



THURSDAY, January 24, 2019

Meeting Time: 4:00 P.M.

Location: DER Conference Room, 3800 Cornucopia Way, Ste. C, Modesto (Stanislaus Building - 2nd floor)

AGENDA

Call Meeting to Order & Introductions:

The Stanislaus County Fish & Wildlife Committee (F&WC) encourages public participation and welcomes the public's interest.

Members of the public may be heard on any item of the Fish and Wildlife Committee's agenda. A person addressing the Committee will be limited to five (5) minutes, unless the Chairperson of the Committee grants a longer period of time. The Committee will allow comments by members of the public on an agenda item only during consideration of the item.

Requests for Funds & Project Updates:

1. No Fund Requests received

Correspondence:

1. Notice of proposed regulatory action relative to subsection (b) of Section 27.65, Title 14.
2. Notice of proposed regulatory action relative to Section 29.06, Title 14.
3. Notice of Receipt of Petition to list Crotch bumble bee, Franklin's bumble bee, Suckley cuckoo bumble bee, and western bumble bee as endangered under California Endangered Species Act.
4. Notice of Receipt of Petition to list northern California summer steelhead as endangered under the California Endangered Species Act.
5. Notice of Change of Date and Announcement of Location of Adoption Hearing for Section 27.65, Filleting of California Sheephead on Vessels and Section 29.06, Recreational Take of Purple Sea Urchin.
6. Notice of proposed regulatory action relative to amending Sections 362, 364, 364.1 and 708.6, Title 14, relating to mammal hunting regulations.
7. Notice of proposed regulatory action relative to amending Section 354, Title 14, relating to archery equipment and crossbow regulations.
8. Notice of proposed regulatory action relative to subsection (b)(91.1) of Section 7.50, Title 14, relating to Klamath River Basin sport fishing regulations.
9. Notice of proposed regulatory action relative to subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50, Title 14, relating to Central Valley salmon sport fishing.

Agenda Items:

1. Public Comment(s)
2. Introduction of Attendees
3. Vote on by-law changes, concerning alternate members
4. Woodward Reservoir: Electric Shocking Fish- Brian Mollard
5. High Sierra Rescue-Brian Mollard
6. California Dept. of Fish & Game – Nutria presentation
7. Approval of October 25, 2018 Meeting Minutes
8. Wildlife Management Report
9. Fishery Report
10. Wildlife Enforcement Report
11. Wood Duck Report
12. Old Business
13. Committee Comments

Adjourn: Next meeting – Thursday, April 25, 2018 at 4:00 p.m.

Please notify the Department of Parks and Recreation at 525-6770 in advance if you will be attending this meeting and require special accommodation for the meeting.

REASONABLE ACCOMMODATIONS: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Committee Secretary at (209) 525-6770. Notification 72 hours prior to the meeting will enable the Department to make reasonable arrangements to ensure accessibility to this meeting. Agendas can also be found online at <http://www.stancounty.com/parks/fish-wildlife-committee.shtm> subject to staff's ability to post prior to the meeting. Materials related to an item on this Agenda submitted to the Committee after distribution of the agenda packet are available for public inspection during normal business hours at the main office of the Department of Parks and Recreation, 3800 Cornucopia Way, Suite C, Modesto, CA 95358.



STANISLAUS COUNTY FISH AND WILDLIFE COMMITTEE

3800 CORNUCOPIA WAY, SUITE C, MODESTO, CALIFORNIA 95358



PARKS AND RECREATION

Jami Aggers, Director
Merry Mayhew, Asst. Director
Ed Ayers, Chair

MINUTES

OCTOBER 25, 2018, AT 4:00 P.M.

3800 CORNUCOPIA WAY, 2ND FLOOR, CONFERENCE ROOM

(Agendas can be found online at <http://www.stancounty.com/parks/fish-wildlife-committee.shtm>)

COUNTY FISH & WILDLIFE MEMBERS PRESENT:

Ed Ayers, D2
Jim Atherstone, D3
Bob Bashaw, D5
Vernon Gladney, D1
Kern Hunewill, D5
Ken Meidl, D4
Phil McKay, D2

STATE FISH & GAME REPRESENTATIVE:

PARKS & RECREATION STAFF PRESENT:

Jennifer Marchy
William Shirley

EXCUSED/ABSENT:

Tom Sexton, D1
Jason Guignard, D1

GUESTS PRESENT:

Sandra Guerra, Stan. County BOS
representative

A. CALL TO ORDER & INTRODUCTIONS

Ed Ayers called the meeting to order and shared a remembrance of Dr. Ed Channing, who "founded" the Fish & Wildlife Committee. Introductions were made.

Ed Ayers

B. REQUESTS FOR FUNDS/PROJECT UPDATES

No request for funds received.

ACTIONS & REPORTER

Ed Ayers

C. CORRESPONDENCE

The Committee acknowledged the correspondence received and suggested further action or comment be directed to the corresponding agency as listed on the agenda and referred correspondence.

ACTIONS

Ed Ayers

D. PUBLIC COMMENTS

No comment was received.

ACTIONS & REPORTER

Ed Ayers

E. APPROVAL OF MINUTES

Bob Bashaw motioned to accept the July 26th meeting minutes and Jim Atherstone seconded the motion.

ACTIONS

Bob Bashaw
Jim Atherstone

F. WILDLIFE MANAGEMENT REPORT

1. Spider Trail Guzzlers were cleaned out.
2. James Pursley, Parks Supervisor, sent a crew up to spray for poison oak. It would take 3-4 weeks for the spray to take effect. Reservations would have to be made to do work on the quail guzzlers, as the OHV Park is now active.

ACTIONS & REPORTER

Phil McKay
Ed Ayers

G. FISHERY REPORT

1. The Fall adult Salmon migration has started. Salmon have been seen on both the Stanislaus & Tuolumne currently. Counts as of 10/19 are 528 on the Stanislaus and 462 on the Tuolumne. Pulse flows on both of the rivers now, and spawning is expected to pick up shortly.

ACTIONS & REPORTER

Jennifer Marchy

2. Salmon Festival is coming up on November 10, 2018, in Knights Ferry.
3. Both rivers are closed November & December for spawning.

H. WILDLIFE ENFORCEMENT REPORT**REPORTER**

No new information to report.

I. WOOD DUCK REPORT**ACTIONS & REPORTER**

1. Brush is being cut back around Wood Duck boxes at Bob Bashaw's place. Found that there was no nesting in the four boxes on his property. Found a hen that had some ducklings on the water.

Ed Ayers, Bob Bashaw

J. OLD BUSINESS AND COMMITTEE COMMENTS**ACTIONS & REPORTER**

1. Discussed by-law changes; re-wording regarding alternates and conference calls. Add to agenda for next meeting.
2. Brian Mollard has expressed interest in becoming a member.
3. Request was made to collect survey cards from Modesto Reservoir & Woodward Reservoir, and compile data related to fishing activity at the reservoirs.
4. Request was made to obtain results from the Gary Doby's fishing tournament, held at Woodward Reservoir.
5. Discussion on artificial fish habitat that could be placed at the reservoirs.
6. Possible sighting of an albino doe at the Oakdale Sportsmen Club.

Ed Ayers

K. ADJOURNMENT & NEXT MEETING**ACTIONS & REPORTER**

There being no further business, the meeting was adjourned. The next regular meeting of the Fish and Wildlife Committee will be held on:

Thursday, January 24, 2019 at 4:00 p.m.
Conference Room, 2nd Floor - Stanislaus Bldg.
 3800 Cornucopia Way, Modesto

Prepared By: Jennifer Marchy & William Shirley, Fish & Wildlife Secretaries

209-525-6700

Agendas can also be found online at <http://www.stancounty.com/parks/fish-wildlife-committee.shtml> subject to staff's ability to post prior to the meeting. Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection during normal business hours at the main office of the Department of Parks and Recreation, 3800 Cornucopia Way, Suite C, Modesto, CA 95358.

Commissioners
Eric Sklar, President
Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

Jacque Hostler-Carmesin, Member
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
Jamul

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

Melissa Miller-Henson
Acting Executive Director
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www.fgc.ca.gov

October 24, 2018

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Receipt of Petition to list northern California summer steelhead as endangered under the California Endangered Species Act. The notice will be published in the California Regulatory Notice Register on October 26, 2018.

Sincerely,

Sheri Tiemann
Associate Governmental Program Analyst

Attachments

Commissioners
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Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

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CALIFORNIA FISH AND GAME COMMISSION NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission (Commission), on September 28, 2018, received a petition from Friends of the Eel River to list northern California summer steelhead (*Oncorhynchus mykiss irideus*) as endangered under the California Endangered Species Act.

Summer steelhead migrate further inland into smaller tributaries than winter fish. They spend summer months resting in pools with consistent cool temperatures as they mature, waiting for winter rains to spawn in December-February. Summer steelhead can tolerate water temperatures up to approximately 23°C (about 73°F) for short periods of time, but seek refuge in deep pools with cool seeps and springs. They prefer pools with boulders, large woody debris, and undercut banks that provide cover from predators and visual separation from other fishes.

Pursuant to Section 2073 of Fish and Game Code, on October 8, 2018, the Commission transmitted the petition to the California Department of Fish and Wildlife (Department) for review pursuant to Section 2073.5 of said code. The Commission will receive the petition at its December 12-13, 2018 meeting in Oceanside. It is anticipated that the Department's evaluation and recommendation relating to the petition will be received by the Commission at its February 6-7, 2019 meeting in Sacramento.

Interested parties may contact Kevin Shaffer, Fisheries Branch Chief, at California Department of Fish and Wildlife, 830 S Street, Sacramento, CA 95811 or (916) 327-8841 or Kevin Shaffer@wildlife.ca.gov, for information on the petition or to submit information to the Department relating to the petitioned species.

October 16, 2018

Fish and Game Commission

Melissa Miller-Henson
Acting Executive Director

From: Scott Greacen <scott@eelriver.org>
Sent: Friday, September 28, 2018 3:40 PM
To: FGC
Subject: Petition to list Northern California summer steelhead under CESA
Attachments: FOER NC summer steelhead CESA petition.pdf

Dear Ms Miller-Henson

I am submitting the enclosed petition by regular mail as well this afternoon.

Thank you for your work to protect California's natural heritage.

Scott Greacen
Conservation Director
Friends of the Eel River

scott@eelriver.org
707/502.4555 mobile

**A PETITION TO THE STATE OF CALIFORNIA FISH AND GAME
COMMISSION**

For action pursuant to Section 670.1, Title 14, California Code of Regulations (CCR) and Sections 2071 and 2073 of the Fish and Game Code relating to listing and delisting endangered and threatened species of animals and plants.

I. SPECIES BEING PETITIONED:

Common Name: Northern California Summer Steelhead

Scientific Name: *Oncorhynchus mykiss irideus*

II. RECOMMENDED ACTION:

(Check appropriate categories)

a. List **X**

b. Change Status

As endangered **X**

From _____

As threatened _____

To _____

c. Or Delist

III. AUTHOR OF PETITION

Name: Scott Greacen

Address: POB 4945
Arcata, CA 95518

Phone Number: (707) 798-6345

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete.

Signature:



Date: September 27, 2018



FRIENDS OF THE EEL RIVER

Working for the recovery of our Wild & Scenic River, its fisheries and communities.

Friday, September 28, 2018

California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Dear Commissioners,

This is a petition to list Northern California summer steelhead under the California Endangered Species Act, (CESA, FGC § 2050 et seq.), as an endangered species.

Under CESA, "Endangered species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease. (F&GC § 2062)

Northern California summer steelhead (NC summer steelhead) are a native subspecies of fish in serious danger of becoming extinct throughout all of its range due to causes including loss of habitat and change in habitat.

These extraordinary fish are superlative in many ways. They include the largest adult steelhead, as well as fish capable of handling the highest water velocities and of jumping the highest barriers of any salmonids. NC summer steelhead include the southernmost summer steelhead. They are able to tolerate water temperatures higher than any other anadromous salmonids.

