek 7.50(b)(7) should have been removed when the Fall River Complex regulation (7.50(b)(47), Bear Creek (H)) was implemented on January 1, 2023. To correct the conflicting regulations, the Department is proposing the following changes for Bear Creek:
- Remove Section 7.50(b)(7) Bear Creek and tributaries (Shasta and Siskiyou cos.) between Pondosa Way bridge and confluence with Fall River and keep Section 7.50(b)(47) Fall River Complex (Shasta and Siskiyou cos.), (H) Bear Creek (downstream of Pondosa Way bridge).

- **Subsection 7.50(b)(81), Los Gatos Creek.**

- Sections 7.50(b)(81) and 7.40(b)(47) currently conflict. Camden Avenue drop is downstream of Vasona Lake, meaning there is an overlap of the trout and steelhead regulations in 2.13 miles of Los Gatos Creek downstream of Vasona Lake (Figure 2) . The intent was to protect anadromous fish below barriers, and allow for different regulations above barriers where resident trout are present.

Although there is a significant fish barrier at Camden drop structure, steelhead have been observed upstream of the structure in very wet years. The Vasona Lake dam is a complete barrier to anadromy. The regulations should clearly define consistent boundaries and protect our Federally ESA threatened population of Central California Coast steelhead (*Oncorhynchus mykiss*).

- This proposed regulation change would amend Section 7.50(b)(81) to the following – Los Gatos Creek (Santa Clara Co.) upstream **of Vasona Lake dam** including Lexington Reservoir and all tributaries. This regulation change would be replacing “Camden drop” with “Vasona Lake Dam.”

