

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: _____

From: (Public Agency): _____

(Address)

Project Title: _____

Project Applicant: _____

Project Location - Specific:

Project Location - City: _____ Project Location - County: _____

Description of Nature, Purpose and Beneficiaries of Project:

Name of Public Agency Approving Project: _____

Name of Person or Agency Carrying Out Project: _____

Exempt Status: **(check one):**

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: _____
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

Lead Agency

Contact Person: _____ Area Code/Telephone/Extension: _____

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

June 16, 2022

ATTACHMENT TO NOTICE OF EXEMPTION

RE: Re-adoption of Emergency Action to Amend Subsections 7.40(a)(40) and 8.00(a) and (b), Title 14, California Code of Regulations, Alphabetical List of Waters with Special Fishing Regulations and Low-Flow Restrictions.

The California Fish and Game Commission (Commission) has taken final action under the California Fish and Game Code and the Administrative Procedure Act with respect to the proposed project on June 16, 2022. The Commission re-adopted and noticed an emergency amendment of sections 7.40 and 8.00, Title 14, California Code of Regulations (CCR). This re-adoption makes one, additional adjustment to regulatory language in subsection 8.00(a)(1)(A) regarding the Eel River estuary.

In compliance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.), the Commission adopted the regulation relying on a statutory exemption contained in Public Resources Code subdivision 21080(b)(4) (Actions Necessary to Prevent or Mitigate an Emergency). The Commission also relied on the categorical exemption to protect natural resources (CEQA Guidelines, Sections 15307 and 15308). Each exemption is discussed below.

Statutory Exemption for Specific Actions Necessary to Prevent or Mitigate an Emergency

The Commission considered the following factors in determining whether an emergency exists: the magnitude of potential harm, the existence of a crisis situation, the immediacy of the need, and whether the anticipation of harm has a basis firmer than simple speculation. Because the regulation is intended to mitigate the worst consequences of the effect of drought, and the consequent vulnerability of the fishery, the adoption of the regulation by the Commission is an activity that is the proper subject of the statutory exemption.

Class 7 and Class 8. Actions by Regulatory Agencies for Protection of Natural Resources and the Environment

Class 7 CEQA Guidelines Section 15307 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include, but are not limited to, wildlife preservation activities of the California Department of Fish and Wildlife. Class 8 CEQA Guidelines Section 15308 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

The proposed re-adoption of emergency regulation would add a low-flow restriction between September 1 through April 30 on the stretch of Eel River from the mouth to Fulmor Road at its paved junction with the south bank of the Eel River. It would also extend the low-flow closure period for a different stretch of the main stem Eel River as well as a stretch of the South Fork of the Eel River, Mattole River, Redwood Creek, Smith River and Van Duzen River (currently October 1 through January 31, four months) and the Mad River (currently September 1

through January 31, five months) to September 1 through April 30 (eight months). It would also extend the low-flow closure period (currently October 1 through March 31, six months) for the Mendocino, Sonoma, and Marin counties' coastal streams to September 1 through April 30 (eight months).

The re-adoption makes one adjustment to regulatory language in subsection 8.00(a)(1)(A) regarding the Eel River estuary; this change will allow hook-and-line fishing from shore in the Eel River Estuary downstream of the Cock Robin Island Bridge. The change is necessary to allow shore angling opportunity for perch and other non-salmonid species while still allowing protections for steelhead trout, Coho salmon, and coastal Chinook salmon.

The Commission believes that under these extreme conditions of the current drought, and possibly for a prolonged period, it is prudent to extend the low-flow angling closure periods between September 1 through April 30, eight months, for the described areas to eliminate angling as an additional stress on steelhead and salmon populations. The action is necessary to conserve wild steelhead and salmon populations by protecting as many adult fish as possible and is an activity that is the proper subject of the statutory exemption.