In their recent comprehensive review of the status and threats to salmonids in California, Moyle et al assessed the status of NC summer steelhead as being of Critical Concern, with a Status Score of 1.9 out of 5.0:

Northern California (NC) summer steelhead are in long-term decline and this trend will continue without substantial human intervention on a broad scale. Due to their reliance on cold water to over summer during the warmest months in freshwater and critical susceptibility to climate change, NC summer steelhead are vulnerable to extinction by 2050. (p. 276.)

Recent genetic research has demonstrated that a specific mutation gave rise to early-migrating life histories in both steelhead and chinook. These extremely rare evolutionary events are conserved in populations of summer steelhead and spring-run Chinook salmon today. However, if those premature-migrating populations are lost, the genetic diversity that makes the life history possible will itself be lost.

In its capacity as steward of the public trust in California's fish and wildlife heritage, the Fish and Game Commission should recognize and protect NC summer steelhead under CESA. We encourage the Commission to work with the Department of Fish and Wildlife to

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further focus future conservation actions on NC summer steelhead, and to secure the resources necessary to protect these fish while we still have them.

In the following, the bracketed letters refer to the list of scientific information required of a petition to the Commission under 14 CCR § 670.1(d)(1).

(A) population trend and (D) abundance;

As noted, Moyle et al assess NC summer steelhead populations as being in long-term decline. They note that “Little historical abundance information exists for naturally spawning populations of NC summer steelhead, but current abundance of this species is likely much less than historical estimates.” (p. 277)

The species persists in only a handful of watersheds. In only a few of those do we have evidence of even a hundred fish in a year. Moyle et al estimate that there are likely “fewer than 1,000 adults across the DPS in a given year.” (p. 287)

In its most recent status review for the NC steelhead DPS, NMFS concluded that while winter-run steelhead populations are relatively healthy, and the DPS as a whole does not appear, in the agency’s opinion, to face an increased risk of extinction, “(s)ummer-run populations continue to be of significant concern. While one run is near the viability target, others are very small or there is a lack of data.” (NMFS 2016 Five Year Status Review, p. 41)

The one population “near the viability target” is the Middle Fork of the Eel River. It is also in long-term decline.

The Middle Fork Eel also had summer steelhead arriving as early as April 20th in some years and supported good numbers of fish (DFG 1959). It was once home to what was considered the largest run of summer steelhead left in the basin (DFG 1999). CDFW has conducted snorkel and electrofishing surveys on the Middle Fork since 1966, with survey data showing a downward trend in abundance and relatively low fluctuating numbers of fish over the last five decades (Figure 4). (Moyle p. 279)

NMFS note that “...the Van Duzen River appears to be supporting a population numbering in the low hundreds. However, the Redwood Creek and Mattole River populations appear small, and little is known about other populations including the Mad River and other tributaries of the Eel River (*i.e.*, Larabee Creek, North Fork Eel, and South Fork Eel). (NMFS 2016 Five Year Status Review p 41) Moyle et al present survey data from the Mad River that suggests that watershed could support several hundred fish. However, Moyle et al point out that “NOAA Fisheries forecast that NC summer steelhead populations in the Redwood Creek, Van Duzen River, North and South Fork Eel, and Mattole are all highly susceptible to climate change impacts in the near future.”

It may be possible to restore an additional population of NC summer steelhead to the Upper Mainstem Eel River, but only by restoring fish passage that has been blocked for a century by Scott Dam. NMFS’ MSRP states: “The Upper Mainstem Eel River steelhead population was once the longest-migrating population in the entire DPS. Restoring access to historical habitat above Scott Dam is essential to recovering this population.” (p. 466)

(B) range and (L) a detailed distribution map;

NOAA Fisheries (NMFS), in their 2016 Coastal Multispecies Recovery Plan (MSRP), outline the range of NC summer steelhead in Volume III. Figure 2 on p. 4 of that volume is reproduced below; it displays the NC summer steelhead range. It includes the larger coastal watersheds from Redwood Creek south to the Mattole River, including the Mad River and various tributaries of the Eel River. Please note that the MSRP includes highly detailed maps of all Northern California summer steelhead watersheds. We hereby incorporate those materials and the remainder of the MSRP by reference into this petition.

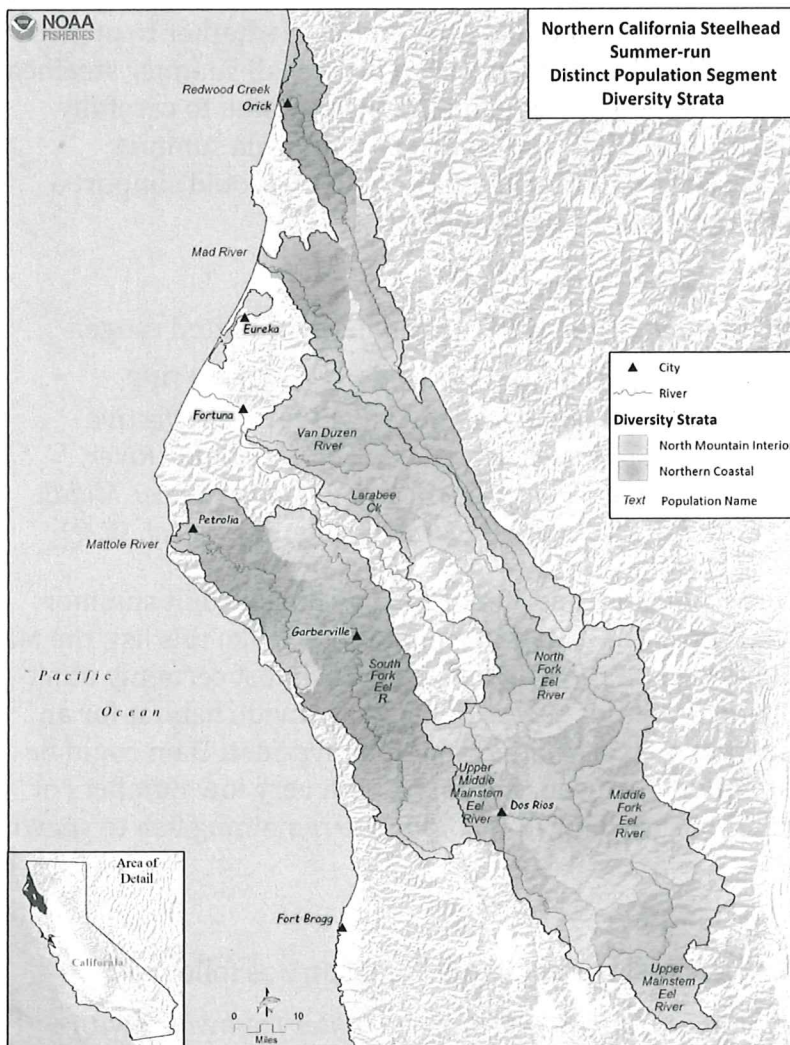


Figure 2: NC Steelhead Summer-Run Populations and Diversity Strata boundaries.

However, this classification leaves another group of native California summer steelhead, the Klamath Mountain Province summer steelhead, outside the boundaries of the populations proposed here for protection under CESA. While Klamath Mountain Province summer steelhead populations are not as low as Northern California summer steelhead

populations, Moyle et al assign the population precisely the same Status Score, 1.9 out of 5.0, as they do the Northern California summer steelhead. They note that “Klamath Mountain Province (KMP) summer steelhead are in a state of long-term decline in the basin. These stream-maturing fish face a high likelihood of extinction in California in the next fifty years.”

Thus, KMP summer steelhead, like Northern California summer steelhead, are “in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease,” and thus can and should be designated and protected as an endangered species under the California Endangered Species Act. (F&GC § 2062)

This presents the Commission and the Department with the question whether to protect only Northern California summer steelhead at this time, or to protect all summer steelhead in California together. We encourage the Department and the Commission to carefully consider all the relevant factors facing both KMP and Northern California summer steelhead in reaching a decision. It is clear that the scientific evidence would support a listing of “endangered” under CESA for either or both stocks.

(C) distribution;

NC summer steelhead are far from uniformly distributed even in their limited range.

NMFS' 2016 MSRP lays out recovery objectives for the existing NC steelhead DPS:

Ten independent summer-run steelhead populations expected to meet effective population size criteria ... (i.e., Redwood Creek, Mad River, South Fork Eel River, Mattole River, Van Duzen River, Larabee Creek, North Fork Eel River, Upper Middle Mainstem Eel River, Middle Fork Eel River, and Upper Mainstem Eel River). (p. 2)

But only a few of watersheds have recent evidence of more than a dozen adult summer steelhead. The Middle Fork Eel, Van Duzen, and Mattole populations make this list; the Mad River probably does. The North Fork Eel and Upper Mainstem Eel almost certainly don't have NC summer steelhead at all. The Upper Mainstem Eel might provide habitat for an additional vitally important population if access to the habitat above Scott Dam could be restored to Northern California summer steelhead. Of course, with very low numbers of fish in a given watershed, it becomes increasingly difficult for the remaining fish to spawn successfully.

(E) life history;

Moyle et al summarize the NC summer steelhead's unique life history as follows:

Summer steelhead are stream-maturing ecotype fish that enter freshwater with undeveloped gonads, and then mature over several months in freshwater. This life history is uncommon compared to ocean-maturing or winter-run fish. These steelhead oversummer in typically deep, bedrock holding pools and remote canyon reaches of streams with some overhead cover and subsurface flow to keep cool until higher flows arrive in winter (Busby et al. 1996).

NC summer steelhead enter estuaries and rivers as immature fish between April and June in the northern portion of the DPS (Redwood National Park 2001). In the Mad River, summer steelhead enter the mouth in early April through July as flows allow (M. Sparkman, CDFW, pers. comm. 2016). Mattole summer steelhead enter the river between March and June (Mattole Salmon Group 2016), and further migrations upstream occur from June on, but timing depends upon rainfall and consequent suitable stream discharge for passage into upper sections of watersheds. Spawning happens primarily in the winter between December and early April in headwater reaches of streams not utilized by winter steelhead (Roelofs 1983, Busby et al. 1997), though favorably wet conditions may lengthen the spawning period into May. Infrequent observations of steelhead spawning in June have also been reported on the Mattole River (Mattole Salmon Group 2016).

The Northern California summer steelhead life history has important consequences for their conservation. As Moyle et al describe, NC summer steelhead are by definition unusual for the steelhead taxon. They occupy headwaters habitats right at the margin of salmonid tolerance in a range at the edge of salmonid tolerances. NC summer steelhead specialize in exploiting relatively limited dry-season holding habitats in order to make greater use of spawning and rearing habitats higher up in watersheds than winter-run steelhead. They play important ecological roles in areas no other anadromous salmonid reach. The summer steelhead life history makes these strategic choices to gain access to spawning habitats where it will not compete with winter run steelhead.

Northern California summer steelhead are inherently more subject to predation and disease in freshwater than their winter run counterparts. As adults and as juveniles, NC summer steelhead spend more time in freshwater. Both adults and juveniles face the poor water conditions, including low flow, high temperature, and high pollution levels, that summer and fall bring to the rivers they inhabit, limiting the mobility of over-summering fish within a watershed. Very low population numbers are especially vulnerable to predation impacts. Introduced pikeminnow are a major anthropogenic burden on juvenile steelhead, including summer steelhead, throughout much of the Eel River watershed. However, summer steelhead can easily pass barriers pikeminnow cannot, so they may be less subject to predation around spawning areas than winter run steelhead.

The NC summer steelhead life history also makes it more vulnerable to the impacts of climate change than winter run steelhead. NMFS acknowledges those stark differences in Appendix B of the MSRP, which analyzes the effects of climate change on Chinook salmon and steelhead recovery:

We did consider summer-run steelhead in the NC steelhead DPS somewhat separately. Because juvenile summer run steelhead emerge from redds in the winter, and then usually rear in streams for 1-3 years, they share similar vulnerabilities to climate change as juvenile winter-run steelhead (although in some cases they may be more susceptible to redd scour). However, because summer-run adults enter streams in late spring/early summer, and hold in mainstems until early fall to spawn, summer-run steelhead adults are likely more vulnerable to climate change impacts than winter-run adults in most (if not nearly all) cases. (NMFS 2016, Appendix B, pg. 19).