Los Gatos Creek Proposed Regulation

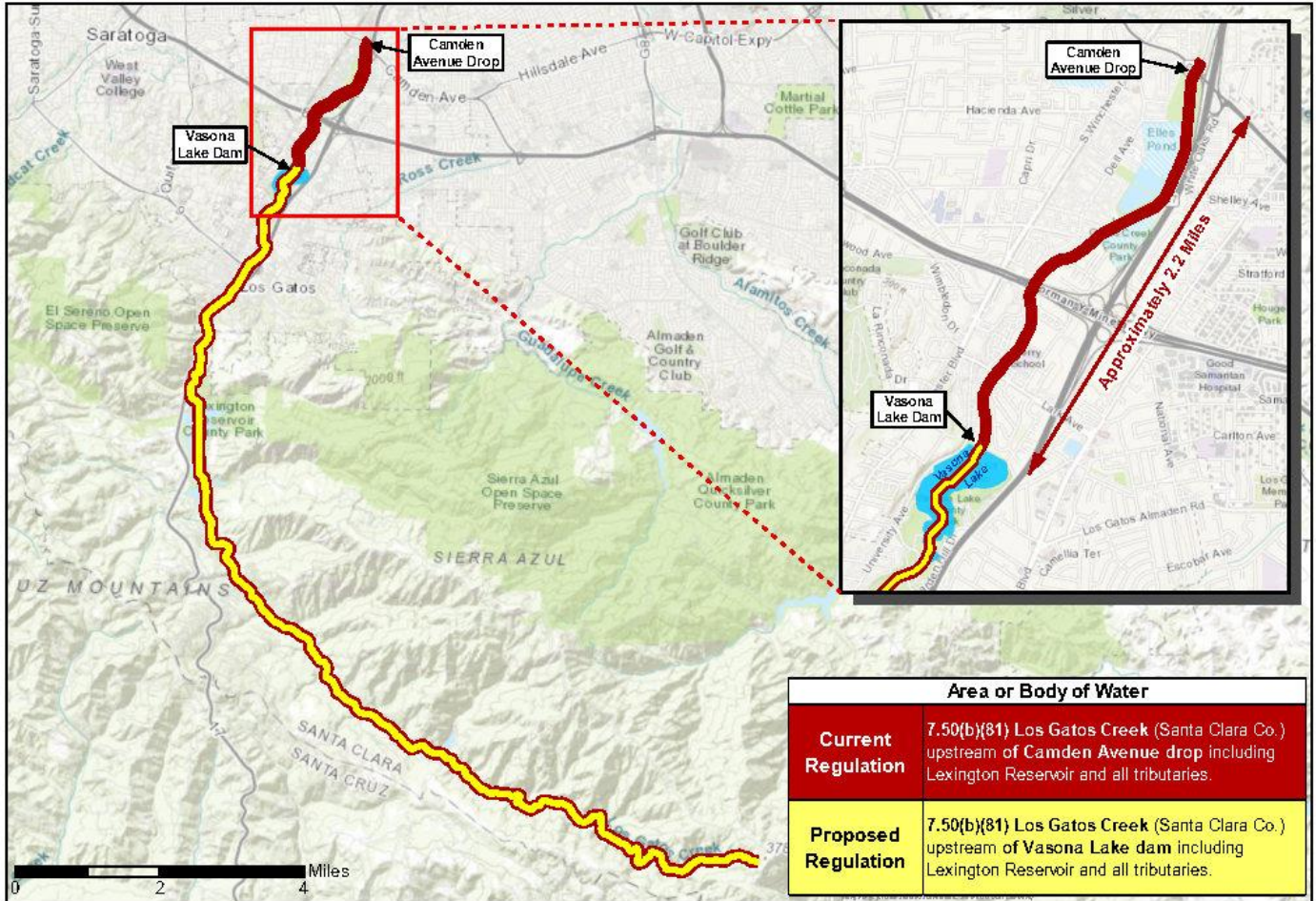


Figure 2. Map of proposed revisions to Los Gatos Creek sport fishing regulation in subsection 7.40(b)(81).

(c) Necessity of the Proposed Regulation Changes

The proposed regulations are necessary to align California’s inland sport fishery regulations with the Department’s current fisheries management goals and objectives, and to protect ESA-listed species including California Coastal Chinook Salmon, Northern California Steelhead, Central California Coast Steelhead, South-Central California Coast Steelhead, Central California Coast Coho Salmon, and Southern Oregon/Northern California Coast Coho Salmon, from fishing induced mortality and injury.

(d) Goals and Benefits of the Regulation

As stated in Fish and Game Code Section 1700, Conservation of Aquatic Resources, 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, respecting fishing

and the conservation of the living resources of the ocean and other 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 sport fish seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations sport fish to ensure their continued existence.

The benefits of the proposed regulations are consistent with the sustainable management of California's sport fisheries, general health and welfare of California residents, and promotion of businesses that rely on sport fishing throughout California.

(e) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Sections 200, 205, 265, 270, and 275, Fish and Game Code. Reference: Sections 110, 200, 265, 270, and 275 Fish and Game Code.

(f) Specific Technology or Equipment Required by Regulatory Change

None.

(g) Identification of Reports or Documents Supporting Regulation Change

None.

(h) Public Discussions of Proposed Regulations Prior to Notice Publication

The Department presented the proposed amendments to the sport fishing regulations at the Commission's Wildlife Resources Committee meetings on January 12, 2023 and May 17, 2023.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

On April 20, 2022, the Department recommended and the Commission granted for future consideration Petition No. 2021-020, a request to adopt special regulations for the North Yuba River. The Petition requests a return to the sport fishing regulations in effect prior to the 2020-21 season, which read:

7.50(b)(211) Yuba River, North Fork (Sierra and Yuba Cos.)

(A) From the western boundary of Sierra City to the confluence with Ladies Canyon Creek. Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used. 2 trout.

Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used. 0 trout

Presently the regulation reads:

7.50(b)(169) Yuba River, North Fork (Sierra and Yuba Cos.) from the western boundary of Sierra City to the confluence with Ladies Canyon Creek; All year; Only artificial lures may be used; 2 trout.

Specifically the petition requests a return to only barbless hooks and catch and release during the winter (November through April). The Department acknowledges changes during the state-wide effort to simplify angling regulations will provide more angling opportunity on the Yuba River, including access during the winter, with a daily bag limit of 2 trout. The recently implemented regulations are consistent with the management of a wild fishery, and still provide reduced bag limits and restrictions to only artificial lures, which are both protective and allow for limited harvest opportunity. The Department is maintaining the management of the Yuba River as a limited harvest trout fishery to provide angling opportunities while restricting angler harvest to the extent that such harvest has virtually no long-term effect on numbers and sizes of the fish in the populations. Department staff continue to monitor the Yuba River to ensure the fishery is not impacted by the current regulations; if impacts are identified, the Department will determine whether to recommend changes.

For the reasons explained above, the Department does not support the petition's request to change the regulations for this regulation cycle.

(b) No Change Alternative

The no change alternative would leave the current regulations, with uncorrected errors, in place.

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 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 provide clarification of existing regulations that 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. The proposed changes are to provide clarification of existing regulations that are not anticipated to change the level of fishing activity and thus the demand for goods and services

related to sportfishing that could impact the demand for labor, nor induce the creation of new businesses, the elimination, nor the expansion of businesses in California.

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. No changes to state agencies or to costs or savings in federal funding are anticipated by the proposed clarification of existing regulations. The Department program implementation and enforcement are projected to remain the same with a stable volume of fishing activity.

