

State of California  
Fish and Game Commission  
Final 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. Dates of Statements of Reasons

- |                                  |                        |
|----------------------------------|------------------------|
| (a) Initial Statement of Reasons | Date: May 17, 2023     |
| (b) Final Statement of Reasons   | Date: October 18, 2023 |

II. Dates and Locations of Scheduled Hearings

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|------------------------|------------------------|----------------------|
| (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   |

III. Update

At the October 11, 2023, Fish and Game Commission (Commission) meeting, the Commission adopted the Department of Fish and Wildlife's (Department) recommended amendments to subsections (b)(27) and (b)(79) of Section 7.40 and subsections (b)(7) and (b)(81) of Section 7.50 in Title 14 of the California Code of Regulations (CCR) as set forth in the attached adopted 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.

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

At the October 11, 2023, Commission meeting, Darin Mitchell, resident of Humboldt County, stated that Largemouth Bass are taking over Big Lagoon and, because the bass are not supposed to be in the lagoon, they are not covered by sport fishing regulations. He asked how to get the regulations changed so fishermen can take the bass so they do not wipe out the trout fishery.

The Department responds that the comment falls outside the scope of the adopted regulatory changes, however the Department acknowledges the commenter's concerns and has articulated the belief that existing regulations do permit the take of bass in Big Lagoon contrary to the commenter's interpretation.

V. 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 Fork 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 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 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.

## Updated 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.
- **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 PDF booklet, but because anglers fishing the Russian River are targeting freshwater and anadromous species, they often only check the Freshwater Sport Fishing Regulations PDF booklet. Because there is no reference to the RRSMRMA in the Freshwater Sport Fishing Regulations PDF 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.
- **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

10 (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 Ponderosa 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 Ponderosa 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. 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.” 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 of 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.

**Update**

**At the October 11, 2023, Commission meeting, the Commission approved the Department's recommended amendments to subsections (b)(27) and (b)(79) of Section 7.40 and subsections (b)(7) and (b)(81) of Section 7.50 in Title 14 of the California Code of Regulations 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.**