Finally, and critically, a recent paper has demonstrated that the premature migration observed in both summer steelhead and spring Chinook arises from a mutation at a specific area in the salmonid genome. (Prince et al 2017) The Prince et al analysis is critically relevant to the question of Northern California summer steelhead conservation policy for at least two reasons. It shows that summer steelhead are genetically distinct in profound ways from winter steelhead in the same watersheds.

As well, it shows that the assumption underlying the current combined listing of winter and summer steelhead as DPS under the federal Endangered Species Act – that if lost, summer steelhead can re-emerge from winter steelhead populations – is without foundation. Rather, the study shows that a unique evolutionary event was the cause for the spatial and temporal reproductive isolation that summer and winter-run steelhead exhibit in the coastal rivers of Northern California. Because summer steelhead arose from a unique evolutionary event, they are unlikely to re-evolve over ecological time scales. (Prince et al 2017).

This new genetic explanation adds to the existing evidence that NC summer steelhead are different from winter run steelhead in a number of ways that merit the close attention of the Commission in determining what level of protection Northern California summer steelhead should receive. Moyle et al explain that:

the two runs are distinctive in their genetic makeup, behavior, and reproductive biology... Genetic analyses support two discrete, separate monophyletic units of migrating populations based primarily on timing of freshwater entry and resulting maturation (Papa et al. 2007), correlating with run timing for the ocean-maturing (winter) and stream-maturing (summer, fall) ecotypes (Prince et al. 2015). (Moyle 2017, pp. 270-71)

(F) kind of habitat necessary for survival;

Moyle et al summarize NC summer steelhead habitat requirements by life stage, p. 273:

Steelhead require distinct habitats for each stage of life. The abundance of summer steelhead in a particular location is influenced by the quantity and quality of suitable coldwater habitat during low flow summer and fall months, food availability, and interactions with other species. Over-summering habitat for adult summer steelhead is critical for survival of this life history. In general, suitable habitats are often distributed farther inland than those for winter steelhead in the same watersheds (Moyle 2002).

Adult steelhead have a body form adapted for holding in faster water than most other salmonids with which they co-occur can tolerate. Within California, Bajjaliya et al. (2014) found important differences in steelhead morphology based on flow regimes and habitats occupied. Northern California steelhead had the largest individuals, on average, than populations of steelhead from elsewhere in the state. In general, coastal steelhead that occupied smaller, slower coastal rivers were deeper bodied, longer, and more robust than steelhead from larger inland rivers with higher velocities. Low flows associated with more inland rivers and tributaries do not facilitate passage of larger bodied adults, and therefore select for smaller, more streamlined fish. Adult summer

steelhead require water depths of at least 18 cm for passage (Bjorn and Reiser 1991), however, this may not take into account the deep-bodied, robust physiology of coastal steelhead in the NC steelhead DPS, which would require slightly more flow to allow passage (Bajjaliya et al. 2014). Reiser and Peacock (1985 in Spence et al. 1996) reported the maximum leaping ability of adult steelhead to be 3.4 m. Hawkins and Quinn (1996) found that the critical swimming velocity for juvenile steelhead was 7.7 body lengths/sec compared to juvenile cutthroat trout that moved between 5.6 and 6.7 body lengths/sec. Adult steelhead swimming ability is hindered at water velocities above 3 m/sec (Reiser and Bjornn 1979). Preferred holding velocities are much slower, and range from 0.19 m/sec for juveniles and 0.28 m/sec for adults (Moyle and Baltz 1985). Physical structures such as boulders, large woody debris, and undercut banks create hydraulic heterogeneity that increases availability of preferred habitat in the form of cover from predators, visual separation of juvenile territories, and refuge during high flows.

Steelhead require cool water and holding habitat to withstand the higher temperatures and lower flows of summer and fall while they mature. Important factors influencing summer steelhead habitat use are pool size, low substrate embeddedness (< 35%), presence of riparian habitat shading, and instream cover associated with increased velocity through the occupied pools (Nakamoto 1994, Baigun 2003). Temperatures of 23-24°C can be lethal for the adults (Moyle 2002), which can limit abundance and spatial distribution. Subsurface, or hyporheic, flows can be important to providing cool, flowing water in habitats separated by thermal or other barriers. In August 2015 on the upper Middle Fork Eel River, adult summer steelhead were observed in pools of varying depth, but only with maximum temperatures of less than 23°C.

For spawning, adult steelhead require loose gravels at pool tails for optimal conditions for redd construction. Redds are usually built in water depths of 0.1 to 1.5 m where velocities are between 0.2 and 1.6 m/sec. Steelhead use a smaller substrate size than most other coastal California salmonids (0.6 to 12.7 cm diameter). Spawning habitat for summer steelhead can be variable, but their temporal and spatial isolation from other steelhead runs maintain low levels of genetic differentiation from winter steelhead in the same watershed (Barnhart 1986, Papa 2007, Prince et al. 2015). Summer steelhead can spawn in intermittent streams, from which the juveniles emigrate into perennial streams soon after hatching (Everest 1973). Roelofs (1983) suggested that use of small streams for spawning may reduce egg and juvenile mortality because embryos may be less susceptible to scouring by high flows and predation on juveniles by adults.

After spawning, adult steelhead, called "kelts" at this life stage, are capable of rapidly making their way back out to sea; the entire migration and spawning cycle of an adult fish can be completed in less than ten days (J. Fuller, NMFS, pers. comm. 2016). In contrast, in Redwood Creek, relatively large numbers of kelts migrate downstream through the lower watershed in March (M. Sparkman, CDFW, pers. comm. 2016). Due to the relatively short distances these fish must travel in small coastal watersheds to

spawn, their survival rates and incidence of repeat spawning are higher than steelhead in the much larger Eel River, which reach dozens of kilometers inland.

Embryos incubate for 18 to 80 days, depending on water temperatures, which are optimal in the range of 5 to 13° C. Hatchery steelhead take 30 days to hatch at 11°C (Leitritz and Lewis, 1980 in McEwan and Jackson, 1996), and emergence from the gravel occurs after two to six weeks (Moyle 2002; McEwan and Jackson 1996). High levels of sedimentation (> 5% sand and silt) can reduce redd survival and emergence due to decreased permeability of the substrate and dissolved oxygen concentrations available for the incubating eggs (McEwan and Jackson 1996). When fine sediments (< 2.0 mm) compose > 26% of the total volume of substrate, poor embryo survival is observed (Barnhart 1986). Emerging fry can survive at a greater range of temperatures than embryos, but they have difficulty obtaining oxygen from the water at temperatures above 21.1°C (McEwan and Jackson 1996).

During the first couple years of freshwater residence, steelhead fry and parr require cool, clear, fast-flowing water (Moyle 2002). Exposure to higher temperatures increases the energetic costs of living for steelhead and can lead to reduced growth and increased mortality. As temperatures become stressful, juvenile steelhead will move into faster riffles to feed on more abundant prey (Moyle 2002 and bioenergetic box in SONCC coho account) and seek out cool- water refuges associated with cold-water tributary confluences and gravel seeps. In Redwood Creek, young-of-year (YOY) steelhead may travel 46 km downstream during summer months in search of rearing areas (M. Sparkman, CDFW, pers. comm. 2016). In the Mattole River, juvenile steelhead are found over-summering throughout the basin, although water temperatures often restrict their presence in the estuary. Cool water areas, including some restoration sites, provide refuge from temperatures that can rise above 19°C in the Mattole (Mattole Salmon Group 2005). However, juvenile steelhead can live in streams that regularly exceed 24°C for a few hours each day with high food availability and temperatures that drop to more favorable levels at night (Moyle 2002, M. Sparkman, CDFW, pers. comm. 2016).

Many of these habitats are vulnerable to a range of anthropogenic impacts. Such impacts have seriously degraded the capacity of the NC summer steelhead range to support the population over the last century and a half. This historic and continuing degradation of habitat is why many of the watersheds that did once support significant populations of Northern California summer steelhead now have only a few, or no, returning adults.

Moyle et al summarize 15 major anthropogenic factors limiting viability of Northern California summer steelhead populations, and rated them on their potential to impact the species. Three factors were ranked as “High,” meaning they could push a species to extinction in 10 generations or 50 years: Major dams, on the Eel and Mad Rivers¹; agriculture, including impacts from conventional agriculture in lower watersheds and diversions and pollution associated with unpermitted marijuana cultivation; and estuarine

¹ Note that NMFS disputes Moyle et al’s characterization of the impact of Ruth Dam on potential NC summer steelhead habitat in the Mad River.

alteration, again especially in the Eel and the Mad Rivers. (p. 285) An additional five factors were ranked as "Medium," i.e., unlikely to drive a species to extinction by itself but contributing to increased extinction risk; they include grazing, rural/ residential development, transportation, logging, and hatcheries.

To these already severe threats, we now must add the very significant impacts of climate change on Northern California summer steelhead and the key habitats the species requires. Moyle et al emphasize the severity of these threats at pages 286-87:

Climate change is a major threat to the continued persistence of NC summer steelhead. In general, climate change will impact the freshwater habitat of steelhead in several important ways:

- 1. Increased runoff and flooding, scouring redds*
- 2. Higher stream temperatures reducing habitat quality and survival*
- 3. Lower stream flows reducing habitat quantity and accessibility*
- 4. Earlier spring snowmelt reducing juvenile outmigration success*
- 5. Altered ocean circulation and productivity reducing sub-adult growth and survival in the marine environment (decrease in smolt to adult survival)*
- 6. Higher stream temperatures and flows creating thermal and velocity migration barriers to juveniles and adults in both marine and freshwater*
- 7. Increased frequency and intensity of catastrophic wildfires, threatening salmonid survival with attendant erosion, mass wasting, etc.*
- 8. Altered woody debris availability and characteristics reducing holding areas for juvenile salmonids*
- 9. Higher temperatures shifting range of suitable habitat northward in ocean and freshwater habitats*
- 10. Increased eutrophication of estuaries that serve as important nurseries and foraging habitat for juvenile and sub-adult salmonids*

To summarize the recent NMFS findings on climate-related impacts to NC steelhead, the primary concerns focus on altered streamflows and warmer temperatures, which reduce survival and passage through reductions in suitable holding, spawning, and rearing habitat. These impacts can reduce life history diversity, further stressing low populations of summer steelhead (NMFS 2016). NMFS considered summer-run steelhead in the DPS separately from winter-run fish, due to their increased susceptibility to redd scour due to timing of spawning and necessary holding in mainstem rivers during the warmest months of the year (NMFS 2016). Summer steelhead were found to be more vulnerable to these impacts than winter fish in "most (if not nearly all) cases" (NMFS 2016, Appendix B, pg. 21). Using a threat vulnerability analysis, NOAA Fisheries forecast that NC summer steelhead populations in the Redwood Creek, Van Duzen River, North and South Fork Eel, and Mattole are all highly susceptible to climate change impacts in the near future (NMFS 2016). These impacts

are already being seen throughout the DPS range, and are limiting suitable upper watershed habitat for summer steelhead. Persistence of these populations is likely only with increased protection and restoration to improve stream flows, allow accessibility to prime holding and spawning habitat, and maintain cool temperatures in headwater tributaries for both spring Chinook salmon and summer steelhead.

