

VII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No alternatives were identified.

(b) No change Alternative:

The no change alternative would leave existing regulations in place with inconsistent regulations and ongoing enforcement issues.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

IX. 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 determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are 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:

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. The potential impacts from the proposed regulations in the Sport Fishing Review Cycle may range from 0 to 16,000 jobs depending on the Commission's final

actions. 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 sturgeon stocks and, subsequently, the promotion and long-term viability of these same small businesses.

(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.

Updated Informative Digest/Policy Statement Overview

This Department proposal is a combination of Department and public requests for Title 14, California Code of Regulations (CCR) changes for the 2012 Sport Fishing Review Cycle. This proposal will revise yellow perch and bow and arrow regulations, eliminate take of listed eulachon, update and revise the low flow regulations, add regulations on filleting of salmonids, and correct other regulatory problems that increase public confusion of the regulation's intent and improve regulatory enforcement.

The Department is proposing the following changes to current regulations as discussed in the following paragraphs:

Yellow Perch

Yellow perch are not common throughout California and have large populations with stunted size ranges where found. There are several public requests to remove this species from the sunfish bag limit. The potential increased harvest will not affect existing populations.

Amend Section 1.77, Sunfish. This section will be amended to remove yellow perch from the combined sunfish and crappie bag limit.

Add Section 5.91, Yellow Perch. This section will be added to clarify that yellow perch have a year-round season with no limit.

Bow and Arrow Fishing

These changes are proposed to reduce public confusion.

Amend Section 2.25, Bow and Arrow Fishing

- Clarify where the designated salmon spawning areas are defined.
- Clarify Walker River exception.

Eliminate Take of Listed Eulachon

Eulachon were listed as federally threatened under the Federal Endangered Species Act in February 2010 and have extremely low abundance in the past twenty years. This change is necessary to increase protection for a listed species.

Amend Section 5.10, Candlefish or Eulachon. This section will be amended to specify that eulachon may not be taken or possessed under the authority of a sport fishing license to align state and federal regulations.

Update the Flow Regulations

The Department proposed the following changes to increase salmonid protection and reduce public confusion:

Amend Section 8.00, Low Flow Regulations

- Increase Smith River minimum flow trigger from 400 cfs to 600 cfs.

- Revise and clarify stream reaches in Van Duzen and Smith rivers.
- removed outdated information in subsection (c)
- make minor changes to align the structure of the regulations.

Filleting of Salmonids in Inland Waters

Currently shore based anglers can fillet or cut into pieces salmon and steelhead in the field. The current Fish and Game Code sections (5508, 5509) section only covers fish on a vessel until it is brought ashore. Salmon and steelhead once on shore can currently be fillet or cut into pieces. Once this is done the department no longer has the ability to determine the origin (wild or hatchery), species, or size of the fish.

There is currently no regulation that prohibits filleting of fish (for all species) along the shores and banks of inland anadromous waters in California. As a result, a loop hole is created in which an angler could harvest a wild steelhead/rainbow trout illegally by filleting the fish and discarding/disposing of the carcass along the stream. If encountered by enforcement, there is no way to immediately distinguish if the fillets are from a wild or hatchery fish without observing the condition of the adipose fin.

This proposed regulation will give the department the ability to determine the origin (wild or hatchery), the species (Coho, Chinook or steelhead), and the size (jack, adult, or undersized ocean salmon) of salmon and steelhead taken, possessed and transported. The limitation of “where a sport fishing license is required” eliminates this requirement for legally purchased commercial salmon. There may be serious opposition for the ocean salmon fishery which is almost exclusively a boat fishery. This proposed regulation could easily be written for inland waters where a sport fishing license is required.

Add Section 1.45, Filleting of Salmonids. This section will be added that all salmon and steelhead taken in inland waters where a sport fishing license is required, must be kept in such a condition that species and size can be determined until placed at the anglers permanent residence, a commercial preservation facility or being prepared for immediate consumption.

Other Regulatory Problems

The Department is proposing additional minor revisions in the following areas of Title 14, CCR, regulations. While these problems are minor when viewed individually, they must be corrected to clarify regulations, reduce public confusion, align regulations, and improve regulatory enforcement.

Amend Section 4.20, Bait Fish Use in the Valley and South Central Districts. Remove the reference in subsection (d)(2) to Yuba River down stream of Daguerre Point Dam that allows the use of bait fish when only artificial lures with barbless hooks are allowed under subsection 7.50(b)(212)(A).

Amend Section 5.40, Lamprey

- Remove reference to other species as traps were repealed in 2009 as approved gear.

- Remove the reference to traps in subsection (c) which is an illegal gear for the harvest of lamprey.

The benefits of the proposed regulations are sustainable management of sport fishing resources, protection of listed and special status species, and promotion of businesses that rely on California's sport fisheries. The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The regulations were adopted as proposed at the Commission's November 7, 2012 meeting in Los Angeles, CA.