

**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(s) 200, 202, 205, 215, 220, 240, 315 and 316.5 of the Fish and Game Code and to implement, interpret or make specific Section(s) 200, 202, 205, 206, 215 and 316.5 of said Code, proposes to amend Subsection 7.50(b)(172.7), Title 14, California Code of Regulations, relating to Sausal Creek Sport Fishing Regulations.

Informative Digest/Policy Statement Overview

During the 2003 Commission triennial review of sport fishing, there was significant public interest to close Sausal Creek and its tributaries located within the City of Oakland, Alameda County, to all sport fishing. At that time, the Department of Fish and Game (Department) did not support a total closure and proposed an alternative to allow catch and release fishing using artificial lures with barbless hooks on trout, salmon, and steelhead while allowing continued harvest of warm water fish which prey on juvenile salmonids. The Commission adopted the Department's alternative regulations for Sausal Creek and its tributaries on December 16, 2003.

Since 2003, the local government, various watershed groups and interested parties have continued to actively pursue restoration efforts and funding for Sausal Creek and its tributaries to offset the degradation due to urbanization, unnatural flows, sediments, and contaminants. Despite the strong local restoration effort, the local salmonid population continues to remain at the low numbers first observed in 1998.

On July 18, 2006, the City of Oakland passed a resolution to seek a permanent restriction on sport fishing in all of Oakland's freshwater creeks, streams, and waterways. The City of Oakland made a written request to have its 2006 resolution discussed at the October Commission meeting in a letter dated July 18, 2007. The City of Oakland's request was discussed at the October 11, 2007 meeting in Concord where there was significant public support for the City of Oakland's request with most of the comments and observations focused on Sausal Creek and its tributaries.

The Department supports the strong interest on the local salmonid populations and the ongoing restoration efforts. Without further information, the Department supports only the fishing closure on Sausal Creek and its tributaries.

The proposed regulatory action would amend subsection (b)(172.7) of Section 7.50, Title 14, California Code of Regulations (CCR), from current regulations which allow fishing from the last Saturday in April through November 15 using artificial lures and barbless hooks and a zero bag limit to a complete fishing closure all year.

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 Department of Education, State Board Room, 1430 'N' Street (Room 1101), Sacramento, California, on December 7, 2007 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 teleconference hearing to be held in the Commission

Conference Room, 1416 Ninth Street, Room 1320, Sacramento, California, on Monday, December 17, 2007, at 11:00 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 December 16, 2007 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on December 16, 2007.** All comments must be received no later than December 17, 2007, at the teleconference hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., 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 John Carlson, Jr., or Jon K. Fischer at the preceding address or phone number. **Mr. Scott Barrow, Department of Fish and Game, phone (916) 445-7600, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting 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 action is necessary for the continued preservation of the resource and therefore 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: None.
- (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: 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.

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 or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: October 23, 2007

John Carlson, Jr.
Executive Director