Modeling of high greenhouse gas emissions scenarios have forecast increasing frequency and duration of critical drought, which exacerbates and compounds these impacts by reducing overall streamflow and increasing the variability in timing of precipitation events in California (NMFS 2016). As a result, Northern California summer steelhead may experience local extinctions and range contractions since higher gradient or elevation headwater streams are inaccessible behind falls, boulder fields, or dams in the DPS. Ongoing drought in California has likely contributed to a dip in populations of summer steelhead in the DPS, as lower flows and warmer summer water temperatures likely caused increased mortality before spawning. Persistent drought is likely to exacerbate already acute problems associated with depletion of summer baseflows, reduction of coldwater refugia, or even stream dewatering during the late summer and early fall months by reducing spawning, rearing, and migration habitat. More frequent and severe droughts are likely to contribute to higher occurrences of low summer baseflows that fuel toxic cyanobacteria blooms and degrade food webs that oversummering adult steelhead and juveniles depend on (Power et al. 2015). If summer temperatures increase during summer and early fall month and precipitation and prevalence of fog decrease, as has been observed in Northern California over the last fifty years, stream temperatures will rise and further stress summer-rearing salmonids and summer steelhead holding in pools (Madej 2011).

Drought and poor ocean conditions tied to climate change and El Nino conditions likely caused some decline in salmonid populations across the state by reducing coldwater upwelling and food availability (Daly et al. 2013, Williams et al. 2016). Changes in precipitation patterns could lead to flooding, contributing sediments from highly erodible terrain that smothers valuable gravel and fills in pool habitat. As populations continue to decline and become more fragmented, stochastic events such as increased catastrophic fire may change genetic structure, breeding, and population dynamics in ways that are unrecoverable.

Northern California summer steelhead are fantastically well-adapted to specific habitats that the coastal watersheds of Northern California have generally provided for millenia. Human activity has disrupted most of this habitat, even in the relatively undeveloped mountains of northwestern California. Anthropogenic climate change renders more habitat inhospitable. The combination of these impacts threatens Northern California summer steelhead with extinction in the near future.

(G) factors affecting the ability to survive and reproduce;

To a great extent, the critical factors affecting the ability of Northern California summer steelhead to survive and reproduce are the habitat issues discussed in section (F) immediately above. For adults, cool water and holding habitat; for reproduction, spawning

and rearing habitat are all essential to maintaining and recovering NC summer steelhead populations. Of course, as anadromous fish, the questions of ocean conditions present another complex of factors that will affect survival and successful reproduction.

(H) degree and immediacy of threat;

As noted, Moyle et al assess the status of Northern California summer steelhead as Critical, reflecting further decline from a 2008 review that found the species already at a High level of risk:

NC summer steelhead have a high risk of extinction in the next 50 years without significant restoration and intervention. ... This status could deteriorate rapidly if restoration and protection efforts are not put into effect. (Moyle 2017, pp. 287)

With only a relative few, relatively small populations remaining, NC summer steelhead are subject to rapid, likely irrecoverable loss from stochastic events or human action.

(I) impact of existing management efforts;

Despite the clear threats to NC summer steelhead, they are not listed under the California Endangered Species Act. Moyle et al explicitly argue that they should be so listed:

NC summer steelhead currently have no special conservation status within the state of California, but should be officially recognized as threatened under the California Endangered Species Act by the Fish and Game Commission or at least declared a state Species of Special Concern. (Moyle 2017, pp. 287)

The absence of state protections for NC summer steelhead reduces the ability of DFW to prioritize reducing impacts on key populations and promoting and coordinating actions necessary to recover the species.

Many state and federal agency efforts are devoted to protecting Northern California summer steelhead and NC steelhead generally. However, as Moyle et al summarize, existing state and federal programs have so far proved inadequate to protect Northern California summer steelhead and its habitat:

Northern California summer steelhead are trending downward over time, and require significant action to recover from legacy impacts of road building, logging, forest fires, poor water quality, and disjointed land use throughout their range. Increasing rural development and illegal diversions and withdrawals for illegal marijuana cultivation throughout the DPS range, coupled with five years of ongoing historic drought, have significantly stressed summer steelhead populations and have driven their decline. Other threats across diversity strata include dearth of large woody debris and cover for rearing fish, abundance of roads and railroads adjacent to sensitive watersheds and associated sedimentation/erosion, illegal diversion and degradation, presence of barriers to migration, and lack of sufficient high quality spawning and rearing habitat due to uncoordinated land use practices (NMFS 2016).

To ameliorate these threats, the NMFS Coastal Multispecies Recovery Plan for the NC steelhead DPS lays out a full suite of necessary recovery actions and essential partners (NMFS 2016). CDFW is currently revising a steelhead restoration and management

plan, which will help compile threats and identify specific actions to restore and manage steelhead in California (Nelson 2016). However, lack of coordination and prioritization of specific actions to protect summer-run life history steelhead in California represents a major challenge. Although designation of ESUs and DPSs are based upon distinctiveness of life-history traits and distinguishing genetic characteristics, such distinctions are not guiding conservation of steelhead life history diversity at the watershed scale, which is essential for maintaining populations of summer steelhead in the future.

As Moyle et al highlight in the above excerpt, the designation of Northern California summer steelhead as part of a NC steelhead DPS dominated by winter run steelhead has itself become an obstacle to effective conservation of Northern California summer steelhead. In view of the best available scientific information, this framework appears not only inadequate to insure the recovery of NC summer steelhead, but likely to lead to the extinction of summer steelhead in the region.

In its most recent status review for the NC steelhead DPS, NMFS concluded that while winter-run steelhead populations are relatively healthy, and the DPS as a whole does not appear, in the agency's opinion, to face an increased risk of extinction, "(s)ummer-run populations continue to be of significant concern. While one run is near the viability target, others are very small or there is a lack of data." (NMFS 2016 Five Year Status Review p. 41) Indeed, as Prince et al note, "despite the extirpation or substantial decline of premature migrating populations, the ESUs or DPSs to which they belong usually retain relatively healthy mature migrating populations and thus have low extinction risk overall." (p. 2)

As Prince et al imply, summer steelhead face extinction in part due to an error of classification that improved genetic analysis now allows us to correct. A conservation strategy that fails to effectively conserve summer steelhead – as the current strategy of considering them part of a larger DPS of *O. mykiss* dominated by winter-run steelhead in the same watersheds is failing – is likely actually to lead to the extinction of these unique forms of summer steelhead.

Northern California summer steelhead should be listed and protected under CESA separately from NC winter steelhead.

(J) suggestions for future management;

As Moyle et al note in the excerpt cited under (I) above, both NMFS and DFW have prepared or are in the process of preparing extensive and detailed prescriptions for management actions necessary to protect Northern California summer steelhead and its various habitats. Those menus of potential actions do little in the absence of the institutional resources and political will to actually undertake a comprehensive effort. As Moyle et al emphasize, "lack of coordination and prioritization of specific actions to protect summer-run life history steelhead in California represents a major challenge."

The most significant step the Commission can take to increase the prioritization and effective coordination of actions necessary to protect Northern California summer steelhead is to list the species as endangered under CESA.

(K) availability and sources of information

Of course, the California Department of Fish and Wildlife is the expert agency with responsibility for Northern California summer steelhead. DFW generated much of the information that is the subject of the studies and analyses discussed here.

The sources cited in this petition are likely to prove critical sources of information about Northern California summer steelhead, their habitat, threats to the species, and the best available science concerning the species and their conservation.

These include the comprehensive overview of salmonids in California, *State of the Salmonids: Status of California's Emblematic Fishes 2017*, which we have referred to as Moyle et al 2017. As well, NMFS has prepared status reviews for NC steelhead every five years since the DPS was listed as threatened. The MRPS noted above is essential. Finally, two papers, Prince et al 2017 and Thompson et al 2018, provide important perspective on the genetic basis of premature migration in salmonids and the need to protecting the genetic and behavioral diversity Northern California summer steelhead embody.

CESA Listing Factors

CESA commands that "(a) species shall be listed as endangered or threatened, as defined in sections 2062 and 2067 of the Fish and Game Code, if the Commission determines that its continued existence is in serious danger or is threatened by any one or any combination of the following factors." CEQA specifically commands the Commission to consider five types of impacts on the species in deciding whether to list a species under CESA.

1. Present or threatened modification or destruction of its habitat

As noted above, habitat modification, destruction, and degradation from a range of human impacts is the key driver of Northern California summer steelhead decline across its range. Climate change is now amplifying the impacts of other anthropogenic factors, and threatens to render much of Northern California summer steelhead habitat unsuitable for the species in the relatively near future.

2. Overexploitation

Overfishing, both commercial and recreational, played important roles in the dramatic reduction of Northern California summer steelhead populations during the 20th Century, but there is little evidence that it is now a significant threat to Northern California summer steelhead. There are some continuing impacts associated with the recreational fishery, especially during the recent historic drought.

However, poaching remains a significant threat to Northern California summer steelhead today. The NMFS MSRP states:

The problem with poaching continues to plague summer steelhead due to the absence of adequate law enforcement (Moyle et al. 2008). Although fishing is prohibited in many areas and fines for violations are high, protection of summer steelhead populations requires special enforcement efforts (Moyle et al. 2008). p. 10

3. Predation

As noted above, the Northern California summer steelhead life history renders the species significantly more vulnerable to predation than winter run steelhead as both juveniles and as adults. With very small populations in some NC summer steelhead watersheds, there is an increased risk that predation could eliminate spawning opportunities.

The introduction of pikeminnow to Northern California summer steelhead habitat in the Eel River watershed has significantly increased the impact of predation on Northern California summer steelhead. While pikeminnow are native to California, and even to the Russian River immediately to the south, they are not native to the Eel River. NMFS acknowledge the threat in the most recent status review for Northern California summer steelhead: "Introduced Sacramento pikeminnow is a serious predator limiting salmonid recovery (Yoshiyama and Moyle, 2010). Their populations have flourished with warmer water conditions, and they consume juvenile salmonids throughout the Eel River Basin." (NMFS 2016, p. 35.)

4. Competition

It is not clear that competition is a significant factor driving the decline of Northern California summer steelhead.

5. Disease

As noted above, both the Northern California summer steelhead life history and climate-change related impacts expose Northern California summer steelhead to additional disease threats beyond those faced by winter run steelhead. Disease threats can emerge very rapidly, confounding response efforts that have not been carefully pre-planned.

6. Other natural occurrences or human-related activities

As noted above, climate change presents an overarching and severe threat to Northern California summer steelhead across its remaining range.

As well, it is worth emphasizing that the construction of Scott Dam (1922) eliminated significant portions of historic spawning habitat for steelhead in the Upper Mainstem Eel River including "*some of the best spawning grounds in the entire watershed (Gravelly Valley)*" (Shapovalov 1939)." (MSRP p. 98) Cooper estimated more than two hundred miles of potential NC steelhead spawning and rearing habitat in the Upper Mainstem Eel River basin above the dam. (Cooper 2017) If passage past Scott Dam is not provided, it will not be even theoretically possible to achieve the recovery goals set by NMFS for Northern California summer steelhead recovery in its MSRP.

Conclusion

In summary, Northern California summer steelhead are a unique and extraordinary form of steelhead, whose exquisite adaptation to their extreme environmental niches is determined by a critical and highly specific genetic difference from winter run steelhead. Northern California summer steelhead are not being effectively conserved by being managed as part of a larger population of more numerous and less vulnerable winter run steelhead. In fact, Northern California summer steelhead face imminent extirpation in

many of the watersheds where they still survive. If NC summer steelhead are lost, the genetic basis of their remarkable life history is likely to be lost as well.

Given these facts, protection under CESA is both warranted and necessary to ensure that California's future citizens may continue to enjoy these irreplaceable fish and the contribution they make to our magnificent Northern California ecosystems.

Thank you for your kind attention to these important questions.

Very truly yours,



Scott Greacen
Conservation Director
Friends of the Eel River

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Commissioners
Eric Sklar, President
Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

Jacque Hostler-Carmesin, Member
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
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STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

Melissa Miller-Henson
Acting Executive Director
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fgc@fgc.ca.gov
www.fgc.ca.gov



November 7, 2018

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a Notice of Receipt of Petition to list Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as endangered under the California Endangered Species Act. The notice will be published in the California Regulatory Notice Register on November 9, 2018.