(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

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

The Commission does not anticipate adverse impacts on the creation or elimination of jobs within the state because the proposed amendments are not anticipated to impact the level of fishing activity and thus the demand for goods and services related to sportfishing that could impact the demand for labor.

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

The Commission does not anticipate that any of the proposed amendments would induce impacts on the creation of new business or the elimination of existing businesses, because the economic impacts of the proposed clarifications of existing regulations are unlikely to be stimulate or lessen the demand for goods or services related to sport fishing, travel, or tourism to the affected areas.

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

The Commission does not anticipate that any of the proposed clarification of existing regulations would induce substantial impacts on the expansion of businesses currently doing business within the state. The proposed regulations are not anticipated to increase demand for services or products from the existing businesses that serve individuals who engage in inland sport fishing. The number of fishing trips and angler economic contributions are expected to remain within the range of historical averages.

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

The Commission does not anticipate direct benefits to the health and welfare of California residents besides the furtherance of opportunities for sport fishing which is healthy outdoor recreation 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 Commission does not anticipate any benefits to worker safety from the proposed regulations because inland sport fishing does not impact working conditions.

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

Under the proposed regulations, the Commission anticipates benefits to the environment in the sustainable management of inland fishery resources. It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of waters under the jurisdiction and influence of the state for the benefit of all the citizens 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.

(g) Other Benefits of the Regulation

Other benefits of the regulation include consistency with federal fishery management goals, and support for businesses that rely on inland sport fishing.

Informative Digest/Policy Statement Overview

This California Department of Fish and Wildlife (Department) proposal includes changes to Title 14, California Code of Regulations (CCR), for the 2023 Sport Fishing Regulatory Cycle. This proposal will amend the fishing regulation boundaries for Chorro Creek in San Luis Obispo County and Los Gatos Creek in Santa Clara County, add a new section to the Russian River special fishing regulations that defines the fishing regulations within the Russian River State Marine Recreation Management Area, and delete an error in regulation for Bear Creek in Shasta and Siskiyou counties. The proposed regulatory changes are needed to correct inaccuracies in the current regulations to reduce public confusion and improve regulatory enforcement.

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

- **Subsection 7.40(b)(27), Chorro Creek (San Luis Obispo Co.)**
 - Under current regulation, the lower portion of Chorro Creek to Morro Bay is open to fishing during the steelhead season, however, this portion overlaps with the Morro Bay State Marine Reserve which does not allow fishing. The boundary of the Reserve is the mean high tide line which the Department is proposing as the new boundary resulting in a reduction of approximately 0.75 miles of Chorro Creek to fishing.
 - The reach of the current regulation on Chorro Creek from South Bay Blvd to confluence with Morro Bay is approximately 1.0 mile. The reach of the new regulation from South Bay Blvd to the mean high tide line will be 0.25 miles legally open to fishing during the steelhead season. (Note that all measurements are approximations taken from Google Earth).
 - It is unknown how much fishing in this section of Chorro Creek, within the Morro Bay State Marine Reserve, occurs during steelhead season annually. Department staff reached out to State Parks staff (who occupy an office directly across the street from this section of Chorro Creek) who indicated that no anglers have been observed fishing this section in recent years.
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 - Add subsection (D) for the Russian River State Marine Recreational Management Area (RRSMRMA) to inform anglers that fishing is not allowed in the portion of the Russian River defined as the RRSMRMA. Currently, reference to the RRSMRMA is found only in the Ocean Sport Fishing Regulations booklet, but because anglers fishing the Russian River are targeting freshwater and anadromous species, they often only check the Freshwater Sport Fishing Regulations booklet. Because there is no reference to the RRSMRMA in the Freshwater Sport Fishing Regulations booklet, anglers may mistakenly fish in the RRSMRMA. The addition of a subsection 7.40(b)(79)(D) for the RRSMRMA, which would reference Section 632(b)(37), would clarify that fishing is not allowed in the portion of the Russian River defined as the RRSMRMA.
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This proposed regulation change would amend Section 7.50(b)(81) to the following – Los Gatos Creek (Santa Clara Co.) upstream **of Vasona Lake dam** including Lexington Reservoir and all tributaries. This regulation change would be replacing “Camden drop” with “Vasona Lake Dam.” The number of anglers that would be affected by this change is expected to be small.

Benefits of the Proposed Regulations

As stated in Fish and Game Code Section 1700, Conservation of Aquatic Resources, 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, respecting fishing and the conservation of the living resources of the ocean and other 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 sport fish seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations sport fish to ensure their continued existence.

The benefits of the proposed regulations are consistent with the sustainable management of California’s sport fisheries, general health and welfare of California residents, and promotion of businesses that rely on sport fishing throughout California.

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.