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Continuation of California Notice Register 2014, No.34-Z, Z2014-0812-07 and Meetings of August 6, 2014 and October 8, 2014 Re: Sport Fishing Regulations for 2015

October 14, 2014

This is to provide you with a continuation notice of proposed regulatory action relative to amending sections 1.45, 2.09, 4.05, 5.00, 5.80, 7.50, 8.00 and 27.90, Title 14, California Code of Regulations, relating to the proposed 2015 Sport Fishing regulations, which was published in the California Regulatory Notice Register on August 22, 2014, Register 2014, No. 34-Z; OAL Notice File No. Z2014-0812-07.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments have not changed from the original notice.

Additional information and all associated documents may be found on the Fish and Game Commission website at www.fgc.ca.gov.

Karen Mitchell, Senior Environmental Scientist, Fisheries Branch, phone (916) 445-0826, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Jon D. Snellstrom
Associate Governmental Program Analyst

Attachment

**TITLE 14. Fish and Game Commission
Continuation Notice of Proposed Changes in Regulations**

(Continuation of California Notice Register 2014, No.34-Z, Z2014-0812-07
and Meetings of August 6, 2014 and October 8, 2014)

(NOTE: The Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. "The commission shall exercise its powers under this article by regulations made and promulgated pursuant to this article. Regulations adopted pursuant to this article shall not be subject to the time periods for the adoption, amendment, or repeal of regulations prescribed in Sections 11343.4, 11346.4, 11346.8, and 11347.1 of the Government Code." See the text of this notice.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code; and to implement, interpret or make specific sections 200, 202, 205, 215, 220, 316.5 and 5505 of said Code, proposes to amend sections 1.45, 2.09, 4.05, 5.00, 5.80, subsections 7.50(b)(8), (b)(23), (b)(29), (b)(35.5), (b)(45), (b)(50.8), (b)(63), (b)(82), (b)(97), (b)(99), (b)(104), (b)(107), **(b)(130), (b)(133)**, (b)(135), (b)(136), (b)(141), (b)(168), (b)(169), (b)(173), (b)(178), (b)(180), **(b)(181)**, (b)(183), **(b)(193)**, (b)(195.1), (b)(201), and (b)(203.5), subsections **8.00(a) and 8.00(b)**, and Section 27.90, Title 14, California Code of Regulations, regarding Sport Fishing Regulations.

Pursuant to the provisions of sections 202 and 205 of the Fish and Game Code, the Commission will establish, extend, shorten, or abolish open seasons and closed seasons; establish, change, or abolish bag limits, possession limits, and size limits; establish and change areas or territorial limits for their taking; and prescribe the manner and the means of taking.

At the Commission's meeting on October 8, 2014, the Department of Fish and Wildlife (Department) made the following additional recommendations for changes relative to sport fishing regulations for the 2015 seasons: amend subsections 7.50(b)(130), 7.50(b)(133), and 8.00(a) and (b).

Proposed changes to sections as set forth in Notice Register 2014, No. 34-Z, Z2014-0812-07, remain the same, except for the sections identified in bold in the paragraph above, and in the following Updated Informative Digest/Policy Statement Overview.

Updated Informative Digest/Policy Statement Overview

Central Coast Low Flow Closures

Low-flow closures for sport angling on 5 streams in Marin and Sonoma County and 12 streams on the Mendocino coast are triggered when streamflow of the Russian River at the Guerneville gauge is less than 500 cfs. The 5 streams in Marin and Sonoma County are: Gualala River, Russian Gulch Creek, Salmon Creek, Walker Creek, and Sonoma Creek. The 12 streams in Mendocino County are: Usal Creek, Cottaneva Creek, Ten Mile River, Noyo River, Big River, Albion River, Navarro River, Greenwood Creek, Elk Creek, Alder Creek, Brush Creek, and Garcia River. All of these streams are relatively small and unregulated compared to the Russian River. As a result, the 17 streams are often open to fishing when flows are low and fish are excessively vulnerable.

The gauge on the lower Gualala River is a better indicator for the 5 streams in Marin and Sonoma counties and the Navarro River is a better indicator of streamflow conditions in the 12 Mendocino streams than the Russian River gauge. This proposal would change the low-flow closure reference for 4 of the 5 streams in Marin and Sonoma counties to the lower Gualala River gauge. This regulatory proposal will also change the low-flow closure reference for the 12 streams in Mendocino County to the Navarro gauge. The proposed minimum flow requirement at the Gualala River gauge and at the Navarro River gauge is 150 cfs and 200 cfs, respectively.

The proposed regulation change will also establish a low-flow closure for the Russian River in Sonoma County. Presently, although the Russian River flow at the Guerneville gauge is used to regulate the low-flow closures on the coastal streams in Marin, Sonoma, and Mendocino County, as well as for Sonoma Creek, in Sonoma County, a low flow closure regulation for the Russian

River has not been promulgated. Without a low-flow regulation, the Russian River is open to fishing during times when minimal flows are being released and fish are excessively vulnerable. The proposed minimum flow requirement for the Russian River is 300 cfs at the gauging station located on the main stem Russian River near Guerneville in Sonoma County.

The proposal will not include any changes to open seasons, gear, or limits.

Sonoma Creek

The current sport fishing regulations provide for fishing on a section Sonoma Creek from the last Saturday in April through November 15. The intent of this open season for fishing is to allow for resident trout fishing in Sugarloaf Ridge State Park. The current open area to fishing within the park includes an anadromous portion of Sonoma Creek. While spawning adult steelhead typically migrate back to sea before the open season there are conditions when adult steelhead may still be in the area and subject to angling pressure and capture. Department environmental scientists and NOAA Fisheries fishery biologists have expressed concern over fishing on adult steelhead and juveniles (listed as federally threatened) in this anadromous section of Sonoma Creek. The Department proposes to remediate this situation by restricting the fishing area to the non-anadromous portion of Sonoma Creek which is upstream of the natural barrier to anadromy, a 25-ft waterfall located within Sugar Loaf State Park.

The proposal will add approximately 0.5 mile of stream to the closed portion of Sonoma Creek but will not otherwise include any changes to fishing season, gear, or limits for the open portion of Sonoma Creek.

Low-Flow Restriction Time Period

Section 8.00 provides fishing restrictions (closures) for specified rivers and streams during low flow conditions to protect Chinook salmon and wild steelhead populations. Initially, the Department had proposed to extend the low-flow fishing restrictions ending date for the North Coast area (above San Francisco Bay) until April 30. However, recent data analysis shows minimal Chinook salmon presence in North Coast streams during the proposed extension period. The current 8.00(a) regulation covers the period of the year adult Chinook salmon are present, and an extension of the low-flow season will not benefit adult Chinook salmon. In addition, the level of benefit to spawning steelhead achieved by a low-flow closure extension would be minimal given zero harvest regulations already in place and the relatively few additional days that would be closed to angling. Therefore, the Department is removing its proposal to extend the low-flow closure ending date to April 30.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be at the Airtel Plaza Hotel, 7277 Valjean Avenue, Van Nuys, California, on Wednesday, December 3, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on November 26, 2014. All comments must be received no later than December 3, 2014 at the hearing in Van Nuys. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth 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 Sonke Mastrup or Jon Snellstrom at the preceding address or phone number. **Karen Mitchell, Senior Environmental Scientist, Fisheries Branch, Department of Fish and Wildlife, karen.mitchell@wildlife.ca.gov, (916) 445-0826, has been designated to respond to questions on the substance of the proposed regulations** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

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 202 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 and 11346.8 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.