Sincerely,

Sheri Tiemann
Associate Governmental Program Analyst

Attachment

Commissioners
Eric Sklar, President
Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

Jacque Hostler-Carmesin, Member
McKinleyville

Russell E. Burns, Member
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CALIFORNIA FISH AND GAME COMMISSION NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission (Commission), on October 17, 2018, received a petition from the Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety to list Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as endangered under the California Endangered Species Act.

All bumble bees have three basic habitat requirements: suitable nesting sites for the colonies, availability of nectar and pollen from floral resources throughout the duration of the colony period (spring, summer, and fall), and suitable overwintering sites for the queens. In addition, their populations can be negatively affected by both pathogens and pesticides; thus, they may require habitat that is free from exposure to high levels of both native and exotic pathogens, and pesticides that cause harm to colonies. Bumble bees are found in a wide variety of natural, agricultural, urban, and rural habitats, although species' richness tends to peak in flower-rich meadows of forests and subalpine zones.

Pursuant to Section 2073 of Fish and Game Code, on October 26, 2018, the Commission transmitted the petition to the California Department of Fish and Wildlife (Department) for review pursuant to Section 2073.5 of said code. The Commission will receive the petition at its December 12-13, 2018, meeting in the QLN Conference Center, 1938 Avenida del Oro, Oceanside, California. It is anticipated that the Department's evaluation and recommendation relating to the petition will be received by the Commission at its February 6-7, 2019, meeting in Sacramento.

Interested parties may contact Kevin Shaffer, Fisheries Branch Chief, at California Department of Fish and Wildlife, 830 S Street, Sacramento, CA 95811 or (916) 327-8841 or Kevin.Shaffer@wildlife.ca.gov, for information on the petition or to submit information to the Department relating to the petitioned species.

October 30, 2018

Fish and Game Commission

Melissa Miller-Henson
Acting Executive Director

Commissioners
Eric Sklar, President
Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

Jacque Hostler-Carmesin, Member
McKinleyville

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Fish and Game Commission



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November 16, 2018

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to Section 29.06, Title 14, California Code of Regulations, relating to take provisions of Purple Sea Urchin on the northern California coast, which will be published in the California Regulatory Notice Register on November 23, 2018.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments. Additional information and associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/2018/index.aspx>.

Anthony Shiao, Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Haggerty can be reached by telephone at (805) 560-6056 or by email at Anthony.Shiao@wildlife.ca.gov.

Sincerely,

David Thesell
Program Manager

Attachement

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 Section 200, 205, 260, 265 and 399 of the Fish and Game Code (FGC) and to implement, interpret or make specific Section 200, 205, 260, 265 and 399 of said Code, proposes to add Section 29.06, Title 14, California Code of Regulations (CCR), relating to increase of recreational take of purple sea urchin.

Informative Digest/Policy Statement Overview

The addition of Section 29.06 increases the recreational take of purple sea urchin to 40 gallons. This is one of several actions taken by the California Department of Fish and Wildlife (Department) that is necessary to protect the historic and valuable ocean habitat on the northern California coast. The recent increase in population of the purple sea urchin has led to significant losses of ocean habitat. Unchecked, the purple sea urchin has decimated kelp beds leading to the decline of abalone and other important marine life dependent on this unique ecosystem.

As an emergency rule, Section 29.11 increased recreational take of purple sea urchin to 20 gallons. This provision is due to sunset on February 7, 2019. To maintain recreational interest in purple sea urchins, to the end that will benefit kelp and abalone recovery, a standard rulemaking is necessary to allow a higher take limit.

Furthermore, bull kelp, the dominant kelp in northern California, is an annual species. Any restoration attempt would yield observable results only after it has been conducted for a year or more. As such, both the goal of supporting a growing recreational interest and the goal of restoring habitat require the new regulation 29.06 for at least the next two or more years.

The addition of Section 29.06 extends the higher take limit to Humboldt, Mendocino, Sonoma, and possibly Del Norte counties.

Benefits of the Regulations

The regulation would maintain a developing recreational interest in purple sea urchin as well as help reduce grazing pressure in a vulnerable ecosystem.

Consistency and Compatibility with Existing Regulations

The proposed regulations are consistent with Section 29.05, Title 14, CCR. Commission staff has searched the CCR and found no other regulations that address the recreational take of purple sea urchin and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt regulations necessary to regulate the recreational take of fish, including purple sea urchins (FGC Section 205). No other state agency has the authority to regulate the recreational take of purple sea urchin.

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 the QLN Conference Center, 1938 Avenida del Oro, Oceanside, California, on Wednesday, December 12 at 8:00 a.m., or as soon thereafter as the matter may be heard.

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 Sacramento, California, on February 7, 2019 at 9:00 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.

It is requested, but not required, that written comments be submitted on or before January 23, 2019 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 January 31, 2019. All comments must be received no later than February 7, 2019, at the hearing in Sacramento, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

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, Acting 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 Melissa Miller-Henson or David Thesell at the preceding address or phone number. Anthony Shiao, Environmental Scientist, Department of Fish and Wildlife, phone (805) 560-6056 has been designated to respond to questions on the substance of the proposed regulations. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

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/Results of the Economic Impact Assessment

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 Business, 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. Option 1: New Take Limit for Humboldt, Mendocino, and Sonoma Counties, and Option 2: New Take Limit for Del Norte, Humboldt, Mendocino, and Sonoma Counties would both create permanent incentives for more tourists to travel to coastal northern California and help stimulate local economy.

- (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 any impact on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulation is not likely to substantially increase or decrease recreational fishing opportunities within California. The proposed regulation, (both Option 1 and Option 2) is expected to increase interests in recreational diving in northern California that previously did not exist, which may provide a small increase in economic stimulus to local economies.

The Commission anticipates benefits to the health and welfare of California residents (from both Option 1 and Option 2) through the vigorous activity required to pursue purple sea urchin. The Commission does not anticipate any benefits to worker safety because the proposed regulation will not affect existing working conditions. The Commission anticipates some benefit (from both Option 1 and Option 2) to the state's environment through the restoration of kelp forest habitats to foster and support a diverse balance of species.

- (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 (for both Option 1 and Option 2).

- (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: November 13, 2018

Melissa Miller-Henson
Acting Executive Director

Commissioners
Eric Sklar, President
Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

Jacque Hostler-Carmesin, Member
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November 16, 2018

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to subsection (b) of Section 27.65, Title 14, California Code of Regulations, relating to filleting of fish on vessels (California sheephead), published in the California Regulatory Notice Register on November 16, 2018

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments. Additional information and associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/2018/index.aspx>.

Miranda Haggerty, Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Haggerty can be reached by telephone at (562) 342-7162 or by email at Miranda.Haggerty@wildlife.ca.gov.

Sincerely,

Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

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, 265, 313, 5508 and 5509 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 313, 399, 5508 and 5509 of said Code, proposes to amend Section 27.65, Title 14, California Code of Regulations (CCR), relating to filleting of California sheephead on vessels.

Informative Digest/Policy Statement Overview

Section 27.65, Title 14, CCR, defines fillet; lists the fillet requirements for, and specifies those fish that may be filleted on a boat or brought ashore as fillets; and prohibits the filleting, steaking, or chunking of any species with a size limit unless a fillet size is otherwise specified. Section 28.26, Title 14, CCR, specifies the bag limit, size limit, open areas, seasons and depth constraints for the recreational take of California sheephead (*Semicossyphus pulcher*).

The proposed regulatory change to subsection 27.65(b), Title 14, CCR, adds a 6.75-inch minimum fillet length, and requires that the entire skin remain intact, allowing legal-sized California sheephead to be filleted on board vessels while at sea and brought ashore as fillets.

In addition, authority and reference citations are proposed to be amended in accordance with recent organizational changes to Fish and Game Code.

Benefits of the Proposed Regulation: The proposed regulation is in response to the Sportfishing Association of California and the recreational angling community that have been requesting a fillet length regulation for California sheephead since 2001. As such, the regulation may increase angler satisfaction. Additionally, the proposed regulation may benefit the health and welfare of California residents through the increased consumption of nutritious California sheephead, and may benefit the environment through the return of California sheephead carcasses to the sea to be recycled back to the marine ecosystem.

Consistency with Existing State Regulations: The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to 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 the recreational take of fish. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The proposed regulation is consistent with existing state regulations as almost all finfishes with a recreational minimum size limit also have a corresponding fillet length. The Commission has searched the CCR and finds no other state agency regulations pertaining to the recreational take of California sheephead or to the filleting of fish on board vessels at sea.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the QLN Conference Center, 1938 Avenida del Oro, Oceanside, California, on Wednesday, December 12, 2018, at 8:00 a.m., or as soon thereafter as the matter may be heard.

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 Sacramento, California, on Thursday, February 7, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard. The exact location of this meeting has not yet been 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. It is requested, but not required, that written comments be submitted on or before January 23, 2019, 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 January 31, 2019. All comments must be received

no later than February 7, 2019, at the hearing in Sacramento, California. 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, PO Box 944209, Sacramento, CA 94244-2090.

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, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, PO 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 Melissa Miller-Henson or Sherrie Fonbuena at the preceding address or phone number. **Miranda Haggerty, Environmental Scientist, Department of Fish and Wildlife, (562) 342-7162 or Miranda.Haggerty@wildlife.ca.gov, 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/Results of the Economic Impact Assessment

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 Business, 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, because the proposed regulation will not increase net compliance costs or impact fishing effort and recreational fishing expenditures for recreational fishing related businesses. While not significant or statewide, commercial passenger fishing vessel (CPFV) businesses may choose to spend an estimated \$60 - \$110 per year on more plastic bags for the additional fillets and for the maintenance of fillet knives. This equates to \$12,660 - \$23,210 in costs for all CPFVs statewide. This will not affect the ability of California businesses to compete with businesses in other states because these small individual expenditures would increase customer satisfaction and be offset by fillet fee revenue.

- (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 any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulation is not likely to increase or decrease recreational fishing opportunities within California. It is possible that the implementation of the proposed regulation may increase workload for deckhands aboard CPFVs as the number of fish that can be filleted in an angler's catch at the end of the day will increase. However, it is unlikely that the demand will increase so much that additional jobs will be necessary.

The Commission anticipates benefits to the health and welfare of California residents through the consumption of more California sheephead, a nutritious food.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates some benefit to the state's environment through the return of California sheephead carcasses to the marine ecosystem after being filleted.

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

This regulatory action will allow for the option for individuals to choose to pay \$2 - \$3 per fillet, which may amount to as much as \$10 - \$15 per CPFV trip. Individual CPFV businesses may choose to spend an estimated \$60 - \$110 per year on more plastic bags for the additional fillets and for the maintenance of fillet knives.

- (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

Melissa Miller-Henson
Acting Executive Director

Dated: November 6, 2018

Commissioners
Eric Sklar, President
Saint Helena

Anthony C. Williams, Vice President
Huntington Beach

Jacque Hostler-Carmesin, Member
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
Jamul

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

Melissa Miller-Henson
Acting Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
fgc@fgc.ca.gov
www.fgc.ca.gov

Notice of Change of Date and Announcement of Location of Adoption Hearing for

Section 27.65, Filleting of California Sheephead on Vessels. (OAL Notice Number Z-2018-1106-09)

and

Section 29.06, Recreational Take of Purple Sea Urchin (OAL Notice Number Z-2018-1113-10)

On November 16, 2018, the Fish and Game Commission (Commission) provided notice of its intent to amend Section 27.65, Title 14, California Code of Regulations (CCR), concerning filleting of California sheephead on vessels. And on November 23, 2018, the Commission provided notice of its intent to adopt Section 29.06, Title 14, CCR, concerning the recreational take of purple sea urchins. The notices were published in California Regulatory Notice Registers 2018, No. 46-Z and 2018, No. 47-Z, respectively.

At the time the notices were published, the location for the adoption hearing was not yet determined. In addition, at its December 13, 2018 meeting, the Commission changed the adoption hearing from February 7, 2019 to February 6, 2019.

The Commission will consider adoption of the proposed regulations at a public hearing to be held in the **Resources Building Auditorium, 1416 Ninth Street, First Floor, Sacramento, California, on Wednesday, February 6, 2019, at 8:00 a.m.**, or as soon thereafter as the matter may be heard. Any person interested may present statements, orally or in writing, relevant to these actions at the hearing.

The original notices, initial statements of reasons, and proposed regulatory language, are posted on the Commission's website at <http://www.fgc.ca.gov>.

FISH AND GAME COMMISSION

Dated: December 18, 2018

Melissa Miller-Henson
Acting Executive Director

Commissioners
Eric Sklar, President
Saint Helena
Vice President (Vacant)

STATE OF CALIFORNIA
Gavin Newsom, Governor

Valerie Termini, Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
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Jacque Hostler-Carmesin, Member
McKinleyville
Russell E. Burns, Member
Napa
Peter S. Silva, Member
Jamul

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

January 9, 2019

This is to provide you with a copy of the notice of proposed regulatory action relative to amending Section 354, Title 14, California Code of Regulations, relating to archery equipment and crossbow regulations, which is published in the California Regulatory Notice Register on January 11, 2019.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Additional information and all associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/>.

Patrick Foy, Captain, Law Enforcement Division, Department of Fish and Wildlife at (916) 651-6692, 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

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, 203, 240, and 265 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 203, 203.1, 265, 2005, and 4370, of said Code, proposes to amend Section 354, Title 14, California Code of Regulations, relating to Archery Equipment and Crossbow Regulations.

Informative Digest/Policy Statement Overview

The California Department of Fish and Wildlife (Department) proposes two amendments to Section 354, Title 14, California Code of Regulations, which are related to law enforcement.

First, the provision in subsection 354(f) requires that a bow "cast a legal hunting arrow ... 130 yards", however this is unenforceable since it is impossible to demonstrate inside a courtroom. There is a need for clarification of the regulation to require that archery equipment be strong enough to project an arrow at a rate that it will be lethal to the game mammal and also be enforceable. For clarity, the Department proposes requiring a draw weight of at least 40 pounds for a bow and 125 pounds for a crossbow to make it practical to demonstrate in the field and in a courtroom. Draw weight as used in archery sports is the measure of force required to draw the bow to a ready to fire position.

Second, the provision in subsection 354(h) states that "archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag." The subsection also provides an exception, by reference to Fish and Game Code 4370, which permits peace officers to carry a concealed firearm. The Department proposes an amendment allowing possession of a concealable firearm while hunting big game other than deer (consistent with Fish and Game Code section 4370) under the authority of an archery only tag, provided the hunter does not use that firearm in any way to take the game animal.

Non-monetary Benefits to the Public

The Commission anticipates benefits to the health and welfare of California residents through the sustainable management of mammal populations. The Commission does not anticipate non-monetary benefits to worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Consistency and Compatibility with Existing Regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 354 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate hunting regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resource Building first floor auditorium, 1416 9th Street, Sacramento, California, on February 6, 2019 at 8:30 a.m., or as soon thereafter as the matter may be heard.

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 The City of Santa Monica Civic East Wing Auditorium, 1855 Main Street, Santa Monica, California, on April 17, 2019, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before **5:00 p.m.** April 4, 2019 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 April 12, 2019. All comments must be received no later than April 17, 2019, at the hearing in Santa Monica, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

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, Valerie Termini, 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 Melissa Miller-Henson or Jon Snellstrom at the preceding address or phone number. Patrick Foy, Captain, Law Enforcement Division, Department of Fish and Wildlife, (916) 651-6692, has been designated to respond to questions on the substance of the proposed regulations. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

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/Results of the Economic Impact Assessment

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 amendment would not directly or indirectly impose any regulation on businesses.

- (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 anticipates no impacts on the creation or elimination of jobs within the state and no impact on the creation of new businesses or the elimination of existing businesses because the proposed amendment would not directly or indirectly impose any regulation on businesses. The Commission anticipates benefits to the health and welfare of California residents because the proposed amendment would enable the carrying of a firearm, while hunting big game other than deer (consistent with Fish and Game Code section 4370), in the event a person is threatened by a dangerous animal or person while archery hunting. The Commission does not anticipate impacts on worker safety. The Commission anticipates benefits to the State's environment by reducing non-lethal injuries to wildlife.

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

The vast majority of hunters use bows that are set to a much higher draw weight than the proposed minimum set by the proposed regulation, so it would not affect them. A small percentage of hunters would choose to purchase a scale to measure their bow's draw weight to be sure they are in compliance with the law at a cost of about \$10 - \$20 each.

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

The proposed regulation would save many hours of investigative costs associated with a wildlife officer's attempt to prove a seized bow had insufficient strength to cast an arrow at least 130 yards. Time would be spent seizing the bow as evidence and documenting its seizure, finding a safe place to test the bow's ability to cast an arrow 130 yards, finding the arrow and measuring its flight distance once it is tested, then possibly returning the bow to the hunter at the direction of the court. Minimal hard costs to the Department would be associated with the proposed regulation change. California's wildlife officers who regularly work archery seasons may have to purchase bow measuring devices. It is estimated that approximately a quarter of the state's wildlife officers, or about 100 would have to purchase them at a total one-time cost to the state of \$1,000 - \$2,000.

- (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: December 31, 2018

Melissa Miller-Henson
Acting Executive Director

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, 203, 240, and 265 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 203, 203.1, 265, 2005, and 4370, of said Code, proposes to amend Section 354, Title 14, California Code of Regulations, relating to Archery Equipment and Crossbow Regulations.

Informative Digest/Policy Statement Overview

The California Department of Fish and Wildlife (Department) proposes two amendments to Section 354, Title 14, California Code of Regulations, which are related to law enforcement.

First, the provision in subsection 354(f) requires that a bow "cast a legal hunting arrow ... 130 yards", however this is unenforceable since it is impossible to demonstrate inside a courtroom. There is a need for clarification of the regulation to require that archery equipment be strong enough to project an arrow at a rate that it will be lethal to the game mammal and also be enforceable. For clarity, the Department proposes requiring a draw weight of at least 40 pounds for a bow and 125 pounds for a crossbow to make it practical to demonstrate in the field and in a courtroom. Draw weight as used in archery sports is the measure of force required to draw the bow to a ready to fire position.

Second, the provision in subsection 354(h) states that "archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag." The subsection also provides an exception, by reference to Fish and Game Code 4370, which permits peace officers to carry a concealed firearm. The Department proposes an amendment allowing possession of a concealable firearm while hunting big game other than deer (consistent with Fish and Game Code section 4370) under the authority of an archery only tag, provided the hunter does not use that firearm in any way to take the game animal.

Non-monetary Benefits to the Public

The Commission anticipates benefits to the health and welfare of California residents through the sustainable management of mammal populations. The Commission does not anticipate non-monetary benefits to worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Consistency and Compatibility with Existing Regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Section 354 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate hunting regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resource Building first floor auditorium, 1416 9th Street, Sacramento, California, on February 6, 2019 at 8:30 a.m., or as soon thereafter as the matter may be heard.

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 The City of Santa Monica Civic East Wing Auditorium, 1855 Main Street, Santa Monica, California, on April 17, 2019, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before **5:00 p.m.** April 4, 2019 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 April 12, 2019. All comments must be received no later than April 17, 2019, at the hearing in Santa Monica, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

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, Valerie Termini, 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 Melissa Miller-Henson or Jon Snellstrom at the preceding address or phone number. Patrick Foy, Captain, Law Enforcement Division, Department of Fish and Wildlife, (916) 651-6692, has been designated to respond to questions on the substance of the proposed regulations. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

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/Results of the Economic Impact Assessment

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 amendment would not directly or indirectly impose any regulation on businesses.

- (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 anticipates no impacts on the creation or elimination of jobs within the state and no impact on the creation of new businesses or the elimination of existing businesses because the proposed amendment would not directly or indirectly impose any regulation on businesses. The Commission anticipates benefits to the health and welfare of California residents because the proposed amendment would enable the carrying of a firearm, while hunting big game other than deer (consistent with Fish and Game Code section 4370), in the event a person is threatened by a dangerous animal or person while archery hunting. The Commission does not anticipate impacts on worker safety. The Commission anticipates benefits to the State's environment by reducing non-lethal injuries to wildlife.

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

The vast majority of hunters use bows that are set to a much higher draw weight than the proposed minimum set by the proposed regulation, so it would not affect them. A small percentage of hunters would choose to purchase a scale to measure their bow's draw weight to be sure they are in compliance with the law at a cost of about \$10 - \$20 each.

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

The proposed regulation would save many hours of investigative costs associated with a wildlife officer's attempt to prove a seized bow had insufficient strength to cast an arrow at least 130 yards. Time would be spent seizing the bow as evidence and documenting its seizure, finding a safe place to test the bow's ability to cast an arrow 130 yards, finding the arrow and measuring its flight distance once it is tested, then possibly returning the bow to the hunter at the direction of the court. Minimal hard costs to the Department would be associated with the proposed regulation change. California's wildlife officers who regularly work archery seasons may have to purchase bow measuring devices. It is estimated that approximately a quarter of the state's wildlife officers, or about 100 would have to purchase them at a total one-time cost to the state of \$1,000 - \$2,000.

- (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: December 31, 2018

Melissa Miller-Henson
Acting Executive Director

Commissioners
Eric Sklar, President
Saint Helena
Vice President (Vacant)

Jacque Hostler-Carmesin, Member
McKinleyville
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Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

January 9, 2019

This is to provide you with a copy of the notice of proposed regulatory action relative to amending sections 362, 364, 364.1 and 708.6, Title 14, California Code of Regulations, relating to mammal hunting regulations for the 2019-2020 season, which is published in the California Regulatory Notice Register on January 11, 2019.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Additional information and all associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/>.

Brad Burkholder, Environmental Program Manager, Department of Fish and Wildlife at (916) 445-1829, 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 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, 203, 203.1, 265, 332, 1050, 4331 and 4902 of the Fish and Game Code and to implement, interpret or make specific Sections 332, 1050, 1570, 1571, 1572, 1573, 1574, 3950, 4302, 4330, 4333, 4336, 4340, 4341 and 4902 of said Code, proposes to amend sections 362, 364, 364.1 and 708.6, Title 14, California Code of Regulations, relating to Mammal Hunting Regulations for the 2019-2020 season.

Informative Digest/Policy Statement Overview (Nelson Big Horn Sheep - Section 362)

The current regulation in Section 362, Title 14, CCR, provides for limited hunting of Nelson bighorn rams in specified areas of the State. The proposed change is intended to adjust the number of tags available for the 2019 season based on bighorn sheep spring population surveys conducted by the Department.

Final tag quota determinations will be made pending completion of all surveys and data analyses.

Other Amendments:

- Establishment of the Newberry, Rodman and Ord Hunt Zone: The proposed change adds this new bighorn sheep hunt zone in San Bernardino County.
- Reallocation of the Kelso Peak/Old Dad Mountains Fund-Raising to the Cady Mountains: The Kelso Peak/Old Dad herd unit has experienced significant population decline following a recent outbreak of respiratory disease. The proposal would reallocate this fund-raising tag to be valid in the Cady Mountains Hunt Zone.
- Amend the contact telephone number that is no longer in use for the program. The proposed Editorial Change provides a current contact phone number.

Informative Digest/Policy Statement Overview (Elk - Section 364)

Current regulations in Section 364, Title 14, CCR, provide definitions, hunting zone descriptions, season dates, and elk license tag quotas. To achieve elk herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas, seasons, hunt areas and other criteria in response to dynamic environmental and biological conditions. The proposed amendments to Section 364 will establish the 2019 tag quotas, season dates, and tag distribution within each hunt adjusting for annual fluctuations in populations.

Proposed Amendments: The proposed ranges of elk tags for 2019 are presented in the Proposed Regulatory Text of Section 364.

1. Subsections 364(r) through (aa) specify elk license tag quotas for each hunt in accordance with management goals and objectives.
2. Amend and correct the Special Condition in subsection (d)(13)(B)3. East Park Reservoir General Methods Tule Elk Hunt, alerting hunters to the current Colusa County variance which permits the use of muzzleloaders.
3. Modify Season Dates. Due to military use constraints at Fort Hunter Liggett, hunt dates are annually subject to change and may be adjusted or cancelled by the base commander.

Informative Digest/Policy Statement Overview (Department Administered Shared Habitat Alliance for Recreational Enhancement (SHARE) Elk Hunts - Section 364.1)

Current regulations in Section 364.1, SHARE Elk Hunts, T14, CCR, specify elk tag quotas for each hunt area. To achieve elk herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas in response to dynamic environmental and biological conditions.

Preliminary tag quota ranges are indicated pending final 2019 tag allocations in accordance with elk management goals and objectives. Survey data collected between August 2018 and March 2019 will be the

basis for the number of tags recommended to the Commission at the April 2019 adoption hearing.

The preliminary tag quota ranges for 2019 are found in the proposed Regulatory Text of Section 364.1.

Informative Digest/Policy Statement Overview (Tag Validation, Countersigning and Transporting Requirements - Section 708.6)

Critical to the management of California's game populations is the countersigning requirement of deer and elk tags by an authorized person who physically signs their name to the tag attached to the deer or elk carcass. In subsection 708.6(c), Title 14, CCR, Deer and Elk Tags, Persons Authorized to Validate, it is necessary to clarify for the public and law enforcement that "firefighters employed on a full-time basis" are authorized to countersign, an addition to the other authorized persons found in 708.6(c). Part time, volunteer, or other fire station personnel are not included and cannot sign the tag. The added text maintains the existing regulatory requirement that the countersigning may be done only for deer and elk brought to a fire station.

Wildlife managers and law enforcement officers from the Department believe expanding the authority to countersign tags to include all firefighters will make it easier for the public to follow the law and increase the number of reliable witnesses in the event of an investigation of poaching.

The amendment also clarifies that the authorized persons "countersign" as the required action; corrects outdated state job titles of Plant Quarantine Inspector; clarifies that the provisions apply both to deer and elk tags; and other minor editorial changes.

Benefits of the regulations

The proposed regulations will contribute to the sustainable management of elk populations in California. Existing elk herd management goals specify objective levels for the proportion of bulls in the herds. These ratios are maintained and managed in part by periodically modifying the number of tags. The final number of tags will be based upon findings from annual harvest, herd composition counts, and population estimates where appropriate.

Evaluation of incompatibility with existing regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200 and 203, has the sole authority to regulate elk hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to elk tag allocations are consistent with Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

Non-monetary Benefits to the Public

The Commission anticipates benefits to the health and welfare of California residents through the sustainable management of mammal populations. The Commission does not anticipate non-monetary benefits to worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resource Building first floor auditorium, 1416 9th Street, Sacramento, California, on February 6, 2019 at 8:30 a.m., or as soon thereafter as the matter may be heard.

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 The City of Santa Monica Civic East Wing Auditorium, 1855 Main Street, Santa Monica, California, on April 17, 2019, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before **5:00 p.m.** April 4, 2019 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 April 12, 2019. All comments must be received no later than April 17, 2019, at the hearing in Santa Monica, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

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, Valerie Termini, 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 Melissa Miller-Henson or Jon Snellstrom at the preceding address or phone number. Brad Burkholder, Environmental Program Manager, Department of Fish and Wildlife, (916) 445-1829, has been designated to respond to questions on the substance of the proposed regulations. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

Availability of Modified Text

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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/Results of the Economic Impact Assessment

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:

(Section 362, 364, 364.1): 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 regulations adjust tag quotas for existing hunts and establish a new hunt zone to provide additional public recreational opportunity and could result in minor increases in hunting days and hunter spending on equipment, fuel, food, and accommodations. Given that the proposed regulation may introduce, at the most, a small increase in the overall number of tags available and the area over which they are distributed, the proposed regulations are anticipated to be economically neutral to slightly beneficial for business.

(Section 708.6): 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 action expands the list of authorized firefighters able to perform a service for the public.

- (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 anticipates no to minor positive impacts on the creation or elimination of jobs within the state, and no impact on the creation of new business, the elimination of existing businesses or the expansion of businesses in California as minor variations in hunting regulations are, by themselves, unlikely to provide a substantial enough economic stimulus to the state. The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The proposed action will not provide benefits to worker safety. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

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

The agency 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: December 31, 2018

Melissa Miller-Henson
Acting Executive Director

Commissioners
Eric Sklar, President
Saint Helena
Vacant, Vice President
Jacque Hostler-Carmesin, Member
McKinleyville
Russell E. Burns, Member
Napa
Peter S. Silva, Member
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STATE OF CALIFORNIA
Gavin Newsom, Governor

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Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

January 14, 2019

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to subsection (b)(91.1) of Section 7.50, Title 14, California Code of Regulations, relating to Klamath River Basin sport fishing regulations, which will be published in the California Regulatory Notice Register on January 18, 2018.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments. Additional information and associated documents may be found on the Fish and Game Commission website at <http://fgc.ca.gov/regulations/2019/index.aspx>.

Wade Sinnen, Senior Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Mr. Sinnen can be reached by telephone at (707) 822-5119 or by email at Wade.Sinnen@wildlife.ca.gov.

Sincerely,

Craig Castleton
Associate Governmental Program Analyst

Attachment

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, 265, 270, 315, 316.5, and 399 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 270, and 316.5 of said Code, proposes to amend subsection (b)(91.1) of Section 7.50, Title 14, California Code of Regulations, relating to Klamath River Basin 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.

The Klamath River Basin, which consists of the Klamath River and Trinity River systems, is managed for fall-run Chinook Salmon (*Oncorynchus tshawytscha*) through a cooperative system of State, federal, and tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean sport, ocean commercial, river sport, and tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The Commission adopts regulations for the ocean salmon sport (inside three miles) and the Klamath River Basin (in-river) sport fisheries, which are consistent with federal fishery management goals.

Tribal entities within the Klamath River Basin maintain fishing rights for ceremonial, subsistence, and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations are promulgated by the Tribes.

Klamath River Fall-Run Chinook Salmon

Adult Klamath River fall-run Chinook Salmon (KRFC) harvest allocations and natural spawning escapement goals are established by the PFMC. The KRFC harvest allocation between tribal and non-tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, salmon greater than 22 inches total length are defined as adult (ages 3-5) and salmon less than or equal to 22 inches total length are defined as grilse salmon (age 2).

PFMC Overfishing Review

KRFC stocks have been designated as "overfished" by the PFMC. This designation is the result of not meeting conservation objectives for this stock. Management objectives and criteria for KRFC are defined in the PFMC Salmon Fishery Management Plan (FMP).

The FMP outlines a process for preparing a "rebuilding plan" that includes assessment of the factors that lead to the decline of the stock, including fishing, environmental factors, model errors, etc. The rebuilding plan includes recommendations to address conservation of KRFC, with the goal of achieving rebuilt status. The plan is currently under development by representatives of NMFS, PFMC, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife (Department), and Tribal entities, with a timeline for completion in spring of 2019. Forthcoming recommendations from the rebuilding plan may alter how KRFC are managed in the future, including changing the in-river allocation number, and/or allocating less than the normal target number.

Klamath River Spring-Run Chinook Salmon

The Klamath River Basin also supports Klamath River spring-run Chinook Salmon (KRSC). Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases.

Presently, KRSC stocks are not managed or allocated by the PPMC. This in-river sport fishery is managed by general basin seasons, daily bag limit, and possession limit regulations. KRSC harvest will be monitored on the Klamath River below the Highway 96 bridge at Weitchpec to the mouth of the Klamath River in 2019 and ensuing years by creel survey. The upper Trinity River, upstream of Junction City, will be monitored using tag returns from anglers in 2019 and future years.

KRFC Allocation Management

The PPMC 2018 allocation for Klamath River Basin sport harvest was 3,490 adult KRFC. Preseason stock projections of 2019 adult KRFC abundance will not be available from the PPMC until March 2019. The 2019 basin allocation will be recommended by the PPMC in April 2019 and presented to the Commission for adoption as a quota for the in-river sport harvest at its May 2019 teleconference meeting.

The Commission may modify the KRFC in-river sport harvest quota, which is normally a minimum of 15 percent of the non-tribal PPMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the FMP, otherwise harvest opportunities may be reduced in the California ocean or in-river fisheries.

The annual KRFC in-river sport harvest quota is specified in subsection 7.50(b)(91.1)(D)1. The quota is split between four geographic areas with a subquota for each area, expressed as a percentage of the total in-river quota, specified in subsection 7.50(b)(91.1)(D)2. For angler convenience, the subquotas, expressed as the number of fish, are listed for the affected river segments in subsection 7.50(b)(91.1)(E). The in-river sport subquota percentages are as follows:

1. for the main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the in-river sport quota;
2. for the main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the in-river sport quota;
3. for the Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat - 16.5 percent of the in-river sport quota; and
4. for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the in-river sport quota.

The spit area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) closes to all fishing after 15 percent of the total Klamath River Basin quota has been taken downstream of the Highway 101 bridge.

These geographic areas are based upon the historical distribution of angler effort to ensure equitable harvest of adult KRFC in the Klamath River and Trinity River. The subquota system requires the Department to monitor or assess angler harvest of adult KRFC in each geographic area. All areas will be monitored on a real time basis, except for the following:

Klamath River upstream of Weitchpec and the Trinity River: The Department has developed Harvest Predictor Models which it will use to implement fishing closures to ensure that anglers do not exceed established subquota targets. Using this method, the upper Klamath River generally closes between 28-30 days after the lower Klamath River quota is reached. Similarly, the upper Trinity River subquota area generally closes 28-30 days after the lower Trinity River subquota has been met.

Sport Fishery Management

The KRFC in-river sport harvest quota is divided into geographic areas, and harvest is monitored under real time subquota management. On the other hand, KRSC in-river sport harvest is managed by general season, daily bag limit, and possession limit regulations.

The Department presently differentiates the two stocks by the following dates in each sub-area:

Klamath River

1. January 1 through August 14 - General Season KRSC.
For purposes of clarity, daily bag and possession limits apply to that section of the Klamath River downstream of the Highway 96 bridge at Weitchpec to the mouth.
2. August 15 to December 31 - KRFC quota management.

Trinity River

1. January 1 through August 31 – General Season KRSC.
For purposes of clarity, daily bag and possession limits apply to that section of the Trinity River downstream of the Old Lewiston Bridge to the confluence with the South Fork Trinity River.
2. September 1 through December 31 – KRFC quota management.

The daily bag and possession limits apply to both stocks within the same sub-area and time period.

Current regulations in subsections 7.50(b)(91.1)(E)2.a. and b. specify bag limits for KRFC stocks in the Klamath River. Current regulations in subsections 7.50(b)(91.1)(E)6.b., e., and f. specify bag limits for KRFC stocks in the Trinity River. Current regulations in subsection 7.50(b)(91.1)(C)2.b. specify KRFC possession limits.

Proposed Changes

Because PFMC recommendations are not known at this time, ranges (shown in brackets in the text below) of subquotas and bag and possession limits, which encompass historical quotas, are being proposed for the 2019 KRFC fishery in the Klamath and Trinity rivers. The final KRFC bag and possession limits will align with the final federal regulations to meet biological and fishery allocation goals specified in law, or established in the FMP, otherwise harvest opportunities may be reduced in the California ocean fisheries.

KRFC Sport Fishery (Quota Management)

Quota: For public notice requirements, the Department recommends the Commission consider a quota range of 0 – 67,600 adult KRFC in the Klamath River Basin for the river sport fishery. This recommended range encompasses the historical range of the Klamath River Basin allocations and allows the PFMC and Commission to make adjustments during the 2019 regulatory cycle.

Subquotas: The proposed subquotas for KRFC stocks are as follows:

- Main stem Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec -- 17 percent of the total quota equates to [0-11,492];
- Main stem Klamath River from downstream of the Highway 96 bridge at Weitchpec to the mouth -- 50 percent of the total quota equates to [0-33,800];

- Trinity River downstream of the Old Lewiston Bridge to the Highway 299 West bridge at Cedar Flat -- 16.5 percent of the total quota equates to [0-11,154]; and
- Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River -- 16.5 percent of the total quota equates to [0-11,154].

Seasons: No changes are proposed for the Klamath River and Trinity River KRFC seasons:

- Klamath River - August 15 to December 31
- Trinity River - September 1 to December 31

Bag and Possession Limits: As in previous years, no retention of adult KRFC is proposed for the following areas once the subquota has been met.

The range of proposed bag and possession limits for KRFC stocks are as follows:

- Bag Limit - [0-4] Chinook Salmon – of which no more than [0-4] fish over 22 inches total length may be retained until the subquota is met, then 0 fish over 22 inches total length.
- Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

KRSC Sport Fishery

No regulatory changes are proposed for the general (KRSC) opening and closing season dates, and bag, possession and size limits.

Other Changes

No other changes are proposed, except those described above, and to change the year 2018 to 2019 for the upcoming season.

Benefits of the Proposed Regulations

The Commission anticipates benefits to the environment in the sustainable management of Klamath River Basin salmonid resources.

Other benefits of the proposed regulations are conformance with federal fishery management goals, health and welfare of California residents and promotion of businesses that rely on salmon sport fishing in the Klamath River Basin.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (sections 200, 205, 315, and 316.5, Fish and Game Code). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. Commission staff has searched the California Code of Regulations and has found no other State regulations related to sport fishing in the Klamath River Basin.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium, 1416 Ninth Street, First Floor, Sacramento, California, on Wednesday, February 6, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard.

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 the City of Santa Monica Civic Auditorium, East Wing, 1855 Main Street, Santa Monica, California, on Wednesday, April 17, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a teleconference hearing originating in the Commission's conference room, 1416 Ninth Street, Room 1320, Sacramento, California, on Thursday, May 16, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before May 3, 2019 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 May 10, 2019. All comments must be received no later than May 16, 2019, at the teleconference hearing. 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, PO Box 944209, Sacramento, CA 94244-2090.

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, Acting 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 Melissa Miller-Henson or Craig Castleton at the preceding address or phone number. **Senior Environmental Scientist, Wade Sinnen, Department of Fish and Wildlife, phone (707) 822-5119, or e-mail Wade.Sinnen@wildlife.ca.gov, 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/Results of the Economic Impact Assessment

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 Business, 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 regulations are projected to range from minor to no impact on the net revenues to local businesses servicing sport fishermen. If the 2019 KRFC quota is reduced, visitor spending may correspondingly be reduced, and in the absence of the emergence of alternative visitor activities, the drop in spending could induce business contraction. If the quotas remain similar to previous quotas, then local economic impacts are expected to be unchanged. Neither scenario is expected to directly affect the ability of California businesses to compete with businesses in other states.

(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 proposed regulations range from no fishing of KRFC, to normal Klamath River Basin salmon season, size, bag and possession limits.

The Commission anticipates some impact on the creation or elimination of jobs in California. The potential adverse employment impacts range from no impact to the loss of 22 jobs which are not expected to create, eliminate or expand businesses in the State.

An estimated 30-50 businesses that serve sport fishing activities are expected to be directly and/or indirectly affected depending on the final quota. The impacts range from no impact to unknown impacts on the creation of new business or the elimination of existing businesses.

The Commission does not anticipate any impacts on the expansion of businesses in California.

For all projections, the possibility of growth of businesses to serve substitute activities exists. Adverse impacts to jobs and/or businesses would be less if fishing of other species and grilse KRFC is permitted, than under a complete closure to all fishing. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable salmon stocks and, consequently, promoting the long-term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a salmon sport fishery encourages a healthy outdoor activity and the consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's salmonid resources.

The Commission does not anticipate any benefits to worker safety because the proposed action does not affect working conditions.

(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: January 8, 2019

Melissa Miller-Henson
Acting Executive Director

Commissioners
Eric Sklar, President
Saint Helena
Vacant, Vice President
Jacque Hostler-Carmesin, Member
McKinleyville
Russell E. Burns, Member
Napa
Peter S. Silva, Member
Jamul

STATE OF CALIFORNIA
Gavin Newsom, Governor

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Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

January 14, 2019

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50, Title 14, California Code of Regulations, relating to Central Valley salmon sport fishing, which will be published in the California Regulatory Notice Register on January 18, 2018.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments. Additional information and associated documents may be found on the Fish and Game Commission website at <http://fgc.ca.gov/regulations/2019/index.aspx>.

Karen Mitchell, Senior Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Mitchell can be reached by telephone at (916) 445-0826 or by email at Karen.Mitchell@wildlife.ca.gov.

Sincerely,

Craig Castleton

Craig Castleton
Associate Governmental Program Analyst

Attachment

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, 265, 270, 315, 316.5, and 399 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 270 and 316.5 of said Code, proposes to amend subsections (b)(5), (b)(68), (b)(124), and (b)(156.5) of Section 7.50, Title 14, California Code of Regulations, relating to central valley salmon sport fishing.

Informative Digest/Policy Statement Overview

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

Current regulations in subsections (b)(5), (b)(68), (b)(124) and (b)(156.5) of Section 7.50 prescribe the 2018 seasons and daily bag and possession limits for Sacramento River fall-run Chinook Salmon (*Oncorhynchus tshawytscha*; SRFC) sport fishing in the American, Feather, Mokelumne, and Sacramento rivers, respectively. Collectively, these four rivers constitute the "Central Valley fishery" for SRFC. Each year, the Department of Fish and Wildlife (Department) recommends new Chinook Salmon bag and possession limits for consideration by the Commission to align fishing limits with up-to-date management goals, as set forth below.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of recreational and commercial ocean salmon fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The PFMC will develop the annual Pacific coast ocean salmon fisheries regulatory options for public review at its March 2019 meeting and will adopt its final regulatory recommendations at its April 2019 meeting based on the PFMC salmon abundance estimates and recommendations for ocean harvest (take) for the coming season. Based on the April 2019 recommendations by PFMC, the Department will recommend specific bag and possession limit regulations to the Commission at its April 17, 2019 meeting. The Commission will then consider adoption of the regulations at its May 16, 2019 teleconference.

For the purpose of PFMC mixed-stock fishery modeling and salmon stock assessment, adult salmon are generally those considered three to five years in age, and grilse salmon are those approximately two years of age. The age classes are distinguished by a cutoff of salmon total length measurement, depending on the in-river fishery. For purposes of the proposed regulation, this cutoff is presented as a range of 26 to 28 inches total length, as outlined under the options for the proposed regulations (below).

Proposed Regulations

The Department recognizes the uncertainty of Sacramento River fall-run Chinook Salmon (SRFC) inland (in-river) harvest projections. Therefore, the Department is presenting three regulatory options for the Commission's consideration to tailor 2019 Central Valley fishery management to target 2019 in-river fisheries harvest projections.

- Option 1 is the most liberal of the three options and allows take of any size Chinook Salmon up to the daily bag and possession limits.
- Option 2 allows for take of a limited number of adult Chinook Salmon, with grilse Chinook Salmon making up the remainder of the daily bag and possession limits.
- Option 3 is the most conservative option and allows for a grilse-only Chinook Salmon fishery.

All three options increase fishing opportunities on the Feather and Mokelumne rivers by: (1) extending the salmon fishing season by two weeks on the Feather River between the Thermalito Afterbay Outfall and the

Live Oak boat ramp; and (2) by extending the salmon and hatchery steelhead fishing season on approximately 10 miles of the Mokelumne River between the Highway 99 Bridge and Elliott Road.

All options would be applicable to the following river segments and time periods:

American River, subsection 7.50(b)(5):

- (B) From the USGS gauging station cable crossing near Nimbus Hatchery to the SMUD power line crossing the southwest boundary of Ancil Hoffman Park, July 16 through October 31
- (C) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the Jibboom Street bridge, July 16 through December 31
- (D) From the Jibboom Street bridge to the mouth, July 16 through December 16

Feather River, subsection 7.50(b)(68):

- (D) From the unimproved boat ramp above the Thermalito Afterbay Outfall to 200 yards above the Live Oak boat ramp, July 16 through October 31
- (E) From 200 yards above the Live Oak boat ramp to the mouth, July 16 through December 16

Mokelumne River, subsection 7.50(b)(124):

- (A) From Comanche Dam to Elliott Road, July 16 through October 15
- (B) From Elliott Road to the Woodbridge Irrigation District Dam and including Lodi Lake, July 16 through December 31
- (D) From the Lower Sacramento Road bridge to the mouth, July 16 through December 16

Sacramento River below Keswick Dam, subsection 7.50(b)(156.5):

- (C) From Deschutes Road bridge to the Red Bluff Diversion Dam, August 1 through December 16
- (D) From the Red Bluff Diversion Dam to the Highway 113 bridge, July 16 through December 16.
- (E) From the Highway 113 bridge to the Carquinez Bridge, July 16 through December 16.

The following options are provided for Commission consideration:

Option 1 – Any Size Chinook Salmon Fishery

This option is the Department's preferred option if the 2019 SRFC stock abundance forecast is sufficiently high to avoid the need to constrain inland SRFC harvest.

Bag limit of [0-4] Chinook Salmon.

Possession limit - [0-12] Chinook Salmon.

Option 2 – Limited Adult and Grilse Salmon Fishery

Bag limit of [0-4] Chinook Salmon of which no more than [0-4] fish over [26-28] inches total length may be retained.

Possession limit - [0-12] Chinook Salmon of which no more than [0-4] fish may be over [26-28] inches total length.

Option 3 – Grilse Salmon Fishery Only

Bag limit of [0-4] Chinook Salmon less than or equal to [26-28] inches total length.

Possession limit - [0-12] Chinook Salmon less than or equal to [26-28] inches total length.

Other Changes:

Under all options, changes are proposed to fix punctuation and to remove the extra word "in" in subsection 7.50(b)(124(A)).

Benefits of the Proposed Regulations

The Commission anticipates benefits to the environment in the sustainable management of Central Valley Chinook Salmon resources. Other benefits of the proposed regulations are consistency with federal fishery management goals, health and welfare of California residents, and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to the 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 Chinook Salmon recreational fishing seasons, bag and possession limits for Central Valley sport fishing.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Building Auditorium, 1416 Ninth Street, First Floor, Sacramento, California, on Wednesday, February 6, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard.

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 the City of Santa Monica Civic Auditorium, East Wing, 1855 Main Street, Santa Monica, California, on Wednesday, April 17, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a teleconference hearing originating in the Commission's conference room, 1416 Ninth Street, Room 1320, Sacramento, California, on Thursday, May 16, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before May 3, 2019, 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 May 10, 2019. All comments must be received no later than May 16, 2019, at the teleconference hearing. 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, PO Box 944209, Sacramento, CA 94244-2090.

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, Acting 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 Melissa Miller-Henson or Craig Castleton at the preceding address or phone number.

Senior Environmental Scientist, Karen Mitchell, Department of Fish and Wildlife, phone (916) 445-0826, or e-mail Karen.Mitchell@wildlife.ca.gov, 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/Results of the Economic Impact Assessment

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 Business, 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, but acknowledges the potential for short-term negative impacts on the creation or elimination of jobs within the state. The Commission anticipates no 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 limit are unlikely to significantly impact the volume of business activity. The loss of up to 20 jobs with Option 3 is not expected to eliminate businesses because reduced fishing days will be partially offset by the extension of the salmon fishing season on portions of the Feather and Mokelumne rivers and by opportunities to fish for grilse Chinook Salmon and other species.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Chinook Salmon sport fishery encourages consumption of a nutritious food. The Commission anticipates benefits to the environment by the sustainable management of California's Chinook Salmon resources in the Central Valley.

The Commission does not anticipate any benefits to worker safety.

Other benefits of the proposed regulations are concurrence with federal fishery management goals and promotion of businesses that rely on Central Valley Chinook Salmon sport fishing.

(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: January 8, 2019

Melissa Miller-Henson
Acting Executive Director